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FILED

FEB 25 1994

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

DEPUTY

Attorneys for Defendants  
COUNTY OF FRESNO, SHERIFF STEVE MAGARIAN

LODGED

FEB 25 1994

IN THE UNITED STATES DISTRICT COURT

JACK L. WAGNER, CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY DEPUTY CLERK

EASTERN DISTRICT OF CALIFORNIA

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JOHN B. CRUZ, et al.,  
Plaintiffs,  
v.  
COUNTY OF FRESNO, et al.,  
Defendants.

No. F-93-5070 JFM [P]

STIPULATION RE PERMANENT  
INJUNCTION; ORDER

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

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

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

///

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
8	Pod B	72
9	Pod C	72
10	Pod D	72
11	Pod E	72
12	Pod F	72
13	TOTAL	432

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

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

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**MAIN JAIL**

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

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

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

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

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.<sup>1</sup>

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25 <sup>1</sup>. 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.<sup>2</sup>

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;<sup>3</sup>

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.

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

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

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**SOUTH ANNEX JAIL**

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

SAJ 1 A [DORM]	45 beds
SAJ 1 B [DORM]	15 beds
SAJ 1 C [DORM]	45 beds
SAJ 1 D [DORM]	20 beds
SAJ 1 E [DORM]	6 beds <sup>4</sup>
SAJ 1 F	20 beds
SAJ 1 G	36 beds
SAJ 2 D	6 beds
SAJ 2 F	24 beds
SAJ 2 G	48 beds
SAJ 3 A	24 beds
SAJ 3 B	24 beds
SAJ 3 C	43 beds
SAJ 3 D	43 beds
SAJ 3 F	24 beds
SAJ 3 G	48 beds
SAJ 4 A	50 beds
SAJ 4 B	8 beds
SAJ 4 C	50 beds
SAJ 4 D	32 beds

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<sup>4</sup>. The agreed upon population for each South Annex Jail 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

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COUNTY OF FRESNO  
Fresno, 2 California

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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  
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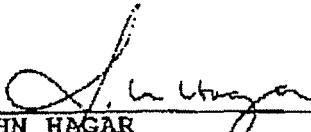


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Hollows be the judge for all purposes concerning the fairness hearing and Final Judgement in this case.

IT IS SO STIPULATED:


DATED: January 28, 1994

  
\_\_\_\_\_  
JOHN HAGAR  
Attorney for Defendants

DATED: February 5, 1994

  
\_\_\_\_\_  
J. WESLEY MERRITT  
Attorney for Defendants

DATED: February 4, 1994


  
\_\_\_\_\_  
PAUL COMISKEY  
Attorney for Plaintiffs

\* \* \* \*

ORDER

IT IS SO ORDERED.

DATED: February 23, 1994

  
\_\_\_\_\_  
HONORABLE GREGORY HOLLOWS  
United States Magistrate Judge  
Eastern District of California