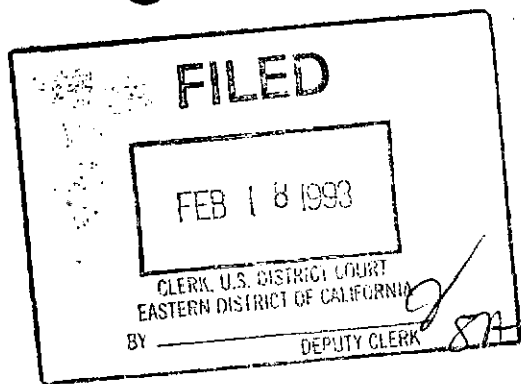


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PAUL W. COMISKEY (Bar No. 65510)
2308 J Street
P.O. Box 1019
Sacramento, CA 95812-1019
(916) 442-6868

RICHARD P. HERMAN (Bar No. 53743)
24012 Calle de la Plata, Suite 330
Laguna Hills, CA 92653
(714) 768-3601

MICHAEL D. LONG (Bar No. 149475)
2308 J Street, Suite D
P. O. Box 163354
Sacramento, CA 95816-9354
(916) 448-1708

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN B. CRUZ, JOSEPH Q. KRUKOWSKI,)
RUBEN D. CRUZ, DOUG MURPHY, JOHN)
COLE, TIM PENDERGAS, MANUEL BERTA0,)
ROGER D. HAUSMAN, CHARLES WILCOX,)
REBECCA MONTERO-SALCEDO, ANTHONY)
SHERWOOD, RICHARD RUIZ, and all)
others similarly situated,)

Plaintiffs,

vs.

COUNTY OF FRESNO, STEVE MAGARIAN,)
as SHERIFF,)

Defendants.

NO. F-93-5070 REC JFM

FIRST AMENDED COMPLAINT
FOR DECLARATORY
AND INJUNCTIVE RELIEF

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2 JURISDICTION

3 1. This is a class action brought by the prisoners in the
4 Fresno County Jail, Main Jail, located at 2200 Fresno Street,
5 Fresno, California, the South Jail Annex, 2200 Fresno Street,
6 Fresno, California, including both pretrial detainees and sentenced
7 prisoners, to redress the deprivation by defendants, County of
8 Fresno and Sheriff Steve Magarian, of plaintiffs' rights,
9 privileges and immunities arising under the Constitution and laws
10 of the United States and the deprivation under color of law by the
11 individual defendants of these rights (First, Fourth, Fifth, Sixth,
12 Eighth and Fourteenth Amendments of the Constitution of the United
13 States, 42 USC Section 1983) through overcrowding, by failing to
14 provide beds, lack of exercise, and lack of access to law library.
15 Named plaintiffs DOUG MURPHY, JOSEPH Q. KRUKOWSKI, RUBEN D. CRUZ,
16 JOHN B. CRUZ, JOHN COLE, TIM PENDERGAS, MANUEL BERTAO, ROGER D.
17 HANSMAN, CHARLES WILCOX, REBECCA MONTERO-SALCEDO, ANTHONY SHEWARD,
18 RICHARD RUIZ, and all others similarly situated, are prisoners in
19 the Fresno County Jail who are detained in the Fresno County Jail
20 in such overcrowded conditions that they are denied a
21 constitutionally adequate place of sleep, including failure to
22 provide a bed to sleep on, access to exercise and access to a law
23 library.

24 Specifically, the conditions in the Jail are grossly
25 overcrowded and inhumane. The South Annex jail is rated for 511,
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1 but often has 700 inmates and some people are forced to sleep on
2 the floor every day regardless of physical disabilities or illness.
3 At the present time the third and fourth floor of the jail are
4 closed for remodeling. On the remaining first and second floors,
5 prisoners are living in grossly overcrowded conditions in cells
6 that have bed space for twelve prisoners, although there are
7 frequently as many as twenty prisoners per cell. There are an
8 unknown number of prisoners sleeping on the floor in the South
9 Annex and of the Fresno County Jail, but there are approximately
10 300 prisoners sleeping on the floor in the Main Jail. This means
11 some prisoners have to try to sleep under the existing bunks and
12 in other parts of the cell including in the dayroom. Even before
13 the remodeling of the jail began, this particular facility was
14 overcrowded with floor sleepers and with the number of prisoners
15 grossly exceeding the jail's design capacity. Plaintiff JOHN
16 CRUZ complains that needed law books are unavailable and they are
17 only allowed one hour per week in the law library. Books
18 indispensable to legal research are not available to the prisoners.
19 Some of the books there are outdated.

20 The prisoners are overcrowded, do not have a place to sit to
21 eat meals, are subjected to excessive noise levels, have difficulty
22 obtaining exercise and have inadequate access to a law library.
23 The roof exercise area of the South Annex that is designed to
24 provide outdoor exercise for the prisoners in the facility is
25 presently not being used. Prisoners are allowed to go twice a week
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1 to a gymnasium on the second floor. This space is too small for
2 the number of prisoners who attempt to use it. It is not equipped
3 for exercise. There are ping pong tables and card tables and a
4 weight machine in this space. In addition to the gymnasium's not
5 being equipped for exercise, the space is also used for religious
6 services by the prisoners and other types of meetings at the same
7 time as it is available to the prisoners for exercise. This
8 results in further restriction of movement. A person would not be
9 able to run in the space or do other kinds of exercise such as play
10 basketball. The two-hour exercise period twice a week is grossly
11 inadequate time for physical exercise that is needed for a person
12 to maintain health.

13 Prisoners in the Main Jail, which consists of six floors are
14 terribly overcrowded. Three hundred prisoners are sleeping on the
15 floor. Lock-down Units in which prisoners remain for up to twenty-
16 three and one-half hours per day have three prisoners in them and
17 two bunks. One bunk is jammed in between the floor between the
18 toilet and the bunk. The larger housing areas in the Main Jail
19 that have fifty bunks have seventy to seventy-five prisoners in
20 them. This is a terribly crowded jail and riotous conditions have
21 occurred as a result of the overcrowding in the Main Jail.

22 2. The jurisdiction of this Court is invoked under 28 USC
23 1331, this being an action arising under the Constitution and laws
24 of the United States and under 28 USC 1343, this being an action
25 authorized by law to redress the deprivation under color of the
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1 state law, statute, ordinance, regulation, custom and usage of a
2 right, privilege and immunity secured to plaintiffs by the First,
3 Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the
4 Constitution of the United States.

5 3. Defendant County of Fresno (hereinafter called "County"),
6 is a unit of local government, duly formed and authorized under the
7 laws of the State of California. As part of its duties, defendant
8 County provides local jail facilities, specifically the Fresno
9 County Jail located in the City of Fresno, County of Fresno.
10 Through the Sheriff's Department of the County of Fresno and other
11 county agencies, defendant County also provides supervision to
12 persons in the Fresno County Jail.

13 4. Individual Steve Magarian is the Sheriff of the County
14 of Fresno, responsible for the Fresno County Jail, and its inmates.

15 5. At all times pertinent to this complaint, the named
16 individual defendant was acting under the color of his official
17 capacity and the ordinances and regulations of Fresno County, and
18 the laws of the State of California.

19 6. The named plaintiffs are citizens or persons residing in
20 the United States.

21 7. During all times mentioned herein, the defendants, and
22 each of them, separately and in concert, acted under color and
23 pretense of law, to wit, under color of the statutes, ordinances,
24 regulations, customs and usage of the States of California and the
25 County. Each of the defendants herein, separately and in concert,
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1 engaged and conspired in the illegal conduct herein-mentioned to
2 the injury of plaintiffs, and deprived the plaintiffs of the
3 rights, privileges and immunities secured to plaintiffs by the
4 First, Fourth, Fifth, Eighth and Fourteenth Amendments to the
5 Constitution of the United States and the laws of the United States,
6 pursuant to the practice and policy of defendant County.

7 8. At all relevant times, the plaintiffs were prisoners and
8 held in the Fresno County Jail, including the South Annex and the
9 Main Jail.

10 9. The deprivations suffered by plaintiffs were and are the
11 result of ongoing pattern of conduct and practices of defendants,
12 including defendant County of Fresno and defendant Magarian and
13 unless and until ordered by this court, overcrowded conditions
14 resulting in inadequate sleeping arrangements and causing personal
15 stress for prisoners, lack of personal safety, restricted access
16 to legal materials and necessary services will continue to deprive
17 prisoners of the Fresno County Jails of their constitutional
18 rights.

19 10. The Fresno County Jail South Annex, North Annex and the
20 Main Jail are overcrowded. The overcrowding of the jails has led
21 to constitutional violations, including floor sleeping. These
22 constitutional violations, in particular floor sleeping and chronic
23 overcrowding of the jail, are known to the jail administration,
24 Sheriff and county officials. In particular, problems with
25 overcrowding, understaffing, floor sleeping are documented and
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1 reported by the California State Board of Corrections which were
2 addressed to the Sheriff and copied to defendant County of Fresno
3 officials. In addition, there is an existing Superior Court order
4 in Fresno that limits the population of the Main Jail to 865
5 prisoners and it has over 1,100 prisoners in it. The Sheriff and
6 officials of Fresno County have blithely ignored extremely serious
7 and dangerous problems of overcrowding in the Fresno County Jail,
8 both in the South Annex and the Mail Jail.

9 Prisoners in pro per have restricted legal access and are
10 unable to do the legal research necessary to their defense.

11 CLASS ACTION ALLEGATIONS

12 11. The named plaintiffs are representatives of a class
13 within the meaning of Rule 23(a) and 23(b)(2) of the Federal Rules
14 of Civil Procedure.

15 12. The members of the class are so numerous that joinder of
16 all of them is impractical, there being more than 200 prisoners in
17 the Fresno County Jail South Annex at any one time and up to 700
18 prisoners when the jail is in full operation. The Main Jail has
19 1,185 beds.

20 13. The members of the class are readily identifiable from
21 the defendants' records.

22 14. There are questions of law and fact common to the class;
23 their class claims predominate over any individual claim.

24 15. The defendants have acted or refused to act on grounds
25 generally applicable to the class by failing to provide
26

1 constitutionally adequate facilities and hearings.

2 16. The named plaintiffs will fairly and adequately protect
3 the interests of the class, having no other intent herein.

4 17. The class consists of all prisoners held in the Fresno
5 County Jail South Annex and Main Jail from February 4, 1993 to the
6 present, and all future prisoners.

7 18. Plaintiffs do not propose notice at this time, consistent
8 with their practice in similar cases.

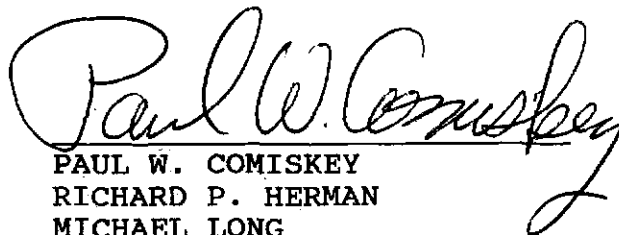
9 WHEREFORE, plaintiffs pray:

10 1. For an order and judgment requiring defendants to provide
11 adequate conditions of confinement including a bed for every
12 prisoner, an end to overcrowding, access to legal materials,
13 reasonable exercise time, with adequate facilities for exercise,
14 access to services and places to sit.

15 1. For reasonable attorneys' fees and costs of suit;

16 3. For such other relief as may be necessary and proper to
17 affect the purposes of this litigation.

18 Dated: February 17, 1993.

19 
20 PAUL W. COMISKEY
21 RICHARD P. HERMAN
22 MICHAEL LONG
23 Attorneys for Plaintiffs
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