

No.

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IN THE  
**Supreme Court of the United States**

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**EMMANUEL DIAZ,**

*Petitioner,*

v.

**PEOPLE OF THE STATE OF NEW YORK,**

*Respondent.*

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**On Petition for a Writ of Certiorari to the  
New York State Court of Appeals**

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**APPENDIX**

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May 15, 2019

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# State of New York Court of Appeals

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## OPINION

This opinion is uncorrected and subject to revision  
before publication in the New York Reports.

No. 9  
The People &c.,  
Respondent,  
v.  
Emmanuel Diaz,  
Appellant.

Dina Zloczower, for appellant.  
Leonard Joblove, for respondent.  
The Legal Aid Society; JustLeadershipUSA et al.; Brooklyn Defender Services et al.;  
Sanctuary for Families, Inc., amici curiae.

FEINMAN, J.:

The issue in this appeal is whether a correctional facility's release to prosecutors or law enforcement agencies of recordings of nonprivileged telephone calls made by pretrial detainees, who are notified that their calls will be monitored and recorded, violates the

Fourth Amendment. We hold that detainees, informed of the monitoring and recording of their calls, have no objectively reasonable constitutional expectation of privacy in the content of those calls (US Const, amend IV). Thus, a correctional facility may record and monitor detainees' calls, as well as share the recordings with law enforcement officials and prosecutors, without violating the Fourth Amendment.

I.

Defendant Emmanuel Diaz was arrested in July 2012 and charged with multiple counts of burglary and robbery. Upon his arraignment on the felony complaint, he was committed to the custody of the New York City Department of Correction (DOC). He was held in one of the Rikers Island Correctional Facilities until his family posted bail. During the eight months before defendant posted bail, he made approximately 1,100 phone calls from prison. At trial, the prosecution sought to introduce excerpts of four phone calls recorded by DOC containing incriminating statements. After colloquy with the parties concerning the notice that had been provided to inmates of the electronic surveillance, Supreme Court admitted the recordings into evidence, over defendant's objection. Defendant was subsequently convicted and sentenced.

The Appellate Division, with one Justice dissenting, affirmed the judgment (149 AD3d 974 [2d Dept 2017]). The majority found that defendant had impliedly consented to the monitoring and recording of his telephone conversations because DOC had given him sufficient notice that his calls would be monitored. The Court determined that the record reflected that DOC had provided several types of notice of the prison's policy to monitor and record inmate telephone calls, including the inmate handbook, signs posted

next to the telephones, and a recorded message preceding every phone call made by inmates. The majority held it was not reasonable for defendant to presume an expectation of privacy in the dissemination of the content of his recorded phone conversations. Although it remarked that the “better practice going forward” might be for DOC to expressly notify detainees that the recordings of their calls may be turned over to prosecutors, the majority concluded that the absence of such a warning did not render the calls inadmissible (*id.* at 976). Additionally, the majority found no merit to defendant’s contention that the admission of the recorded phone calls into evidence deprived him of his right to counsel under the Federal and State Constitutions (*id.* at 975, citing People v Johnson, 27 NY3d 199, 205-206 [2016]).

The dissenting Justice would have held that the calls were inadmissible because defendant was never informed that the recordings of his calls would be made available to the prosecutor for potential use at trial (Diaz, 149 AD3d at 977 [Hall, J.P.]). The dissent contended that DOC should be required to provide proof that detainees were given express notice that their recorded telephone calls could be turned over to the prosecution for use at trial (*id.* at 978). Although the dissent recognized that defendant had no reason to expect privacy in his calls, it posited that this did not mean he consented to the prosecution having access to them. The dissenting Justice granted defendant leave to appeal.

## II.

In 2008, DOC began monitoring prisoner phone calls pursuant to an amendment to the Rules of the City of New York and the subsequent development of new DOC policies

and procedures.<sup>1</sup> Under the Rules of the City of New York, inmates may make telephone calls during their incarceration, but, “[u]pon implementation of appropriate procedures,” their calls may be listened to or monitored where they have been given “legally sufficient notice” (40 RCNY 1-10 [a], [h]). As set forth in its Operations Order,<sup>2</sup> DOC “shall record all inmate telephone calls and retain these recordings,” except calls to inmates’ attorneys and others included in the Department’s “Do Not Record List.”<sup>3</sup> The Operations Order requires that inmates be notified that their telephone calls will be monitored and/or recorded by three different methods: (1) signs posted near the telephones used by inmates, stating in both English and Spanish that calls are monitored and recorded and that using the phone constitutes consent to the recording or monitoring; (2) a notice in the inmate handbook that calls can be monitored and recorded; and (3) a recording in Spanish or English that plays when an inmate picks up the phone receiver, stating that the call may be recorded and monitored (see Operations Order pp. 8-9, § III [E] [1], [2]).

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<sup>1</sup> The changes were part of a revamping of the Minimum Standards for New York City Correctional Facilities first adopted in 1978 (see City of New York Board of Correction, Notice of Adoption of Amendments to the Minimum Standards for New York City Correctional Facilities [2007], available at [https://www1.nyc.gov/assets/boc/downloads/pdf/minimum\\_standards\\_amendments.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/minimum_standards_amendments.pdf) [last accessed 1/17/19]).

<sup>2</sup> New York City Department of Correction, Operations Order No. 01/09 [eff Mar. 9, 2009]).

<sup>3</sup> Inmates’ calls to their attorneys, doctors, and clergy are privileged and not recorded, nor are calls to certain specified agencies (see Operations Order p. 1, § II [A]; see also 40 RCNY 1-10 [h]).

Defendant asserts that DOC's release of his recorded telephone calls to the prosecution without a warrant violates his Fourth Amendment right to privacy.<sup>4</sup> Specifically, defendant maintains that a person's consent to governmental intrusion can be no broader than the notice provided. This issue was previously raised in People v Johnson (27 NY3d 199 [2016]) but was unpreserved. The parties agree that the issue is now properly before us.

### III.

"The Fourth Amendment protects '[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures'" (Carpenter v United States, \_\_\_ US \_\_\_, \_\_\_, 138 S Ct 2206, 2213 [2018]) and safeguards two interests—retaining possession of property, and maintaining personal privacy (see Texas v Brown, 460 US 730, 747 [1983] [Stevens, J., concurring with Brennan and Marshall, JJ.]; United States v Jacobson, 466 US 109, 113-114 [1984]). A seizure pertains to the first interest, and a search pertains to the second (Texas v Brown, 460 at 747). The application of the Fourth Amendment depends on whether the person invoking its protection can claim a reasonable expectation of privacy in the face of government action (see Smith v Maryland, 442 US 735, 740 [1979]). A legitimate expectation of privacy exists where a person has demonstrated an actual (subjective) expectation of privacy and

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<sup>4</sup> Defendant had cursorily asserted before the trial court that the recordings violated both his federal and his state constitutional rights, but made no argument below that the State Constitution afforded him greater protection than the Fourth Amendment (see People v Garvin, 30 NY3d 174, 185 n 8 [2017], cert denied 139 S Ct 57 [2018]), and he advances no such argument here.

that expectation is one that society is prepared to recognize as reasonable (see Katz v United States, 389 US 347, 361 [1967] [Harlan, J., concurring]). If such expectations of privacy are lacking, no Fourth Amendment violation occurs (see New York v Class, 475 US 106, 112 [1986]).

Even if defendant subjectively believed that his calls were private – a notion that is largely belied by the record – that expectation was not objectively reasonable. Given the government’s weighty interest in ensuring institutional security and order, surveillance is ubiquitous in the prison context (see Hudson v Palmer, 468 US 517, 527-528, 529-530 [1984] [an incarcerated individual’s “expectation of privacy must always yield to what must be considered the paramount interest in institutional security”]; Bell v Wolfish, 441 US 520, 559 [1979]).

For instance, correctional officers routinely conduct warrantless searches of inmates and their cells to keep other inmates and themselves safe (see Bell, 441 US at 547). The logic underlying the routine monitoring and recording of phone calls is no different (see United States v Hearst, 563 F2d 1331, 1345 [9th Cir 1977] [detainees’ expectations of privacy in their phone calls are superseded by “the government’s weighty, countervailing interests in prison security and order”]; see also Lanza v State of New York, 370 US 139, 143 [1962] [“it is obvious that a jail shares none of the attributes of privacy of a home, an automobile, an office, or a hotel room. In prison, official surveillance has traditionally been the order of the day”]; see e.g. United States v Willoughby, 860 F2d 15, 21 [2d Cir 1988] [detention facility’s practice of randomly monitoring and recording pretrial detainees’ phone calls “in the interest of institutional security is not an unreasonable



invasion of the privacy rights of pretrial detainees”)). In addition, defendant, like all Rikers Island inmates, received a number of prominent, unavoidable warnings that his calls were subject to electronic monitoring and recording by DOC. Because any expectation of privacy in defendant’s calls was not objectively reasonable, “the Fourth Amendment is therefore not triggered by the routine taping of such calls” (United States v Van Poyck, 77 F3d 285, 291 [9th Cir 1996]).

On this basis, federal and state courts across the country have long held that detainees provided with prior notice of the government’s monitoring and recording of their phone calls have no reasonable expectation of privacy in the content of the communications (see United States v Gangi, 57 Fed Appx 809, 814 [10th Cir 2003]; United States v Friedman, 300 F3d 111, 123 [2d Cir 2002]; United States v Eggleston, 165 F3d 624, 626 [8th Cir 1999]; Van Poyck, 77 F3d at 290-291; United States v Horr, 963 F2d 1124, 1126 n 3 [8th Cir 1992]; United States v Sababu, 891 F2d 1308, 1329 [7th Cir 1989]; United States v Amen, 831 F2d at 379-380; State v Gilliland, 294 Kan 519, 534, 276 P3d 165, 177 [2012]; State v Hill, 333 SW3d 106, 126 [Tenn Crim App 2010]; In re Grand Jury Subpoena, 454 Mass 685, 688-689, 912 NE2d 970, 973 [2009]; Decay v State, 2009 Ark 566, 6, 352 SW3d 319, 325-26 [2009]; Preston v State, 282 Ga 210, 214, 647 SE2d 260, 263 [2007]; State v Smith, 117 Ohio App 3d 656, 661, 691 NE2d 324, 327 [Ohio Ct App 1997]). In light of this precedent, defendant understandably does not dispute that DOC’s monitoring and recording of his phone calls did not constitute a violation of his Fourth Amendment rights.

Defendant, and the dissent, argue that, although DOC's interception of the content of the call may have been lawful, its release of the recordings to the prosecutor's office without notice was an additional search that violated the Fourth Amendment. We disagree.

As a number of courts have explained, where detainees are aware that their phone calls are being monitored and recorded, all reasonable expectation of privacy in the content of those phone calls is lost, "and there is no legitimate reason to think that the recordings, like any other evidence lawfully discovered, would not be admissible" (United States v Eggleston, 165 F3d at 626; see also United States v Novak, 531 F3d 99, 103 [1st Cir 2008] [holding that because the defendant had consented to the monitoring of his calls, they could be introduced into evidence "consistently with the requirements of the Fourth Amendment"]; United States v Green, 184 Fed Appx 617, 618 [9th Cir 2006] [observing that disclosure of recordings to prosecution "does not ... provide a basis for establishing a violation of ... the Fourth Amendment"]; see also People v Natal, 75 NY2d 379, 382-383 [1990]).<sup>5</sup> Moreover, the signs posted near the telephones used by the inmates state that calls are monitored in "accordance with DOC policy" which, according to the DOC Operations Order, provides that while recordings are confidential and not available to the public, the District Attorney's Office may request a copy of an inmate's recorded calls which will be provided upon approval by DOC.<sup>6</sup> Although the inmate handbook provided

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<sup>5</sup> This is particularly true where, as here, DOC provided multiple notices both that inmates' conversations could be monitored and recorded and that use of the phones constituted consent to that monitoring and recording (see United States v Workman, 80 F3d 688, 693-694 [2d Cir 1996]; Amen, 831 F2d at 379).

<sup>6</sup> See Operations Order pp. 6, § III (5) (b); 7, § III (C) (1).

at Rikers Island gives notice that inmate telephone calls may be monitored “for purposes of security,” that statement simply explains one of the reasons for DOC’s monitoring practice; it says nothing about the potential uses or dissemination of the recordings. In addition, the recorded notice heard when first making a telephone call does not restrict the use of the recording.

We therefore reject defendant’s argument that he retained a reasonable expectation of privacy once the calls were lawfully intercepted by DOC and hold that there were no additional Fourth Amendment protections that would prevent DOC from releasing the recording to the District Attorney’s Office absent a warrant.

Defendant’s remaining arguments, challenging the “voluntariness” of any findings of consent to the monitoring and recording of his phone calls, and claiming that his due process and equal protection rights were violated, are unpreserved for our review.<sup>7</sup>

Finally, we agree with the Appellate Division that the existing record does not support a finding that defendant’s trial counsel was ineffective as a matter of law.

Accordingly, the order of the Appellate Division should be affirmed.

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<sup>7</sup> Defendant has abandoned his argument made to the Appellate Division that admission of the recordings deprived him of his right to counsel under the Federal and State Constitutions.

People v Emmanuel Diaz

No. 9

WILSON, J. (dissenting):

The New York City Department of Correction (DOC) routinely records the telephone calls of Rikers Island inmates “for security purposes,” yet delivers the recordings to the District Attorney’s office for use in prosecution. The Fourth Amendment cannot permit that practice.

I

Mr. Diaz was advised of the consequence of using the phone in Rikers Island; the majority says he proceeded at his peril and therefore forfeited any privacy right he may have had in his calls. That conclusion is superficially understandable but, in reality, ignores crucial facts: (1) Mr. Diaz was not free to leave Rikers Island but was incarcerated for eight months awaiting trial, with no other viable means of everyday communication with the outside world;<sup>1</sup> (2) others accused of crimes but out on bail cannot be subjected to governmental recording and monitoring without a warrant; (3) Mr. Diaz was charged with crimes and needed to assemble a defense and gather evidence that might mitigate his sentence if convicted; (4) Mr. Diaz was specifically told that the recording of his calls was for the purpose of jail security; and (5) Mr. Diaz was not told that his calls would be funneled en masse to the District Attorney prosecuting his case, to be combed for statements to use against him.

Those differences matter. By discounting them, the majority's analytical framework is internally inconsistent. The majority relies approvingly on Justice Harlan's well-accepted statement that the expectation of privacy "is a twofold requirement, first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable'" (Katz v United States, 389 US 347, 361 [1967] [Harlan, J., concurring]). The majority begins by

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<sup>1</sup> Yes, he could write letters, but those too could be opened and examined. He could see in-person visitors, but only as frequently as they could make the onerous journey to Rikers Island, which is hardly a substitute for everyday phone communication.

announcing that “*detainees, informed of the monitoring and recording of their calls*, have no objectively reasonable constitutional expectation of privacy in the content of those calls” (majority op at 2, emphasis added). The majority’s rationale must rest on the proposition that pretrial detainees have a diminished expectation of privacy resulting from the fact of detention; otherwise, the government could notify the general public that it was monitoring their phone calls and thereby eliminate the reasonable expectation of privacy. The majority’s analysis must also depend on the notion of implied consent, because if pretrial detention alone were sufficient to remove all expectation of privacy in inmate phone calls, the majority would have no need to mention consent at all. Thus, under the majority’s framework, neither Mr. Diaz’s status as a pretrial detainee nor his implied consent would—without the other—eliminate his privacy rights in the calls.

Later, however, the majority states: “[c]orrectional officers routinely conduct warrantless searches of inmates and their cells to keep other inmates and themselves safe. The logic underlying the routine monitoring and recording of phone calls is no different” (majority op at 6, internal citation omitted). That conclusion rests on the proposition that pretrial detainees have no expectation of privacy. But unlike the majority’s rationale here, the cases upholding the constitutionality of such searches do not depend on any theory of notice or implied consent (see Bell v Wolfish, 441 US 520, 557 [1979] [upholding a policy that detainees must exit their rooms while correctional officials conduct “shake-down” searches because that “appropriate security measure” does not infringe on whatever expectation of privacy detainees may have]). However, as I explain later, all four Appellate

Division Justices below, and the parties in this case, agree that pretrial detainees like Mr. Diaz have some expectation of privacy in their phone calls—conclusions that accord with existing case law on the subject (cf Florence v Board of Chosen Freeholders of County of Burlington, 566 US 318, 322, 338-39 [2012] [upholding a policy to conduct visual strip and body cavity searches of all pretrial detainees upon intake but suggesting those searches could violate a detainee’s privacy rights in other scenarios]; Bell, 441 US at 557-58 [assuming without deciding that pretrial detainees retain at least “a diminished expectation of privacy”]). Indeed, the People concede that if DOC gave no notice to inmates that their calls would be recorded or monitored, that recording or monitoring would violate the Fourth Amendment. I discuss this in part I, infra.

The broader problem, with which the majority fails to come to grips, is that determining what expectation of privacy society would recognize as reasonable depends on the government’s need for—and intended use of—the information obtained in derogation of a privacy right. The fact that information is known to someone other than its owner does not divest the owner of all privacy interests in that information. In the old world, it was relatively simple to draw a line between private information exchanges to which no third party was present and nonprivate information exchanges to which a third party was present. But the new world does not—and cannot—abide by that taxonomy. Eventually, as I explain in part IV, we come back to Justice Harlan’s question: what would society consider reasonable? As Judge Pigott, a retired member of this Court, wrote of the DOC policy at issue today: “The current arrangement between the Department of

Correction and the District Attorney's office creates a serious potential for abuse and may undermine the constitutional rights of defendants who are unable to make bail" (People v Johnson, 27 NY3d 199, 208 [2016] [Pigott, J., concurring]). Society should not consider that arrangement reasonable.

## II

The Fourth Amendment guarantees that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated" (US Const, amend IV). That promise requires the government to obtain a search warrant supported by probable cause, or else the consent of the person being searched, before searching something in which that person has a legitimate expectation of privacy. Those requirements manifest the "basic purpose of this Amendment": a commitment to "safeguard the privacy and security of individuals against arbitrary invasions by governmental officials" (Carpenter v United States, 138 S Ct 2206, 2213 [2018]), quoting Camara v Municipal Court of City and County of San Francisco, 387 US 523, 528 [1967]).

The Founders designed the Fourth Amendment as a "response to the reviled general warrants and writs of assistance of the colonial era, which allowed British officers to rummage through homes in an unrestrained search for evidence of criminal activity" (*id.* at 2206, quoting Riley v California, 134 S Ct 2473, 2494 [2014], internal quotation marks omitted). That opposition to unwarranted government searches was "in fact one of the driving forces behind the Revolution itself" (Riley, 134 S Ct at 2494, citing Boyd v United States, 116 US 616 [1886]), reflecting the consensus that such unrestrained government



power had no place in the new United States. By requiring a warrant or consent to search or seize an individual's person or property, the Fourth Amendment serves "to put the courts of the United States and Federal officials"—and, since its incorporation against the states, state courts and officials<sup>2</sup>—"in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority" (Weeks v United States, 232 US 383, 391-92 [1914]).

The Supreme Court initially interpreted the Fourth Amendment to protect against searches of material things only, explicitly rejecting in Olmstead v United States a claim that it protects against the interception of electronic communications (277 US 438 [1928], overruled in part by Katz v United States, 389 US 347 [1967]). But the Court later abandoned that limitation, confirming that the right of privacy rests with "people, not places"—and includes communications in which a person has a reasonable expectation of privacy (Katz, 389 US at 351). Mr. Diaz has such an expectation here.

Importantly, all agree to the proposition that Mr. Diaz has some protectable expectation of privacy in his calls. The lower courts so held,<sup>3</sup> and, by concluding that Mr.

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<sup>2</sup> Mapp v Ohio (367 US 643 [1961]) incorporates the Fourth Amendment against the states.

<sup>3</sup> The Appellate Division noted that "'convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison,' and certainly 'pretrial detainees, who have not been convicted of any crimes, retain at least those constitutional rights that . . . are enjoyed by convicted prisoners'" (People v Diaz, 149 AD3d 974, 976 (3d Dep't 2017), quoting Bell, 441 US at 545). From the Appellate Division's conclusion that the notice given to Diaz—in the inmate handbook, in the signs posted by the telephones, and in the audio recording that plays before each outgoing call—sufficiently constituted his implied consent to be recorded by DOC, it necessarily follows that the court concluded Mr. Diaz has an expectation of privacy that would require consent to search. With the addition of the dissenting Justice Hall, all four Justices agreed that, absent consent,

Diaz forfeited that expectation through implied consent, the majority agrees as well. The People reaffirmed at oral argument that Mr. Diaz “certainly” has an expectation of privacy in his phone calls and that absent his consent, monitoring or recording his calls would have violated his Fourth Amendment rights.<sup>4</sup>

Those concessions and lower court holdings square with Fourth Amendment jurisprudence by which we are bound. As the Appellate Division reiterated, “convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison” (Bell, 441 US at 545). Indeed, “[t]here is no iron curtain drawn between the Constitution and the prisons of this country” (Wolff v McDonnell, 418 US 539, 555-56 [1974]). Convicted prisoners retain, for instance, at least some of the constitutional protections guaranteeing freedoms of speech and religion (see Pell v Procunier, 417 US 817 [1974]; Cruz v Beto, 405 US 319 [1972]; Cooper v Pate, 378 US 546 [1964]); freedom from invidious racial discrimination (Lee v Washington, 390 US 333 [1968]); access to the courts (Johnson v Avery, 393 US 483 [1969]); and due process of law in any deprivation of life, liberty or property (Meachum v Fano, 427 US 215 [1976]). Accepting that convicted inmates retain some constitutional protections, “[a] fortiori, pretrial detainees, who have not been convicted of any crimes, retain at least those

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the monitoring or recording of the calls would violate Mr. Diaz’s right to privacy under the Fourth Amendment.

<sup>4</sup> A word on wiretapping: Mr. Diaz makes no claim under any wiretapping statute, so there is no need to interpret those statutes in his case. In People v Cisse, argued the same day as this case, Mr. Cisse made no Fourth Amendment claim, only a wiretapping claim. For purposes of the wiretapping statute, consent, however limited, renders the interception not a violation of the wiretapping statute; the same is not true as regards a limited waiver of one’s Fourth Amendment rights.

constitutional rights that we have held are enjoyed by convicted prisoners” (Bell, 441 US at 545).

However, for pretrial detainees and convicted inmates alike, “[t]he fact of confinement as well as the legitimate goals and policies of the penal institution limits these retained constitutional rights” (Bell, 441 US at 546; see also Jones v North Carolina Prisoners’ Labor Union, 433 US 119, 125 [1977]; Pell, 417 US at 822). To that end, there must be a “mutual accommodation between institutional needs and objectives and the provisions of the Constitution that are of general application” (Wolff, 418 US at 556). That principle “applies equally to pretrial detainees and convicted prisoners,” who implicate the same security concerns regardless whether they have been convicted of any crime (Bell, 441 US at 546). Accordingly, the “restrictions and limitations” that our society places on an incarcerated individual must be consistent with “the considerations underlying our penal system”—of which “institutional security and preserving internal order and discipline are essential” (id. at 545, 546). Our system gives wide latitude to correctional officials to take “appropriate action to ensure the safety of inmates and corrections personnel and to prevent escape or unauthorized entry” (id. at 547), on the theory that those officials are best situated to determine what security measures are required to maintain security and order in a correctional facility. That latitude has been used to uphold a range of intrusions—some quite severe—into an inmate’s expectation of privacy.

For a criminal defendant who is not detained but is instead out on bail, the Fourth Amendment undoubtedly requires law enforcement to obtain a warrant to monitor that

person's calls. As a pretrial detainee not convicted of any crime at the time the phone recordings at issue in this case were made, Mr. Diaz is, as a starting point, entitled to that same level of constitutional protection. Nevertheless, the People argue that DOC's monitoring is lawful because, by using the phones after receiving notice of DOC's recording policy—which explicitly states that use of the phones shall constitute implied consent—Mr. Diaz impliedly consented to a search by DOC. I disagree with that view—now advocated by the majority—because it disregards the limits of DOC's institutional authority, which if left unchecked undermines the foundation of the Fourth Amendment's protection against unwarranted government intrusions.

A

There is a serious question as to whether, in the sort of circumstances present here, consent can be implied from an inmate's use of the phones following notice.<sup>5</sup> In numerous areas of the law, consent is deemed involuntary—and hence ineffective—when made under duress (see, e.g., Centro Empresarial Cempresa S.A. v Am. Movil, S.A.B. de C.V., 17 NY3d 269, 276 [2011] [releases from liability]; Hammelburger v Foursome Inn Corp., 54 NY2d 580, 592-94 [1981] [mortgage foreclosure]; Austin Instrument, Inc. v Loral Corp.,

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<sup>5</sup> The idea that notice plus action equals consent is highly suspect in this context. Were notice plus action sufficient to constitute consent to a search, “law enforcement officials, simply by announcing their intent to monitor the content of random samples of first-class mail or private phone conversations, could put the public on notice of the risks they would thereafter assume in such communications” (Smith v Maryland, 442 US 735, 750 [1979] [Marshall, J., dissenting]). In the particular context of incarceration, where Mr. Diaz has no realistic option but to use the phones to communicate with loved ones and participate in his defense, and no bargaining power to negotiate the terms of DOC's policy, Justice Marshall's concern resonates even more strongly.

29 NY2d 124, 130 [1971] [economic duress in contracts generally]; cf McFarland v McFarland, 70 NY2d 916, 917 [1987] [marital separation agreements]; Matter of Sarah K., 66 NY2d 223, 232 [1985] [adoption]). Although the Fourth Amendment permits some intrusions into an inmate's privacy rights without consent (see, e.g., Bell, 441 US at 558-60 [upholding policy to conduct visual strip and body cavity searches of all inmates after in-person visits]; id. at 555-57 [upholding policy to search inmates' living areas and possessions while they are not present]), there is a further serious question as to whether DOC may establish lawful grounds to monitor inmate phone calls without consent for purposes related to prison safety and security. I do not opine on either of those questions here: as to the first, because it is a largely factual question requiring development of a record; as to the second, because DOC is not represented in this litigation and because the People have conceded that absent an inmate's consent, the monitoring and recording would violate the Fourth Amendment.

Thus, for the purposes of this case, I assume that Mr. Diaz waived his expectation of privacy—as against DOC, for security purposes—by providing his implied consent to be monitored and recorded in accordance with DOC policy. According to the record, inmates and pretrial detainees at Rikers Island received three forms of notice of that policy. First, all inmates must sign the inmate handbook, which states:

“All calls, except for calls with your attorney or other privileged calls, may be monitored and/or recorded by the Department *for security purposes*. In order for your attorney and other privileged calls not to be monitored you must provide the Department with the phone numbers to which calls should not be monitored, and the Department will check that those

numbers belong to attorneys or other persons with privileged contact with you. Your use of the telephone in a Department facility constitutes your implied consent to such monitoring” (emphasis added).

Second, signs posted in English and Spanish next to the telephones read:

“INMATE TELEPHONE CONVERSATIONS ARE SUBJECT TO ELECTRONIC MONITORING AND/OR RECORDING *IN ACCORDANCE WITH DOC POLICY*. AN INMATE’S USE OF INSTITUTIONAL TELEPHONES CONSTITUTES CONSENT TO THIS MONITORING AND/OR RECORDING” (emphasis added).

Third, a brief recorded message at the start of each call warns that calls “may be recorded and monitored” (A236).<sup>6</sup> The first notice plainly limits the purpose of the monitoring and recording to that conducted “by the Department for security purposes”; the second, by referencing “DOC POLICY” incorporates the first; and the third, in its brevity, does nothing to dispel the prior restrictions on the purpose and use of the monitored calls. The implied consent provision of the inmate handbook, for its part, states that “[y]our use of the telephone in a Department facility constitutes your implied consent to *such recording*”—that is, to the limited recording described. Likewise, the signs posted by the phones state that use of the phones “CONSTITUTES CONSENT TO *THIS MONITORING AND/OR RECORDING*”—as in, to the monitoring and recording for security purposes that the signs reference in the first place. DOC thereby sought Mr. Diaz’s

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<sup>6</sup> The record does not contain a recording or transcription of the actual message, only a testimonial description of it.

implied consent for its own security purposes—the only purpose for which it could seek consent; that is the only consent Mr. Diaz even arguably gave.

Working again from the agreed-upon proposition that Mr. Diaz and other pretrial detainees have some reasonable expectation in the privacy of their calls, the mere fact that Mr. Diaz has communicated some information to some other person does not entitle the prosecution to obtain that information without his consent or without a warrant—neither of which it had in this case.<sup>7</sup> In other words, Mr. Diaz’s consent to a search by DOC, a non-law enforcement governmental entity, for its own security purposes cannot reasonably be construed to include consent for the District Attorney—a law enforcement entity—to search that information for prosecutorial purposes.

B

The bases on which an incarcerated person’s—or anyone’s—constitutional rights may be overcome is limited by the nature of the governmental need. The majority implicitly recognizes as much, noting that prison surveillance is justified by the “government’s weighty interest in ensuring institutional security and order” (majority op at 6, citing Hudson v Palmer, 468 US 517, 527-28, 529-30 [1984]). As but one example, although the Fourth Amendment by its language prevents all unreasonable warrantless

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<sup>7</sup> Even when only a single governmental entity is involved—and not two, as was the case here, “[t]he standard for measuring the scope of a suspect’s consent under the Fourth Amendment is that of ‘objective’ reasonableness—what would the typical reasonable person have understood by the exchange between the officer and the suspect?” (Florida v Jimeno, 500 US 248, 251 [1991] [holding that a criminal suspect’s consent for police to search his vehicle did not constitute consent for police to search a bag within the vehicle that could not reasonably have contained the object police were searching for]).

searches and seizures, the governmental need for a warrantless search in exigent circumstances (see Mincey v Arizona, 437 US 385, 394 [1978]) or incident to a lawful arrest (see Chimel v California, 395 US 752, 763 [1969]) can overcome the privacy right that the constitution guarantees. As relevant to Mr. Diaz, the Supreme Court has long “insisted that prisoners be accorded those rights not fundamentally inconsistent with imprisonment itself or incompatible with the objectives of incarceration”; that is, they retain those rights not inconsistent with the legitimate penological needs and safety and security concerns that incarceration entails (Hudson, 468 US at 523).

Nothing in this case justifies the governmental intrusion of Mr. Diaz’s privacy inherent in the District Attorney’s unfettered access to his phone calls for the duration of his pretrial detention. The security purposes that expressly underlie DOC’s policy to record and monitor detainees’ calls are not offered to justify the wholesale disclosure of those recordings to the District Attorney to prosecute Mr. Diaz for the crime for which he was detained—nor could they.

To determine whether the government may lawfully infringe upon an inmate’s privacy, the Supreme Court has explained that:

“The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted” (Bell, 441 US at 559).



The Court further explained: “when an institutional restriction infringes a specific constitutional guarantee . . . the practice must be evaluated in the light of the central objective of prison administration, safeguarding institutional security” (*id.* at 547, citing *Jones*, 433 US at 129; *Pell*, 417 US at 823). Indisputably, DOC has a substantial interest in ensuring that pretrial detainees (and convicted inmates alike) are not planning to smuggle contraband into the facility, attempting to tamper with potential witnesses, planning an escape, or participating in the planning of some further crime.<sup>8</sup>

That interest, however, does not justify the intrusion of privacy inherent in turning those recordings over to the prosecution. It is simply implausible that the wholesale disclosure of phone call recordings to the District Attorney advances jail security—and the parties do not contend so. Such disclosure does not strengthen DOC’s ability to maintain order, to discover an inmate’s efforts to smuggle contraband or hatch an escape, or to monitor for involvement in illegal activity on the outside. DOC, not the District Attorney, is responsible for facility security. Although disclosing the recordings to the District Attorney may often facilitate prosecution for past criminal activity, “[p]rivacy comes at a cost” (*Riley*, 134 S Ct at 2493); whatever benefit that access might entail is not nearly

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<sup>8</sup> The record contains no evidence that DOC’s monitoring of inmate phone calls is necessary to maintain security at Rikers Island, nor is there evidence that the District Attorney’s office has any weighty need for the recordings. Until 2008, DOC did not record inmate phone calls (and, therefore, did not turn any such recordings over to the District Attorney). There is no evidence that, before the District Attorney’s office had unfettered access to recordings of inmate phone calls, its functions were hampered, much less hampered so significantly as to justify the intrusion at issue here. The People make no argument at all as to their *need* for the phone calls—they simply assert a right to have them because DOC has them. If the People did have such a need, the time-honored path to establish it would be through application for a search warrant.

sufficient to overcome the protections the Fourth Amendment provides. Instead, that type of suspicionless search by the government is just what Fourth Amendment prohibits.

### III

The People argue that, under what is termed the “third-party” doctrine, a person forfeits all expectation of privacy in information voluntarily disclosed to a third party. Thus, they argue, Mr. Diaz forfeited his expectation of privacy in the call recordings by consenting to DOC’s recording and monitoring. That argument fails, and its acceptance bodes ill for the privacy interests of law-abiding individuals.

Application of the third-party doctrine would contravene the test set out in Bell and therefore cannot be available here. DOC is a governmental actor that has obtained limited consent from Mr. Diaz for “security purposes” only. According to the People and the majority, that access constitutes the “third-party disclosure” that eliminates all privacy interests Mr. Diaz (or the recipients of the calls) may have in those phone calls. The majority maintains that when the inmate handbook “gives notice that inmate telephone calls may be monitored ‘for purposes of security,’ that statement simply explains *one* of the reasons for DOC’s monitoring practice; it says nothing about the potential uses or dissemination of the recordings” (majority op at 8, emphasis added). Under the majority’s construction, if I ask to borrow your car to drive to the corner store, I may enter it into a demolition derby, because I did not say the *only* thing I was going to use it for was to go to the store. You would be shocked if I said you had impliedly consented, and no court would conclude you had impliedly consented to a use fundamentally different from the one I specifically expressed.

Beyond its detachment from the way consent operates in the real world, the majority's rule contravenes the Bell test by disposing of any inquiry into the DOC's need to collect the information it seeks through a particular search. By allowing DOC to collect information "for security purposes" and routinely deliver it to law enforcement on the theory that the subject has forfeited all expectation of privacy, the majority enables the government to circumvent the Fourth Amendment by collecting private information without a warrant for one ostensible purpose and then deeming it non-private for a purpose as to which a warrant would have been required.

Consider the following. Suppose DOC determined that it could maintain jail security without monitoring and recording inmates' calls after all. But, because the District Attorney wanted the recordings, DOC continued to record all nonprivileged conversations and to turn them over to the District Attorney. Unless we are willing to say that irrespective of DOC's need to record inmate conversations—which Bell requires us to weigh against an inmate's expectation of privacy—the District Attorney's desire to do so is sufficient to overcome the privacy rights of inmates in such calls, we cannot permit such a simple evasion of the Fourth Amendment as is offered here.

For that reason, the People's argument that Mr. Diaz's calls are nonprivileged and therefore subject to the third-party doctrine is a red herring. My phone call to a friend is nonprivileged, but that does not mean the state may intercept it without a warrant and use

its contents to prosecute me.<sup>9</sup> Surely, the state may ask my friend what I said, and my friend may volunteer the contents of our conversation or may be compelled to do so by legal process. Neither of those methods would violate the Fourth Amendment. Likewise here, the District Attorney could have contacted the recipients of Mr. Diaz's phone calls to inquire about the contents of his conversations, and could have subpoenaed them. But merely because the state could use lawful means to obtain the substance of the information from third parties does not mean that it may use *any* means to obtain the information simply because it has been divulged to some third party.

This case is also distinguishable from those in which the police request to search a location for a particular type of contraband or evidence, obtain consent, and discover something else in plain view. For instance, if the police obtain permission from a homeowner to search a home for drugs, and instead find unregistered handguns on the table, the police may seize those handguns, and the prosecution may use them as evidence to support a weapons possession charge. In that case, the homeowner consented to a search *by law enforcement*, and it is the plain-view doctrine, not the third-party doctrine, that allows police to seize those guns. Mr. Diaz consented to no such law enforcement search. He presumably understood that his phone communications would be searched by DOC—

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<sup>9</sup> In evaluating the societal reasonableness of the wholesale transfer of Mr. Diaz's phone calls to the District Attorney, it is vital to remember that both DOC and the District Attorney are governmental actors. As a society, we understand that my friend—a private actor—is free to recount to others—even to the District Attorney—our conversation, but that the District Attorney is not permitted to bug our call to obtain that same information.

the government actor responsible for security on Rikers Island, not the District Attorney—the government actor responsible for his criminal prosecution.

We come back around, then, to whether we, as a society, want to prosecute crime by jailing suspects for lengthy periods of time in relatively inaccessible locations and monitoring their calls for statements that might be used against them. We might obtain a higher conviction rate with rubber hoses or waterboards, but that is not the civilization we want. Our society is committed to safeguarding the right against self-incrimination and the right to counsel. I find myself again with Judge Pigott in describing the society we do want and with it, what measure of privacy pre-trial detainees should reasonably expect:

“Faced with the possibility that anything a defendant says over the telephone can (and will) be used against him a trial, the defendant’s only real choice is not to use the phones at all. I cannot sanction that result. Trial courts must be vigilant to protect the detainees’ constitutional rights, and consideration should be given to placing limitations on the prosecutor’s ability to obtain these recordings” (Johnson, 27 NY3d at 211 [Pigott, J., concurring]).

Such limitations are at the core of the Fourth Amendment’s promise.

#### IV

The broader deficiency in the majority’s analysis is that the third-party doctrine is eroding under the flow of technological change, just as traditional conceptions of privacy based in property, places, and physical objects have been abandoned over the last century. Nearly a century ago, in Olmstead v United States, the Supreme Court held that wiretapping did not violate the Fourth Amendment:

“The [Fourth] Amendment itself shows that the search is to be of material things -- the person, the house, his papers, or his effects. . . . The Amendment does not forbid what was done here. There was no searching. There was no seizure. The evidence was secured by the use of the sense of hearing, and that only. There was no entry of the houses or offices of the defendants. . . . The language of the Amendment cannot be extended and expanded to include telephone wires reaching to the whole world from the defendant’s house or office. The intervening wires are not part of his house or office any more than are the highways along which they are stretched” (277 US 438, 464 [1928]).

Four decades later, the Court diverged from that property-based conception of privacy rights, acknowledging in Katz v United States that over time, “the underpinnings of Olmstead . . . have been so eroded by our subsequent decisions that the ‘trespass’ doctrine there enunciated can no longer be regarded as controlling” (389 US 347, 353 [1967]). Representing a broad expansion of privacy protections to “people, not places” (*id.* at 516), Katz holds specifically that the government cannot constitutionally intercept calls placed from a phone booth. Although the booth itself was located on a public street, the “critical fact in this case” was that “one who occupies [a phone booth], shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world” (*id.* at 511, 517). With the advent of cell phones, it would be absurd to maintain that place-based conception of privacy—to say that the “critical fact” underpinning our expectation that the government will not intercept our calls is the act of shutting a door behind us before dialing.

The chief concern of the Fourth Amendment is to protect against arbitrary government power that unjustifiably intrudes on the sphere of privacy attendant to

personhood. That guarantee is foundational to our national promise, and we must be vigilant in our efforts to ensure it is not eroded. The way in which we articulate its contours is not static, because the conditions in which information about each of us is discoverable by the state is not static.

For the first two centuries of our nationhood, Fourth Amendment doctrine has been based in large part on a fairly simple rubric about what is private and what is not; something is not private if it is observable to the public, or if it is voluntarily disclosed to another, or if it is outside your home. But in many ways, as the differences between Katz's world and today's exemplifies, those assumptions no longer hold. As technology has developed, old assumptions and guideposts are ever challenged, providing doctrinal puzzles that we must solve with coherence and with respect for the principles that undergird the Fourth Amendment. The old rules of thumb are deteriorating as useful metrics of the reasonableness of an expectation of privacy.

The Supreme Court's most recent articulations of Fourth Amendment doctrine have recognized that, just as privacy rules for an agrarian society did not translate well into an industrial one, privacy rules from the Industrial Age do not translate well into the Information Age. For instance in Kyllo v United States, the Court held that a thermal imaging scan of a suspect's home was a search; "obtaining by sense-enhancing technology any information regarding the interior of the home that could not otherwise have been obtained without physical 'intrusion into a constitutionally protected area' constitutes a search—at least where (as here) the technology in question is not in general public use" (533 US 27, 34 [2001], quoting Silverman v United States, 365 US 505, 512 [1961],

internal citation omitted). That holding challenged the old doctrinal assumption that a person had no expectation of privacy in something “observable” to law enforcement.

Increasingly, Fourth Amendment jurisprudence is retreating from the traditional third-party doctrine, in recognition that a *sine qua non* of modern society is the deposit of mountains of personal data with third parties who preserve it indefinitely. Most recently, in Carpenter v United States, the Supreme Court held “that an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through CSLI,” or cell-site location information, the vast data that places a cell phone—and, by implication, its user—in a particular place at a particular time (138 S Ct 2206, 2217 [2018]). Accordingly, the Court concluded, the government could not obtain CSLI from wireless carriers, which it had used at trial to place Mr. Carpenter near the locations of several robberies for which he was charged, without a warrant. Carpenter grew from the Court’s earlier decision in Riley v California, which held that the police may not, without a warrant, search the digital contents of a cell phone lawfully seized from a person who has been arrested (134 S Ct 2473 [2014]). In both cases, the government seized the data at issue from a third-party wireless carrier with which the user had indisputably and knowingly shared it.

The mere fact of disclosure to a third party, however, did not eliminate the user’s expectation of privacy in that information. Indeed, in Carpenter, the defendant’s movements were on the public streets, and he would have been visible to anyone in his vicinity. Under a traditional view, he could not have had a reasonable expectation of



privacy in his location, but the Court held that he could have a reasonable expectation of privacy in the location data sent by his cell phone to his wireless carrier. Mr. Carpenter's wireless carrier needed to have that information for its own business purposes, not to aid the government in prosecuting Mr. Carpenter; likewise here, DOC needs to record Mr. Diaz's phone calls for its own security purposes, not to aid the government in prosecuting Mr. Diaz.

In its shift away from the blind application of the third-party doctrine, the Court recognized that that doctrine "partly stems from the notion that an individual has a reduced expectation of privacy in information knowingly shared with another" (Carpenter, 138 S Ct at 2219); by sharing information with a third party, such as a bank (see United States v Miller, 425 US 435 [1976]) or a telephone company (see Smith v Maryland, 442 US 735 [1979]), an individual is traditionally said to have "assumed the risk that the company would reveal to police" the information at issue (Smith, 442 US at 744).

But, that "diminished privacy interest does not mean that the Fourth Amendment falls out of the picture entirely" (Riley, 134 S Ct at 2488). Importantly, Smith and Miller "did not rely solely on the act of sharing" to hold that the information at issue was not private (Carpenter, 138 S Ct at 2219). Instead, the Court considered "the nature of the particular documents sought to determine whether there is a legitimate expectation of privacy concerning their contents" (*id.* at 2220, quoting Miller, 425 US at 442, internal quotation marks omitted). In Carpenter and Riley, the nature of the cell phone information sought—a robust record of the user's life and whereabouts—made it sufficiently

distinguishable from the bank records sought in Miller and the outgoing numbers dialed from a landline sought in Smith.<sup>10</sup> Given the ubiquity of modern cell phones and their technological capacity to trace our every location and communication, “in no meaningful sense does the user voluntarily ‘assume[] the risk’ of turning over a comprehensive dossier of his physical movements” (Carpenter, 138 S Ct at 2220, quoting Smith, 442 US at 745).

That comparison emphasizes the new nature of smartphone technology and the massive quantity of data stored on those devices to distinguish Carpenter and Riley from prior third-party doctrine decisions. Although in Mr. Diaz’s case the intrusion stems from good, old-fashioned landline surveillance, it too involves modern technology that made it possible for DOC to record and store massive amounts of data and deliver more than a thousand voice recordings to the District Attorney with the click of a mouse. The intrusion is also distinguishable in a more odious way: the third party obtaining and sharing the information is not a private party but is instead an arm of government. It is exactly such governmental intrusions from which the Fourth Amendment shields us.

The attempt to reconcile old doctrine with an evolving new doctrine is difficult. In his concurring opinion in Riley, Justice Alito expressed concern that the majority opinion

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<sup>10</sup> Although the Court has distinguished, not overruled, cases such as Smith and Miller along these lines, I agree with Justice Marshall that “[t]hose who disclose certain facts to a bank or phone company for a limited business purpose need not assume that this information will be released to other persons for other purposes” (Smith, 442 US at 749 [Marshall, J., dissenting]); “unless a person is prepared to forgo use of what for many has become a personal or professional necessity, he cannot help but accept the risk of surveillance” (*id.* at 750). For that reason, such third-party disclosures constitute consent for the information at issue to be shared with the third party company only, not with law enforcement.

extended more protections to the outgoing phone calls of arrestees using a cell phone to comparable calls made using a landline. But, recognizing that that there was no workable alternative, he agreed with the decision that the Fourth Amendment does not allow warrantless search of a cell phone lawfully seized from an arrestee.

Justice Alito's point is well-taken and exposes a tick in the development of Fourth Amendment doctrine. Distinguishing modern smartphones from older, more "traditional" forms of technology reflects the perspective of a particular point in time—a basis that makes little sense when the founding principles that underlie the Fourth Amendment do not contemplate differences between the technological developments of a subsequent era. "Traditional surveillance techniques" are only traditional from our vantagepoint; the new technology of a smartphone will seem traditional, perhaps passé, to the next generation.

Soon, it might not be unusual to see people walking down the street wearing X-ray goggles—will others have forfeited their expectation of privacy in whatever those goggles can see? After all, they are in public, where their expectation of privacy is diminished, and the search image is "observable" thanks to technology in "general public use" (Kyllo, 533 US at 34 [limiting its holding that observations conducted with sense-enhancing technology may only violate the Fourth Amendment if that "technology . . . [is] not in general public use"])). When advances in biotechnology enable tracking of our movements using biometrics that can be constantly read by satellites, will we have forfeited what expectation of privacy remains in our whereabouts?

I offer those questions not to sound a dystopian alarm, but to underscore that when we apply old Fourth Amendment doctrine to new technologies and develop new rules based on those changes, we must extract the principle—and not the prior articulation—from the old doctrine. The map of a flat world worked for a time, but no longer. The rules that define our right of privacy vis à vis law enforcement must ensure that law enforcement cannot collect evidence in ways that undermine the privacy rights we want to allow as a society. Returning again to Justice Harlan’s normative question, the Fourth Amendment asks not only whether the individual asserting the interest has demonstrated a subjective expectation of privacy, but also whether that expectation would be accepted as reasonable by society. Although there may be no principled basis for permitting the police to observe you in your home through a high-power telescope but not through a heat-sensing infrared device, or to place cameras on streets everywhere but not use cell site data to track you, those decisions define the Fourth Amendment’s sweep.

The majority’s holding here is, in essence, the flat map of the world imposed on a spherical one. DOC claims to have obtained Mr. Diaz’s telephone calls out of necessity, just as did the phone company in Carpenter. Mr. Diaz has used those phones out of necessity to communicate with the outside world, just as the plaintiff in Riley used his smartphone to participate in everyday modern life. Mr. Diaz’s ability to avoid use of the prison phone for the eight months of his incarceration is far less realistic than Mr. Carpenter’s ability to avoid carrying his cellphone during his hours-long crime spree; he could have used burner phones, as many people do when engaging in criminal activity. Yet, the government must obtain a warrant to seize the wireless carrier’s records of Mr.

Carpenter's movements—movements that, unlike Mr. Diaz's, were nontestimonial and observable to the naked eye. Application of the third-party doctrine to internet service providers, social media sites, wireless phone carriers, credit card companies, medical insurers and so on would mean that the government may, without a warrant, obtain all that information and more simply because we have "voluntarily" disclosed it to a third party. Instead, Fourth Amendment law, and privacy law more generally, must adapt to times in which we, like Mr. Diaz, have no realistic choice but to divulge information to third parties for a specific purpose, yet retain our rights against the warrantless seizure of that information by the government. Sadly, today's decision is another Olmstead.

For that reason and for those discussed above, I dissent.

\* \* \* \* \*

Order affirmed. Opinion by Judge Feinman. Chief Judge DiFiore and Judges Stein, Fahey and Garcia concur. Judge Wilson dissents in an opinion in which Judge Rivera concurs.

Decided February 21, 2019

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

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Argued - April 18, 2016

L. PRISCILLA HALL, J.P.  
SHERI S. ROMAN  
JEFFREY A. COHEN  
FRANCESCA E. CONNOLLY, JJ.

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2014-03060

DECISION & ORDER

The People, etc., respondent, v Emmanuel Diaz,  
appellant.

(Ind. No. 6408/12)

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Lynn W. L. Fahey, New York, NY (Dina Zloczower of counsel), for appellant.

Eric Gonzalez, Acting District Attorney, Brooklyn, NY (Leonard Joblove and  
Howard B. Goodman of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County  
(Balter, J.), rendered February 24, 2014, convicting him of robbery in the first degree and burglary  
in the first degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that he was deprived of the effective assistance of counsel as a result of his trial counsel's failure to request that the jury be charged on the affirmative defense to robbery in the first degree and burglary in the first degree that the object displayed was not a loaded weapon from which a shot, capable of producing death or other serious physical injury, could be discharged (*see* Penal Law §§ 140.30[4]; 160.15[4]; *People v Miaram*, 97 AD3d 606, 607). However, contrary to the defendant's contention, his trial counsel's decision not to request an instruction on that affirmative defense reflected a legitimate trial strategy of a reasonably competent attorney (*see People v Casseus*, 120 AD3d 828, 829). Defense counsel pursued a misidentification defense at trial, which would have been undermined had defense counsel put on inconsistent evidence that, while the defendant was present during the incident, the weapon he displayed was not loaded and operable (*see People v Howard*, 22 NY3d 388, 401; *see also People v Gordon*, 92 AD3d 580, 581). Further, the Supreme Court was not required to give the charge, sua sponte, since such

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an instruction would have interfered with the defendant's theory of the case (*see People v Acevedo*, 84 AD3d 1390, 1391).

The defendant's contention that he was deprived of his right to counsel under the Federal and State Constitutions by the admission into evidence of recorded telephone calls he made during his detention at Rikers Island Correctional Facility (hereinafter Rikers) is without merit (*see People v Johnson*, 27 NY3d 199, 205-206; *People v Roberts*, 139 AD3d 985, 986).

Furthermore, there is no merit to the defendant's contention that the recordings of his telephone calls from Rikers were improperly admitted into evidence at trial because he did not consent to the dissemination of the recordings by the New York City Department of Correction (hereinafter the DOC) to the prosecution. The defendant does not identify any statutory or constitutional violation with respect to the admission of the recordings. Instead, the defendant argues that the notice he received that his telephone calls would be monitored and recorded provided no basis to infer that he consented to the distribution of those recordings to the prosecution, and that any consent to the monitoring and recording of his calls was for the limited purpose of ensuring prison security.

"A party's consent to the taping of his [or her] telephone calls can be inferred from his [or her] knowledge that such conversations would be monitored" (*People v Jackson*, 125 AD3d 1002, 1004; *see People v Koonce*, 111 AD3d 1277, 1279; *Curley v Board of Trustees*, 213 AD2d 583, 583; *United States v Amen*, 831 F2d 373, 378-379 [2d Cir]). Here, the defendant impliedly consented to the monitoring and recording of his telephone conversations by using the prison telephones despite being notified that such calls were being monitored (*see People v Jackson*, 125 AD3d at 1004; *United States v Workman*, 80 F3d 688, 693-694 [2d Cir]; *United States v Amen*, 831 F2d at 379). The record reflects that the defendant was on notice from several sources of the prison's policy of monitoring and recording inmate telephone conversations, including the inmate handbook, signs posted next to the telephones, and a recorded message which plays prior to each telephone call. In light of these notifications, "it was no longer reasonable for [the defendant] to presume an expectation of privacy as to the content of those telephone conversations" (*United States v Busch*, 2013 US Dist LEXIS 188419, \*165 [WD NY, No. 09CR331A]; *see United States v Shavers*, 693 F3d 363, 389-390 [3d Cir], *vacated and remanded on other grounds* \_\_\_\_ US \_\_\_\_, 133 S Ct 2877). Notably, the defendant indicated during certain of the recorded calls that he was hesitant about discussing the details of the crime over the telephone. Although the inmate handbook provides that "all calls may be recorded for security purposes with the exception of privileged calls," the signs posted next to the telephones broadly state that "[i]nmate telephone conversations are subject to electronic monitoring and/or recording in accordance with department policy," and that "[a]n inmate's use of [institutional] telephones constitutes consent to this monitoring and/or recording." Additionally, an employee of the DOC testified that prior to each call, an inmate will hear a recorded message which states that the call may be recorded and monitored. Thus, contrary to the defendant's contention, the notifications, as a whole, did not limit the scope of the defendant's consent to the monitoring and recording of his telephone calls solely for security purposes (*see United States v Faulkner*, 439 F3d 1221, 1223-1224 [10th Cir]; *United States v Peoples*, 71 F Supp 2d 967, 972, 979 [WD Mo]).

We note that “convicted prisoners do not forfeit all constitutional protections by reason of their conviction and confinement in prison,” and certainly “pretrial detainees, who have not been convicted of any crimes, retain at least those constitutional rights that . . . are enjoyed by convicted prisoners” (*Bell v Wolfish*, 441 US 520, 545). Since any concern that the notice provided to inmates by the DOC is inadequate can be readily ameliorated by an express notification that the recorded calls may be turned over to the District Attorney, the better practice going forward may be for the DOC to include such a warning (*cf. People v Johnson*, 27 NY3d at 207-208). Nevertheless, the absence of such a warning does not render the calls inadmissible (*see People v Koonce*, 111 AD3d at 1279; *United States v Green*, 2016 WL 3610331, \*11, 13-14, 2016 US Dist LEXIS 87388, \*37, 42-43 [WD NY, No. 12-CR-83S]; *United States v Busch*, 2013 US Dist LEXIS 188419, \*164; *United States v Green*, 842 F Supp 68, 71-72 [WD NY], *affd sub nom. United States v Workman*, 80 F3d 688 [2d Cir]). Rather, the trial court must weigh the probative value of the recordings against the potential for prejudice to the defendant (*see generally People v Harris*, 26 NY3d 1, 5). “[D]ue to the possibility of prejudice inherent in the prosecutor’s use of inmate recordings, the trial judge’s role as gatekeeper remains unchanged and necessary to ensure compliance with constitutional mandates and the usual rules of evidence and criminal procedure” (*People v Johnson*, 27 NY3d at 208).

The sentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

ROMAN, COHEN and CONNOLLY, JJ., concur.

HALL, J.P., dissents, and votes to reverse the judgment, on the law, and order a new trial, with the following memorandum:

Pursuant to the Rules of the City of New York and an Operations Order implemented by the New York City Department of Correction (hereinafter the DOC), the respective New York City District Attorneys’ Offices have essentially unfettered access to the recordings of nonprivileged telephone calls made by pretrial detainees at pretrial detention facilities, such as Rikers Island Correctional Facility (hereinafter Rikers) (*see People v Johnson*, 27 NY3d 199, 203-204). This arrangement between the DOC and the District Attorneys’ Offices presents a fundamentally unfair situation to pretrial detainees. In short, while pretrial detainees are notified that telephone calls made from institutional telephone lines may be recorded and monitored, they are not informed that the recordings of such calls may be distributed to the prosecutors handling their cases, and that information in the calls can be used against them at their criminal trials. I share Judge Pigott’s concern, expressed in his concurrence in *Johnson*, that this arrangement “creates a serious potential for abuse and may undermine the constitutional rights of defendants who are financially unable to make bail. Something needs to change” (*id.* at 208 [Pigott, J., concurring]).

The current arrangement between the DOC and the District Attorneys’ Offices simply adds to the well-documented disparities between defendants who can afford to make bail and are at liberty while awaiting trial, and those who cannot afford to make bail and are in pretrial detention facilities. “A defendant free on bail or on his [or her] own recognizance can . . . make good use of that liberty by consulting and participating fully with counsel in time-consuming preparations for trial, including tracking down witnesses and evidentiary leads” (*id.* at 210). The detained suspect,



however, cannot engage in such pretrial preparations. “Moreover, any telephone conversations with family members or potential witnesses are now turned over to the prosecution for it to review. Not only do prosecutors obtain critical information about key defense witnesses and possible defenses well before those materials would have been disclosed, but they can also use innocuous details to their advantage in negotiating plea deals, for example, by combing through a detainee’s recorded conversations for information about his [or her] financial limitations or family obligations” (*id.*).

I am seriously troubled by the fact that pretrial detainees cannot speak to family members without members of the District Attorneys’ Offices listening in. This is especially egregious where pretrial detainees are never informed that the recordings of such telephone calls may be turned over to the prosecution.

Assistant District Attorneys regularly seek to introduce at trial recordings of telephone calls made by pretrial detainees as affirmative evidence of their guilt, principally on the basis of consent. According to the Assistant District Attorneys, since the pretrial detainees consented to the monitoring and recording of such telephone calls, the recordings of the calls may properly be admitted into evidence. However, consent to the monitoring and recording of a telephone call does not equate to an implied consent to have the recording of the call handed over to the prosecution.

In this case, I agree with the majority that the defendant impliedly consented to the monitoring and recording of his telephone conversations by using the telephones at Rikers. As the majority notes, the defendant was informed that his telephone calls from institutional telephones at Rikers would be recorded and monitored, and that his use of those telephones constituted consent to such recording and monitoring. However, the defendant was never informed that the recordings of his telephone calls would be provided to the prosecutor handling his case. Consequently, the defendant never expressly or impliedly consented to the recordings of those calls being disseminated to the prosecutor for potential use at his criminal trial on this matter.

While the defendant admittedly “had no reason to expect privacy in his calls, that does not equate to any consent that the agents and prosecutors working on this case would gain access” to the calls (*United States v Mitan*, 2009 WL 3081727, \*4, 2009 US Dist LEXIS 88886, \*11 [ED Pa, Crim Action Nos. 08-760-1; 08-760-2], 499 Fed Appx 187 [3d Cir]). Indeed, there is “a major distinction between prison authorities having access to prisoners’ phone calls for purposes of prison security and discipline, and the prosecutors of that pretrial prisoner having the same access for purposes of gaining advance knowledge of the pretrial prisoner’s trial strategy and potential witnesses” (2009 WL 3081727, \*4, 2009 US Dist LEXIS 88886, \*11; *see People v Johnson*, 27 NY3d at 209 [Pigott, J., concurring]).

In my view, the defendant’s consent was limited to the monitoring and recording of his telephone calls. This limited consent did not extend to the dissemination of the recordings of those calls to the prosecutor handling his case. In this context, the defendant’s consent can be no broader than the notice provided to him (*cf. Watkins v L.M. Berry & Co.*, 704 F2d 577, 581 [11th Cir]).

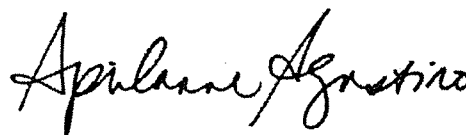
Since the defendant did not impliedly consent to the dissemination of the recordings

of his telephone calls to the prosecution, the recordings of the calls were improperly admitted into evidence. This error was not harmless, as there is a significant probability that the error might have contributed to the defendant's convictions (*see People v Johnson*, 57 NY2d 969, 970; *People v Crimmins*, 36 NY2d 230, 241-242).

Pretrial detainees are presumed innocent, as they have not yet been convicted of any crime. Moreover, while the DOC has a legitimate interest in maintaining the safety and security of its detention facilities, it has no legitimate interest in harvesting evidence for the prosecution (*see People v Johnson*, 27 NY3d at 208-209). Under these circumstances, it is not simply a better practice for the DOC to provide express notification to pretrial detainees that recorded telephone calls may be turned over to the prosecution; such notice is required for the proper admission of these recordings into evidence at a criminal trial.

Accordingly, I respectfully dissent, and vote to reverse the judgment and order a new trial.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Aprilanne Agostino  
Clerk of the Court

# **INMATE TELEPHONE RECORDING NOTICE**

**"INMATE TELEPHONE  
CONVERSATIONS ARE  
SUBJECT TO ELEC-  
TRONIC MONITORING  
AND/OR RECORDING IN  
ACCORDANCE WITH  
DEPARTMENT POLICY."  
AN INMATE'S USE OF  
INSTITUTIONAL TELE-  
PHONES CONSTITUTES  
CONSENT TO THIS  
MONITORING AND/OR  
RECORDING.**



# **NOTIFICACIÓN SOBRE LAS GRABACIONES TELEFÓNICAS DE LOS RECLUSOS**

**LAS CONVERSACIONES  
TELEFÓNICAS DE LOS  
RECLUSOS ESTÁN SUJETAS  
A VIGILACIÓN ELECTRÓNICA  
Y/O A SER GRABADAS  
CONFORME A LOS REGLA-  
MENTOS DEL DEPARTAMENTO.  
EL USO DE LOS TELÉFONOS DE  
LAS INSTITUCIONES POR PARTE  
DE UN RECLUSO CONSTITUIRÁ  
SU CONSENTIMIENTO A ESTE  
TIPO DE VIGILANCIA  
Y/O GRABACIÓN.**

04/04/13 06:53  
CNTRL

The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 1  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
07/25/12 17:42	07/25/12 17:56	13:59	OBCC	PREPAID	(347) 488-2758	1.04
07/25/12 17:59	07/25/12 18:05	5:38	OBCC	PREPAID	(212) 470-5730	0.74
07/26/12 09:05	07/26/12 09:20	15:00	OBCC	PREPAID	(347) 488-2758	1.07
07/26/12 16:30	07/26/12 16:36	6:00	OBCC	OPTION 2	(347) 488-2758	0.74
07/26/12 16:41	07/26/12 16:56	14:59	OBCC	PREPAID	(212) 470-5730	1.07
07/27/12 10:59	07/27/12 11:05	6:00	OBCC	OPTION 2	(347) 666-7849	0.74
07/27/12 12:59	07/27/12 13:07	8:08	OBCC	PREPAID	(212) 470-5730	0.85
<del>07/27/12 13:08</del>	<del>07/27/12 13:08</del>	<del>8:09</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.82</del>
07/27/12 21:24	07/27/12 21:39	15:00	OBCC	PREPAID	(212) 470-5730	1.07
07/28/12 14:44	07/28/12 14:59	14:51	OBCC	PREPAID	(347) 488-2758	1.07
07/28/12 20:55	07/28/12 21:10	14:59	OBCC	PREPAID	(347) 488-2758	1.07
<del>07/28/12 21:11</del>	<del>07/28/12 21:11</del>	<del>8:09</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.82</del>
<del>07/28/12 21:13</del>	<del>07/28/12 21:13</del>	<del>8:05</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(212) 470-5730</del>	<del>0.52</del>
07/29/12 09:55	07/29/12 10:01	6:00	OBCC	OPTION 2	(347) 488-2758	0.74
<del>07/29/12 10:02</del>	<del>07/29/12 10:02</del>	<del>8:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.52</del>
07/29/12 10:04	07/29/12 10:19	14:55	OBCC	PREPAID	(347) 488-2758	1.07
07/29/12 18:00	07/29/12 18:15	14:57	OBCC	PREPAID	(347) 488-2758	1.07
<del>07/29/12 19:45</del>	<del>07/29/12 19:45</del>	<del>8:11</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.82</del>
07/29/12 21:51	07/29/12 21:57	5:52	OBCC	PREPAID	(718) 808-3009	0.74
07/30/12 20:35	07/30/12 20:50	15:00	OBCC	PREPAID	(347) 488-2758	1.07
07/30/12 20:52	07/30/12 20:58	6:00	OBCC	PREPAID	(347) 488-2758	0.74
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<del>07/31/12 21:01</del>	<del>08/01/12 21:01</del>	<del>8:05</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.82</del>
08/01/12 19:53	08/01/12 20:08	14:59	OBCC	PREPAID	(347) 488-2758	1.07
08/01/12 20:12	08/01/12 20:15	2:57	OBCC	PREPAID	(646) 626-2093	0.62
08/02/12 19:09	08/02/12 19:24	14:59	OBCC	PREPAID	(347) 488-2758	1.07
08/02/12 19:26	08/02/12 19:32	5:58	OBCC	OPTION 2	(646) 626-2093	0.74
08/03/12 12:48	08/03/12 12:51	2:18	OBCC	OPTION 2	(347) 488-2758	0.62
08/03/12 18:30	08/03/12 18:45	14:59	OBCC	PREPAID	(347) 488-2758	1.07
<del>08/03/12 18:47</del>	<del>08/03/12 18:47</del>	<del>8:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.82</del>
08/04/12 11:36	08/04/12 11:40	3:48	OBCC	OPTION 2	(646) 626-2093	0.66
08/04/12 11:41	08/04/12 11:56	14:59	OBCC	PREPAID	(347) 488-2758	1.07
08/04/12 11:58	08/04/12 12:00	2:13	OBCC	PREPAID	(347) 488-2758	0.62
08/04/12 18:39	08/04/12 18:51	12:37	OBCC	PREPAID	(347) 488-2758	1.00
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08/04/12 19:36	08/04/12 19:38	1:47	OBCC	PREPAID	(347) 488-2758	0.62
08/04/12 19:39	08/04/12 19:46	6:33	OBCC	PREPAID	(917) 318-9963	0.77
08/05/12 10:18	08/05/12 10:24	6:09	OBCC	PREPAID	(347) 488-2758	0.77
08/05/12 10:25	08/05/12 10:40	14:50	OBCC	PREPAID	(646) 626-2093	1.07

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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 2  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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08/05/12 18:50	08/05/12 19:01	10:39	OBCC	PREPAID	(917) 318-9963	0.92
08/05/12 19:02	08/05/12 19:04	2:28	OBCC	PREPAID	(646) 626-2093	0.62
08/06/12 10:18	08/06/12 10:20	2:18	OBCC	PREPAID	(646) 626-2093	0.62
<del>08/06/12 10:27</del>	<del>08/06/12 10:42</del>	<del>14:59</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 318-9963</del>	<del>0.62</del>
08/06/12 10:27	08/06/12 10:42	14:59	OBCC	PREPAID	(917) 318-9963	1.07
08/06/12 10:44	08/06/12 10:48	3:15	OBCC	PREPAID	(347) 488-2758	0.66
08/06/12 17:05	08/06/12 17:09	3:58	OBCC	PREPAID	(347) 488-2758	0.66
08/06/12 17:11	08/06/12 17:15	4:14	OBCC	OPTION 2	(646) 626-2093	0.70
08/06/12 17:17	08/06/12 17:30	12:41	OBCC	PREPAID	(917) 318-9963	1.00
<del>08/07/12 10:16</del>	<del>08/07/12 10:19</del>	<del>3:21</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
08/07/12 10:16	08/07/12 10:19	3:21	OBCC	PREPAID	(646) 626-2093	0.66
<del>08/07/12 10:24</del>	<del>08/07/12 10:24</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 318-9963</del>	<del>0.62</del>
08/07/12 10:24	08/07/12 10:24	0:10	OBCC	PREPAID	(917) 318-9963	0.62
08/07/12 10:25	08/07/12 10:40	15:00	OBCC	PREPAID	(347) 488-2758	1.07
08/07/12 16:56	08/07/12 17:02	6:08	OBCC	PREPAID	(347) 488-2758	0.77
08/07/12 17:03	08/07/12 17:09	6:17	OBCC	PREPAID	(646) 626-2093	0.77
<del>08/07/12 17:18</del>	<del>08/07/12 17:26</del>	<del>8:04</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.85</del>
08/07/12 17:18	08/07/12 17:26	8:04	OBCC	PREPAID	(347) 488-2758	0.85
08/08/12 17:47	08/08/12 17:48	1:20	OBCC	PREPAID	(917) 554-1258	0.62
08/08/12 17:49	08/08/12 18:04	14:45	OBCC	PREPAID	(917) 318-9963	1.07
08/09/12 09:26	08/09/12 09:31	4:53	OBCC	PREPAID	(347) 488-2758	0.70
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08/09/12 09:32	08/09/12 09:33	0:09	OBCC	PREPAID	(917) 318-9963	0.62
<del>08/09/12 09:39</del>	<del>08/09/12 09:43</del>	<del>0:04</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
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08/09/12 09:40	08/09/12 09:40	0:02	OBCC	PREPAID	(917) 554-1258	0.62
08/09/12 13:03	08/09/12 13:17	14:04	OBCC	PREPAID	(917) 618-0686	1.07
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08/09/12 17:13	08/09/12 17:18	5:47	OBCC	PREPAID	(347) 488-2758	0.74
08/09/12 22:10	08/09/12 22:24	13:56	OBCC	PREPAID	(917) 554-1258	1.04
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08/11/12 09:38	08/11/12 09:46	8:24	OBCC	PREPAID	(646) 626-2093	0.85

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The City of New York  
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Page : 3  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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08/11/12 16:49	08/11/12 17:04	14:59	OBCC	PREPAID	(917) 318-9963	1.07
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08/12/12 11:03	08/12/12 11:06	2:17	OBCC	PREPAID	(646) 626-2093	0.62
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08/13/12 19:58	08/13/12 20:01	2:36	OBCC	PREPAID	(646) 626-2093	0.62
08/13/12 20:02	08/13/12 20:17	15:00	OBCC	PREPAID	(917) 318-9963	1.07
<del>08/13/12 20:17</del>	<del>08/13/12 20:17</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 318-9963</del>	<del>0.62</del>
08/14/12 09:53	08/14/12 09:59	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>08/14/12 14:24</del>	<del>08/14/12 14:24</del>	<del>0:06</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
08/14/12 14:24	08/14/12 14:35	10:46	OBCC	PREPAID	(646) 626-2093	0.92
08/14/12 14:36	08/14/12 14:40	4:06	OBCC	PREPAID	(917) 554-1258	0.70
<del>08/14/12 18:14</del>	<del>08/14/12 18:14</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/14/12 18:14	08/14/12 18:16	1:54	OBCC	PREPAID	(646) 626-2093	0.62
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<del>08/15/12 08:52</del>	<del>08/15/12 08:52</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
<del>08/15/12 08:55</del>	<del>08/15/12 08:55</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
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The City of New York  
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O'LEARY, SUSAN

BAC Number :1411209936  
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DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
<del>08/16/12 20:14</del>	<del>08/16/12 20:14</del>	<del>0:04</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/16/12 20:15	08/16/12 20:17	1:46	OBCC	PREPAID	(917) 554-1258	0.62
<del>08/17/12 11:26</del>	<del>08/17/12 11:26</del>	<del>0:03</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/17/12 11:28	08/17/12 11:43	14:59	OBCC	PREPAID	(917) 554-1258	1.07
<del>08/17/12 11:45</del>	<del>08/17/12 11:45</del>	<del>0:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(347) 488-2758</del>	<del>0.62</del>
08/18/12 10:55	08/18/12 11:01	6:00	OBCC	OPTION 2	(917) 554-1258	0.74
08/18/12 11:02	08/18/12 11:05	3:22	OBCC	PREPAID	(646) 626-2093	0.66
08/18/12 12:04	08/18/12 12:05	1:12	OBCC	PREPAID	(646) 626-2093	0.62
08/18/12 12:06	08/18/12 12:16	10:26	OBCC	PREPAID	(718) 381-0979	0.92
<del>08/19/12 09:56</del>	<del>08/19/12 09:56</del>	<del>0:10</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(917) 554-1258</del>	<del>0.62</del>
<del>08/19/12 09:59</del>	<del>08/19/12 09:59</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/19/12 10:02	08/19/12 10:04	2:46	OBCC	PREPAID	(646) 626-2093	0.62
<del>08/19/12 11:04</del>	<del>08/19/12 11:04</del>	<del>0:33</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
08/19/12 11:05	08/19/12 11:07	2:09	OBCC	PREPAID	(347) 488-2758	0.62
08/19/12 11:08	08/19/12 11:23	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/19/12 18:22	08/19/12 18:37	14:59	OBCC	PREPAID	(212) 470-5730	1.07
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08/19/12 18:40	08/19/12 18:42	1:56	OBCC	PREPAID	(646) 626-2093	0.62
08/19/12 18:43	08/19/12 18:47	3:55	OBCC	PREPAID	(212) 470-5730	0.66
08/20/12 17:27	08/20/12 17:33	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>08/20/12 17:35</del>	<del>08/20/12 17:35</del>	<del>0:29</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/20/12 17:37	08/20/12 17:51	14:29	OBCC	PREPAID	(347) 488-2758	1.07
08/21/12 09:32	08/21/12 09:47	15:00	OBCC	PREPAID	(212) 470-5730	1.07
08/21/12 09:49	08/21/12 09:55	6:00	OBCC	OPTION 2	(212) 470-5730	0.74
<del>08/21/12 14:54</del>	<del>08/21/12 14:54</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
08/21/12 14:54	08/21/12 15:09	15:00	OBCC	PREPAID	(212) 470-5730	1.07
08/21/12 16:50	08/21/12 16:56	5:50	OBCC	PREPAID	(646) 626-2093	0.74
08/21/12 20:18	08/21/12 20:27	8:34	OBCC	PREPAID	(347) 488-2758	0.85
08/21/12 20:28	08/21/12 20:31	3:03	OBCC	PREPAID	(212) 470-5730	0.66
08/22/12 09:44	08/22/12 09:47	2:48	OBCC	PREPAID	(646) 626-2093	0.62
08/22/12 09:50	08/22/12 09:53	3:27	OBCC	PREPAID	(347) 488-2758	0.66
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<del>08/22/12 09:58</del>	<del>08/22/12 09:58</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/22/12 09:59	08/22/12 10:13	13:53	OBCC	PREPAID	(212) 470-5730	1.04
<del>08/22/12 16:40</del>	<del>08/22/12 16:40</del>	<del>0:12</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(347) 488-2758</del>	<del>0.62</del>
08/22/12 16:54	08/22/12 17:03	8:53	OBCC	PREPAID	(347) 488-2758	0.85
08/22/12 17:04	08/22/12 17:15	11:25	OBCC	PREPAID	(212) 470-5730	0.96
08/22/12 21:59	08/22/12 22:08	9:35	OBCC	PREPAID	(212) 470-5730	0.89
08/22/12 22:29	08/22/12 22:40	11:25	OBCC	PREPAID	(212) 470-5730	0.96
08/23/12 10:54	08/23/12 11:09	15:00	OBCC	PREPAID	(212) 470-5730	1.07
08/23/12 11:10	08/23/12 11:16	5:57	OBCC	PREPAID	(646) 626-2093	0.74

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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 5  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
08/23/12 20:10	08/23/12 20:14	3:45	OBCC	PREPAID	(347) 488-2758	0.66
<del>08/23/12 20:16</del>	<del>08/23/12 20:16</del>	<del>0:08</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>08/23/12 20:23</del>	<del>08/23/12 20:24</del>	<del>0:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
08/23/12 20:25	08/23/12 20:30	5:24	OBCC	PREPAID	(917) 554-1258	0.74
08/24/12 10:04	08/24/12 10:11	7:06	OBCC	PREPAID	(212) 470-5730	0.81
08/24/12 10:12	08/24/12 10:22	9:50	OBCC	PREPAID	(212) 470-5730	0.89
08/24/12 10:23	08/24/12 10:27	4:04	OBCC	PREPAID	(646) 626-2093	0.70
08/24/12 18:10	08/24/12 18:25	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/24/12 18:26	08/24/12 18:32	6:00	OBCC	OPTION 2	(212) 470-5730	0.74
08/25/12 10:38	08/25/12 10:53	15:00	OBCC	PREPAID	(212) 470-5730	1.07
08/25/12 10:55	08/25/12 10:58	2:56	OBCC	PREPAID	(347) 488-2758	0.62
<del>08/25/12 10:58</del>	<del>08/25/12 10:58</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/25/12 11:00	08/25/12 11:03	3:01	OBCC	PREPAID	(917) 618-0686	0.66
08/25/12 17:34	08/25/12 17:48	13:38	OBCC	PREPAID	(212) 470-5730	1.04
<del>08/25/12 17:53</del>	<del>08/25/12 17:53</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/25/12 17:54	08/25/12 18:01	7:19	OBCC	PREPAID	(917) 618-0686	0.81
08/26/12 10:31	08/26/12 10:46	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/26/12 10:47	08/26/12 10:49	1:47	OBCC	OPTION 2	(646) 626-2093	0.62
08/26/12 10:50	08/26/12 10:54	4:14	OBCC	PREPAID	(347) 488-2758	0.70
08/26/12 17:48	08/26/12 18:03	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/26/12 21:50	08/26/12 21:57	6:01	OBCC	PREPAID	(212) 470-5730	0.77
<del>08/27/12 10:40</del>	<del>08/27/12 10:41</del>	<del>0:49</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
08/27/12 10:42	08/27/12 10:53	11:15	OBCC	PREPAID	(646) 626-2093	0.96
08/27/12 10:54	08/27/12 11:03	9:04	OBCC	PREPAID	(347) 488-2758	0.89
<del>08/27/12 16:14</del>	<del>08/27/12 16:21</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
08/27/12 16:15	08/27/12 16:21	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
08/27/12 17:42	08/27/12 17:57	14:50	OBCC	PREPAID	(212) 470-5730	1.07
08/27/12 21:33	08/27/12 21:39	6:10	OBCC	PREPAID	(212) 470-5730	0.77
08/28/12 09:54	08/28/12 10:09	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/28/12 10:09	08/28/12 10:16	6:01	OBCC	PREPAID	(212) 470-5730	0.77
08/28/12 18:37	08/28/12 18:48	11:07	OBCC	PREPAID	(646) 626-2093	0.96
<del>08/28/12 18:50</del>	<del>08/28/12 18:50</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.62</del>
<del>08/28/12 18:56</del>	<del>08/28/12 18:56</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
08/28/12 18:52	08/28/12 19:01	9:42	OBCC	PREPAID	(917) 554-1258	0.89
<del>08/29/12 09:41</del>	<del>08/29/12 09:41</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>08/29/12 09:43</del>	<del>08/29/12 09:43</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
8/29/12 09:44	08/29/12 09:52	8:21	OBCC	PREPAID	(646) 626-2093	0.85
8/29/12 09:54	08/29/12 10:06	12:25	OBCC	PREPAID	(212) 470-5730	1.00
8/29/12 16:07	08/29/12 16:10	3:13	OBCC	PREPAID	(212) 470-5730	0.66
8/29/12 16:11	08/29/12 16:26	14:59	OBCC	PREPAID	(212) 470-5730	1.07
<del>8/29/12 16:28</del>	<del>08/29/12 16:28</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.62</del>



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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 6  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936 DIAZ, EMMANUEL  
Property Bag(s) :

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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08/29/12 21:50	08/29/12 22:05	14:59	OBCC	PREPAID	(347) 488-2758	1.07
08/30/12 09:25	08/30/12 09:33	8:54	OBCC	PREPAID	(646) 626-2093	0.85
<del>08/30/12 09:35</del>	<del>08/30/12 09:43</del>	<del>08:08</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
08/30/12 09:36	08/30/12 09:48	12:02	OBCC	PREPAID	(212) 470-5730	1.00
08/30/12 14:52	08/30/12 15:07	15:00	OBCC	PREPAID	(212) 470-5730	1.07
08/30/12 16:31	08/30/12 16:37	6:00	OBCC	OPTION 2	(347) 977-8363	0.74
08/30/12 21:47	08/30/12 21:58	10:40	OBCC	PREPAID	(212) 470-5730	0.92
08/30/12 21:59	08/30/12 22:09	10:19	OBCC	PREPAID	(347) 488-2758	0.92
08/31/12 09:37	08/31/12 09:42	5:14	OBCC	OPTION 2	(347) 488-2758	0.74
08/31/12 09:59	08/31/12 10:03	4:03	OBCC	FREE	(646) 626-2093	
08/31/12 10:05	08/31/12 10:11	6:00	OBCC	FREE	(212) 470-5730	
08/31/12 16:03	08/31/12 16:18	14:59	OBCC	PREPAID	(212) 470-5730	1.07
08/31/12 16:19	08/31/12 16:25	6:01	OBCC	PREPAID	(347) 977-8363	0.77
<del>08/31/12 21:52</del>	<del>08/31/12 21:52</del>	<del>0:04</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>08/31/12 21:54</del>	<del>08/31/12 21:54</del>	<del>0:46</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.62</del>
08/31/12 21:55	08/31/12 22:10	14:59	OBCC	PREPAID	(646) 626-2093	1.07
09/01/12 09:52	09/01/12 10:05	12:45	OBCC	PREPAID	(212) 470-5730	1.00
09/01/12 10:06	09/01/12 10:15	8:15	OBCC	PREPAID	(646) 626-2093	0.85
09/01/12 16:04	09/01/12 16:11	7:45	OBCC	PREPAID	(347) 977-8363	0.81
09/01/12 16:12	09/01/12 16:26	13:27	OBCC	PREPAID	(646) 626-2093	1.04
<del>09/01/12 21:34</del>	<del>09/01/12 21:34</del>	<del>0:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>09/01/12 21:34</del>	<del>09/01/12 21:35</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>09/01/12 21:35</del>	<del>09/01/12 21:36</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>09/01/12 21:37</del>	<del>09/01/12 21:37</del>	<del>0:37</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
09/01/12 21:38	09/01/12 21:45	6:40	OBCC	PREPAID	(212) 470-5730	0.77
09/02/12 10:07	09/02/12 10:13	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>09/02/12 10:16</del>	<del>09/02/12 10:16</del>	<del>0:04</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>09/02/12 10:17</del>	<del>09/02/12 10:17</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 554-1258</del>	<del>0.62</del>
09/02/12 10:18	09/02/12 10:33	14:48	OBCC	PREPAID	(917) 618-0686	1.07
09/02/12 16:36	09/02/12 16:39	3:09	OBCC	PREPAID	(646) 626-2093	0.66
<del>09/02/12 16:40</del>	<del>09/02/12 16:40</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
09/02/12 16:41	09/02/12 16:56	14:59	OBCC	PREPAID	(347) 977-8363	1.07
<del>09/02/12 16:58</del>	<del>09/02/12 16:58</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>09/02/12 17:00</del>	<del>09/02/12 17:00</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 618-0686</del>	<del>0.62</del>
09/02/12 17:01	09/02/12 17:03	2:44	OBCC	PREPAID	(347) 977-8363	0.62
09/02/12 21:58	09/02/12 22:13	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>09/03/12 10:40</del>	<del>09/03/12 10:40</del>	<del>0:16</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
9/03/12 10:42	09/03/12 10:46	3:44	OBCC	PREPAID	(212) 470-5730	0.66
9/03/12 10:48	09/03/12 11:03	14:59	OBCC	PREPAID	(646) 626-2093	1.07
9/03/12 11:09	09/03/12 11:15	6:00	OBCC	OPTION 2	(646) 626-2093	0.74

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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 7  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
<del>09/03/12 16:45</del>	<del>09/03/12 16:46</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
09/03/12 16:46	09/03/12 16:51	4:28	OBCC	PREPAID	(646) 626-2093	0.70
09/03/12 17:15	09/03/12 17:29	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>09/04/12 09:35</del>	<del>09/04/12 09:35</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
09/04/12 09:36	09/04/12 09:45	9:16	OBCC	PREPAID	(646) 626-2093	0.89
<del>09/04/12 09:36</del>	<del>09/04/12 09:36</del>	<del>0:09</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(210) 544-9311</del>	<del>0.62</del>
09/04/12 09:51	09/04/12 10:03	11:31	OBCC	PREPAID	(210) 544-9311	6.00
09/04/12 16:32	09/04/12 16:34	1:43	OBCC	PREPAID	(210) 544-9311	1.40
09/04/12 16:34	09/04/12 16:45	10:50	OBCC	PREPAID	(212) 470-5730	0.92
09/04/12 16:46	09/04/12 16:55	8:27	OBCC	PREPAID	(917) 554-1258	0.85
09/04/12 21:43	09/04/12 21:56	12:33	OBCC	PREPAID	(210) 544-9311	6.46
09/05/12 09:27	09/05/12 09:30	3:22	OBCC	PREPAID	(646) 626-2093	0.66
09/05/12 09:31	09/05/12 09:46	14:59	OBCC	PREPAID	(212) 470-5730	1.07
09/05/12 09:51	09/05/12 09:57	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>09/05/12 16:55</del>	<del>09/05/12 16:58</del>	<del>0:04</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
09/05/12 16:57	09/05/12 17:02	4:53	OBCC	PREPAID	(212) 470-5730	0.70
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<del>09/05/12 17:06</del>	<del>09/05/12 17:06</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(210) 544-9311</del>	<del>0.62</del>
09/05/12 19:38	09/05/12 19:48	9:23	OBCC	PREPAID	(210) 544-9311	5.08
09/05/12 19:49	09/05/12 19:56	6:36	OBCC	PREPAID	(347) 488-2758	0.77
<del>09/06/12 11:39</del>	<del>09/06/12 11:39</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(212) 470-5730</del>	<del>0.62</del>
<del>09/06/12 11:41</del>	<del>09/06/12 11:41</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(210) 544-9311</del>	<del>0.62</del>
09/06/12 11:42	09/06/12 11:56	14:23	OBCC	PREPAID	(646) 626-2093	1.07
09/06/12 11:57	09/06/12 12:03	6:00	OBCC	OPTION 2	(917) 318-9963	0.74
09/06/12 16:50	09/06/12 17:05	14:59	OBCC	PREPAID	(646) 626-2093	1.07
09/06/12 17:06	09/06/12 17:12	6:01	OBCC	PREPAID	(646) 626-2093	0.77
09/06/12 22:24	09/06/12 22:31	6:37	OBCC	PREPAID	(646) 626-2093	0.77
09/07/12 13:01	09/07/12 13:05	3:56	OBCC	PREPAID	(646) 626-2093	0.66
<del>09/07/12 14:01</del>	<del>09/07/12 14:01</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
09/07/12 14:02	09/07/12 14:17	14:18	OBCC	PREPAID	(646) 626-2093	1.07
09/07/12 14:18	09/07/12 14:20	2:43	OBCC	PREPAID	(646) 626-2093	0.62
<del>09/07/12 19:38</del>	<del>09/07/12 19:38</del>	<del>0:10</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
9/07/12 19:40	09/07/12 19:46	5:54	OBCC	PREPAID	(646) 626-2093	0.74
9/07/12 21:29	09/07/12 21:44	14:55	OBCC	PREPAID	(646) 626-2093	1.07
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9/08/12 09:44	09/08/12 09:51	6:46	OBCC	PREPAID	(646) 626-2093	0.77
9/08/12 14:57	09/08/12 15:06	8:35	OBCC	PREPAID	(646) 626-2093	0.85
9/08/12 16:47	09/08/12 17:00	12:25	OBCC	PREPAID	(646) 626-2093	1.00
9/08/12 21:47	09/08/12 21:56	8:35	OBCC	PREPAID	(646) 626-2093	0.85
9/08/12 22:21	09/08/12 22:26	5:32	OBCC	OPTION 2	(646) 626-2093	0.74

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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 8  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936 DIAZ, EMMANUEL  
Property Bag(s) :

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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09/09/12 10:12	09/09/12 10:18	6:48	OBCC	PREPAID	(646) 626-2093	0.77
09/09/12 10:20	09/09/12 10:34	13:36	OBCC	PREPAID	(347) 765-6027	1.04
<del>09/09/12 17:48</del>	<del>09/09/12 17:48</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 318-9983</del>	<del>0.62</del>
<del>09/09/12 18:53</del>	<del>09/09/12 18:53</del>	<del>0:07</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
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09/09/12 21:55	09/09/12 22:01	6:07	OBCC	PREPAID	(646) 626-2093	0.77
09/10/12 11:46	09/10/12 12:01	15:00	OBCC	PREPAID	(646) 626-2093	1.07
09/10/12 17:53	09/10/12 17:59	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
09/10/12 21:35	09/10/12 21:38	2:33	OBCC	PREPAID	(646) 626-2093	0.62
09/10/12 21:39	09/10/12 21:51	12:27	OBCC	PREPAID	(646) 626-2093	1.00
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09/11/12 17:41	09/11/12 17:55	14:07	OBCC	PREPAID	(646) 626-2093	1.07
09/11/12 17:56	09/11/12 18:02	6:40	OBCC	PREPAID	(917) 982-0312	0.77
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<del>09/12/12 09:14</del>	<del>09/12/12 09:14</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
09/12/12 09:17	09/12/12 09:28	11:11	OBCC	PREPAID	(917) 318-9963	0.96
09/12/12 09:29	09/12/12 09:39	9:35	OBCC	PREPAID	(917) 982-0312	0.89
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09/12/12 17:24	09/12/12 17:34	9:24	OBCC	PREPAID	(646) 626-2093	0.89
09/12/12 22:29	09/12/12 22:35	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>09/12/12 22:36</del>	<del>09/12/12 22:36</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
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09/12/12 22:39	09/12/12 22:54	14:46	OBCC	PREPAID	(646) 626-2093	1.07
<del>09/13/12 09:18</del>	<del>09/13/12 09:18</del>	<del>0:16</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
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09/13/12 09:20	09/13/12 09:25	5:06	OBCC	PREPAID	(646) 626-2093	0.74
09/13/12 11:40	09/13/12 11:55	14:59	OBCC	PREPAID	(917) 982-0312	1.07
09/13/12 14:38	09/13/12 14:44	6:01	OBCC	PREPAID	(917) 982-0312	0.77
09/13/12 22:34	09/13/12 22:40	6:00	OBCC	OPTION 2	(917) 982-0312	0.74
09/13/12 22:41	09/13/12 22:56	14:59	OBCC	PREPAID	(917) 982-0312	1.07

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User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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09/14/12 11:03	09/14/12 11:09	5:14	OBCC	PREPAID	(917) 982-0312	0.74
09/14/12 16:47	09/14/12 17:01	13:11	OBCC	PREPAID	(917) 982-0312	1.04
09/14/12 17:02	09/14/12 17:10	7:49	OBCC	PREPAID	(646) 626-2093	0.81
09/14/12 22:32	09/14/12 22:38	6:00	OBCC	OPTION 2	(917) 982-0312	0.74
09/14/12 22:38	09/14/12 22:53	15:00	OBCC	PREPAID	(917) 982-0312	1.07
09/15/12 11:58	09/15/12 12:13	15:00	OBCC	PREPAID	(917) 982-0312	1.07
09/15/12 12:14	09/15/12 12:20	6:00	OBCC	PREPAID	(917) 982-0312	0.74
09/15/12 17:22	09/15/12 17:37	15:00	OBCC	PREPAID	(917) 982-0312	1.07
<del>09/15/12 22:33</del>	<del>09/15/12 22:33</del>	<del>0:01</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>09/15/12 22:33</del>	<del>09/15/12 22:33</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
09/15/12 22:33	09/15/12 22:45	11:35	OBCC	PREPAID	(646) 626-2093	0.96
09/16/12 11:21	09/16/12 11:36	15:00	OBCC	PREPAID	(917) 982-0312	1.07
09/16/12 11:37	09/16/12 11:43	6:00	OBCC	PREPAID	(646) 626-2093	0.74
<del>09/16/12 16:36</del>	<del>09/16/12 16:38</del>	<del>2:33</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
09/16/12 16:36	09/16/12 16:38	2:33	OBCC	PREPAID	(917) 982-0312	0.62
<del>09/16/12 16:39</del>	<del>09/16/12 16:40</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
09/16/12 16:41	09/16/12 16:48	7:25	OBCC	PREPAID	(917) 982-0312	0.81
<del>09/16/12 16:49</del>	<del>09/16/12 16:50</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>09/16/12 16:50</del>	<del>09/16/12 16:50</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
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09/16/12 16:52	09/16/12 17:02	10:50	OBCC	PREPAID	(347) 765-6027	0.92
<del>09/16/12 22:28</del>	<del>09/16/12 22:28</del>	<del>0:02</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(917) 982-0312</del>	<del>0.62</del>
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09/16/12 22:37	09/16/12 22:52	14:59	OBCC	PREPAID	(347) 765-6027	1.07
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09/17/12 10:21	09/17/12 10:27	5:59	OBCC	PREPAID	(646) 626-2093	0.74
09/17/12 17:01	09/17/12 17:16	15:00	OBCC	PREPAID	(917) 982-0312	1.07
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09/17/12 22:39	09/17/12 22:54	14:59	OBCC	PREPAID	(646) 626-2093	1.07
09/18/12 11:18	09/18/12 11:22	4:03	OBCC	PREPAID	(646) 626-2093	0.70
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The City of New York  
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Page : 10  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time Fclty.	Call Type	Phone Number	Charge
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<del>09/19/12 22:38 09/19/12 22:44 6:00 OBCC OPTION 2 (646) 626-2093 0.74</del>					
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09/22/12 10:19	09/22/12 10:34	15:00 OBCC	PREPAID	(917) 982-0312	1.07
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09/22/12 17:06	09/22/12 17:21	15:00 OBCC	PREPAID	(917) 982-0312	1.07
09/22/12 17:22	09/22/12 17:28	6:00 OBCC	PREPAID	(917) 982-0312	0.74
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<del>09/22/12 22:26 09/22/12 22:32 6:00 OBCC OPTION 2 (646) 626-2093 0.74</del>					
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09/23/12 13:44	09/23/12 13:49	5:41 OBCC	PREPAID	(646) 626-2093	0.74
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09/23/12 16:48	09/23/12 16:51	2:31 OBCC	PREPAID	(347) 488-2758	0.62
09/23/12 16:52	09/23/12 17:04	12:25 OBCC	PREPAID	(347) 765-6027	1.00
09/23/12 22:16	09/23/12 22:18	2:40 OBCC	PREPAID	(646) 626-2093	0.62
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09/24/12 10:12	09/24/12 10:19	7:20 OBCC	PREPAID	(646) 626-2093	0.81
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09/24/12 10:32	09/24/12 10:40	8:25 OBCC	PREPAID	(347) 488-2758	0.85
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09/24/12 16:58	09/24/12 16:58	0:02 OBCC	PREPAID	(646) 626-2093	0.62
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09/24/12 22:31	09/24/12 22:37	6:00 OBCC	OPTION 2	(917) 982-0312	0.74

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User : I40351  
O'LEARY, SUSAN

DIAZ, EMMANUEL

52a



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CNTRL

The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 12  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
<del>09/30/12 16:44</del>	<del>09/30/12 16:44</del>	<del>16:44</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>09/30/12 16:44</del>	<del>09/30/12 16:44</del>	<del>16:44</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
09/30/12 16:44	09/30/12 16:59	14:59	OBCC	PREPAID	(646) 626-2093	1.07
09/30/12 17:00	09/30/12 17:06	5:55	OBCC	PREPAID	(646) 626-2093	0.74
<del>09/30/12 22:26</del>	<del>09/30/12 22:26</del>	<del>0:01</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(917) 982-0312</del>	<del>0.62</del>
09/30/12 22:27	09/30/12 22:35	8:13	OBCC	PREPAID	(646) 626-2093	0.85
09/30/12 22:36	09/30/12 22:48	12:46	OBCC	PREPAID	(917) 982-0312	1.00
<del>10/01/12 09:30</del>	<del>10/01/12 09:30</del>	<del>09:30</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/01/12 09:32	10/01/12 09:47	14:59	OBCC	PREPAID	(917) 652-2092	1.07
10/01/12 09:48	10/01/12 09:53	5:56	OBCC	PREPAID	(646) 626-2093	0.74
10/01/12 16:03	10/01/12 16:09	6:14	OBCC	PREPAID	(917) 982-0312	0.77
<del>10/01/12 16:10</del>	<del>10/01/12 16:10</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>10/01/12 16:10</del>	<del>10/01/12 16:10</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>10/01/12 16:10</del>	<del>10/01/12 16:10</del>	<del>0:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
10/01/12 16:16	10/01/12 16:24	8:23	OBCC	PREPAID	(646) 626-2093	0.85
10/01/12 16:26	10/01/12 16:32	6:09	OBCC	PREPAID	(646) 626-2093	0.77
<del>10/01/12 21:10</del>	<del>10/01/12 21:10</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>10/01/12 21:10</del>	<del>10/01/12 21:10</del>	<del>0:01</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/01/12 21:16	10/01/12 21:22	6:21	OBCC	PREPAID	(646) 626-2093	0.77
<del>10/01/12 22:25</del>	<del>10/01/12 22:25</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
10/01/12 22:26	10/01/12 22:40	14:33	OBCC	PREPAID	(646) 626-2093	1.07
<del>10/02/12 11:40</del>	<del>10/02/12 11:40</del>	<del>0:16</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
10/02/12 11:43	10/02/12 11:52	8:53	OBCC	PREPAID	(646) 626-2093	0.85
10/02/12 11:53	10/02/12 12:05	11:57	OBCC	PREPAID	(917) 982-0312	0.96
<del>10/02/12 22:10</del>	<del>10/02/12 22:10</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
10/02/12 22:03	10/02/12 22:18	14:54	OBCC	PREPAID	(917) 982-0312	1.07
10/02/12 22:19	10/02/12 22:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/03/12 22:06	10/03/12 22:12	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/04/12 22:32	10/04/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/04/12 22:39	10/04/12 22:54	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/05/12 22:19	10/05/12 22:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/05/12 22:26	10/05/12 22:41	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/06/12 22:39	10/06/12 22:43	3:34	OBCC	OPTION 2	(646) 626-2093	0.66
10/06/12 22:43	10/06/12 22:58	14:55	OBCC	PREPAID	(646) 626-2093	1.07
10/07/12 22:26	10/07/12 22:32	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/07/12 22:33	10/07/12 22:48	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/08/12 22:29	10/08/12 22:35	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>10/08/12 22:35</del>	<del>10/08/12 22:35</del>	<del>0:07</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/08/12 22:36	10/08/12 22:51	14:52	OBCC	PREPAID	(646) 626-2093	1.07
<del>10/09/12 14:42</del>	<del>10/09/12 14:42</del>	<del>0:40</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/09/12 14:43	10/09/12 14:58	14:59	OBCC	PREPAID	(917) 652-2092	1.07

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BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
10/09/12 14:59	10/09/12 15:05	5:51	OBCC	PREPAID	(917) 652-2092	0.74
10/09/12 22:33	10/09/12 22:39	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/09/12 22:40	10/09/12 22:55	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/10/12 22:17	10/10/12 22:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/10/12 22:24	10/10/12 22:27	2:22	OBCC	PREPAID	(646) 626-2093	0.62
<del>10/10/12 22:27</del>	<del>10/10/12 22:27</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>10/10/12 22:29</del>	<del>10/10/12 22:29</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>10/10/12 22:29</del>	<del>10/10/12 22:29</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/10/12 22:31	10/10/12 22:43	12:21	OBCC	PREPAID	(646) 626-2093	1.00
10/11/12 17:26	10/11/12 17:41	14:59	OBCC	PREPAID	(917) 982-0312	1.07
<del>10/11/12 22:29</del>	<del>10/11/12 22:29</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
10/11/12 22:25	10/11/12 22:31	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/11/12 22:32	10/11/12 22:47	14:57	OBCC	PREPAID	(646) 626-2093	1.07
10/12/12 22:27	10/12/12 22:33	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/12/12 22:34	10/12/12 22:49	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/13/12 22:27	10/13/12 22:33	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/13/12 22:34	10/13/12 22:48	14:30	OBCC	PREPAID	(646) 626-2093	1.07
10/14/12 22:15	10/14/12 22:21	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/14/12 22:22	10/14/12 22:37	14:58	OBCC	PREPAID	(646) 626-2093	1.07
10/15/12 22:34	10/15/12 22:40	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/15/12 22:41	10/15/12 22:56	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/16/12 14:15	10/16/12 14:29	14:26	OBCC	PREPAID	(347) 853-6408	1.07
10/16/12 22:31	10/16/12 22:37	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/16/12 22:38	10/16/12 22:53	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/17/12 22:32	10/17/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/17/12 22:39	10/17/12 22:54	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/18/12 22:30	10/18/12 22:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/18/12 22:37	10/18/12 22:52	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/19/12 22:30	10/19/12 22:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/19/12 22:38	10/19/12 22:53	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/20/12 22:38	10/20/12 22:43	5:22	OBCC	OPTION 2	(646) 626-2093	0.74
10/20/12 22:44	10/20/12 22:59	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/21/12 22:32	10/21/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/21/12 22:40	10/21/12 22:55	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/22/12 22:32	10/22/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>10/22/12 22:39</del>	<del>10/22/12 22:39</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/22/12 22:40	10/22/12 22:55	14:33	OBCC	PREPAID	(646) 626-2093	1.07
10/23/12 22:36	10/23/12 22:42	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/23/12 22:43	10/23/12 22:58	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/24/12 22:29	10/24/12 22:35	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/24/12 22:36	10/24/12 22:40	4:20	OBCC	PREPAID	(646) 626-2093	0.70



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DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
<del>10/24/12 22:41</del>	<del>10/24/12 22:52</del>	<del>10:37</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/24/12 22:41	10/24/12 22:52	10:37	OBCC	PREPAID	(646) 626-2093	0.92
10/25/12 22:36	10/25/12 22:42	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/25/12 22:43	10/25/12 22:58	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/26/12 22:31	10/26/12 22:37	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/26/12 22:38	10/26/12 22:53	14:59	OBCC	PREPAID	(646) 626-2093	1.07
10/27/12 22:29	10/27/12 22:35	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/27/12 22:37	10/27/12 22:52	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/28/12 21:24	10/28/12 21:30	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/28/12 21:30	10/28/12 21:45	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/29/12 16:19	10/29/12 16:34	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/29/12 16:35	10/29/12 16:41	6:00	OBCC	PREPAID	(646) 626-2093	0.74
10/29/12 22:04	10/29/12 22:10	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
10/29/12 22:11	10/29/12 22:26	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>10/30/12 21:11</del>	<del>10/30/12 21:26</del>	<del>15:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>10/30/12 21:27</del>	<del>10/30/12 21:32</del>	<del>5:54</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
10/30/12 21:11	10/30/12 21:26	15:00	OBCC	PREPAID	(646) 626-2093	1.07
10/30/12 21:27	10/30/12 21:32	5:54	OBCC	PREPAID	(646) 626-2093	0.74
<del>10/31/12 09:01</del>	<del>10/31/12 09:01</del>	<del>0:10</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 652-2092</del>	<del>0.62</del>
10/31/12 09:03	10/31/12 09:18	15:00	OBCC	PREPAID	(917) 652-2092	1.07
<del>10/31/12 09:19</del>	<del>10/31/12 09:19</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 652-2092</del>	<del>0.62</del>
<del>10/31/12 09:19</del>	<del>10/31/12 09:19</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 652-2092</del>	<del>0.62</del>
<del>10/31/12 09:20</del>	<del>10/31/12 09:20</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 652-2092</del>	<del>0.62</del>
11/01/12 14:07	11/01/12 14:22	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/01/12 21:28	11/01/12 21:43	14:34	OBCC	PREPAID	(646) 626-2093	1.07
11/01/12 21:44	11/01/12 21:50	5:58	OBCC	OPTION 2	(646) 626-2093	0.74
11/02/12 09:32	11/02/12 09:47	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/02/12 09:48	11/02/12 09:54	6:00	OBCC	PREPAID	(646) 626-2093	0.74
11/02/12 22:15	11/02/12 22:30	14:58	OBCC	PREPAID	(646) 626-2093	1.07
11/02/12 22:32	11/02/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/03/12 22:32	11/03/12 22:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/03/12 22:38	11/03/12 22:53	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/04/12 22:08	11/04/12 22:23	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/04/12 22:24	11/04/12 22:30	5:58	OBCC	OPTION 2	(646) 626-2093	0.74
<del>11/07/12 14:43</del>	<del>11/07/12 14:43</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>11/07/12 14:44</del>	<del>11/07/12 14:45</del>	<del>0:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(347) 488-2758</del>	<del>0.62</del>
11/07/12 14:45	11/07/12 15:00	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/07/12 20:32	11/07/12 20:47	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/07/12 20:48	11/07/12 20:54	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/08/12 14:09	11/08/12 14:24	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/08/12 14:25	11/08/12 14:31	6:00	OBCC	PREPAID	(646) 626-2093	0.74

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11/08/12 22:05	11/08/12 22:11	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>11/08/12 22:11</del>	<del>11/08/12 22:11</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	0.62
<del>11/08/12 22:11</del>	<del>11/08/12 22:11</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	0.62
11/08/12 22:16	11/08/12 22:29	12:34	OBCC	PREPAID	(646) 626-2093	1.00
<del>11/08/12 22:29</del>	<del>11/08/12 22:29</del>	<del>12:34</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
<del>11/08/12 22:29</del>	<del>11/08/12 22:29</del>	<del>12:34</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
<del>11/08/12 22:29</del>	<del>11/08/12 22:29</del>	<del>12:34</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
<del>11/08/12 22:29</del>	<del>11/08/12 22:29</del>	<del>12:34</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
<del>11/08/12 22:29</del>	<del>11/08/12 22:29</del>	<del>12:34</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
11/09/12 21:30	11/09/12 21:45	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>11/09/12 21:45</del>	<del>11/09/12 21:45</del>	<del>14:59</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	0.62
11/10/12 16:26	11/10/12 16:41	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/10/12 22:11	11/10/12 22:13	2:00	OBCC	PREPAID	(917) 982-0312	0.62
11/10/12 22:15	11/10/12 22:30	15:00	OBCC	PREPAID	(917) 982-0312	1.07
11/10/12 22:30	11/10/12 22:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/11/12 16:03	11/11/12 16:18	14:57	OBCC	PREPAID	(646) 626-2093	1.07
11/11/12 22:10	11/11/12 22:25	14:59	OBCC	PREPAID	(917) 982-0312	1.07
11/11/12 22:26	11/11/12 22:32	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>11/11/12 22:32</del>	<del>11/11/12 22:32</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	0.62
<del>11/11/12 22:32</del>	<del>11/11/12 22:32</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	0.62
11/12/12 22:04	11/12/12 22:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/12/12 22:19	11/12/12 22:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/13/12 22:00	11/13/12 22:15	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/13/12 22:16	11/13/12 22:22	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/14/12 22:08	11/14/12 22:23	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/15/12 14:25	11/15/12 14:40	14:34	OBCC	PREPAID	(646) 474-9323	1.07
11/15/12 21:55	11/15/12 22:10	14:42	OBCC	PREPAID	(917) 982-0312	1.07
11/15/12 22:11	11/15/12 22:17	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/16/12 22:03	11/16/12 22:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/16/12 22:19	11/16/12 22:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>11/16/12 22:25</del>	<del>11/16/12 22:25</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	0.62
11/17/12 21:59	11/17/12 22:02	2:59	OBCC	PREPAID	(646) 626-2093	0.62
11/17/12 22:04	11/17/12 22:05	1:56	OBCC	PREPAID	(646) 626-2093	0.62
11/17/12 22:07	11/17/12 22:22	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/18/12 21:58	11/18/12 22:05	6:25	OBCC	PREPAID	(646) 626-2093	0.77
11/18/12 22:07	11/18/12 22:21	14:35	OBCC	PREPAID	(646) 626-2093	1.07
11/19/12 22:05	11/19/12 22:20	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/19/12 22:20	11/19/12 22:26	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/21/12 13:24	11/21/12 13:39	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/21/12 22:01	11/21/12 22:16	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/21/12 22:17	11/21/12 22:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74

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O'LEARY, SUSAN

BAC Number : 1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
11/22/12 16:38	11/22/12 16:53	14:59	OBCC	PREPAID	(917) 982-0312	1.07
11/22/12 16:54	11/22/12 17:00	6:01	OBCC	PREPAID	(917) 982-0312	0.77
11/22/12 22:09	11/22/12 22:15	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>11/22/12 22:16</del>	<del>11/22/12 22:17</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
11/22/12 22:17	11/22/12 22:32	14:53	OBCC	PREPAID	(646) 626-2093	1.07
11/23/12 10:29	11/23/12 10:44	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/23/12 10:46	11/23/12 10:52	6:01	OBCC	PREPAID	(646) 626-2093	0.77
11/23/12 22:03	11/23/12 22:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>11/24/12 22:06</del>	<del>11/24/12 22:07</del>	<del>6:00</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
11/24/12 22:07	11/24/12 22:22	14:59	OBCC	PREPAID	(917) 652-2092	1.07
11/24/12 22:23	11/24/12 22:29	5:58	OBCC	PREPAID	(646) 626-2093	0.74
11/25/12 14:35	11/25/12 14:50	15:00	OBCC	PREPAID	(917) 652-2092	1.07
11/25/12 22:14	11/25/12 22:29	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/25/12 22:30	11/25/12 22:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/26/12 22:04	11/26/12 22:19	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/26/12 22:20	11/26/12 22:26	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/27/12 22:02	11/27/12 22:17	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/27/12 22:18	11/27/12 22:24	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/28/12 22:03	11/28/12 22:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07
11/28/12 22:20	11/28/12 22:26	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/29/12 22:02	11/29/12 22:08	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/29/12 22:10	11/29/12 22:25	15:00	OBCC	PREPAID	(646) 626-2093	1.07
11/30/12 22:17	11/30/12 22:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
11/30/12 22:27	11/30/12 22:29	2:22	OBCC	FREE	(347) 963-3392	
12/01/12 12:45	12/01/12 12:51	6:00	OBCC	FREE	(646) 626-2093	
12/01/12 22:00	12/01/12 22:06	6:00	OBCC	FREE	(646) 626-2093	
<del>12/02/12 12:23</del>	<del>12/02/12 12:25</del>	<del>6:00</del>	<del>OBCC</del>	<del>FREE</del>	<del>(646) 626-2093</del>	<del></del>
<del>12/02/12 12:26</del>	<del>12/02/12 12:28</del>	<del>6:00</del>	<del>OBCC</del>	<del>FREE</del>	<del>(646) 626-2093</del>	<del></del>
12/02/12 13:09	12/02/12 13:15	6:00	OBCC	FREE	(646) 626-2093	
12/02/12 16:33	12/02/12 16:35	2:17	OBCC	OPTION 2	(646) 626-2093	0.62
12/02/12 22:09	12/02/12 22:24	14:59	OBCC	PREPAID	(646) 626-2093	1.07
12/02/12 22:25	12/02/12 22:31	6:01	OBCC	PREPAID	(646) 626-2093	0.77
12/03/12 22:08	12/03/12 22:23	14:59	OBCC	PREPAID	(646) 626-2093	1.07
12/03/12 22:24	12/03/12 22:30	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/04/12 14:37	12/04/12 14:52	14:59	OBCC	PREPAID	(917) 652-2092	1.07
12/04/12 14:53	12/04/12 14:59	6:01	OBCC	PREPAID	(917) 652-2092	0.77
12/04/12 22:21	12/04/12 22:35	14:37	OBCC	PREPAID	(646) 626-2093	1.07
12/05/12 13:37	12/05/12 13:42	4:57	OBCC	OPTION 2	(347) 423-3841	0.70
12/05/12 22:07	12/05/12 22:22	15:00	OBCC	PREPAID	(646) 626-2093	1.07
12/05/12 22:23	12/05/12 22:29	6:00	OBCC	PREPAID	(646) 626-2093	0.74
12/06/12 18:08	12/06/12 18:14	5:44	OBCC	OPTION 2	(347) 423-3841	0.74

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BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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12/07/12 13:42	12/07/12 13:44	2:35	OBCC	OPTION 2	(347) 963-3392	0.62
<del>12/07/12 13:42</del>	<del>12/07/12 13:44</del>	<del>2:35</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(347) 963-3392</del>	<del>0.62</del>
12/07/12 22:05	12/07/12 22:20	14:59	OBCC	PREPAID	(646) 626-2093	1.07
12/07/12 22:21	12/07/12 22:27	6:01	OBCC	PREPAID	(646) 626-2093	0.77
12/08/12 11:17	12/08/12 11:23	5:59	OBCC	OPTION 2	(917) 806-3379	0.74
12/08/12 21:54	12/08/12 22:09	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>12/08/12 22:09</del>	<del>12/08/12 22:18</del>	<del>5:54</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/08/12 22:12	12/08/12 22:18	5:54	OBCC	PREPAID	(646) 626-2093	0.74
<del>12/08/12 22:18</del>	<del>12/08/12 22:27</del>	<del>6:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/09/12 22:09</del>	<del>12/09/12 22:18</del>	<del>5:54</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/09/12 22:18</del>	<del>12/09/12 22:27</del>	<del>6:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/09/12 22:13	12/09/12 22:28	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/09/12 22:29	12/09/12 22:35	6:00	OBCC	OPTION 2	(917) 982-0312	0.74
12/10/12 10:41	12/10/12 10:56	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/10/12 10:57	12/10/12 11:03	6:09	OBCC	OPTION 2	(917) 982-0312	0.77
12/10/12 22:01	12/10/12 22:16	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/11/12 13:27	12/11/12 13:38	11:19	OBCC	PREPAID	(917) 982-0312	0.96
12/11/12 13:39	12/11/12 13:49	9:41	OBCC	PREPAID	(646) 626-2093	0.89
12/11/12 21:53	12/11/12 21:56	2:47	OBCC	PREPAID	(646) 626-2093	0.62
12/11/12 22:03	12/11/12 22:09	6:00	OBCC	OPTION 2	(347) 488-2758	0.74
12/11/12 22:11	12/11/12 22:23	12:13	OBCC	PREPAID	(917) 618-0686	1.00
12/12/12 22:28	12/12/12 22:34	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/12/12 22:35	12/12/12 22:50	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>12/13/12 13:51</del>	<del>12/13/12 13:53</del>	<del>2:47</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/13/12 13:53</del>	<del>12/13/12 13:56</del>	<del>2:47</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/13/12 14:40</del>	<del>12/13/12 14:40</del>	<del>2:47</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/13/12 14:50	12/13/12 15:05	15:00	OBCC	PREPAID	(646) 626-2093	1.07
12/13/12 22:05	12/13/12 22:20	15:00	OBCC	PREPAID	(646) 626-2093	1.07
12/13/12 22:21	12/13/12 22:27	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>12/14/12 14:50</del>	<del>12/14/12 14:50</del>	<del>2:47</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/14/12 15:00	12/14/12 15:14	14:37	OBCC	PREPAID	(646) 474-9323	1.07
12/14/12 22:04	12/14/12 22:19	14:58	OBCC	PREPAID	(646) 626-2093	1.07
12/14/12 22:20	12/14/12 22:26	6:00	OBCC	OPTION 2	(917) 982-0312	0.74
12/15/12 12:57	12/15/12 13:12	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/15/12 13:13	12/15/12 13:19	6:01	OBCC	PREPAID	(917) 982-0312	0.77
12/15/12 22:03	12/15/12 22:18	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/15/12 22:19	12/15/12 22:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/16/12 22:11	12/16/12 22:25	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/16/12 22:26	12/16/12 22:32	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/17/12 22:01	12/17/12 22:16	14:59	OBCC	PREPAID	(917) 982-0312	1.07

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BAC Number : 1411209936  
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Start Time	End Time	Time Fclty.	Call Type	Phone Number	Charge
12/17/12 22:17	12/17/12 22:23	6:00 OBCC	OPTION 2	(646) 626-2093	0.74
12/18/12 13:01	12/18/12 13:16	15:00 OBCC	PREPAID	(917) 982-0312	1.07
12/18/12 13:17	12/18/12 13:23	6:00 OBCC	PREPAID	(917) 982-0312	0.74
12/18/12 20:14	12/18/12 20:20	6:00 OBCC	OPTION 2	(646) 626-2093	0.74
12/18/12 22:02	12/18/12 22:17	15:00 OBCC	PREPAID	(917) 982-0312	1.07
12/19/12 11:58	12/19/12 12:13	15:00 OBCC	PREPAID	(646) 626-2093	1.07
12/19/12 21:53	12/19/12 22:08	14:59 OBCC	PREPAID	(917) 982-0312	1.07
12/19/12 22:09	12/19/12 22:15	6:00 OBCC	OPTION 2	(646) 626-2093	0.74
12/20/12 13:32	12/20/12 13:38	6:00 OBCC	OPTION 2	(917) 652-2092	0.74
<del>12/20/12 13:42</del>	<del>12/20/12 13:48</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>12/20/12 13:49</del>	<del>12/20/12 13:55</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>12/20/12 13:56</del>	<del>12/20/12 14:02</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>12/20/12 13:57</del>	<del>12/20/12 14:03</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>12/20/12 13:58</del>	<del>12/20/12 14:04</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
<del>12/20/12 13:59</del>	<del>12/20/12 14:05</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
12/20/12 16:56	12/20/12 17:11	14:51 OBCC	PREPAID	(646) 626-2093	1.07
<del>12/20/12 20:01</del>	<del>12/20/12 20:07</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
12/20/12 22:02	12/20/12 22:17	15:00 OBCC	PREPAID	(917) 982-0312	1.07
12/20/12 22:18	12/20/12 22:24	5:59 OBCC	PREPAID	(646) 626-2093	0.74
12/21/12 22:03	12/21/12 22:18	14:58 OBCC	PREPAID	(917) 982-0312	1.07
12/21/12 22:19	12/21/12 22:25	6:02 OBCC	PREPAID	(917) 982-0312	0.77
12/22/12 21:55	12/22/12 22:10	15:00 OBCC	PREPAID	(917) 982-0312	1.07
<del>12/22/12 22:11</del>	<del>12/22/12 22:17</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/22/12 22:13	12/22/12 22:19	5:57 OBCC	PREPAID	(718) 812-8995	0.74
12/23/12 12:35	12/23/12 12:50	15:00 OBCC	PREPAID	(646) 626-2093	1.07
12/23/12 12:51	12/23/12 12:57	6:00 OBCC	PREPAID	(646) 626-2093	0.74
12/23/12 21:49	12/23/12 22:04	14:59 OBCC	PREPAID	(917) 982-0312	1.07
12/23/12 22:05	12/23/12 22:11	6:00 OBCC	OPTION 2	(646) 626-2093	0.74
<del>12/24/12 12:58</del>	<del>12/24/12 13:04</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/24/12 13:05</del>	<del>12/24/12 13:11</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/24/12 13:00	12/24/12 13:02	1:44 OBCC	PREPAID	(718) 812-8995	0.62
<del>12/24/12 13:03</del>	<del>12/24/12 13:09</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>12/24/12 13:10</del>	<del>12/24/12 13:16</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
12/24/12 14:17	12/24/12 14:31	14:59 OBCC	PREPAID	(646) 626-2093	1.07
12/24/12 14:32	12/24/12 14:36	4:04 OBCC	PREPAID	(646) 626-2093	0.70
12/24/12 21:53	12/24/12 21:59	6:00 OBCC	OPTION 2	(646) 626-2093	0.74
12/24/12 22:00	12/24/12 22:15	14:59 OBCC	PREPAID	(917) 982-0312	1.07
<del>12/25/12 11:22</del>	<del>12/25/12 11:37</del>	<del>14:59 OBCC</del>	<del>PREPAID</del>	<del>(347) 765-6027</del>	<del>0.62</del>
12/25/12 11:22	12/25/12 11:37	14:59 OBCC	PREPAID	(347) 765-6027	1.07
12/25/12 13:57	12/25/12 14:03	6:00 OBCC	PREPAID	(646) 626-2093	0.74
<del>12/25/12 16:26</del>	<del>12/25/12 16:32</del>	<del>6:00 OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>

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BAC Number :1411209936 DIAZ, EMMANUEL  
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Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
<del>12/25/12 21:55</del>	<del>12/25/12 22:10</del>	<del>14:52</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
12/25/12 21:55	12/25/12 22:10	14:52	OBCC	PREPAID	(917) 982-0312	1.07
12/25/12 22:11	12/25/12 22:17	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/26/12 14:58	12/26/12 15:13	15:00	OBCC	PREPAID	(917) 652-2092	1.07
12/26/12 16:57	12/26/12 17:03	6:00	OBCC	PREPAID	(917) 652-2092	0.74
12/26/12 21:58	12/26/12 22:13	14:59	OBCC	PREPAID	(917) 982-0312	1.07
12/26/12 22:14	12/26/12 22:20	5:59	OBCC	OPTION 2	(646) 626-2093	0.74
12/27/12 13:42	12/27/12 13:57	14:59	OBCC	PREPAID	(646) 626-2093	1.07
12/28/12 09:13	12/28/12 09:28	14:16	OBCC	PREPAID	(646) 626-2093	1.07
12/28/12 09:50	12/28/12 09:57	6:44	OBCC	PREPAID	(646) 626-2093	0.77
12/28/12 21:08	12/28/12 21:23	14:59	OBCC	PREPAID	(646) 626-2093	1.07
12/28/12 21:24	12/28/12 21:30	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
12/29/12 12:31	12/29/12 12:46	14:20	OBCC	PREPAID	(646) 626-2093	1.07
12/29/12 12:47	12/29/12 12:53	6:40	OBCC	PREPAID	(646) 626-2093	0.77
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12/29/12 19:25	12/29/12 19:27	2:26	OBCC	PREPAID	(917) 982-0312	0.62
12/29/12 19:28	12/29/12 19:43	15:00	OBCC	PREPAID	(646) 626-2093	1.07
12/29/12 19:44	12/29/12 19:47	3:32	OBCC	PREPAID	(646) 626-2093	0.66
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12/30/12 10:26	12/30/12 10:41	15:00	OBCC	PREPAID	(646) 626-2093	1.07
12/30/12 10:42	12/30/12 10:48	5:58	OBCC	PREPAID	(646) 626-2093	0.74
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12/30/12 20:17	12/30/12 20:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>12/31/12 19:55</del>	<del>12/31/12 20:06</del>	<del>11:07</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0312</del>	<del>0.62</del>
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12/31/12 20:07	12/31/12 20:07	0:03	OBCC	PREPAID	(917) 982-0312	0.62
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12/31/12 20:19	12/31/12 20:22	6:00	OBCC	OPTION 2	(646) 626-2093	0.62
01/01/13 12:19	01/01/13 12:34	15:00	OBCC	PREPAID	(646) 626-2093	1.07
01/01/13 12:35	01/01/13 12:41	5:57	OBCC	PREPAID	(646) 626-2093	0.74
01/01/13 20:00	01/01/13 20:15	15:00	OBCC	PREPAID	(917) 982-0312	1.07
01/01/13 20:16	01/01/13 20:22	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>1/02/13 11:17</del>	<del>01/02/13 11:32</del>	<del>15:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
1/02/13 11:17	01/02/13 11:32	15:00	OBCC	PREPAID	(646) 626-2093	1.07
1/02/13 19:33	01/02/13 19:39	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
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1/03/13 09:38	01/03/13 09:44	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
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1/03/13 20:05	01/03/13 20:20	15:00	OBCC	PREPAID	(646) 626-2093	0.62
1/03/13 20:05	01/03/13 20:20	15:00	OBCC	PREPAID	(646) 626-2093	1.07

04/04/13 06:53  
CNTRL

The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 20  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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<del>01/04/13 19:13</del>	<del>01/04/13 19:13</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>01/04/13 19:14</del>	<del>01/04/13 19:14</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>01/04/13 19:15</del>	<del>01/04/13 19:15</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
01/04/13 19:15	01/04/13 19:21	5:52	OBCC	PREPAID	(718) 812-8995	0.74
<del>01/05/13 12:02</del>	<del>01/05/13 12:02</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
01/05/13 12:02	01/05/13 12:17	15:00	OBCC	PREPAID	(646) 626-2093	1.07
01/05/13 12:17	01/05/13 12:23	5:58	OBCC	PREPAID	(646) 626-2093	0.74
01/05/13 20:28	01/05/13 20:43	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>01/05/13 20:44</del>	<del>01/05/13 20:44</del>	<del>0:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
01/05/13 20:45	01/05/13 20:51	5:56	OBCC	PREPAID	(646) 626-2093	0.74
01/06/13 12:53	01/06/13 13:08	15:00	OBCC	PREPAID	(646) 626-2093	1.07
01/06/13 13:09	01/06/13 13:15	6:00	OBCC	PREPAID	(646) 626-2093	0.74
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01/06/13 19:49	01/06/13 19:55	6:00	OBCC	OPTION 2	(917) 982-0312	0.74
1/07/13 14:26	01/07/13 14:41	15:00	OBCC	PREPAID	(917) 982-0312	1.07
1/07/13 14:42	01/07/13 14:48	6:00	OBCC	PREPAID	(917) 982-0312	0.74
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1/09/13 10:49	01/09/13 10:55	6:20	OBCC	PREPAID	(718) 666-1993	0.77
1/09/13 12:57	01/09/13 13:12	14:39	OBCC	PREPAID	(646) 626-2093	1.07
1/09/13 19:52	01/09/13 20:07	14:57	OBCC	PREPAID	(917) 982-0312	1.07
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1/10/13 20:43	01/10/13 20:58	14:57	OBCC	PREPAID	(917) 652-2092	1.07
1/10/13 20:59	01/10/13 21:05	5:59	OBCC	OPTION 2	(646) 626-2093	0.74
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The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 21  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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<del>01/13/13 14:58</del>	<del>01/13/13 14:58</del>	<del>0:05</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 982-0812</del>	<del>0.62</del>
01/13/13 14:59	01/13/13 15:02	3:08	OBCC	PREPAID	(646) 626-2093	0.66
01/14/13 13:22	01/14/13 13:37	15:00	OBCC	PREPAID	(917) 808-1982	1.07
01/14/13 18:44	01/14/13 18:59	14:59	OBCC	PREPAID	(646) 626-2093	1.07
01/14/13 19:56	01/14/13 20:02	6:01	OBCC	PREPAID	(347) 945-9248	0.77
01/15/13 13:46	01/15/13 14:01	14:59	OBCC	PREPAID	(347) 604-2774	1.07
01/15/13 14:57	01/15/13 15:03	6:11	OBCC	PREPAID	(347) 604-4223	0.77
01/15/13 20:24	01/15/13 20:39	14:57	OBCC	PREPAID	(646) 626-2093	1.07
01/15/13 20:46	01/15/13 20:52	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
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01/16/13 14:50	01/16/13 15:05	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>01/16/13 17:53</del>	<del>01/16/13 17:53</del>	<del>0:01</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(317) 606-6522</del>	<del>0.62</del>
<del>01/16/13 21:17</del>	<del>01/16/13 21:17</del>	<del>0:03</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
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01/18/13 19:54	01/18/13 20:09	14:59	OBCC	PREPAID	(646) 626-2093	1.07
01/18/13 20:09	01/18/13 20:15	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
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01/19/13 20:19	01/19/13 20:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/21/13 10:04	01/21/13 10:19	15:20	OBCC	PREPAID	(646) 626-2093	1.11
01/21/13 10:21	01/21/13 10:26	5:40	OBCC	PREPAID	(646) 626-2093	0.74
01/21/13 20:02	01/21/13 20:17	14:59	OBCC	PREPAID	(646) 626-2093	1.07
01/21/13 20:17	01/21/13 20:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/22/13 14:24	01/22/13 14:39	14:59	OBCC	PREPAID	(646) 626-2093	1.07
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01/22/13 20:52	01/22/13 20:58	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/23/13 19:56	01/23/13 20:02	5:58	OBCC	OPTION 2	(646) 626-2093	0.74
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The City of New York  
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Inmate's Phone Call List

Page : 22  
User : I40351  
O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
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01/26/13 14:34	01/26/13 14:49	14:58	OBCC	PREPAID	(646) 626-2093	1.07
01/26/13 14:50	01/26/13 14:56	6:02	OBCC	PREPAID	(646) 626-2093	0.77
01/26/13 19:46	01/26/13 19:52	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/26/13 19:53	01/26/13 20:08	14:59	OBCC	PREPAID	(646) 626-2093	1.07
01/27/13 11:54	01/27/13 12:00	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
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01/28/13 19:53	01/28/13 19:59	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/28/13 20:00	01/28/13 20:15	14:58	OBCC	PREPAID	(646) 626-2093	1.07
01/29/13 13:18	01/29/13 13:32	14:59	OBCC	PREPAID	(646) 626-2093	1.07
01/29/13 20:01	01/29/13 20:07	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
01/29/13 20:08	01/29/13 20:23	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>01/30/13 13:52</del>	<del>01/30/13 13:52</del>	<del>6:02</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
01/30/13 13:55	01/30/13 14:09	14:59	OBCC	PREPAID	(917) 803-5309	1.07
01/30/13 14:10	01/30/13 14:16	5:58	OBCC	PREPAID	(917) 803-5309	0.74
01/30/13 20:54	01/30/13 20:59	4:34	OBCC	PREPAID	(917) 652-2092	0.70
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02/01/13 18:03	02/01/13 18:09	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/01/13 18:10	02/01/13 18:25	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/02/13 10:32	02/02/13 10:47	14:59	OBCC	PREPAID	(646) 626-2093	1.07
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02/02/13 10:49	02/02/13 10:55	5:57	OBCC	PREPAID	(646) 626-2093	0.74
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02/02/13 20:05	02/02/13 20:07	2:09	OBCC	PREPAID	(917) 803-5309	0.62
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02/02/13 20:23	02/02/13 20:29	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/03/13 12:50	02/03/13 13:05	14:58	OBCC	PREPAID	(646) 626-2093	1.07
02/03/13 13:05	02/03/13 13:11	6:02	OBCC	PREPAID	(646) 626-2093	0.77
02/03/13 20:09	02/03/13 20:24	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/03/13 20:33	02/03/13 20:39	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/04/13 19:52	02/04/13 20:07	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/04/13 20:08	02/04/13 20:14	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/05/13 14:38	02/05/13 14:43	5:04	OBCC	PREPAID	(646) 626-2093	0.74
02/05/13 14:44	02/05/13 14:59	14:47	OBCC	PREPAID	(646) 626-2093	1.07
02/05/13 20:07	02/05/13 20:22	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/05/13 20:23	02/05/13 20:29	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/06/13 19:59	02/06/13 20:14	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/06/13 20:15	02/06/13 20:21	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/07/13 21:22	02/07/13 21:37	14:51	OBCC	PREPAID	(646) 626-2093	1.07
02/08/13 19:03	02/08/13 19:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07

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O'LEARY, SUSAN

BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
02/08/13 19:19	02/08/13 19:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/10/13 09:53	02/10/13 10:08	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/10/13 10:09	02/10/13 10:15	6:00	OBCC	PREPAID	(646) 626-2093	0.74
02/10/13 20:11	02/10/13 20:26	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/10/13 20:27	02/10/13 20:33	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/11/13 19:50	02/11/13 20:05	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/11/13 20:06	02/11/13 20:12	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/12/13 14:42	02/12/13 14:45	3:18	OBCC	PREPAID	(646) 626-2093	0.66
<del>02/12/13 14:46</del>	<del>02/12/13 14:48</del>	<del>3:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/12/13 14:46	02/12/13 14:48	1:22	OBCC	PREPAID	(646) 626-2093	0.62
02/12/13 14:48	02/12/13 15:03	14:54	OBCC	PREPAID	(646) 626-2093	1.07
02/12/13 19:50	02/12/13 20:05	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/12/13 20:06	02/12/13 20:08	1:51	OBCC	OPTION 2	(646) 626-2093	0.62
<del>02/12/13 20:10</del>	<del>02/12/13 20:10</del>	<del>3:01</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/12/13 20:11	02/12/13 20:15	4:09	OBCC	PREPAID	(646) 626-2093	0.70
<del>02/12/13 19:57</del>	<del>02/12/13 19:57</del>	<del>3:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/13/13 19:58	02/13/13 20:13	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/13/13 20:14	02/13/13 20:20	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/14/13 10:27	02/14/13 10:32	4:38	OBCC	PREPAID	(646) 626-2093	0.70
02/15/13 20:06	02/15/13 20:21	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/15/13 20:22	02/15/13 20:28	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/16/13 11:02	02/16/13 11:17	14:57	OBCC	PREPAID	(646) 626-2093	1.07
02/16/13 11:17	02/16/13 11:23	6:02	OBCC	PREPAID	(646) 626-2093	0.77
02/16/13 20:18	02/16/13 20:33	14:51	OBCC	PREPAID	(646) 626-2093	1.07
02/16/13 20:35	02/16/13 20:41	6:00	OBCC	OPTION 2	(347) 702-3562	0.74
02/17/13 19:51	02/17/13 20:06	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/17/13 20:07	02/17/13 20:13	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/18/13 10:03	02/18/13 10:18	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/18/13 10:20	02/18/13 10:26	6:00	OBCC	PREPAID	(646) 626-2093	0.74
02/18/13 20:07	02/18/13 20:21	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/18/13 20:22	02/18/13 20:28	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/19/13 14:35	02/19/13 14:50	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/19/13 14:51	02/19/13 14:57	6:01	OBCC	PREPAID	(646) 626-2093	0.77
02/19/13 20:06	02/19/13 20:21	14:46	OBCC	PREPAID	(646) 626-2093	1.07
<del>02/19/13 20:22</del>	<del>02/19/13 20:22</del>	<del>3:02</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/19/13 20:23	02/19/13 20:29	6:12	OBCC	PREPAID	(646) 626-2093	0.77
02/20/13 12:28	02/20/13 12:43	14:55	OBCC	PREPAID	(646) 626-2093	1.07
02/20/13 12:43	02/20/13 12:49	6:05	OBCC	PREPAID	(646) 626-2093	0.77
02/20/13 20:01	02/20/13 20:16	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/20/13 20:17	02/20/13 20:23	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/21/13 11:44	02/21/13 11:59	14:59	OBCC	PREPAID	(646) 626-2093	1.07

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BAC Number :1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
02/21/13 19:59	02/21/13 20:14	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/21/13 20:15	02/21/13 20:21	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/22/13 11:04	02/22/13 11:19	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/22/13 14:34	02/22/13 14:40	6:01	OBCC	PREPAID	(646) 626-2093	0.77
02/22/13 19:57	02/22/13 20:12	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/22/13 20:13	02/22/13 20:19	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>02/22/13 20:19</del>	<del>02/22/13 20:25</del>	<del>6:06</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/23/13 11:04	02/23/13 11:19	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>02/23/13 11:19</del>	<del>02/23/13 11:25</del>	<del>6:06</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/23/13 20:06	02/23/13 20:21	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/23/13 20:22	02/23/13 20:28	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/24/13 10:02	02/24/13 10:17	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/24/13 19:46	02/24/13 20:01	14:59	OBCC	PREPAID	(646) 626-2093	1.07
02/24/13 20:02	02/24/13 20:08	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/25/13 10:59	02/25/13 11:08	8:42	OBCC	PREPAID	(646) 626-2093	0.85
02/25/13 13:45	02/25/13 13:57	12:18	OBCC	PREPAID	(646) 626-2093	1.00
02/25/13 20:08	02/25/13 20:23	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/25/13 20:32	02/25/13 20:38	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>02/25/13 20:38</del>	<del>02/25/13 20:44</del>	<del>6:06</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>02/25/13 20:44</del>	<del>02/25/13 20:50</del>	<del>6:06</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/26/13 08:43	02/26/13 08:58	15:00	OBCC	PREPAID	(718) 664-5349	1.07
02/26/13 09:00	02/26/13 09:06	5:48	OBCC	PREPAID	(718) 664-5349	0.74
02/26/13 14:33	02/26/13 14:48	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/26/13 14:49	02/26/13 14:55	6:00	OBCC	PREPAID	(646) 626-2093	0.74
02/26/13 20:15	02/26/13 20:30	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/26/13 20:38	02/26/13 20:44	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
02/27/13 14:38	02/27/13 14:53	15:00	OBCC	PREPAID	(646) 626-2093	1.07
02/27/13 14:54	02/27/13 15:00	6:00	OBCC	PREPAID	(646) 626-2093	0.74
<del>02/27/13 15:00</del>	<del>02/27/13 15:06</del>	<del>6:06</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
02/27/13 19:45	02/27/13 20:00	14:56	OBCC	PREPAID	(646) 626-2093	1.07
02/27/13 20:01	02/27/13 20:07	5:59	OBCC	OPTION 2	(646) 626-2093	0.74
02/28/13 11:39	02/28/13 11:54	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>02/28/13 11:54</del>	<del>02/28/13 12:00</del>	<del>6:06</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
2/28/13 11:56	02/28/13 12:02	5:57	OBCC	PREPAID	(646) 626-2093	0.74
2/28/13 20:14	02/28/13 20:29	15:00	OBCC	PREPAID	(646) 626-2093	1.07
2/28/13 20:30	02/28/13 20:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
3/01/13 13:21	03/01/13 13:36	15:00	OBCC	PREPAID	(646) 626-2093	1.07
3/01/13 20:18	03/01/13 20:33	14:54	OBCC	PREPAID	(646) 626-2093	1.07
3/01/13 20:33	03/01/13 20:39	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
3/02/13 11:30	03/02/13 11:45	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/02/13 11:45	03/02/13 11:51	6:01	OBCC	PREPAID	(646) 626-2093	0.77

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BAC Number : 1411209936  
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DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
03/02/13 19:55	03/02/13 20:10	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/02/13 20:14	03/02/13 20:20	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/03/13 11:32	03/03/13 11:47	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/03/13 11:48	03/03/13 11:54	6:01	OBCC	PREPAID	(646) 626-2093	0.77
03/03/13 20:24	03/03/13 20:39	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>03/03/13 20:40</del>	<del>03/03/13 20:47</del>	<del>5:58</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/03/13 20:41	03/03/13 20:47	5:58	OBCC	PREPAID	(646) 626-2093	0.74
03/04/13 11:23	03/04/13 11:38	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/04/13 11:38	03/04/13 11:44	6:01	OBCC	PREPAID	(646) 626-2093	0.77
<del>03/04/13 22:04</del>	<del>03/04/13 22:20</del>	<del>14:59</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/04/13 22:05	03/04/13 22:20	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/05/13 19:48	03/05/13 20:03	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>03/05/13 20:05</del>	<del>03/05/13 20:11</del>	<del>5:58</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/05/13 20:05	03/05/13 20:11	5:58	OBCC	PREPAID	(646) 626-2093	0.74
03/06/13 14:37	03/06/13 14:47	10:01	OBCC	PREPAID	(646) 626-2093	0.92
03/06/13 14:48	03/06/13 14:59	10:59	OBCC	PREPAID	(646) 626-2093	0.92
03/06/13 20:03	03/06/13 20:18	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/06/13 20:19	03/06/13 20:25	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/07/13 12:37	03/07/13 12:43	6:00	OBCC	OPTION 2	(347) 702-3562	0.74
03/07/13 14:28	03/07/13 14:43	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/07/13 20:33	03/07/13 20:48	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/07/13 20:48	03/07/13 20:54	5:59	OBCC	PREPAID	(646) 626-2093	0.74
03/08/13 11:47	03/08/13 12:02	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/08/13 20:06	03/08/13 20:21	14:56	OBCC	PREPAID	(646) 626-2093	1.07
03/08/13 20:22	03/08/13 20:28	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/09/13 10:49	03/09/13 11:04	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/09/13 11:05	03/09/13 11:11	6:00	OBCC	PREPAID	(646) 626-2093	0.74
03/09/13 20:27	03/09/13 20:42	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/09/13 20:42	03/09/13 20:48	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
<del>03/09/13 20:49</del>	<del>03/09/13 20:54</del>	<del>5:59</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/10/13 10:49	03/10/13 11:04	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/10/13 11:05	03/10/13 11:11	5:50	OBCC	PREPAID	(646) 626-2093	0.74
03/10/13 20:09	03/10/13 20:11	2:07	OBCC	PREPAID	(646) 626-2093	0.62
<del>03/10/13 20:12</del>	<del>03/10/13 20:12</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>03/10/13 20:12</del>	<del>03/10/13 20:12</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>03/10/13 20:12</del>	<del>03/10/13 20:12</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>03/10/13 20:14</del>	<del>03/10/13 20:14</del>	<del>6:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/10/13 20:14	03/10/13 20:29	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/10/13 20:30	03/10/13 20:36	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/11/13 12:04	03/11/13 12:19	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/11/13 12:20	03/11/13 12:26	6:00	OBCC	PREPAID	(646) 626-2093	0.74

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DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
03/11/13 20:07	03/11/13 20:22	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/11/13 20:23	03/11/13 20:29	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/12/13 11:52	03/12/13 12:07	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/12/13 20:05	03/12/13 20:20	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/12/13 20:21	03/12/13 20:27	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/13/13 12:54	03/13/13 13:09	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/13/13 13:12	03/13/13 13:18	6:00	OBCC	PREPAID	(646) 626-2093	0.74
03/13/13 19:58	03/13/13 20:13	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/13/13 20:14	03/13/13 20:20	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/14/13 09:57	03/14/13 10:12	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/14/13 10:13	03/14/13 10:19	6:00	OBCC	PREPAID	(646) 626-2093	0.74
<del>03/14/13 20:35</del>	<del>03/14/13 20:50</del>	<del>14:59</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>1.07</del>
03/14/13 20:35	03/14/13 20:50	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/14/13 20:51	03/14/13 20:57	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/15/13 09:53	03/15/13 10:01	8:02	OBCC	PREPAID	(646) 626-2093	0.85
<del>03/15/13 10:02</del>	<del>03/15/13 10:15</del>	<del>12:55</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>1.00</del>
03/15/13 10:02	03/15/13 10:15	12:55	OBCC	PREPAID	(646) 626-2093	1.00
03/15/13 20:19	03/15/13 20:33	14:56	OBCC	PREPAID	(646) 626-2093	1.07
03/15/13 20:35	03/15/13 20:41	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/16/13 10:30	03/16/13 10:45	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/16/13 10:46	03/16/13 10:52	6:01	OBCC	PREPAID	(646) 626-2093	0.77
03/16/13 20:11	03/16/13 20:26	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/16/13 20:26	03/16/13 20:32	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/17/13 13:49	03/17/13 14:04	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/17/13 14:05	03/17/13 14:11	6:01	OBCC	PREPAID	(646) 626-2093	0.77
03/17/13 20:13	03/17/13 20:28	14:59	OBCC	PREPAID	(646) 626-2093	1.07
03/17/13 20:29	03/17/13 20:35	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
3/18/13 13:09	03/18/13 13:19	9:41	OBCC	PREPAID	(646) 626-2093	0.89
3/18/13 13:36	03/18/13 13:48	11:19	OBCC	PREPAID	(646) 626-2093	0.96
3/18/13 20:02	03/18/13 20:17	14:59	OBCC	PREPAID	(646) 626-2093	1.07
<del>3/18/13 20:19</del>	<del>03/18/13 20:25</del>	<del>5:58</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.74</del>
3/18/13 20:19	03/18/13 20:25	5:58	OBCC	PREPAID	(646) 626-2093	0.74
3/19/13 11:53	03/19/13 12:08	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/19/13 12:09	03/19/13 12:15	6:01	OBCC	PREPAID	(646) 626-2093	0.77
3/19/13 20:42	03/19/13 20:57	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/19/13 20:57	03/19/13 21:03	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
3/20/13 10:50	03/20/13 11:05	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/20/13 11:30	03/20/13 11:36	6:01	OBCC	PREPAID	(646) 626-2093	0.77
3/20/13 20:47	03/20/13 21:02	14:59	OBCC	PREPAID	(917) 803-5309	1.07
<del>3/20/13 21:05</del>	<del>03/20/13 21:10</del>	<del>5:35</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(917) 803-5309</del>	<del>0.74</del>
3/20/13 21:05	03/20/13 21:10	5:35	OBCC	PREPAID	(917) 803-5309	0.74

04/04/13 06:53  
CNTRL

The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 27  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
03/21/13 10:24	03/21/13 10:39	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/21/13 20:34	03/21/13 20:49	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>03/21/13 20:50</del>	<del>03/21/13 20:51</del>	<del>0:50</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/22/13 17:41	03/22/13 17:47	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/22/13 18:05	03/22/13 18:20	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/23/13 10:01	03/23/13 10:16	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/23/13 10:17	03/23/13 10:23	6:00	OBCC	PREPAID	(646) 626-2093	0.74
<del>03/23/13 20:27</del>	<del>03/23/13 20:43</del>	<del>15:00</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/23/13 20:28	03/23/13 20:43	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>03/23/13 20:45</del>	<del>03/23/13 20:45</del>	<del>0:02</del>	<del>OBCC</del>	<del>OPTION 2</del>	<del>(646) 626-2093</del>	<del>0.62</del>
<del>03/23/13 20:45</del>	<del>03/23/13 20:45</del>	<del>0:02</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.62</del>
03/23/13 20:46	03/23/13 20:51	5:50	OBCC	PREPAID	(646) 626-2093	0.74
03/24/13 10:33	03/24/13 10:48	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/24/13 19:52	03/24/13 20:07	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/24/13 20:25	03/24/13 20:31	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/25/13 09:56	03/25/13 10:11	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/25/13 10:11	03/25/13 10:17	6:00	OBCC	PREPAID	(646) 626-2093	0.74
03/25/13 20:03	03/25/13 20:18	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/25/13 20:18	03/25/13 20:24	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/26/13 21:24	03/26/13 21:27	3:32	OBCC	PREPAID	(646) 626-2093	0.66
03/26/13 21:36	03/26/13 21:42	5:27	OBCC	OPTION 2	(646) 626-2093	0.74
03/26/13 21:42	03/26/13 21:54	12:01	OBCC	PREPAID	(646) 626-2093	1.00
03/27/13 09:33	03/27/13 09:48	15:08	OBCC	PREPAID	(646) 626-2093	1.11
03/27/13 09:50	03/27/13 09:56	5:52	OBCC	PREPAID	(646) 626-2093	0.74
03/27/13 20:35	03/27/13 20:50	14:58	OBCC	PREPAID	(646) 626-2093	1.07
03/27/13 20:50	03/27/13 20:56	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
03/28/13 10:02	03/28/13 10:17	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/28/13 10:19	03/28/13 10:25	6:00	OBCC	PREPAID	(646) 626-2093	0.74
03/28/13 21:01	03/28/13 21:03	1:30	OBCC	PREPAID	(646) 626-2093	0.62
03/28/13 21:04	03/28/13 21:19	15:00	OBCC	PREPAID	(646) 626-2093	1.07
03/28/13 21:20	03/28/13 21:26	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
3/29/13 09:03	03/29/13 09:18	15:00	OBCC	PREPAID	(646) 626-2093	1.07
3/29/13 09:19	03/29/13 09:25	6:00	OBCC	PREPAID	(646) 626-2093	0.74
3/29/13 21:21	03/29/13 21:36	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/30/13 14:37	03/30/13 14:52	15:04	OBCC	PREPAID	(646) 626-2093	1.11
3/30/13 14:53	03/30/13 14:59	5:56	OBCC	PREPAID	(646) 626-2093	0.74
3/30/13 20:56	03/30/13 21:11	14:59	OBCC	PREPAID	(646) 626-2093	1.07
3/30/13 21:12	03/30/13 21:18	5:59	OBCC	OPTION 2	(646) 626-2093	0.74
3/31/13 14:49	03/31/13 15:04	15:00	OBCC	PREPAID	(646) 626-2093	1.07
3/31/13 21:05	03/31/13 21:20	14:59	OBCC	PREPAID	(646) 626-2093	1.07
4/01/13 10:34	04/01/13 10:49	15:00	OBCC	PREPAID	(646) 626-2093	1.07

04/04/13 06:53  
CNTRL

The City of New York  
Department of Correction  
Inmate's Phone Call List

Page : 28  
User : I40351  
O'LEARY, SUSAN

BAC Number : 1411209936  
Property Bag(s) :

DIAZ, EMMANUEL

Start Time	End Time	Time	Fclty.	Call Type	Phone Number	Charge
04/01/13 10:50	04/01/13 10:56	6:00	OBCC	PREPAID	(646) 626-2093	0.74
04/01/13 20:53	04/01/13 21:08	15:00	OBCC	PREPAID	(646) 626-2093	1.07
04/01/13 21:26	04/01/13 21:31	5:09	OBCC	OPTION 2	(646) 626-2093	0.74
04/02/13 12:35	04/02/13 12:50	15:00	OBCC	PREPAID	(646) 626-2093	1.07
04/02/13 12:52	04/02/13 12:58	6:00	OBCC	PREPAID	(646) 626-2093	0.74
04/02/13 18:13	04/02/13 18:19	6:00	OBCC	OPTION 2	(646) 626-2093	0.74
04/02/13 21:02	04/02/13 21:17	15:00	OBCC	PREPAID	(646) 626-2093	1.07
<del>04/03/13 14:46</del>	<del>04/03/13 14:50</del>	<del>3:57</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(718) 812-8995</del>	<del>0.66</del>
<del>04/03/13 14:51</del>	<del>04/03/13 14:55</del>	<del>4:58</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(646) 626-2093</del>	<del>0.70</del>
<del>04/03/13 14:58</del>	<del>04/03/13 14:59</del>	<del>1:23</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(718) 812-8995</del>	<del>0.62</del>
04/03/13 14:46	04/03/13 14:50	3:57	OBCC	PREPAID	(718) 812-8995	0.66
04/03/13 14:51	04/03/13 14:55	4:58	OBCC	PREPAID	(646) 626-2093	0.70
<del>04/03/13 14:58</del>	<del>04/03/13 14:59</del>	<del>1:23</del>	<del>OBCC</del>	<del>PREPAID</del>	<del>(718) 812-8995</del>	<del>0.62</del>
04/03/13 14:58	04/03/13 14:59	1:23	OBCC	PREPAID	(718) 812-8995	0.62
04/03/13 15:00	04/03/13 15:10	10:30	OBCC	PREPAID	(718) 812-8995	0.92
04/03/13 20:23	04/03/13 20:28	5:10	OBCC	PREPAID	(646) 626-2093	0.74
04/03/13 21:05	04/03/13 21:20	14:59	OBCC	PREPAID	(646) 626-2093	1.07

Account Balance 73.58  
Held Check Balance  
Total Balance 73.58  
Unpaid restitution balance

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1 Okay, your witness, please.

2 MS. WATSON: Yes. The People call Tarsha Brown.

3 THE COURT: Thank you. Officer, Tarsha Brown.

4 COURT OFFICER: Ready, Judge?

5 THE COURT: I am, thank you.

6 COURT OFFICER: Witness entering.

7 (At this time, the witness entered the courtroom)

8 T A R S H A B R O W N, having been called as a witness by and  
9 on behalf of the People, having first been duly sworn, was  
10 examined and testified as follows:

11 THE CLERK: You may have a seat.

12 Please adjust yourself to the microphone so you  
13 can be clearly heard in the courtroom. For the record, can  
14 you please state and spell your first and last name.

15 THE WITNESS: Tarsha, T-A-R-S-H-A, Brown,  
16 B-R-O-W-N.

17 THE CLERK: Also, what is your title and the  
18 agency you work for?

19 THE WITNESS: New York City Department of  
20 Correction investigator.

21 THE CLERK: Thank you so much. Give your  
22 attention to the judge; he'll give you further  
23 instructions.

24 THE COURT: Good morning, Ms. Brown.

25 How are you today?



1 THE WITNESS: Good morning.

2 THE COURT: There's water there. You have a mic,  
3 just adjust it. Let the jurors observe you as you testify.  
4 If you need to refresh your recollection for anything, just  
5 let us know what it is; okay?

6 THE WITNESS: Okay.

7 THE COURT: Your witness, Ms. Watson.

8 MS. WATSON: Thank you, your Honor.

9 THE COURT: You're welcome.

10 DIRECT EXAMINATION

11 BY MS. WATSON:

12 Q. Good morning, Ms. Brown.

13 A. Good morning.

14 Q. Please state your name, shield and command.

15 A. Tarsha Brown, shield number 152, New York City  
16 Department of Correction.

17 Q. By whom are you employed?

18 A. The New York City Department of Correction.

19 Q. And in what capacity are you employed by the  
20 Department of Corrections?

21 A. I'm employed as an investigator.

22 Q. And how long have you been at the Department of  
23 Corrections?

24 A. I have been employed by the New York City Department  
25 of Correction for nine years; however, in my current capacity,

1 for two years in the legal division.

2 Q. Briefly describe your job responsibilities as an  
3 investigator in the legal division at the Department of  
4 Corrections.

5 A. As an investigator for the legal division, I'm  
6 primarily responsible for retrieving inmate telephone call  
7 recordings and testifying in court with regards to how the  
8 process is handled.

9 Q. And briefly describe your other assignments within  
10 the Department of Corrections.

11 A. I also assist the attorney on  
12 equal-employment-opportunity cases and E.E.O.C. cases.

13 Q. Are you familiar with the procedures for inmates to  
14 make telephone calls?

15 A. Yes, I am.

16 Q. And can you please describe those procedures for the  
17 jury?

18 A. Sure. The way it works is, first, the inmate must  
19 walk over to the area where the telephones are located. He  
20 will pick up the telephone and enter his ten-digit  
21 book-and-case number. Next, he must enter his six-digit  
22 personal identification number, and, finally, the telephone  
23 number that he wished to dial.

24 Q. And you used the term "book-and-case number." Can  
25 you explain what a book-and-case number is?

1           A.     Sure. A book-and-case number is a unique ten-digit  
2     identification number that is assigned to each inmate by the  
3     New York City Department of Correction.

4           Q.     And can you explain what a pin number is?

5           A.     Yes. A pin number is a six-digit personal  
6     identification number which corresponds to the book-and-case  
7     number. This number can either be selected by the inmate or  
8     assigned by the department. So in order for an inmate to  
9     complete a call, they must enter both the pin number, in  
10    addition to the book-and-case number.

11          Q.     And can two inmates have the same book-and-case  
12    number or pin number?

13          A.     No; those numbers are unique.

14          Q.     Are inmates' telephone calls recorded?

15          A.     All calls may be recorded with the exception of  
16    privileged telephone calls.

17          Q.     And can you tell us, what are privileged telephone  
18    calls?

19          A.     Privileged calls will consist of contact between  
20    attorneys, clergymen or treating physicians with prior  
21    authorization by the New York City Department of Correction.

22          Q.     And can you tell us when the Department of  
23    Corrections started recording telephone calls?

24          A.     The agency started recording in 2008.

25          Q.     Are inmates aware that their calls are being

1 recorded?

2 A. The inmates are aware.

3 Q. And how are they aware that their calls are being  
4 recorded?

5 A. They are given three forms of notification. The  
6 first means of notification is the inmate handbook, which they  
7 must sign for during the intake process. On page 43 of the  
8 inmate handbook, the last paragraph, it states that all calls  
9 may be recorded for security purposes with the exception of  
10 privileged calls.

11 The second means of notification is there are signs  
12 posted in Spanish and English which states inmate telephone  
13 conversations are subject to electronic monitoring and/or  
14 recording and the inmate's use of department telephones  
15 constitutes implied consent with this policy.

16 And the final means of notification is when the  
17 inmate goes to place a telephone call, prior to each call, they  
18 will hear a recorded message which states this call may be  
19 recorded and monitored.

20 MS. WATSON: I'm going to ask that the witness  
21 please be shown People's 7 for identification.

22 THE COURT: Seven, for identification.

23 Has Mr. Wright previously seen this?

24 MR. WRIGHT: Yes, Judge, I have.

25 THE COURT: Thank you so much, sir.

1 Seven, for identification purposes.

2 (People's 7 handed to the witness)

3 Q. Ms. Brown, I'm going to ask you to look at People's 7  
4 for identification. Do you recognize it?

5 A. Yes, I do.

6 Q. What do you recognize it to be?

7 A. This is the sign I made reference to a few minutes  
8 ago that is posted directly next to the telephones that the  
9 inmates are allowed to use.

10 Q. And does People's 7 for identification fairly and  
11 accurately depict the sign that was posted at the Department of  
12 Corrections by those telephones?

13 A. Yes, it does, with the exception that the signs  
14 posted by the telephones in the facility is in a sticker format  
15 attached to the wall.

16 MS. WATSON: At this time, I ask what's been  
17 premarked People's 7 for identification be moved into  
18 evidence as People's 7.

19 THE COURT: Do you wish to voir dire, sir?

20 MR. WRIGHT: No, your Honor.

21 THE COURT: Thank you.

22 Seven, in evidence.

23 COURT OFFICER: So marked.

24 (Received and marked People's Exhibit 7 in  
25 evidence)

1 (Whereupon People's 7 was placed on the overhead  
2 projector)

3 Q. Ms. Brown, can you tell the jurors what People's 7  
4 shows?

5 A. Yes. This is the sign that is posted directly next  
6 to the telephones that the inmates are allowed to use, which is  
7 the inmate telephone recording notice.

8 Q. Can you please read People's 7 in evidence.

9 A. Yes. Inmate telephone recording notice:  
10 "Inmate telephone conversations are subject to  
11 electronic monitoring and/or recording in accordance with  
12 department policy. An inmate's use of constitutional  
13 telephones constitutes consent to this monitoring and/or  
14 recording." And the other side is in Spanish.

15 Q. Thank you. Ms. Brown, does the Department of  
16 Corrections make and keep its books and records in the regular  
17 course of business?

18 A. Yes, they do.

19 Q. And is it the regular course of business of the  
20 Department of Corrections to make and keep these books and  
21 records?

22 A. Yes.

23 Q. And are you custodian of records in the Department of  
24 Corrections?

25 A. Yes, I am.

1 MS. WATSON: I now ask that the witness be shown  
2 People's 8 for identification.

3 THE COURT: Eight, previously shown to defense  
4 counsel?

5 MR. WRIGHT: Yes, Judge.

6 THE COURT: Thank you so much.

7 (People's 8 handed to the witness)

8 Q. Ms. Brown, I'm going to ask you to take a look at  
9 People's 8 for identification. Do you recognize it?

10 A. Yes, I do.

11 Q. What do you recognize it to be?

12 A. This is the inmate phone log.

13 Q. Is it in the regular course of business in the  
14 Department of Corrections to make and keep this record?

15 A. Yes, it is.

16 Q. And are the entries on this phone log made at the  
17 time that the recorded transactions or events took place or  
18 within a reasonable time thereafter?

19 A. Yes.

20 Q. And is the person who makes the entry and who records  
21 the information under a business duty to do so accurately?

22 A. Yes, they are.

23 MS. WATSON: Your Honor, at this time, I offer  
24 what's been premarked People's 8 for identification be  
25 moved into evidence as People's 8.

1 THE COURT: Does defense counsel wish to voir  
2 dire?

3 MR. WRIGHT: No objection.

4 THE COURT: Thank you.

5 Eight, in evidence, please. Thank you, sir.

6 COURT OFFICER: So marked.

7 MS. WATSON: Thank you, Officer.

8 (Received and marked People's Exhibit 8 in  
9 evidence)

10 Q. Ms. Brown, what book-and-case number is assigned to  
11 this log?

12 A. Book-and-case number 1411209936.

13 Q. And who is assigned this book-and-case number from  
14 this log?

15 A. Emmanuel Diaz.

16 Q. Now, directing your attention to this log, do you see  
17 a call placed on July 25, 2012, at 6:05 p.m.?

18 A. Yes.

19 Q. And can you tell us about that call?

20 A. Yes. There was a call placed on July 25, 2012,  
21 beginning at 1759 hours, ending at 1805 hours, for a total  
22 duration of five minutes and 38 seconds, placed to telephone  
23 number 212-470-5730.

24 Q. I'm going to ask you, do you see a call that was  
25 placed on July 26, 2012, at 9:20 a.m.?



1 A. Yes. There was a call placed July 26, 2012,  
2 beginning at 9:05 a.m., ending at 9:20 a.m., for a total  
3 duration of 15 minutes, placed to phone number 347-488-2758.

4 Q. And do you see a call placed on July 30, 2012, at  
5 8:50 a.m.?

6 A. Yes. I see a call placed July 30, 2012, beginning at  
7 2035 hours, ending at 2050 hours, for a duration of 15 minutes,  
8 placed to phone number 347-488-2758.

9 Q. Lastly, do you see a call placed on July 30, 2012, at  
10 approximately 8:58 p.m.?

11 A. Yes. There was a call placed July 30, 2012,  
12 beginning at 2052 hours, ending at 2058 hours, for a duration  
13 of six minutes, placed to phone number 347-488-2758.

14 Q. Now, these four calls that you just mentioned, what  
15 book-and-case number were assigned to these calls?

16 A. These calls were placed under book-and-case  
17 number 1411209936.

18 Q. And who was the book-and-case assigned to for these  
19 four calls, as well as this log?

20 A. That book-and-case number is assigned to Emmanuel  
21 Diaz.

22 MS. WATSON: At this time, I'm going to ask that  
23 the witness be shown People's 9 for identification.

24 THE COURT: Nine for identification. If it  
25 hasn't been shown to defense counsel, let's show it to him

1 now.

2 MR. WRIGHT: I've seen it, Judge.

3 THE COURT: Thank you, Mr. Wright.

4 Nine, for identification purposes, shown to the  
5 witness.

6 MS. WATSON: And I'm going to ask that the  
7 witness be shown ten for identification as well.

8 THE COURT: All right, nine and ten, for  
9 identification purposes.

10 (People's 9 and 10 handed to the witness)

11 Q. Ms. Brown, I ask you to look at People's 9 for  
12 identification. Do you recognize it?

13 A. Yes, I do.

14 Q. And what do you recognize it to be?

15 A. Exhibit 9 contains phone calls that were placed under  
16 book-and-case number 1411209936.

17 Q. And now I show you what's been marked People's 10 for  
18 identification. Can you take a look at that and do you  
19 recognize that?

20 A. Yes, I do.

21 Q. What do you recognize it to be?

22 A. Exhibit 10 contains four redacted portions of the  
23 original four calls from the original CD.

24 Q. And, Ms. Brown, did you have a chance to listen to  
25 the four calls on People's Exhibit 9 for identification in

1 their entirety and then compare it to People's Exhibit 10 for  
2 identification?

3 A. Yes, I did, this morning in the District Attorney's  
4 Office prior to coming to court.

5 Q. And is People's Exhibit 10 a fair and accurate  
6 recording of the four calls made on People's 9 for  
7 identification?

8 A. Yes, it is.

9 Q. And was there any alterations made to People's  
10 Exhibit 10 for identification?

11 A. No, there were not because I compared both nine and  
12 ten and there were no changes or alterations made to either  
13 disk.

14 MS. WATSON: At this time, I ask that People's  
15 Exhibit 10 for identification be moved into evidence as  
16 People's 10.

17 MR. WRIGHT: No objection.

18 THE COURT: Thank you, sir.

19 Ten, in evidence, as well as nine.

20 Nine and ten in evidence.

21 COURT OFFICER: Nine and ten?

22 MS. WATSON: Just ten. Nine is just for  
23 identification.

24 THE COURT: Nine is only for identification  
25 purposes, okay. Just ten. Ten goes into evidence.

1 No objection.

2 (Received and marked People's Exhibit 10 in  
3 evidence)

4 MS. WATSON: May we approach briefly, your Honor?

5 THE COURT: Yes, certainly. Excuse me, ladies  
6 and gentlemen of the jury. Ma'am, excuse me.

7 (Off-the-record discussion held at the bench)

8 THE COURT: Ladies and gentlemen, based upon the  
9 prior discussions on rulings on the law with defense  
10 counsel and the People's counsel, Ms. Watson and  
11 Mr. Wright, respectfully, the tapes will be played for you.  
12 The CD now that's in evidence, the redacted four calls, is  
13 ten in evidence. Should you require that during your  
14 deliberations, then you'll be reconvened into the courtroom  
15 in the presence of both counsels and that tape will be  
16 replayed. The transcripts that you're given are not in  
17 evidence, they're used solely as an aid to you in listening  
18 to the tapes.

19 MS. WATSON: I'm now going to play People's 10 in  
20 evidence.

21 THE COURT: Okay.

22 MS. WATSON: It contains four phone calls.

23 (Whereupon People's 10 was played in open court)

24 Q. Ms. Brown, is that the first call on 7/25/2012,  
25 at 6:05?

1 A. Yes.

2 MS. WATSON: The second call, 7/26/2012, at 9:20.

3 (Whereupon People's 10 was maid in open court).

4 Q. Ms. Brown, is that the call on 7/26/2012, at 9:20?

5 A. Yes, it is.

6 MS. WATSON: The next call is 7/30/2012, 8:51.

7 (Whereupon People's 10 was played in open court)

8 Q. Is that the call on 7/30/2012, at 8:51?

9 A. Yes, it is.

10 MS. WATSON: The next call is 7/30/2012, at 8:58.

11 (Whereupon People's 10 was played in open court)

12 Q. Is that the call on 7/30/2012, at 8:58?

13 A. Yes, it is.

14 MS. WATSON: Thank you, Ms. Brown.

15 I have no further questions.

16 THE COURT: Thank you very much, counsel.

17 Mr. Wright, cross-examination, please.

18 MR. WRIGHT: Thank you, Judge.

19 THE COURT: You're welcome, sir.

20 CROSS-EXAMINATION

21 BY MR. WRIGHT:

22 Q. Good morning, Ms. Brown.

23 A. Good morning.

24 Q. I'm sorry, I forgot, how long have you been employed  
25 by the Department of Corrections?

1 A. Nine years, but in my current capacity, for two  
2 years.

3 Q. Would it be fair to say that you started out as an  
4 officer?

5 A. No, I did not start as an officer.

6 Q. You were never an officer?

7 A. No.

8 Q. During the course of your employment, did you have  
9 any opportunity to become involved in the intake of inmates?

10 A. No, I did not.

11 Q. You had no inmate contact?

12 A. That's correct.

13 Q. During your direct testimony, you indicated that in  
14 order for an inmate to place phone calls, they must enter two  
15 sets of numbers, a book-and-case number, which is an  
16 individualized number, and a pin number; is that correct?

17 A. That's correct.

18 Q. And you also said that the pin number can be assigned  
19 or selected by the inmate?

20 A. That's correct.

21 Q. Do you know, in this case, whether the inmate -- the  
22 pin number, I'm sorry, that is purported to belong to Emmanuel  
23 Diaz was assigned or did he select that number?

24 A. I have no idea.

25 Q. In the course of your duties as an investigator, have

1 you become familiar with the practice common among inmates of  
2 selling phone calls?

3 A. It is very possible for an inmate to share or give  
4 their book-and-case and pin number to another inmate in  
5 exchange for whatever purpose.

6 Q. And in the situation where that occurred, the call  
7 log would not necessarily reflect who actually was making the  
8 call; is that correct?

9 A. That's correct, because the phone call log is  
10 produced solely under that inmate's book-and-case number.

11 Q. Okay. And the phone calls that we just heard in  
12 People's No. 10, you don't know from your own personal  
13 knowledge whether or not the voice we heard was that of  
14 Emmanuel Diaz; do you?

15 A. That's correct; I have no idea if that's Mr. Diaz's  
16 voice.

17 Q. In the similar vein, you have no idea whether or not  
18 Mr. Diaz, at any point, including the relevant times, sold his  
19 book-and-case and pin number?

20 A. That's correct, I have no idea. My identification is  
21 based solely under that book-and-case number.

22 MR. WRIGHT: Thank you, Ms. Brown.

23 THE WITNESS: You're welcome.

24 THE COURT: Thank you, sir.

25 Any redirect by the People?

1 MS. WATSON: Just one thing.

2 THE COURT: Sure.

3 REDIRECT EXAMINATION

4 BY MS. WATSON:

5 Q. So, Ms. Brown, the calls that we heard were under the  
6 book-and-case number and pin number assigned to Emmanuel Diaz;  
7 is that correct?

8 A. That's correct.

9 MS. WATSON: No further questions.

10 THE COURT: Anything else by the defense?

11 MR. WRIGHT: No, your Honor.

12 THE COURT: Thank you so much.

13 All right, thank you, ma'am.

14 (WITNESS EXCUSED)

15 THE COURT: All right, the People may call their  
16 next witness.

17 MS. WATSON: Thank you, your Honor.

18 THE COURT: You're welcome.

19 MS. WATSON: The People call Theophilus Graham.

20 COURT OFFICER: Ready, Judge?

21 THE COURT: Yes.



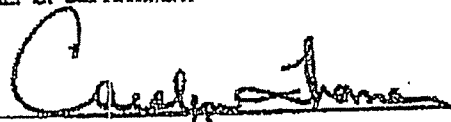
22 COURT OFFICER: Witness entering.

23 (At this time, the witness entered the courtroom)

24 THE COURT: Good morning, Mr. Brown.

25 These nice people are going to help you up here.



		THE CITY OF NEW YORK DEPARTMENT OF CORRECTION		
		<b>OPERATIONS ORDER</b>		
<input type="checkbox"/> NEW		<input checked="" type="checkbox"/> REVISED		SUBJECT <b>INMATE TELEPHONE                  RECORDING &amp; MONITORING</b>
EFFECTIVE DATE <b>03/08/09</b>	NUMBER <b>01/09</b>	PAGE 1 OF <b>9 PAGES</b>		
AUTHORIZED BY THE CHIEF OF DEPARTMENT				
CAROLYN THOMAS				SIGNATURE

## I. PURPOSE

The purpose of this Operations Order is to establish policy and procedures for the recording and monitoring of inmate telephone calls and the maintenance and storage of all records generated as a result thereof.



## II. POLICY

A. The Department shall record all inmate telephone calls and retain these recordings, except for those telephone numbers of persons or agencies that appear on the "Do Not Record List," as specified below. The "Do Not Record List" shall include:

1. Calls to numbers provided to the Department by the New York City Board of Correction, New York City Department of Investigation, New York State Commission of Correction shall not be recorded or monitored.
2. Calls to numbers of inmates' attorneys permitted to practice in New York State registered with the Office of Court Administration (OCA), as specified on the list maintained by the New York Office of Court Administration.
3. Additional telephone numbers of attorneys: Upon written request of the attorney on official letterhead, additional numbers of inmates' attorneys, including those of out-of-state counsel, will be reviewed and verified for inclusion on the Do Not Record List by the Deputy Commissioner of Legal Matters/General Counsel. The attorney's request may be submitted electronically. (Specific instructions are provided on the NYC Department of Correction [DOC] website, at [www.nyc.gov/docdext](http://www.nyc.gov/docdext)). The Deputy Commissioner of Legal Matters/General Counsel shall prepare a Do Not Record List Modification Request Form (Attachment B, Form 99RM002). If the request is approved, it shall be forwarded to the Deputy Commissioner for Information Technology/Chief Information Officer. The telephone number shall be added to the "Do Not Record List" without undue delay. Any request that has been denied shall be responded to in writing with the reason for the denial. During new admission orientation, inmates shall be informed of the procedures for having attorney telephone numbers placed on the "Do Not Record List."

# OPERATIONS ORDER 384-395

4201

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## II. POLICY (cont.)

4. Calls to numbers of inmates' treating physicians and clinicians: Requests on official letterhead may be submitted electronically by an inmate's treating physicians and/or clinicians to Assistant Commissioner of Health Affairs and Forensic Services. (Specific instructions are provided on the DOC website, at [www.nyc.gov/boldest](http://www.nyc.gov/boldest)). This request will be reviewed and verified for inclusion on the "Do Not Record List" by the Assistant Commissioner of Health Affairs and Forensic Services, who shall also prepare a "Do Not Record List Modification Request Form." If the request is approved, it shall be forwarded to the Deputy Commissioner for Information Technology/Chief Information Officer. The telephone number shall be added to the "Do Not Record List" without undue delay. Any request that has been denied shall be responded to in writing with the reason for the denial. During new admission orientation, inmates shall be informed of the procedures for having physicians and/or clinicians telephone numbers placed on the "Do Not Record List."
5. Calls to numbers of inmates' clergy: Requests on official letterhead may be submitted electronically by an inmate's clergy to the Assistant Commissioner of Ministerial and Volunteer Services. (Specific instructions are provided on the DOC website, at [www.nyc.gov/boldest](http://www.nyc.gov/boldest)). This request will be reviewed and verified for inclusion on the "Do Not Record List" by the Assistant Commissioner of Ministerial and Volunteer Services, who shall also prepare a "Do Not Record List Modification Request Form." If the request is approved, it shall be forwarded to the Deputy Commissioner for Information Technology/Chief Information Officer. The telephone number shall be added to the "Do Not Record List" without undue delay. Any request that has been denied shall be responded to in writing with the reason for the denial. During new admission orientation, inmates shall be informed of the procedures for having clergy telephone numbers placed on the "Do Not Record List."



## III. PROCEDURES

### A. Authorization to Record and Monitor Inmate Telephone Calls

1. Authorization to monitor recorded inmate telephone calls shall be granted only by the following: the Commissioner, Senior Deputy Commissioner, Chief of Department, Chief of Facility Operations, the Deputy Commissioner of Investigation & Trials or the Deputy Commissioner for Legal Matters/General Counsel.

# OPERATIONS ORDER 384-395

4204

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## III. PROCEDURES (cont.)

**Note:** If a request to monitor an inmate's call is initiated by one of the individuals listed above, the reason for the monitoring shall not be required on the Authorization to Monitor Recorded Inmate Telephone Calls Request Form (Attachment A, Form #RM001).



2. The process of obtaining authorization to monitor an inmate's phone call shall be in writing. A signed Authorization to Monitor Recorded Inmate Telephone Calls Request Form (Attachment A, Form #RM001) by one of the aforementioned individuals shall be required. The completed form shall be forwarded to Information Technology (IT) before monitoring can be performed. All inmate calls that are recorded and monitored shall be regarded as confidential material.
3. For the purpose of this order, the monitoring shall consist of retrieving a pre-recorded disk from Information Technology containing an inmate's recorded telephone calls. This disk must be reviewed in a designated area by authorized and trained DOC staff.
4. Trained members of the Department, assigned to specialized units specifically authorized by any of the authorizing staff listed above, shall be authorized to listen to inmate phone calls.

### B. Identifying the Need to Monitor

1. The Department may determine that there is a need to monitor an inmate's recorded telephone conversations. Situations that would prompt such action may include, but not necessarily be limited to, the following:
  - a. Information collected from a Confidential Informant or any other source about the introduction of contraband (weapons, drugs, etc.) or plans for possible escape;
  - b. Discovery of a significant quantity of contraband (drugs, money, etc.) during a visit; the intended recipient may be subject to having his/her recorded telephone calls monitored;
  - c. Information about a possible disturbance;
  - d. Information about possible criminal activity or corruption by staff. This information must be referred to the Inspector General (IG) or the Investigation Division (ID); and
  - e. Any information, which may compromise the safety and security of the Department or the public.

# OPERATIONS ORDER 384-395

4201

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## III. PROCEDURES (cont.)

2. The process on how to obtain authorization to monitor an inmate's telephone calls at the facility level is indicated below:



- a. Staff receiving information within a facility about possible criminal activity by inmates (drug sales, extortion, etc.) that may be in progress or that may occur in the near future shall forward this information to the Tour Commander. The Tour Commander shall submit his/her assessment and recommendation for telephone monitoring in writing to the Deputy Warden for Security.

Note: Information received by Intelligence Unit (IU) staff assigned to a particular facility shall be reported to the facility's Deputy Warden for Security and the IU Commanding Officer. The IU Commanding Officer shall not be responsible for making any request to monitor an inmate's telephone calls for the facility. Information gathered by IU that requires notification to IG or ID (criminal activity or corruption involving staff) shall be made immediately. The facility shall not be required to be notified.

- b. The Deputy Warden for Security shall review this assessment and recommendation from the Tour Commander with the Commanding Officer for the purpose of making a determination, within forty-eight (48) hours, provided that the information is not time sensitive, as to whether the monitoring of an inmate's phone calls would produce vital information relevant to uncovering or preventing illegal activity.
- c. If a determination is made that there is a need to monitor an inmate's recorded phone calls, the Commanding Officer shall prepare and sign the Authorization to Monitor Recorded Inmate Telephone Calls Request Form Section #1 and #2 and shall forward this request to the office of the Chief of Facility Operations. If the Chief of Facility Operations denies the request, the reason shall be noted in the comment(s) section of the form. The signed form shall be returned to the facility for filing within twenty-four (24) hours. The Commanding Officer shall designate an area for filing for a period of thirty (30) days after which said form shall be disposed of.
- d. If a request is approved, the Chief of Facility Operations shall complete and sign Sections #3 and #4.

# **OPERATIONS ORDER 324-395**

4201



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## **III. PROCEDURES (cont.)**

- e. The Chief of Facility Operations shall as soon as practical forward the original signed form to the Deputy Commissioner for Information Technology/Chief Information Officer. Based on the facts as presented, this request shall be active for a period of thirty (30) days from the signed date of approval. Any further monitoring after the thirty (30) day period shall require a new request for the original facility requesting the material.
- f. Copies of this form shall be forwarded to the following areas once approved and signed by one of the authorizing parties:
  - i. Original copy to Deputy Commissioner for Information Technology/Chief Information Officer;
  - ii. One (1) copy to the office of the Chief of Facility Operations and/or Authorizing Authority; and
  - iii. One (1) copy to Commanding Officer
- g. The Deputy Commissioner for Information Technology/Chief Information Officer upon receiving authorization shall retrieve and deliver the appropriate disk containing subject inmate's calls for the period specified to the authorizing authority. Designated staff shall then be allowed to monitor the calls on the disk in a designated area. Disks may be maintained for a period of up to eighteen (18) months by the authorizing authority approving the request.
3. The process on how to obtain authorization to monitor an inmate's telephone calls by the Investigation Division:
  - a. The Deputy Commissioner of Investigation & Trials has the authority to monitor inmate telephone calls. The Deputy Commissioner of Investigation & Trials may initiate a request to monitor inmate's telephone calls from any DOC facility. The Deputy Commissioner of Investigation & Trials shall prepare and sign the Authorization to Monitor Recorded Inmate Telephone Calls Request Form, Section #2 and #4 and as soon as practical forward the original form to the Deputy Commissioner for Information Technology/Chief Information Officer and retain one (1) copy on file in the office of the Deputy Commissioner of Investigation & Trials.

# OPERATIONS ORDER 384-395

42041

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## III. PROCEDURES (cont.)



- b. The Deputy Commissioner for Information Technology/Chief Information Officer, upon receiving authorization, shall retrieve and deliver to the requesting party the appropriate disk containing subject inmate's phone calls for the period specified.
  4. The process on how to obtain authorization to monitor an inmate's telephone calls by the Legal Division.
    - a. The Deputy Commissioner for Legal Matters/General Counsel has the authority to monitor an inmate's telephone calls and may initiate a request to monitor. The Deputy Commissioner for Legal Matters/General Counsel shall prepare and sign the Authorization to Monitor Recorded Inmate Telephone Calls Request Form, Section #2 and # 4 and as soon as practical forward the original form to the Deputy Commissioner for Information Technology/Chief Information Officer and retain one (1) copy on file in the office of the Deputy Commissioner for Legal Matters/General Counsel.
    - b. The Deputy Commissioner for Information Technology/Chief Information Officer, upon receiving authorization, shall retrieve and deliver the appropriate disk containing subject inmate's phone calls for the period specified.
  5. Requests made by Outside Persons/Agencies to Monitor Inmate Telephone Calls.
    - a. All inmate calls that are recorded and monitored shall be regarded as confidential material, which is not to be released to the public. If there is a request by an outside person/agency for the release of recorded inmate calls, the request shall be forwarded to the Deputy Commissioner of Legal Matters/General Counsel for review, approval or denial for the material's release.
    - b. Subpoenas and litigation discovery demands are not governed under this Operations Order.

Note: These requests shall exclude requests from law enforcement agencies and the New York City District Attorney's Offices.



# OPERATIONS ORDER 384-395

420H

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## III. PROCEDURES (cont.)

- c. The aforementioned authority shall prepare and sign the "Authorization to Monitor Recorded Inmate Telephone Calls Request Form." The signed "Authorization to Monitor Recorded Inmate Telephone Calls Request Form" shall as soon as practical be forwarded to the Deputy Commissioner for Information Technology/Chief Information Officer. The appropriate disk shall be retrieved from Information Technology and delivered to the authorizing authority.

### C. Special Instructions for Law Enforcement Agencies/District Attorney Request

1. When any law enforcement agency or any New York City District Attorney's Office requests a copy of a recorded inmate telephone call, the request shall be immediately forwarded to the Deputy Commissioner for Legal Matters who shall review the request. The Deputy Commissioner shall render a decision within three (3) business days. If the Deputy Commissioner for Legal Matters approves the request, Form #RM003 (Attachment C) entitled Copy Of Recorded Telephone Call CD Receipt and Notice to Law Enforcement/District Attorney, shall be generated and sent to the Deputy Commissioner for Information Technology/Chief Information Officer. The recorded copy shall be forwarded to the requesting body by IT as soon as possible.

Note: Copies of recorded inmate telephone calls shall only be released by Information Technology.

2. The form #RM003 serves two (2) functions:

- a. Receipt - the Law Enforcement Agency/District Attorney's Office representative receiving the recorded inmate telephone call, described in Section 2 of form #RM003, shall sign for the CD in Section 3.
- b. Section 4 - Notice to the Law Enforcement Agency/District Attorney advises the Law Enforcement Agency/District Attorney's Office to notify the Department if their monitoring of the recorded inmate telephone call reveals any information that may be of interest to this Department, including but not limited to safety and security (e.g. escape plans, drug smuggling, sexual abuse, bullying, and talk of or plans for suicide).



### D. Intelligence Unit /Investigation Division

1. Supervisory staff assigned to the Intelligence Unit and the Investigation Division shall be trained by members of the Legal Division, Correction Academy and Information Technology in the proper procedures for monitoring an inmate's telephone call.



# OPERATIONS ORDER 384-395

4204

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## III. PROCEDURES (cont.)



2. Trained Intelligence Unit supervisory staff shall be the monitoring body authorized to listen to recorded inmate calls when a request to monitor is initiated on the facility level, unless otherwise directed. The Deputy Commissioner for Information Technology/Chief Information Officer shall also be responsible for maintaining an electronic audit log indicating who, when and for what reason; a Department investigator had the need to listen to a call.
3. Trained Investigation Division supervisory staff shall be the monitoring body when the Deputy Commissioner of Investigation & Trials authorizes the monitoring of a recorded inmate telephone call. The Deputy Commissioner for Information Technology/Chief Information Officer shall also be responsible for maintaining an electronic audit log indicating who, when and for what reason, a Department investigator was authorized to monitor calls.

### E. Monitoring Inmate Telephone Calls Information

1. Commanding Officers of each facility shall ensure that the following information is in place and provided to the inmate population:
  - a. Notice of Recording: signs must be posted in English and Spanish near all inmate telephones, and shall note the following information: *"Inmate telephone conversations are subject to electronic recording and/or monitoring in accordance with Departmental policy. An inmate's use of institutional telephones constitutes consent to this recording and/or monitoring."*
  - b. Inmates who speak a language other than English and Spanish shall be apprised of the above information in a language that they understand.
  - c. Commanding Officers shall ensure that signs stating this information are also posted in all appropriate areas where telephone service is provided to inmates: housing units, Social Service and Intake areas.
  - d. The Inmate Handbook will advise inmates that calls may be recorded and/or monitored, and will advise inmates which calls are not subject to monitoring pursuant to the BOC Minimum Standards and the process by which such calls may be added to the Do Not Record List. Such notice shall be provided in accordance with Board of Correction Minimum Standards on Phone Calls and State Commission of Correction Minimum Standard 7002.9, entitled Facility Rules and Information.

# OPERATIONS ORDER 384-395

420H

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## III. PROCEDURES (cont.)

### 2. Recorded Message

The inmate phone system will play the following announcement in English or Spanish, as appropriate, to inmates at the beginning of a call:

*"This call may be recorded and monitored."*

### F. Disposal of Monitored Inmate Telephone Call Recording Disks

1. The Department has a responsibility to ensure that all disks created for monitoring purposes are disposed of appropriately, as follows:

- a. Disks requested by any of the authorizing authorities, except the Investigation Division, that have been monitored and listed because they contain information that may be used in a criminal court case shall not be disposed of. These disks shall be maintained in the office of the Chief of Facility Operations. Disks requested by the Investigation Division containing information that may be used in a criminal court case shall not be disposed of and will be maintained in the office of the Deputy Commissioner for Investigation & Trials.
- b. All other disks requested containing no relevant information should be disposed of within eighteen (18) months. The process of disposal of these disks shall be by shredding. If a shredding machine is not available then scissors shall suffice.

## IV. ATTACHMENTS

- A. Form #RM001, entitled AUTHORIZATION TO MONITOR RECORDED INMATE TELEPHONE CALLS REQUEST FORM.
- B. Form #RM002, entitled DO NOT RECORD LIST MODIFICATION REQUEST.
- C. Form #RM003, entitled COPY OF RECORDED TELEPHONE CALL CD RECEIPT AND NOTICE TO LAW ENFORCEMENT AGENCY/DISTRICT ATTORNEY.

## V. SUPERSEDES

- A. Operations Order #06/08, entitled Inmate Telephone Recording and Monitoring, dated 08/26/08 (as amended).



**CITY OF NEW YORK  
CORRECTION DEPARTMENT**

Form: 100-1001  
Rev: 03/07/03  
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**AUTHORIZATION TO MONITOR RECORDED INMATE  
TELEPHONE CALLS REQUEST FORM**

**SECTION 1 - COMMANDING OFFICER'S REQUEST FOR AUTHORIZATION**

NAME OF FACILITY: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

**COMMANDING OFFICER'S REQUEST FOR MONITORING INMATE TELEPHONE CALL(S):** *Must provide the reason and have sufficient basis for monitoring.*

\_\_\_\_\_

\_\_\_\_\_

COMMANDING OFFICER'S SIGNATURE, NAME AND SHIELD #: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

**SECTION 2 - INMATE INFORMATION**

*Provide information on inmates to be monitored.*

INMATE NAME: \_\_\_\_\_

B & C #: \_\_\_\_\_

NYCD #: \_\_\_\_\_

HOUSING AREA: \_\_\_\_\_

DATE OF CALL: \_\_\_\_/\_\_\_\_/\_\_\_\_

TIME OF CALL: \_\_\_\_\_

NUMBER(S) CALLED: \_\_\_\_\_

PERIOD OF RANGE OF MULTIPLE CALLS:

DATE: FROM \_\_\_\_/\_\_\_\_/\_\_\_\_ TO \_\_\_\_/\_\_\_\_/\_\_\_\_

**SECTION 3 - OFFICE OF THE CHIEF OF FACILITY OPERATIONS**

☐ APPROVED

☐ DENIED (JUST JUSTIFY)

COMMENT(S): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ASSISTANT CHIEF/DIVISION'S HEAD SIGNATURE AND SHIELD #: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

**SECTION 4 - AUTHORIZATION TO MONITOR RECORDED INMATES CALLS**

**NOTE:** Authorization to monitor recorded inmate telephone call(s) shall be granted only by the following supervising authority: the Commissioner, Senior Deputy Commissioner, Chief of Department, Chief of Facility Operations, the Deputy Commissioner of Investigation & Trials Division and/or the Deputy Commissioner of Legal Affairs/General Counsel.

☐ APPROVED

☐ DENIED

COMMENT(S): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

(Print and Sign Name)



(Rank/Title)

(Date)

**DISTRIBUTION:** 1) Original - Deputy Commissioner for Information Technology/Chief Information Officer  
2) 1 Copy - Chief of Facility Operations and/or Authorizing Authority  
3) 1 Copy - Commanding Officer



ATTACHMENT - A  
A383

# OPERATIONS ORDER 384-395

	<b>CITY OF NEW YORK DEPARTMENT OF CORRECTION</b>	Form: ODC-001	
	<b>"DO NOT RECORD LIST" MODIFICATION REQUEST</b>	ER: 03/09/09	
		Rel: ODC 03/10/09	
<div style="display: flex; justify-content: space-around; align-items: center;"> <input type="checkbox"/> Applies to All Inmates             <input type="checkbox"/> Applies to Specific Inmates           </div>			
<b>Inmate Information (If applicable)</b>			
Inmate's Last Name:		Inmate's First Name:	Book and Case #:
NYSID #:		Facility Name:	
<b>Applicant Information</b>			
Applicant's Last Name:		Applicant's First Name:	Telephone #:
Address:			
<b>Justification for Receiving Non-Recorded Calls from Inmates</b>			
<div style="display: flex; justify-content: space-around; align-items: center;"> <input type="checkbox"/> Attorney             <input type="checkbox"/> Treating Physician             <input type="checkbox"/> Clergy             <input type="checkbox"/> Other           </div>			
If other, explain:			
If Attorney, provide OCA number:		If Treating Physician, provide AMA number:	
If Clergy, provide affiliation:			
<b>Approved By</b>			
Name (Last Name, First Name):		Title:	Date:
Signature:			
<b>Number Added By</b>			
Name (Last Name, First Name):		Title:	Date:
Signature:			

ATTACHMENT - B

# OPERATIONS ORDER 384-395

	<b>CITY OF NEW YORK CORRECTION DEPARTMENT</b>	Form: 68-2003 Ed.: 02/03 Rel.: 03/01/03									
<b>COPY OF RECORDED TELEPHONE CALL CD RECEIPT AND NOTICE TO LAW ENFORCEMENT AGENCY/DISTRICT ATTORNEY</b>											
RECORDING #:		FACILITY:									
INITIATOR NAME:	BOOK & CASE #:	NYSID #:									
HOUSING AREA:	DATE OF CALL:	TIME OF CALL:									
NUMBER(S) CALLED:	PERIOD OF RANGE OF MULTIPLE CALLS: DATE:      FROM:      TO:      /      /										
REQUESTING AGENCY:	AGENCY REPRESENTATIVE NAME:	CONTACT #:									
DEPUTY COMMISSIONER FOR LEGAL MATTERS/GENERAL COUNSEL DETERMINATION: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input type="checkbox"/> APPROVE      <input type="checkbox"/> DISAPPROVE       </div>											
SIGNATURE: _____											
RECEIVED BY - NAME:		RELEASED BY - NAME OF I.T. STAFF MEMBER:									
TITLE:		RANK/TITLE:	SHIELD/D.#:								
SIGNATURE:		SIGNATURE - NAME OF I.T. STAFF MEMBER:									
<p><b>DURING THE COURSE OF LISTENING TO THIS RECORDED TELEPHONE CALL, YOU MAY HEAR INFORMATION THAT MAY BE OF INTEREST TO THE NEW YORK CITY DEPARTMENT OF CORRECTION OR THAT MAY COMPROMISE THE SAFETY OF ANY INDIVIDUAL, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:</b></p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>ESCAPE PLANS</td> <td>PAST OR IMPENDING PLANS FOR ACTS OF VIOLENCE</td> <td>TALK OF OR PLANS FOR SUICIDE</td> <td>DRUG OR WEAPON POSSESSION</td> <td>SEXUAL ABUSE EITHER PAST OR PRESENT</td> <td>BULLYING BEHAVIOR</td> <td>EXTORTION</td> <td>AND/OR OTHER CRIMINAL ACTS</td> </tr> </table>				ESCAPE PLANS	PAST OR IMPENDING PLANS FOR ACTS OF VIOLENCE	TALK OF OR PLANS FOR SUICIDE	DRUG OR WEAPON POSSESSION	SEXUAL ABUSE EITHER PAST OR PRESENT	BULLYING BEHAVIOR	EXTORTION	AND/OR OTHER CRIMINAL ACTS
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<p><b>IF SO, PLEASE IMMEDIATELY NOTIFY:</b></p> <ul style="list-style-type: none"> <li>• THE COMMANDING OFFICER OF THE INTELLIGENCE UNIT @ 718 548-1883</li> <li>• THE DIRECTOR OF THE INVESTIGATION DIVISION @ 718 548-3000</li> <li>• IF UNABLE TO REACH THE INTELLIGENCE UNIT THEN CALL OUR CENTRAL OPERATIONS DESK @ 718 548-1284 (24 HOURS X 7 DAYS)</li> </ul>											
ACKNOWLEDGED BY	SIGNATURE:	PRINT:	RANK/TITLE:	SHIELD#:	DATE:						
WITNESSED BY	SIGNATURE:	PRINT:	RANK/TITLE:	SHIELD#:	DATE:						
<p><b>DISTRIBUTION:</b></p> <ul style="list-style-type: none"> <li>1) ORIGINAL - DEPUTY COMMISSIONER FOR INFORMATION TECHNOLOGY/CHIEF INFORMATION OFFICER</li> <li>2) ONE (1) COPY - COMMANDING OFFICER OF THE INTELLIGENCE UNIT</li> <li>3) ONE (1) COPY - DEPUTY COMMISSIONER OF INVESTIGATION &amp; TRIALS DIVISION</li> <li>4) ONE (1) COPY - COMMANDING OFFICER OF THE FACILITY</li> <li>5) ONE (1) COPY - DEPUTY COMMISSIONER FOR LEGAL MATTERS/GENERAL COUNSEL</li> <li>6) ONE (1) COPY - REQUESTING AGENCY</li> </ul>											

Attachment - C

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