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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DENNIS RUTHERFORD, et al. ) Case No. CV 75-04111 DDP  
 )  
Plaintiffs, ) ORDER TO SHOW CAUSE RE ISSUANCE  
 ) OF PRELIMINARY INJUNCTION AND  
v. ) TEMPORARY RESTRAINING ORDER  
 )  
LEROY BACA, et al., )  
 )  
Defendants. )

On October 19, 2006, the Court held a hearing on Plaintiff's Order to Show Cause for Temporary Restraining Order and Preliminary Injunction. The Court reviewed the declarations and briefs submitted by the parties. Additionally, the Court heard testimony from Mary Tiedeman, the Jails Coordinator for the ACLU Foundation of Southern California whose responsibilities include monitoring compliance with the orders relating to this case. The Court heard testimony from Capt. Timothy Cornell, who is responsible for the administration of the Inmate Reception Center ("IRC"). The Court heard testimony from Commander Alex Yim, who is a commander in the correctional services division of the Los Angeles County Sheriff's Department ("LASD").

THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(d)

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1           The Court has toured the Men's Central Jail ("MCJ") on two  
2 occasions. During the first tour on May 10, 2006, there was clear  
3 evidence of overcrowding. The Court is aware that overcrowding,  
4 per se, may not be a constitutional violation. However, several  
5 examples of what the Court observed consisted of overcrowding to  
6 such a degree that a finding of a constitutional violation would be  
7 warranted. Specifically, the Court noted that cells originally  
8 designed for four inmates housed six inmates, and cells designed  
9 for two inmates held four inmates. The Court observed that the  
10 cells were of such a size that inmates were required essentially to  
11 be in their bunks at all times because there was not sufficient  
12 floor space for them to stand. The Court also noted that inmates  
13 are in these cells 24 hours a day, 7 days a week, unless they have  
14 medical visits, family visitation, or are taken to the roof for  
15 exercise. Exercise consists of about three hours per week,  
16 typically done in a single three hour session. The inmates are  
17 served all of their meals in these cells. Inmates may be assigned  
18 to these cells for many months. These cells also contain a  
19 toilet/basin facility. Following this tour, the Court stated that  
20 what was observed was inconsistent with basic human values.

21           The Court went on a second tour on September 14, 2006. During  
22 the tour, significant progress had been made in addressing many of  
23 the issues that arose during the first tour. The six person cells  
24 were reduced to four persons, the four person cells were reduced to  
25 two persons, many of the areas in question had been cleaned and  
26 repainted and additional day room space, with televisions, was  
27 being developed.

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1 The genesis of the present hearing is that, as a result of the  
2 lessening of the overcrowding issues at MCJ, more and more inmates  
3 were backed up into the facility that feeds the MCJ, the Inmate  
4 Reception Center ("IRC"). Capt. Cornell testified that, as a  
5 result of the population reduction at MCJ, the IRC's typical  
6 population was increased by about 500 inmates. The Court believes  
7 that this increase has strained the IRC's ability to function in a  
8 satisfactory manner.

9 The IRC handles inmate processing for the system across the  
10 state. The processing includes assigning security classifications  
11 and conducting medical screening. After inmates are processed  
12 through the IRC, they wait to be transported to a residential  
13 facility. A substantial percentage of the inmates awaiting  
14 transfer from the IRC are sent to MCJ.

15 If no housing is available at MCJ, inmates are held in cells  
16 at the IRC known as the Custody Line Holding Cells ("holding  
17 cells"). There are 30 holding cells. The holding cells contain  
18 metal benches affixed to a wall and a single toilet located behind  
19 a partition. The holding cells are approximately 15½ x 12 feet, or  
20 approximately 186 feet. There is a memorandum at the IRC that  
21 states that no more than 20 inmates should be placed in a holding  
22 cell without approval from a supervisor.<sup>1</sup> The Tiedeman Declaration  
23 at ¶29 states that she observed as many as 35 inmates in a holding  
24 cell. Inmate declarations attest to holding cell counts of over 50

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27 <sup>1</sup> If 20 inmates are in a holding cell of 186 feet, each inmate  
28 has a space of about 9 square feet. This equates to an area that  
is 3 ft. x 3 ft. If 30 inmates are in a holding cell, the area is  
reduced to an area of 3ft. x 2 ft.

1 inmates.<sup>2</sup> It is unclear whether this memorandum constitutes a  
2 "policy" of the IRC. It is also unclear whether the IRC documents  
3 the instances in which more than 20 inmates are in a holding cell.

4 The holding cells contain no bunks or mattresses. In some  
5 instances, inmates have been required to remain in the holding  
6 cells for as long as 10 hours, which can include the night time  
7 period. When this occurs, the inmates are required to attempt to  
8 sleep on the floor. The holding cells are cleaned by  
9 mechanical/steam cleaning machines. They are also swept and mopped  
10 by inmate-trustees. However, because of the recent population  
11 increase in the IRC, it is not always possible to regularly clean  
12 the cells by either method. There are two reasons for this  
13 problem. First, inmates are currently being kept in holding cells  
14 for more time than they were held there previously. Second,  
15 because the cells can only be cleaned when they are empty, there is  
16 frequently insufficient time to clean them when they are empty  
17 because there is a backlog of inmates awaiting placement in a  
18 holding cell. The Court also heard that it is the policy in the  
19 IRC to not place inmates in a holding cell if the toilet is broken.  
20 The declarations submitted by the ACLU indicate that inmates have  
21 complained that the toilets have been filthy.

22 The Court is aware that the Los Angeles County Jail is the  
23 largest jail in the country. Managing it is an immensely  
24 complicated enterprise because it houses approximately 19,500  
25 inmates spread across eight custody facilities, numerous patrol

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27 <sup>2</sup> The Court regards the inmate declarations skeptically  
28 because the declarants have not been subject to cross-examination.  
Nevertheless, there are numerous declarations attesting to holding  
cell populations of over 30 inmates.

1 stations and at least 40 courthouses. In addition to providing the  
2 necessities of food, shelter and clothing, the Los Angeles County  
3 Jail must address the serious medical and mental health issues of  
4 many of its inmates. Inmates are also required to be segregated  
5 from each other based upon security classifications. Furthermore,  
6 inmates are frequently transported between facilities and two  
7 various courthouses. Finally, the inmate population varies from  
8 day-to-day, and is subject to unpredictable increases. Because the  
9 jail facilities have not kept up with the exploding population of  
10 Southern California, the LASD has been required to enact a policy  
11 of releasing inmates well before the expiration of their  
12 sentences.<sup>3</sup> This is done because there is simply not enough space  
13 to keep inmates for the duration of their sentences.

14 The Los Angeles County Board of Supervisors has recently  
15 allocated \$258 million dollars to upgrade the jail system. The  
16 Court has been advised that this sum, though substantial, will be  
17 used to upgrade existing facilities, but is insufficient to  
18 construct additional facilities. Thus, it appears likely that  
19 strains on the system such as those currently occurring at the IRC  
20 will continue to be present in the future. What exists, therefore,  
21 is a fairly bleak prognosis with the effects of an overburdened  
22 system continuing to manifest themselves. These effects seem  
23 likely to result in additional civil rights lawsuits arising from

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28 <sup>3</sup> The MCJ houses inmates awaiting trial and inmates who have  
been sentenced.

1 overcrowding and greater reductions in the jail time that inmates  
2 are required to serve.<sup>4</sup>

3       The Court has no desire to inject itself in the management of  
4 the jail. If the present circumstances are not corrected, the  
5 Court foresees itself as constantly being asked by litigants to  
6 formulate the minimum constitutional standards for incarceration.<sup>5</sup>  
7 Given the intricacies of the system this is wrong for two reasons.  
8 First, courts do not have the expertise or time to administer  
9 complex enterprises. Second, inmates, particularly pre-trial  
10 detainees who are imbued with presumption of innocence, deserve  
11 better than to be housed in a system which has defaulted to the  
12 lowest permissible standard of care.

13       On the positive side, the Court has been advised that the  
14 termination of the state's contract with the Sheriff's department  
15 will result in approximately 1200 additional beds in the MCJ. The  
16 Court is hopeful that the availability of these additional beds  
17 will ameliorate some of the more pressing problems at the IRC and  
18 the MCJ. Additionally, the Court has been continually impressed by  
19 the dedication of the employees of the LASD who are daily faced  
20 with the daunting task of managing this overburdened system. It  
21 was clear from the hearing that Commander Kim and Capt. Cornell,  
22 and the many other individuals with whom the Court has encountered

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24       <sup>4</sup> Current civil rights lawsuits pending before this Court  
25 include: Dennis Rutherford v. Leroy Baca, Case No. CV 75-04111;  
26 R.D. Mortimer v. Leroy Baca, Case No. CV 00-13002; S.A. Thomas v.  
Leroy Baca, Case No. CV 04-08448; and J. Avalos v. Leroy Baca, Case  
27 No. CV 05-07602.

28       <sup>5</sup> E.g. how many inmates can be held in a 186 square foot  
cell; what is the maximum amount of time an inmate can be required  
to stand without a place to sit.

1 working for the LASD are creative, talented, and uniformly have a  
2 sincere desire to administer the jail system in the most humane and  
3 efficient manner possible. The systemic deficiencies of the  
4 present jail system, however, seem more and more to exceed the  
5 ability of management to work around these deficiencies.

6 Having noted the above, the Court believes that certain  
7 immediate steps should be taken by the Sheriff's department to  
8 address the issues raised by plaintiffs. Therefore, the Court  
9 issues the following order.

10 THE DEFENDANTS ARE ORDERED TO SHOW CAUSE at 11:00 a.m., on  
11 December 11, 2006, or as soon as possible thereafter as counsel may  
12 be heard in the courtroom of the Honorable Dean D. Pregerson,  
13 located at Courtroom 3, 312 Spring Street, Los Angeles, why the  
14 Defendants, their officers, agents and assigns and those in active  
15 concert or participation with them should not be restrained and  
16 enjoined from:

- 17 1. Holding an inmate in the IRC for more than 24 hours,  
18 unless any period in excess of 24 hours is because the  
19 inmate is being treated at the medical facilities within  
20 the IRC;
- 21 2. Holding more than 20 inmates in a holding cell without  
22 first exhausting every other means to avoid placing more  
23 than 20 inmates in a holding cell. In the event more  
24 than 20 inmate are placed in a holding cell, Defendants  
25 shall document the following:
  - 26 (a) name of the officer approving the placement;
  - 27 (b) date;
  - 28 (c) type of placement;

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- (d) time of release;
- (e) number of persons in the cell;
- (f) identification of the particular holding cell.

Plaintiffs shall be provided with the documentation upon request;

- 3. Holding an inmate in a cell in the IRC which is not maintained in a clean and sanitary condition, including access to a functioning toilet, potable drinking water and clean water to wash;
- 4. Holding an inmate in the IRC without providing ongoing access to adequate medical care, including but not limited to regular pill call and sick call;
- 5. Housing six inmates in cells at Men's Central Jail that were used to house four inmates prior to August 28, 2006 without prior notice to the Court and Plaintiffs and written leave of the Court;
- 6. Housing four inmates in cells at Men's Central Jail that were used to house two inmates prior to September 13, 2006 without prior notice to the Court and Plaintiffs and written leave of the Court;

Defendant's opposition, if any, to this order shall be filed no later than November 20, 2006.

Pending a hearing on the above Order to Show Cause, the Defendants, their officers, agents, employees, attorneys and all those in active concert with them are hereby immediately restrained and enjoined from:

- 1. Holding an inmate in the IRC for more than 24 hours, unless any period in excess of 24 hours is because the



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inmate is being treated at the medical facilities within the IRC;

2. Holding more than 20 inmates in a holding cell without first exhausting every other means to avoid placing more than 20 inmates in a holding cell. In the event more than 20 inmate are placed in a holding cell, this event shall be documented as follows:

- (a) name of the officer approving the placement;
- (b) date;
- (c) type of placement;
- (d) time of release;
- (e) number of persons in the cell;
- (f) identification of the particular holding cell.

Plaintiffs shall be provided with the documentation upon request;

3. Holding an inmate in a cell in the IRC which is not maintained in a clean and sanitary condition, including access to a functioning toilet, potable drinking water and clean water to wash;

4. Holding an inmate in the IRC without providing ongoing access to adequate medical care, including but not limited to regular pill call and sick call;

5. Housing six inmates in cells at Men's Central Jail that were used to house four inmates prior to August 28, 2006 without prior notice to the Court and Plaintiffs and written leave of the Court;

6. Housing four inmates in cells at Men's Central Jail that were used to house two inmates prior to September 13,

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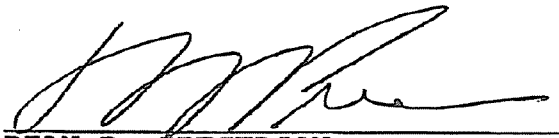
2006 without prior notice to the Court and Plaintiffs and  
written leave of the Court.

The Court sets the above schedule because the Court  
acknowledges that the Defendants were required to respond to  
Plaintiff's Application on short notice. The schedule will permit  
the parties to have the benefit of the information contained in the  
documents described on page 7, paragraph number 2.

IT IS FURTHER ORDERED that, because Plaintiffs are indigent,  
they need not post any bond in connection with this temporary  
restraining order.

IT IS SO ORDERED.

Dated: October 26, 2006

  
DEAN D. PREGERSON  
United States District Judge