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FILED

FEB 25 1994

CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEPUTY CLERK

Attorneys for Defendants
COUNTY OF FRESNO, SHERIFF STEVE MAGARIAN
LODGED

10 FEB 10 1994

IN THE UNITED STATES DISTRICT COURT

1 JACK L. WAGNER, CLERK, U.S. DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

EASTERN DISTRICT OF CALIFORNIA

10 BY DEPUTY CLERK

13 JOHN B. CRUZ, et al.,)

No. F-93-5070 JFM [P]

14 Plaintiffs,)

15 v.)

STIPULATION RE PERMANENT
INJUNCTION; ORDER

16 COUNTY OF FRESNO, et al.,)

17 Defendants.)
18)
19)

20 The parties hereby agree and stipulate to the following
21 Permanent Injunction:

22 1. The parties stipulate that this litigation is a class
23 action as defined by Rule 23 of the Federal Rules of Civil
24 Procedure.

25 2. Defendants shall limit and control the population level
26 within the Fresno County Jails as follows:
27 / / /

1 A. Defendants are enjoined from bedding inmates on the
2 floor.

3 **NORTH ANNEX JAIL**

4 B. Defendants shall operate the North Annex Jail at the
5 bed capacities set forth below:

6	Second Floor	Number of Beds
7	Pod A	72
	Pod B	72
8	Pod C	72
	Pod D	72
9	Pod E	72
	Pod F	72
10		
11	TOTAL	432

12 C. Defendants shall operate the North Annex Jail utilizing
13 the five additional correctional officers added to the North
14 Annex Jail's staff as part of the settlement concerning
15 plaintiffs' Application for Temporary Restraining Order.

16 D. Inmates in the North Annex Jail shall be provided
17 access to one hour of daily exercise in the North Jail exercise
18 area. Recreation time outside the housing unit will not be made
19 up for those inmates who are away from the housing unit at other
20 activities during the housing unit's regularly scheduled
21 recreation. Inmates housed in discipline isolation will not be
22 provided with recreation time during their length of stay in
23 discipline isolation housing up to a maximum of ten [10]
24 consecutive days.

25 / / /

26 / / /

1 **MAIN JAIL**

2 E. Defendants shall operate the Main Jail under the Pilot
3 Project approved by the California Board of Corrections with
4 sixteen "general population" housing pods which are triple
5 bunked [768 beds] and operated as dormitories; eight "special
6 handling" pods which are double bunked [256 beds] with special
7 handling inmates having controlled dayroom access; and forty
8 "administrative segregation" cells which will be operated for
9 single occupancy housing [40 beds].

10 F. Defendants shall implement the transition to the
11 housing configurations set forth in paragraph E above under the
12 time phased "Pilot Project Staffing and Capital Project
13 Transition Plan" previously filed with the Court as Exhibit A in
14 the Stipulation approved by the Court on October 29, 1993.
15 Specifically, this Transition Plan establishes the timing of the
16 addition of staff [seven Correctional Sergeants, seventeen
17 Correctional Officers, and one Office Assistant]; the addition
18 of one shower in each general population housing pod; the
19 addition of isometric exercise equipment, etc.

20 G. Defendants shall implement their plan to reduce the
21 noise levels in the Main Jail by providing acoustical treatment
22 for the ceilings of the Main Jail as set forth in the Transition
23 Plan.

24 H. Plaintiffs' counsel Paul Comiskey shall be provided
25 reasonable access to the Main Jail during the Pilot Project
26

1 period to monitor the transition as described above. Defendants
2 shall provide Paul Comiskey with copies of those reports
3 required by the Board of Corrections during the pilot period.
4 Should for any reason the Board of Corrections disapprove the
5 Pilot Project, or recommend modifications of the operation of
6 the Main Jail during the pilot period, defendants shall notify
7 plaintiffs' counsel in writing within ten [10] days of receiving
8 such notification from the Board of Corrections. In the event
9 of disapproval or modification of the Pilot Project during the
10 pilot period, either party may seek to change the terms of this
11 injunction pursuant to the standards set forth in Rufo v.
12 Inmates of Suffolk County Jail, ___ U.S. ___, 112 S.Ct. 748
13 (1992).

14 I. Inmates housed in the Main Jail shall be offered the
15 opportunity to receive recreation as follows:

16 1. Inmates housed in general population units shall
17 be provided with the opportunity for twenty [20] hours of
18 recreation outside their housing unit each month. These
19 recreation opportunities shall include at least 1.5 hours of
20 roof recreation each week. In addition, general population
21 inmates will receive the opportunity to participate in at least
22 eight indoor recreation sessions outside their housing unit each
23 month.¹

24
25 ¹. General population inmates are currently housed in pods
26 C, D, E, and F on each Main Jail floor.

1 2. Inmates housed in Administrative Segregation and
2 Special Housing units shall receive twelve [12] hours of
3 recreation each month outside their housing unit each month in
4 addition to dayroom access as appropriate for administrative
5 segregation and special housing inmates.²

6 3. Recreation time outside the housing unit will not
7 be made up for those inmates who are away from the housing unit
8 at other activities during the housing unit's regularly
9 scheduled recreation. Inmates housed in discipline isolation
10 will not be provided with recreation time during their length of
11 stay in discipline isolation housing up to a maximum of ten [10]
12 consecutive days.

13 4. The provisions for Main Jail recreation outside
14 the housing unit shall begin after the completion of the
15 renovations required by the Board of Corrections Pilot Project
16 as set forth in the aforementioned Transition Plan;³

17 5. Defendants shall make available to the Sheriff's
18 Department jail recreation specialists the "Recommendations and
19 Suggestions" of Dr. Edward Bernauer dated December 31, 1993.
20 Defendants shall retain, evaluate, and consider implementing
21 those suggestions that they deem reasonable and useful,
22 reserving the right to implement none of those suggestions.

23
24 ². Administrative segregation and special housing inmates
are currently housed in units A, B, and FF on each floor.

25 ³. Defendants anticipate those renovations to be completed
26 by July 1, 1994.

1 **SOUTH ANNEX JAIL**

2 J. Defendants shall operate the South Annex Jail at the
3 following capacities:

4 SAJ 1 A [DORM] 45 beds

5 SAJ 1 B [DORM] 15 beds

6 SAJ 1 C [DORM] 45 beds

7 SAJ 1 D [DORM] 20 beds

8 SAJ 1 E [DORM] 6 beds⁴

9 SAJ 1 F 20 beds

10 SAJ 1 G 36 beds

11 SAJ 2 D 6 beds

12 SAJ 2 F 24 beds

13 SAJ 2 G 48 beds

14 SAJ 3 A 24 beds

15 SAJ 3 B 24 beds

16 SAJ 3 C 43 beds

17 SAJ 3 D 43 beds

18 SAJ 3 F 24 beds

19 SAJ 3 G 48 beds

20 SAJ 4 A 50 beds

21 SAJ 4 B 8 beds

22 SAJ 4 C 50 beds

23 SAJ 4 D 32 beds

24 _____
25 ⁴. The agreed upon population for each South Annex Jail
26 dormitory is 140% of said dormitory's Board of Corrections "rated
capacity."

1 SAJ 4 F 32 beds

2 SAJ 4 G 32 beds

3 K. The above referenced dormitories shall be offered the
4 opportunity to receive 30 hours of recreation per month in
5 either the South Annex Jail's indoor or outdoor recreation
6 areas. All other housing units in the South Annex Jail shall be
7 offered the opportunity to receive 20 hours of recreation per
8 month in either the South Annex Jail's indoor or outdoor
9 recreation areas. Recreation time outside the housing unit will
10 not be made up for those inmates who are away from the housing
11 unit at other activities during the housing unit's regularly
12 scheduled recreation. Inmates housed in discipline isolation
13 will not be provided with recreation time during their length of
14 stay in discipline isolation housing up to a maximum of ten [10]
15 consecutive days.

16 L. The provision for South Annex Jail exercise outside
17 the housing unit shall begin when the Fresno Superior Court
18 reopens and vacates the recreation and exercise orders set forth
19 in Lynn Polard et al. v. Harold McKinney, Case No. 227358-9,
20 dated July 7, 1978; Paul Daniels et al. v. Harold McKinney, Case
21 No. 259869-6, dated January 30, 1981; In re Richard Morgan, Case
22 Nos. 281302-0, 281438-2, 284164-1, dated January 17, 1983; In re
23 Richard Morgan, Case Nos. 308318-5, 316580-0, dated March 27,
24 1985; In re Steven Ransbury, et al., Case Nos 286040-1, 285427-
25 1, 289487-1, dated April 29, 1985. Counsel for plaintiffs shall
26

1 cooperate with counsel for defendants in filing and appearing in
2 court, if necessary concerning the County's motion to reopen and
3 vacate those orders.

4 3. The Sheriff of Fresno County is authorized by this
5 order to release inmates from the Fresno County Jail System or
6 refuse to accept inmates for booking into the Fresno County Jail
7 System whenever the Fresno County Jail System, or any facility
8 therein, or any specific housing unit therein, reaches ninety
9 percent [90%] of capacity. The Sheriff shall release inmates or
10 refuse to accept newly-committed inmates when the total
11 population of the Fresno County Jail System, or any facility
12 therein, or any housing unit therein, reaches one hundred
13 percent (100%) of capacity.

14 4. Either party may seek to change the terms of this
15 injunction pursuant to the standards set forth in Rufo v.
16 Inmates of Suffolk County Jail, ___ U.S. ___, 112 S.Ct. 748
17 (1992).

18 5. In the event that an emergency threatens the Sheriff's
19 ability to comply with these orders, counsel for defendants will
20 notify counsel for plaintiffs no later than the next business
21 day.

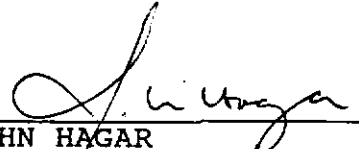
22 6. Defendants shall pay to plaintiffs' counsel Paul
23 Comiskey attorney fees in the amount of \$33,000.00 at the time
24 of the filing of the Final Judgement.

25 7. The parties stipulate that the Honorable Gregory
26

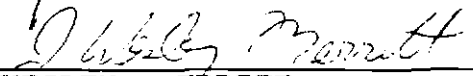
1 Hollows be the judge for all purposes concerning the fairness
2 hearing and Final Judgement in this case.

3
4 **IT IS SO STIPULATED:**

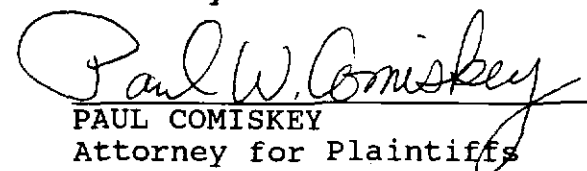
5
6 DATED: January 28 , 1994


JOHN HAGAR
Attorney for Defendants

7
8 DATED: February 5 , 1994


J. WESLEY MERRITT
Attorney for Defendants

9
10
11 DATED: February 4 , 1994



PAUL COMISKEY
Attorney for Plaintiffs

12
13 * * * *

14 **ORDER**

15
16 **IT IS SO ORDERED.**

17
18 DATED: February 23 , 1994


HONORABLE GREGORY HOLLOWS
United States Magistrate Judge
Eastern District of California