



JC-NM-001-001

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

AMERICAN CIVIL LIBERTIES UNION OF NEW MEXICO,  
MONICA PIRO, BERNADINE MANTEROLA,  
SHAWN POPELESKI, MARTIN ESTRADA, KEVIN GIRON,  
ANDRES BARRAJAS, CHRIS PACHECO, ELIZAR LECHUGA,  
EDWIN GONZALES, MICHAEL PADILLA, MICHAEL MOUNTJOY,  
JOE VALENCIA, EUGENE GUTIERREZ, and JAMES IKO,  
individually, and on behalf of all other persons similarly situated,

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF VALENCIA, NEW MEXICO,  
and VALENCIA COUNTY SHERIFF JUAN JULIAN,  
in his official capacity,

Defendants.

**COMPLAINT FOR TEMPORARY RESTRAINING ORDER,  
DECLARATORY AND INJUNCTIVE RELIEF  
FOR FEDERAL CONSTITUTIONAL AND  
CIVIL RIGHTS VIOLATIONS**

(CLASS ACTION)

COME NOW PLAINTIFFS, by and through counsel, and for their complaint state as follows:

1. The individual plaintiffs are or were inmates in the Valencia County Jail in Los Lunas, New Mexico (hereinafter "jail"). They bring this action seeking to rectify unconstitutional conditions of confinement at the jail.
2. This is an action for declaratory and injunctive relief pursuant to 28 U.S.C. Sections 2201

and 2202 and the equitable and inherent powers of this Court.

3. Plaintiffs seek a temporary restraining order restraining any further admissions into the jail. Plaintiffs further seek preliminary and permanent injunctive relief transferring all inmates from this jail to other adequate facilities and enjoining Defendants from admitting persons into the jail until the jail meets federal constitutional and statutory standards or until a new facility is built. Plaintiffs further seek declaratory relief declaring the jail in violation of federal constitutional standards.
4. Plaintiffs' damages claims are not included in this action. Plaintiffs reserve the right to bring separate damage actions.
5. This case arises under the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. Sections 1983 and 1988, the Americans with Disabilities Act, codified within the Equal Employment Opportunity for Individuals Act, 42 U.S.C. Section 12101, *et. seq.*, and Section 504 of the Rehabilitation Act, codified at 29 U.S.C. Section 794.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1343(3) for claims brought under 42 U.S.C. § 1983, and pursuant to 28 U.S.C. § 1331 for all federal claims generally.
7. Venue is proper pursuant to 28 U.S.C. Section 1391(b).

#### **ABOUT THE DEFENDANTS**

8. Defendant Board of County Commissioners of Valencia County, New Mexico is the governing body of Valencia County and is a "person" for purposes of the Civil Rights

Act of 1871, 42 U.S.C. § 1983. The County has established a jail, and the Board of County Commissioners is, by law, responsible for the operation of, and conditions within, the Valencia County Jail.

9. Defendant Juan Julian is the duly elected sheriff of Valencia County. He is vested by law with the responsibility to care for and supervise the people incarcerated in the Valencia County Jail, and to administer the jail.
10. In the summer of 1997, the County elected to remove Defendant Julian from this authority and hire a separate jail administrator, however, the jail administrator position remains vacant. Defendant Julian is therefore named in this action for the purposes of temporary and preliminary injunctive relief. At all times material, Defendant Julian acted in the course and scope of his employment and under color of law. He is sued in his official capacity.

#### **ABOUT THE JAIL**

11. The jail was built in 1959 and contains about 15 cells. It was built with no outdoor exercise area. Decades later a cement block pen was appended to one wall of the facility and covered with wire mesh.
12. The jail is still being used to confine adult arrestees, pretrial detainees, and convicted and sentenced inmates of Valencia County, as well as state prisoners awaiting transfer to other facilities.
13. The inmates are not separated by classification and arrestees are mingled with convicted felons.
14. One cell is used for all female inmates regardless of their classification.

15. In 1990, the County completed an assessment of the jail which concluded that the jail was in violation of a host of building, plumbing, prison and safety codes.

16. This study found that:

The secure perimeter construction is of tile block, which can be penetrated without extraordinary force. Adequate interlocked sallyports are not installed to provide sufficient security to prevent escape.

17. The study also found that:

The layout of the facility does not meet operational needs. Dayroom spaces are not provided for the inmates as required by the above standards. There are insufficient separation and isolation cells to adequately separate inmates according to classification needs. Support spaces for intake are inadequate and do not provide for holding. Support spaces for health services, programs, and visiting do not exist. Adequate supervision by the staff is not possible with the linear arrangement of the cell blocks and the limited staff.

18. The study further found that:

The existing detention facility was designed with gang locking mechanisms allowing staff to release inmates from the cells during emergencies. These mechanisms no longer work, requiring staff to enter the cell areas and release each cell individually during an emergency. Smoke evacuation systems and sprinkler fire suppression systems are not installed. The general physical plant, including plumbing and HVAC systems have deteriorated.

19. The study further noted that Valencia County grand juries had consistently condemned the conditions in the jail.

20. Despite the findings of this 1990 report, the County continued to use the jail.

21. In 1992, the Grand Jury reported that it was:

appalled by the deplorable conditions that exist there. This is not a correctional facility as much as it appears to be a left-over medieval dungeon. The county government, its council and its citizens should be ashamed of this cankerous eyesore. It was dark, dank, odoriferous, and inadequate. We were amazed that it has not been shut down as a health and fire hazard. The feeling of aged and layered filth that could defy any cleaning solvent permeated the entire place. There was no sprinkler system in case of fire, no attorney's conference

room and narrow twisted walkways.

22. The next Grand Jury reported that: "This was the most depressing and dungeon-like facility we visited. It suffers from inadequate lighting and ventilation. Evacuation of the facility in case of fire could be too slow to prevent loss of life."
23. In 1993, the Grand Jury concluded that "[t]he plumbing and wiring systems within the jail are antiquated and obsolete by current standards," and that "[i]n case a fire did break out in the jail there is a recipe for disaster." The Grand Jury also noted the presence of asbestos coating the ceiling. This Grand Jury also expressly concern for inadequate supervision and staff training.
24. In 1995, the Grand Jury reported:

We feel that the Valencia County Jail is outdated. The jail is very dark and it seems like a cave. One thing that the Grand Jury noted when touring the facility was that there was a lot of chirping going on. When asked what was causing that noise, and the jailor commented that it was one of the fire alarms. One of them had a bad battery. By the sound of the choirs that day it seemed as if the entire jail facility has faulty fire alarms through out (it seemed as if there were about three bad fire alarms). There is [sic] a lot of blind spots in the facility, and an officer or prisoner could be harmed by another inmate.
25. In March of 1996, the Valencia County Deputy Fire Marshall reported fire code violations in the jail including non-functioning smoke detectors, uninstalled fire extinguishers, inadequate evacuation capability and an insufficient fire alarm system.
26. In August of 1996, a Loss Prevention Specialist from the New Mexico County Insurance

Authority told the County that:

The condition of the plumbing at the VCDC [Valencia County Detention Center] is such that preventive maintenance cannot address many of the problems. It is evident that the plumbing situation which results in the inoperative toilets, sinks and corroded showers is a result of age and years of less than adequate repairs and/or maintenance. This problem is past the quick fix or patch point.

24. This Loss Prevention Specialist also found that staffing levels were critically low and that staff training was critically necessary.
25. The 1997 Grand Jury found non-functioning safety devices, holes in the cinder block walls, general and pervasive filth, insufficient hygiene and insufficient training standards for staff.
26. The 1997 Grand Jury recommended criminal indictments of the Valencia County Commissioners based on their responsibility for the conditions in the jail. This Grand Jury concluded that the cost of a new jail was preferable to the "possibility of death."
27. Following the 1997 Grand Jury report, the County stripped Sheriff Julian of authority over the jail, however, the County has not yet hired a jail administrator. The jail's only case manager is on extended leave and authority over the jail has at times been delegated to the secretary, who recently quit her job citing overwork and intolerable working conditions. The nurse position remains vacant, and several detention officer positions are also unfilled, leaving the jail dangerously understaffed.
28. Only \$10,000.00 has been budgeted for FY 1997-98 for maintenance and repairs to this building, a sum which is wholly inadequate given the degraded state of the jail.

29. Out of \$60,000.00 budgeted for housing of adult prisoners for this fiscal year, upon information and belief, only about \$10,000.00 remains. The fiscal year just began in July of 1997 and the meager funds remaining must last through June of 1998.
30. Conditions at the jail have reached crisis proportions and federal intervention is immediately necessary.

### **THE PLAINTIFFS' EXPERIENCE**

31. Plaintiffs bring this action on their own behalf and on behalf of all other inmates of the jail, present and future. This action satisfies all of the requirements of Rule 23(a), (b)(1) and (2) of the Federal Rules of Civil Procedure.
32. The American Civil Liberties Union of New Mexico (ACLU-NM), an affiliate of the American Civil Liberties Union, is a not-for-profit organization whose purpose is to preserve the protect the civil rights and civil liberties guaranteed to persons under the Constitution of the United States and the Constitution of the State of New Mexico. Its members include residents of Valencia County.

### **MONICA PIRO**

33. Plaintiff Monica Piro was held in the Valencia County Jail for approximately three and a half months in the summer of 1997 while awaiting transfer to the Grants women's prison.
34. At the jail, she was confined to the single cell reserved for all female inmates. The women are all held together regardless of classification, disability, special vulnerability or impairment.
35. The women's cell is infested with insects and water seeps through the walls.

36. The only source of air circulation in the women's cell is the food port in the solid metal door. Typically, however, the food port to the women's cell is kept closed, while the food port to men's cells are generally left open.
37. There is an inoperable fan in the women's cell and no relief from the hot, stagnant air.
38. The sole window in the women's cell is sealed shut and painted over with black paint. The cell is dim with inadequate lighting.
39. Mail given to the guards to send out of the jail was not delivered. Personal property confiscated by the guards was not returned.
40. The women can hear the television in the men's cells but there is no television in the women's cell. Male inmates were also taken out to the exercise block more frequently and for longer periods of time than the women.
41. No fluids are provided with breakfast. What fruit was provided was often spoiled.
42. Throughout Ms. Piro's incarceration, the sink in the women's cell was inoperable.
43. The single shower in the women's cell cannot be turned on or off from inside the cell. As a result, the only source of water in the women's cell is the shared toilet.
44. Guards or trustees asked to turn on the shower position themselves where they can see the female inmates showering.
45. Female inmates are not provided prison clothing and are not permitted to launder their street clothes in the jail's washer and dryer. They must pass their dirty clothes through the food port for the male trustees to do the laundry. The women are not permitted to pass their dirty underwear through the food port. As a result, the women must rinse out their underwear in the toilet. Clothes handed over to the trustees for laundering were



sometimes not returned and Ms. Piro saw male prisoners wearing the women's clothes with no reprimand from the guards.

46. The female inmates are not provided cleaning supplies and provision of personal hygiene items including toothpaste, shampoo, soap and menstruation supplies are inadequate. Ms. Piro was confined with a female inmate who had to use a single sanitary pad for two days.
47. Jail guard Domingo Ramirez solicited female inmates to participate in wet T-shirt contests. He showed Ms. Piro and others nude photographs of himself and his girlfriend.
48. A fire broke out in the jail in the summer of 1997 and the female inmates were not evacuated. The smoke was so thick that the inmates could not see through it. Ms. Piro suffers from asthma and the smoke set off wheezing and inability to breathe. She complained that her lungs hurt but received no medical care.
49. Although none of the women was involved in setting the fire, all of the women were punished. Some of the women were forced into Cell Six, which is a tiny, windowless cell with no bunk or toilet. So many women were forced into this cell that there was not enough room for them to sit down on the floor. As further punishment, all soap and other hygiene items were removed from the women's cell for ten days.
50. After the fire, Ms. Piro saw Defendant Julian and two of his deputies mace, hogtie and beat the three male inmates suspected to have started the fire: Casey Sais, Darren Bernal and Jerry Martinez.

BERNADINE MANTEROLA

51. Plaintiff Bernadine Manterola was confined in the jail from July through November,

1996 and again in March of 1997. She has grand mal epilepsy and is maintained on Dilantin and Phenobarbital.

52. These medications were never dispensed by medical personnel. Ms. Manterola was handed her medications by guards. Once she was given someone else's medications and returned them to the guard.
53. The medications were not provided on the correct schedule. Consequently Ms. Manterola experienced repeated grand mal seizures in the jail cell. During her confinement in 1996, she had an arrangement with the guards that she would be allowed out of the women's cell whenever she began to experience a pre-seizure aura. This arrangement was for privacy as well as safety. However, the jail's visiting nurse told the officers: "Don't be so delicate with her; she's just an epileptic," after which Ms. Manterola was never removed from the cell during seizures.
54. This nurse has since retired and the jail currently has no medical personnel.
55. After one series of grand mal seizures in the jail, Ms. Manterola was transported for medical treatment and the physician discovered that her medications were not being administered properly. Upon return to the jail, the medications continued to be handed to Ms. Manterola by the guards in the incorrect dosages. Ms. Manterola told one guard about the doctor's instructions, but the guard responded: "I don't know anything about that. I'm going to do it my way." Consequently, Ms. Manterola suffered another series of seizures.
56. During her confinement in 1996, Ms. Manterola slept for five nights on the floor of the women's cell because there were not enough bunks for all of the women.

57. At one point, 44 women were placed together in the single women's cell. This number exceeds the maximum capacity of the entire jail.
58. When Ms. Manterola was confined in March of 1997, she recovered from a grand mal seizure to find a guard holding her head on the floor with the guard's foot.
59. Ms. Manterola saw Defendant Julian and guards Mike Garcia, Ron Strong and Bernadette La Near punch, kick and beat two inmates and hit them with a fire extinguisher. The female inmates yelled for the guards to stop, until Mr. Garcia threatened them with beatings.
60. Ms. Manterola saw Officer Strong provoke fights at the jail between rival inmates. She also saw Officers Strong and Garcia beat an inmate who had been sleeping in Cell Six.
61. During her last incarceration, Ms. Manterola missed a court hearing because the key to the women's cell could not be found.
62. Ms. Manterola's hearing was postponed until the following week while the women remained trapped.
63. On another occasion, a woman who was obviously impaired by drugs was placed in the women's cell and Guard Bernadette La Near told the other inmates that they should beat her up if she got out of line or "needed it".

SHAWN POPELESKI

64. Plaintiff Shawn Popeleski has been detained in the Valencia County Jail since November of 1996. He remains in the jail.
65. Mr. Popeleski was served spoiled milk for a week.
66. He has difficulty maintaining contact with his attorney because the guards say they are

- “too busy” to allow legal calls. The jail has no law library or access to legal materials.
67. He saw puddles of standing water in the jail and in his cell that remained for two months at a time.
  68. Burned-out light bulbs are not replaced regularly and the jail is dim.
  69. Time in the exercise yard is offered infrequently and inmates have little exposure to sunlight.
  70. The shower in Mr. Popeleski’s cell is corroded and has no cold water.
  71. He saw felons and alleged misdemeanants mixed in a single cell.
  72. He received no medical or mental health services.

#### MARTIN ESTRADA

73. Plaintiff Martin Estrada has been in the Valencia County Jail since January of 1997. He broke his tooth on a rock in his food at the jail. He filed a grievance and submitted the rock as evidence but received no response.
74. Water backs up from the uncovered floor drains into the inmate’s living areas.
75. The shower has no cold water and there is no drinking water in his cell.
76. Bugs crawl out of the toilets.
77. Inmates are not deloused and Mr. Estrada has seen inmates with hair lice.
78. Mr. Estrada has not had enough hygiene supplies. He saw inmates denied bed linens for several days.
79. In April of 1997, he tripped on an uncovered floor drain, fell and hit some bars. He broke his dentures, loosened a tooth, and cut his chin. He was transported for stitches to his chin and inside his mouth. The doctor prescribed antibiotics and pain medication. Mr.

Estrada did not receive any of the antibiotics until the next day and never received any of the pain medication.

80. Mr. Estrada saw a drunk arrestee place in the same cell with felons.

#### KEVIN GIRON

81. Plaintiff Kevin Giron entered the jail in mid-May, 1997. He never received a property inventory form or confiscation form and his watch and necklace are missing.

82. He saw what he thought was asbestos falling from the ceiling.

83. He saw fights break out over mattresses and blankets when there weren't enough to go around.

84. Typically medical care is not provided unless an inmate is bleeding. When there is blood, inmates are left to clean it up or it simply remains on the floor. No cleaning supplies, gloves or disinfectant are provided to clean up potentially infected blood.

85. The guards hand out all medications, including prescription medications.

86. Mr. Giron was taken to the outdoor exercise yard on average of once every two weeks.

87. There is nothing in the yard. There is no exercise equipment or balls or sporting equipment of any kind.

88. The jail is filthy and the lights in his cell do not work.

89. The shower constantly backs up and floods the cell.

90. Mail he has given to guards to send out of the jail is never delivered.

#### ANDRES BARRAJAS

91. Plaintiff Andres Barrajas also entered the jail in May of 1997. He has a diagnosed disability and was not provided his prescription medications. He was unaware of the day

of the week or the date.

- 92. His mattress stunk and had maggots in it.
- 93. When he was beaten by a gang, the guard did not come for several minutes.
- 94. The jail is inadequately ventilated and the heat contributed to the tension and violence among inmates.
- 95. Mr. Barrajas and other inmates were served a green chile dish that made many of the prisoners suffer vomiting and diarrhea.

#### CHRIS PACHECO

- 96. Plaintiff Chris Pacheco was held in the jail without being arraigned for over 26 days. The population of his cell during that time rose to 14 men.
- 97. Mr. Pacheco was beaten with a stick by other inmates and received no medical care for his injuries. Instead, he was punished by being placed in Cell Six for three days and forced to use a plastic bag for bodily functions. He had no mattress or blanket in Cell Six. He was unable to lie down straight in Cell Six because the cell is shorter than his height.
- 98. Mr. Pacheco was denied access to the money on his account and was unable to purchase stamps to get any mail out of the jail.
- 99. When the fire broke out this summer, Mr. Pacheco was never evacuated. It got very smoky and hard to breathe in the jail. Mr. Pacheco complained that his lungs hurt but received no medical attention.

#### ELIZAR LECHUGA

- 100. Plaintiff Elizar Lechuga slept in the jail kitchen for two nights without a mattress, sheet,

blanket or pillow.

101. He found that if a single inmate in the cell refused to go to the exercise yard, the whole cell was denied.
102. Personal items in the cells are confiscated with no confiscation or inventory form provided to the inmate.
103. Mr. Lechuga had no running water in his cell. The shower would back up and flood parts of the cell.
104. He was not permitted to make telephone calls to arrange the court-ordered treatment which would have secured his release.
105. No one on his visiting list was approved to visit him.

EDWIN GONZALES

106. Plaintiff Edwin Gonzales was held in the Valencia County Jail for about two and half months during the summer of 1997. He remains an inmate of the jail, however, he is housed in the San Miguel County Jail where he has been receiving both medical and psychiatric care.
107. Mr. Gonzales was not evacuated during the fire. He placed a towel over his face to attempt to keep out the smoke.
108. He saw a prisoner held in Cell Six who was reportedly eating his feces.
109. Mr. Gonzales was also placed in Cell Six for part of his confinement even though he told the guards he was claustrophobic. While in Cell Six he had to use plastic bags for his bodily functions as there is no toilet in Cell Six.
110. At another time, Mr. Gonzales was placed in a cell with an inmate reputed to be violent.

This inmate beat Gonzales nineteen times during the month of June, 1997.

111. On several occasions, the guards watched the beatings and did not intervene.
112. Because of the beatings, Mr. Gonzales began coughing up blood. He was taken for medical treatment and x-rays revealed broken ribs and a bruised lung. He was returned to the jail, provided no medications, placed back with the same violent inmate, and beaten again.
113. The next day he was found unconscious in a puddle of blood and transported to the hospital where additional x-rays revealed fractured ribs and a bruised lung.
114. Eventually, Mr. Gonzales was transferred to the San Miguel County Jail where he is now receiving medical and psychiatric care.
115. After Mr. Gonzales was moved from this cell, a suicidal inmate was placed with the violent inmate and tried to hang himself twice. Mr. Gonzales intervened to save the inmate's life.

#### MICHAEL PADILLA

116. Plaintiff Michael Padilla arrived at the Valencia County Jail on June 28, 1997. He was placed in a cell with the same violent inmate and was beaten.
117. Mr. Padilla tried to hang himself twice and was not removed for medical or psychiatric treatment or observation. Both times Plaintiff Edwin Gonzales called for the guards and they cut Mr. Padilla down.
118. After the second attempt, Mr. Padilla was placed in four point hard restraints and left that way for 45 minutes. When he promised he would not attempt suicide again, he was removed from the restraints and the guard left.



### MICHAEL MOUNTJOY

119. Plaintiff Michael Mountjoy was confined to the jail on April 4, 1997. Thereafter, his clothes were not washed for a month. The toilet in his cell did not work and there was often no toilet paper.
120. Mr. Mountjoy did not receive his prescription medications at the right times.
121. He saw that no hairnets were worn by the food service workers.
122. Mr. Mountjoy was injured by the same violent inmate as were Edwin Gonzales and Michael Padilla and received no medical care. There is no classification system in place to separate violent felons from vulnerable inmates. Some guards put rival gang members together to set off fights.
123. Medical care was only provided if there was blood.
124. Mr. Mountjoy saw one inmate who lay in a bunk in his feces and never got up. Inmates informed the guards about it but the guards did nothing.
125. Mr. Mountjoy watched Defendant Julian beat Plaintiff Joe Valencia.

### JOE VALENCIA

126. Plaintiff Joe Valencia was held in the jail from April 29 to June 20, 1997. He was recently arrested again and is currently in the jail.
127. While in the jail this spring, Mr. Valencia was beaten by Sheriff Juan Julian. He was then chained and taken to another room where he was stripped naked.
128. He was given back his underwear and ordered to put it on while still hand-cuffed behind the back. The guards watched Mr. Valencia's humiliating struggle to put on underwear while hand-cuffed behind the back.

- 129. Mr. Valencia was then placed in Cell Six for 24 hours even though he was bleeding from the beating. He had to urinate in the corner of the cell three times since there is no toilet in Cell Six. Mr. Valencia received no medical attention.
- 130. Prior to the beating, Mr. Valencia slept on the floor of the kitchen for a week with a half a blanket and wet, smelly mattress. He had no pillow or sheet.
- 131. Mr. Valencia watched another inmate go through heroin withdrawal crawling on the floor in pain. No medical treatment was provided the inmate.
- 132. It took three weeks for Mr. Valencia to get his mother approved to visit him.
- 133. Mr. Valencia received one styrofoam cup upon processing into the jail. If a prisoner loses his cup, he doesn't get a beverage.

EUGENE GUTIERREZ

- 134. Plaintiff Eugene Gutierrez was held in the jail for a year, from January 1996 to January 1997.
- 135. He was assaulted in the jail and his wrist was broken. No medical care was provided.
- 136. He was able to call his family and they lobbied Sheriff Julian for medical care. Eventually, the Sheriff allowed the family to come and take Mr. Gutierrez out of the jail, without escort, to see a doctor. Then the family was charged for the medical bill.
- 137. There was a hole carved in the wall between the women's cell and one of the men's cells for the inmates to crawl through.
- 138. A water pipe broke and flooded the area and there was standing water for about a month.
- 139. Personal property was taken from Mr. Gutierrez and never returned.
- 140. Guards intentionally placed inmates in with rival gang members to have them beat up.

## JAMES IKO

141. Plaintiff James Iko entered the jail on May 3, 1997. He was beat up in the jail on the day before he was to go to court. Because of the obvious injuries he had sustained in the jail -- Mr. Iko had two black eyes -- the guards decided not to take him to his hearing.
142. As a result, a bench warrant was issued against Mr. Iko for failure to appear.
143. Mr. Iko filed a grievance and received no response.

## SUMMARY OF CLAIMS

### Sanitation, Plumbing and Laundry

144. The jail does not meet minimal standards of sanitation. Parts of the walls and ceilings are crumbling and may contain asbestos.
145. The plumbing is beyond repair. Uncovered drains have led to numerous injuries.
146. Water backs up in the sinks, showers and drains. Standing water exists for long periods of time. Plumbing is clogged, rendering sinks and toilets unusable and cutting off running water supplies to some cells. Water pipes have broken causing flooding.
147. Water temperature is not or cannot be regulated.
148. Adequate cleaning and sanitary supplies are not provided to prisoners.
149. Inmates must clean up potentially infected blood without gloves or disinfectant.
150. Blankets, sheets, towels, pillows and mattresses are dirty, torn, smelly and infested.
151. Blankets, sheets, towels, pillows and mattresses are not provided in sufficient quantities,

leading to fighting or sharing wet and dirty towels.

- 152. Clothing is not provided to many inmates. Changes of clothing are unavailable.
- 153. Disposable cups are not replaced and are used throughout the prisoners' stay without adequate cleaning.
- 154. Bugs including maggots and lice infest the jail.
- 155. The female inmates are not provided equal access to laundry facilities and must rinse out their underwear, without soap, in the sole women's toilet.

#### Fire Safety

- 156. The jail lacks adequate fire safety mechanisms.
- 157. The jail has not conducted adequate fire drills.
- 158. Smoke alarms are broken, removed or non-functional.
- 159. Response to fire emergencies are wholly inadequate. Inmates are not properly evacuated during fires, leading to smoke inhalation injury and risk of loss of life.

#### Overcrowding, Classification and Space

- 160. The jail has inadequate space for the number and types of prisoners that it houses.
- 161. The jail conducts no or inadequate screening and classification of prisoners.
- 162. Defendants place together violent and non-violent prisoners; predatory with weak prisoners; rival gang members; arrestees, pretrial detainees, convicted misdemeanants and felons; and drunk, impaired and mentally ill prisoners, all without regard for their rights or safety.

#### Access to the Courts

- 163. Inmates are denied telephone access necessary to their criminal defense and for the

preservation and prosecution of their legal rights while incarcerated.

- 164. Arraignments are not provided within the time frames mandated by due process.
- 165. Inmates have been intentionally and negligently denied transport to their court hearings.
- 166. No genuine grievance process exists.
- 167. Visitations, including visitations with legal personnel, are frequently denied or made so cumbersome and inconvenient as to never occur.
- 168. Privacy is not afforded to inmates during attorney visits.
- 169. Inmates' mail goes undelivered and stamps are not provided, precluding Plaintiffs' ability to petition for redress of their grievances.
- 170. Personal property which may impact or be related to legal proceedings is taken and not returned.
- 171. No legal resources are present or available.

#### Food and Food Preparation

- 172. Insufficient fluids are provided.
- 173. Milk, food and fruit is served spoiled, causing sickness and providing inmates with wholly inadequate nutritional values.
- 174. Food preparation personnel do not follow minimum sanitation requirements.

#### Recreation and Exercise

- 175. Inmates have limited or no opportunity for outdoor recreation.
- 176. Such outdoor exercise which is provided is provided in a bare cement pen. No exercise equipment or supplies of any kind are provided.
- 177. Inmates have severely restricted access to reading material and any meaningful activity.

Lights are broken and the facility is dark, hindering any reading. The women have no television.

178. The denial of mental and physical exercise and recreation results in psychological problems and physical deterioration and creates tension and stress among the inmates.

#### Key Control

179. The jail has insufficient key control, leading to inmates being trapped in their cells

#### Mail

180. Mail is frequently not delivered either into or out of the jail.
181. Inmates have been denied access to their funds to purchase stamps.
182. Personal property which may include correspondence is taken and not returned.

#### Due Process

183. Prisoners are deliberately punished with corporal punishment by being placed with their enemies, rival gangs, or predatory prisoners.
184. No policies or procedures are promulgated or made known to inmates. Rules including visitation rules are never clarified or posted, and change without warning.
185. Inmates are denied necessary access to the courts to preserve and prosecute their legal rights.

#### Mass Punishment

186. The jail employs unconstitutional methods of mass punishment.
187. Jail employees deny inmates access to the exercise yard when one inmate refuses to go, refuse to evacuate inmates in times of emergency, punish all inmates for the acts of some, place groups of inmates in unconstitutional conditions in Cell Six, and deny inmates basic

sanitation and hygiene supplies as punishment.

#### Jailor Harassment

- 188. Prisoners are placed with enemies, rival gangs, or other predatory prisoners.
- 189. Guards watch, instigate or participate in beatings and other humiliating acts.
- 190. Guards engage in sexual impropriety with female prisoners, including watching them in the shower and holding sexual contests.

#### Temperature Control and Ventilation

- 191. Ventilation in the jail is inadequate, resulting in an unhealthy accumulation of stale air, smoke, carbon dioxide and odor.
- 192. The only source of moving air in the women's cell is through the food port. The food port in near-by men's cells are kept open, however, the food port in the women's cell door is kept closed. The fan in the women's cell is inoperable.
- 193. No adequate heating and cooling system has been in operation for months. As a result, temperatures rise and there is no relief for the prisoners.

#### Bedding

- 194. The bedding provided inmates is inadequate, and is not laundered with sufficient frequency to maintain even minimal standards of cleanliness.

#### Medical and Psychological Care

- 195. Medical and mental health screening upon admission is inadequate or non-existent. No screening is conducted for contagious disease including AIDS.
- 196. Medical and mental health procedures and protocols are inadequate or non-existent.
- 197. Medical and mental health treatment is inadequate or non-existent.

198. Response to medical and psychiatric emergencies is wholly inadequate and poses a severe and imminent threat to life and safety.
199. Medications are not controlled or distributed appropriately.
200. Inmates' pleas for medical or psychological care go unanswered or are not timely responded to.
201. Inmates with mental disabilities are denied evaluation and treatment and are subjected to undue physical restraint and abuse.

#### Hygiene

202. Items essential for basic hygiene are not adequately available to the inmates, including but not limited to soap, detergent, shampoo, laundry soap, toilet paper, towels, menstruation supplies, toothbrushes and toothpaste.

#### Visitation

203. No written rules regarding visitation are posted or distributed to inmates or their family members.
204. The requirements imposed on prospective visitors are so unclear and onerous, and change with such frequency, as to preclude most if not all visitation, including family, clergy and legal visits.

#### Inadequate Supervision

205. The jail is inadequately staffed, supervised and trained.

#### Irreparable Harm and Malice

206. Defendants have, by acts and omissions, failed to ensure that the Valencia County Jail meets constitutional standards in the areas addressed above. Unless and until this Court



grants injunctive and declaratory relief, plaintiffs will continue to suffer irreparable injury due to the cruel and unusual conditions of confinement in the Valencia County Jail.

Defendants are and have been deliberately indifferent to Plaintiffs' serious medical needs. Plaintiffs have no adequate remedy at law.

207. The conditions in this jail were created by conduct which is deliberate, intentional, wilful, wanton, malicious, reckless and/or deliberately indifferent to Plaintiffs' rights and safety.

COUNT ONE  
EIGHTH AMENDMENT

208. The totality of jail conditions constitute cruel and unusual punishment for the convicted prisoners.

COUNT TWO  
FOURTEENTH AMENDMENT  
SUBSTANTIVE DUE PROCESS

209. The totality of the jail conditions constitute unconstitutional punishment of pretrial detainees.
210. Defendants have breached their legal duty to keep reasonably safe from harm those in their charge who have not been convicted of any crime.
211. Defendants have failed to provide even minimally adequate food, clothing, shelter, light, medical care, psychological care, protection from injury, supervision, recreation, exercise, access to the courts, provision of mail, and protection of property.
212. Failure or refusal to secure timely arraignment, transport or release of arrestees deprives them of their protected liberty interest under the Fourteenth Amendment.

COUNT THREE  
FOURTEENTH AMENDMENT  
PROCEDURAL DUE PROCESS

213. Plaintiffs are punished and deprived of property without due process of law.
214. The jail has no policies and procedures and meaningful grievance and oversight processes to ensure due process.
215. Plaintiffs' constitutionally guaranteed participation in their own court proceedings is impermissibly impaired by the conditions of this jail.

COUNT FOUR  
FOURTEENTH AMENDMENT  
EQUAL PROTECTION

216. Female prisoners are discriminated against because of their gender, including but not limited to the unequal access to fresh or moving air, laundry facilities, privacy and recreation. No important government interest is substantially advanced thereby.
217. Female prisoners are sexual harassed by guards and permitted by the jail to be harassed by other prisoners.

COUNT FIVE  
FIRST AMENDMENT

218. Jail conditions, including but not limited to the restrictions on correspondence and visitation with family, friends, legal counsel and clergy, impermissibly impair Plaintiffs' constitutional liberties of free speech and exercise of religion.

COUNT SIX  
SIXTH AMENDMENT

219. Jail conditions, including but not limited to restrictions on telephone access, refusals to transport to court, and failure to provide a law library or other effective means of gaining access to a judicial forum, impermissibly impair Plaintiffs' constitutional rights of confrontation, assistance of counsel and meaningful access to court.

COUNT SEVEN  
AMERICANS WITH DISABILITIES ACT

220. Some of the Plaintiffs have physical, psychiatric, developmental or mental health disorders which invoke the protections of the Americans with Disabilities Act.
221. Such Plaintiffs are frequently singled out for abuse in the jail. They are discriminated against by the deprivation of prescribed and necessary medication, by improper and unsafe classification with predatory prisoners, with inadequate treatment and emergency medical and psychiatric response in deprivation of their civil rights. Defendants do not reasonably accommodate the needs of inmates with disabilities.

COUNT EIGHT  
REHABILITATION ACT

222. Some of the Plaintiffs have physical, psychiatric, developmental or mental health disorders which invoke the protections of the Rehabilitation Act.
223. Such Plaintiffs are frequently singled out for abuse in the jail. They are discriminated against by the deprivation of prescribed and necessary medication, by improper and unsafe classification with predatory prisoners, with inadequate treatment and emergency medical and psychiatric response in deprivation of their civil rights. Defendants do not reasonably accommodate the needs of inmates with disabilities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court will:

- a. Assume jurisdiction of this cause.
- b. Determine that this action will be maintained as a class action pursuant to Fed.R. Civ.P. 23, for the purpose of issuing declaratory and injunctive relief, such class consisting of all present and future inmates of the Valencia County Jail.
- c. Issue a temporary restraining order pursuant to Fed.R.Civ.P. 65 restraining any further admissions into the jail.

- d. Issue preliminary and permanent injunctive relief pursuant to Fed.R.Civ.P. 65, transferring all remaining prisoners from this jail to an adequate facility until the jail meets the requirements of federal law and enjoining Defendants, and all those acting in concert with them, from depriving Plaintiffs of their rights under the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.
- e. Issue final declaratory relief pursuant to 28 U.S.C. § 2201 and 2202, declaring that Defendants have violated Plaintiffs' rights under the First, Fourth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.
- f. Preserve Plaintiffs' rights to bring damages actions.
- g. Award Plaintiffs their costs and expenses and reasonable attorney fees.
- h. Grant such additional and further relief as the Court deems just and proper.

Respectfully submitted,  
NEW MEXICO CIVIL LIBERTIES FOUNDATION

By: \_\_\_\_\_

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