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Attorneys For Plaintiffs

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PEDERSON, et. al.	)	
	)	CASE NO. 89-1659
Plaintiff,	)	LKK-JFM
	)	
vs.	)	<u>Consent Decree</u>
	)	
THE COUNTY OF PLUMAS, et. al.,	)	
	)	
Defendants.	)	
	)	

I. INTRODUCTION

A. This is an action pertaining to the conditions in the Plumas

1 County Jail(Jail), brought by Walter Pederson and Cheryl Preston,  
2 certified as a class action, comprised of all present and future  
3 prisoners incarcerated in the Plumas County Jail. The Complaint For  
4 Injunctive Relief alleges that plaintiffs rights, privileges and  
5 immunities arising under the Constitution, (First, Fourth, Eighth and  
6 Fourteenth Amendments) and Laws of the United States have been  
7 abridged by the individual defendants, acting under color of law. The  
8 plaintiffs are represented by attorneys:

9 Paul Comiskey  
10 Prisoners Rights Union  
11 2310 J Street, P.O. Box 1019  
12 Sacramento, CA 95812-1019

13 Richard P. Herman  
14 229 Marine Avenue  
15 Balboa Island, CA 92662

16 Paul T. Persons  
17 1834 Arroyo Canyon Drive  
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19 Dan Stormer  
20 Litt and Stormer  
21 3550 Wilshire Blvd., Suite #1200  
22 Los Angeles, CA 90010

23 Michael Jackson  
24 P.O. Box 207  
25 Quincy, CA 95971

26 The Defendant Richard Mackenzie, individually and as Sheriff of the  
27 County of Plumas, and defendant County of Plumas are represented by  
28 attorneys:

Robert Shulman, County Counsel  
Michael Jamison, Deputy County Counsel  
P. O. Box 10388  
Quincy, CA 95971-6010

1 B. All the parties by and through their undersigned counsel hereby  
2 present to the Court for its consideration and adoption the within  
3 Consent Decree, offered in resolution of all issues raised in the above-  
4 captioned matter, excepting use of the safety cell/rubber room and  
5 attorney fees and costs to be heard and determined by separate motion.  
6 However, it is expressly understood by the parties that if the Court  
7 shall fail or refuse to approve this Consent Decree, it shall become null  
8 and void and without any force or effect and none of the parties shall be  
9 bound by it.

10 C. The parties, by their respective counsel, have agreed to the entry  
11 of this Consent Decree and do hereby agree:

12 1. That the provisions of this Decree constitute the entire  
13 consideration by the parties for the full settlement of the issues set  
14 forth herein, excepting the issue of use of the safety cell/rubber room  
15 which Plaintiffs contend is unconstitutional and Defendants contend is  
16 properly used and the issue of attorney fees and costs, to be determined  
17 by the court on separate motion;  
18

19 2. That this Consent Decree is the entire agreement of the  
20 parties as to the issues set forth herein:  
21

22 3. That neither this Decree nor any provision thereof  
23 constitutes evidence or admission of responsibility or liability of any  
24 party as to any issue of law, equity, or tort raised by the pleading  
25 herein, except that Plaintiffs shall be the prevailing party solely for the  
26 purpose of determining attorney fees;  
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4. That the parties waive any statement of decision and/or findings of fact and conclusions of law on the issues raised by the pleading or otherwise, except as to attorney fees and costs and use of the safety cell/rubber room; and

5. That the parties expressly waive the right to appeal, if any, this Consent Decree, except as to the issue of attorney fees and costs and use of the safety cell/rubber room.

D. Whenever the term "counsel" is used herein it shall refer to counsel of record in the above-entitled proceeding at any given time.

The Court having been fully advised and informed of the facts and circumstances, and good cause appearing:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

II. INTERPRETATION

A. This Decree is entered into as a settlement of an existing dispute among the parties as to whether the Plumas County Jail, Quincy, California, falls below, meets, or exceeds minimum constitutional and/or statutory standards.

B. All exhibits attached hereto are made a part hereof and incorporated by reference thereto the same as though more fully set forth herein.

C. By entering into this Decree, defendants do not admit to any violations of or failure to comply with applicable laws, rules or regulations, nor do defendants admit to any violation of constitutional standards, except the defendants admit the plaintiffs are the prevailing

party for the sole purpose of attorney fees and costs.

1 D. Plaintiffs shall seek no further equitable relief for the acts,  
2 practices or omissions as to the issues set forth herein, other than the  
3 issue of the safety cell/rubber room and for attorney fees and costs,  
4 alleged in the Complaint except to enforce the provisions of this Decree  
5 thereby, to the extent permitted by law, waiving the right to seek  
6 further equitable relief on the causes of action alleged in the  
7 Complaint.  
8

9 E. Plaintiffs agree that this Decree is fully binding on each of them  
10 individually, and on the plaintiff class. Defendants agree that this  
11 Decree is fully binding on each of them, and each of their officers,  
12 agents employees and successors.

13 F. The only obligations of the parties hereto are those explicitly  
14 stated herein.  
15

16 G. Nothing in this Consent Decree shall prevent the Sheriff from  
17 seeking additional staff or resources from the Board of Supervisors of  
18 the County of Plumas.

19 III. JURISDICTION

20 A. All parties do hereby recognize and submit to the continuing  
21 jurisdiction of the United States District Court, Eastern District.  
22

23 IV. RECITATIONS

24 A. The Defendants, shall:

25 1. Maintain all housing units at or below their rated  
26 capacities as set forth in the 1989 Board of Corrections Report. The  
27 overall rated capacity shall be 37.  
28

1                   2.     The population of any housing unit in the Plumas County  
2 Jail shall not exceed the rated capacity as set forth above. Every  
3 inmate shall be provided a bed in the appropriate classification.  
4 Whenever it is necessary in order to maintain housing units at their  
5 rated capacities, as set forth above, the Sheriff will summarily release  
6 inmates from the Plumas County Jail.

7                   3.     Each inmate housed in the Plumas County Jail shall be  
8 provided with a personal storage space of sufficient size to hold the  
9 inmate's personal effects.

10                  4.     Each inmate shall be provided with jail issued clothes  
11 that are of a sufficient size and warmth for that inmate's activities.  
12 Inmates shall be provided with an exchange of clean undergarments(T-  
13 shirts, underwear, socks and bras for women inmates) at least twice  
14 per week and an exchange of clean outer garments at least once per  
15 week. Women shall be provided with two underwear at each clothing  
16 exchange.

17                  5.     All preparation and service of food to inmates shall meet  
18 or exceed the requirements as set forth in the California Restaurant  
19 Standards Act.  
20

21                  6.     All inmates shall be provided with access to exercise  
22 at least one hour per day five days per week. Prisoners shall be  
23 provided access to indoor exercise during inclement weather. Outdoor  
24 exercise shall be provide when whether permits.  
25

26                  7.     Dental care shall be promptly provided to all inmates  
27 including the repair of teeth and the provision or repair of dentures  
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1 when necessary. Such necessity shall be based on generally accepted  
2 dental practices for the State of California and to allow inmates to eat  
3 solid food and maintain good dental health. The Sheriff shall provide  
4 dental services in order to avoid unnecessary pain and suffering by the  
5 inmates in the jail. The provision of necessary dental care shall not be  
6 discouraged in any manner.

7 8. Medical care shall promptly be provided to all inmates  
8 including personal access to a California licensed physician. The  
9 standard of medical care provided to the inmates shall be as set forth in  
10 the "Standards for Health Services in Detention Facilities", California  
11 Medical Association (CMA) (1989), except that section 307 Health  
12 Appraisals will be provided generally within twenty four hours, not to  
13 exceed 5 days, after the prisoners arrival at the jail. The provision of  
14 medical care shall not be discouraged in any manner. The (CMA)  
15 standard, section 317, concerning the use of a safety cell/rubber room  
16 is not agreed to by Plaintiffs.

17 18 9. The Jail's Mental Heath Policies and Procedures shall comply  
19 with the requirements of the "Standards for Health Services in  
20 Detention Facilities", CMA (1989), excepting the standard concerning  
21 the safety cell/rubber room. At least a California licenced clinical  
22 psychologist or a physician with mental health training and experience,  
23 shall be available to the jail on twenty-four hour call, capable of  
24 immediate personal response to the jail (This policy requires that  
25 immediate response shall be generally within 10 minutes but not to  
26 exceed 60 minutes).  
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10. The visitation policy shall be utilized, providing inmates with access to visits two days per week for a minimum of at least one half hour for each visit. Every prisoner, to the extent facilities and staff are available, will be provided the opportunity for additional visits. Drop in visits from out of town visitors will be accommodated when facility and staff are available. Unaccompanied minor children shall be allowed to visit prisoners, subject to the legitimate safety and security interests of the Jail. Visitation policies will be posted so as to provide notice of the visitation policies to persons visiting the Plumas County Jail. Inmates shall be provided unmonitored visitation with attorneys.

11. The Plumas County Jail shall be staffed by at least three correctional officers during the day shift, with at least two correctional officers during the two other shifts. Each shift shall have a woman correctional officer and a designated person with the authority to carry out the policies and procedure contained herein.

12. Inmates shall be provided prompt physical access to a Law Library located at the Jail.

13. The current grievance policy shall be fully utilized, providing inmates with a written response and a copy of any grievance filed within 24 hours of the filing of a grievance.

14. Prisoners in the Plumas County Jail shall be provided access to a pay phone and a no charge local phone in the indoor or outdoor exercise yard during their exercise time, if PacBell will install such phones. Said phones are to be paid for from the inmate welfare



1 fund. Collect call phones will be installed in each day room and in the  
2 cell where no day room exists. Collect phones shall be turned on from 7  
3 a.m. to 11p.m. each day, except that the phones may be turned off for  
proper disciplinary purposes.

4 Prisoners who want to contact their local counsel, in addition to  
5 calling collect, will be provided access to the phone in the attorney-  
6 client room where they may make take a call from their attorney or make a  
7 call to their local attorney.  
8

9 15. Woman inmates in the Plumas County Jail shall be  
10 provided equal access to programs and work opportunities in the Plumas  
11 County Jail. Medical Services for women will be posted as per the  
12 California Penal Code.

13 16. An inspection shall be conducted by a State Fire  
14 Marshall, mutually agreed to by the parties, within 60 days of the  
15 signing of this Consent Decree, with a counsel for the plaintiffs and a  
16 counsel for the defendants if he/she so chooses. Defendants agree to  
17 comply with the recommendations, if any, issued by said State Fire  
18 Marshall in a prompt and timely manner.  
19

20 17. The Sheriff will not hold in the jails any warrantless  
21 arrestee who has not been provided with a determination before a judge,  
22 commissioner or judge pro tem of probable cause for continued  
23 detention within 48 hours of arrest.  
24

25 18. Inmates in the Plumas County Jail shall be provided with  
26 access to non legal reading material. Inmates shall be allowed to  
27 receive magazines, newspapers and soft-covered books through the  
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mail, from publishers and book stores.

19. Inmates shall have access to a television, connected to cable television in each of the housing units.

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3 V. POLICIES AND PROCEDURES

4 A. The Plumas County Sheriff's Department operates according to a  
5 Manual of Policies and Procedures which is carried out by its Policies  
6 and Procedures.

7 B. The Sheriff hereby agrees to continue to implement and/or  
8 produce the following Policies and Procedures:

- 9  
10 1. An inmate handbook of general information to be handed  
11 out to each inmate, to orient the inmate to the rules,  
12 regulations and operating procedures of the Plumas  
13 County Jail. (Exhibit A)  
14 2. Inmate Grievance Procedures (Exhibit A)  
15 3. Disciplinary Procedures (Exhibit A)  
16 4. Law Library access and procedures (Exhibit A)  
17 5. Classification Plan for Inmates  
18 6. Fire and Life Safety in the Jail plan and procedure.  
19 7. Medical, Dental and Physiological services (Exhibit A)  
20 8. Visitation, policies and procedures  
21  
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25 C. The Policies and Procedures enumerated in the foregoing  
26 Paragraph B shall be deemed to replace, supersede, amend, or modify any  
27 and all prior Policies and Procedures, or parts thereof, inconsistent  
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1 therewith or contrary thereto. The remaining Policies and Procedures,  
2 or part thereof, not so inconsistent or contrary, remain in full force and  
effect.

3 D. The Sheriff shall prepare, adopt and implement within thirty (30)  
4 days from the effective date of this Consent Decree a Facility  
5 Sanitation, Safety, and Maintenance Plan as required by California  
6 Regulation Code Section 1280. The plan shall specify tasks to be  
7 performed by Correctional Officers, trustees and non-trustee inmates.  
8

9 E. The Sheriff shall provide a procedure, providing prisoners with  
10 voter registration forms, whereby qualified prisoners can receive  
11 absentee ballots and vote absentee in local, state, and federal  
12 elections, pursuant to election codes.

13 F. The requirements in this Consent Decree relating to the content  
14 of the Sheriff's Policies and Procedures are not intended to preclude  
15 revisions thereto in the future, provided that the substantive  
16 requirements of this Consent Decree are implemented and adhered to by  
17 the defendants. Copies of any such Policies and Procedures as amended,  
18 shall be mailed to all counsel of record not less than twenty (20) days  
19 prior to their effective date. If counsel for any party believe any such  
20 proposed amended Policies and Procedures violates any provision of this  
21 Consent Decree, such party may petition the Court for appropriate relief  
22 and give notice thereof to all parties.  
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25 V. INFORMATION FOR JAIL INMATES

26 A. The Sheriff shall prepare and distribute a Jail Information  
27 Booklet for the orientation of inmates. It shall contain verbatim the  
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following :

1. General Information Handbook for Inmates(Exhibit 1)
2. Rules of Conduct (Exhibit 2)
3. Inmate Grievance Procedure (Exhibit 3)
4. Disciplinary Procedures (Exhibit 4)
5. Medical, dental and psychological services(Exhibit 9)
6. Visitation policies and procedures (Exhibit 10)

The County of Plumas shall cause the same to be printed forthwith in ample quantity to meet the anticipated inmate population needs of the Plumas County Jail.

B. The Sheriff shall cause to be kept and maintained in the jail's library room a copy of the Consent Decree with name, address and phone number of plaintiff's counsel.

C. The County shall assign and designate qualified maintenance personnel to report to the Plumas County Jail regularly to check the repair log and take immediate steps to repair, replace, or correct any and all items or matters requiring repair, replacement, or correction. Furthermore, the County shall make the necessary arrangement for a responsible qualified maintenance person to be on call at all times during weekends and holidays to take care of emergency situations.

E. The maintenance of the Plumas County Jail includes, but is not limited to, the following:

1. The present evidence storage room shall be renovated as an indoor exercise yard, including weights, basketball hoop and ping pong table.

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2. The exercise yard shall be resurfaced so as to provide a smooth surface to allow inmates to play basketball and other such games.

3. The basketball hoop and backboard shall be fixed or replaced.

4. All housing units shall be kept clean and painted on a regular or as needed basis.

5. Each shower shall be equipped with a shower curtain in good condition.

6. All lighting and plumbing facilities will be maintained in working order, with replacements and repairs undertaken as necessary.

7. Climate control throughout the jail facility shall be installed, maintained and operated in a manner to provide an acceptable temperature range throughout the area where inmates are housed, recreate or work . An air-conditioning unit will be installed at the Jail to maintain an acceptable temperature range in the Jail during summer days.

8. Mirrors shall be installed in each housing area or cell.

9. Additional Recreational equipment shall be provided for inmates in the recreation room and outdoor exercise area, to be purchased from the inmate welfare fund.

#### IX. INSPECTIONS

1. The counsel for the plaintiff shall make such inspections and reviews when deemed necessary to determine that compliance with the consent decree is occurring. Reasonable attorney fees and costs

1 shall be paid for such inspections and/or reviews. Such reasonable  
2 attorney fees and costs shall be determined by a duly noticed motion to  
the court should the defendants contest the fees and costs requested.

3 2. The plaintiff's counsel shall have access to all facilities  
4 at the Plumas County Jail and to all memoranda, logs, reports, records,  
5 studies, and documents pertaining to the subject matters of this Decree  
6 and/or to the Plumas County Jail in possession of the defendants other  
7 than confidential attorney-client communications, staff personnel  
8 files, and inmate medical records, unless the plaintiffs' counsel obtain  
9 a court order or authorization. Plaintiffs' counsel shall be permitted to  
10 exercise this right without prior notice, but shall exercise this right to  
11 access in a reasonable manner. Prior notice to opposing counsel of any  
12 inspection shall be provided to Defendants' counsel who may accompany  
13 plaintiffs' counsel on such inspection, but shall not provide notice of  
14 such inspection to any person such that the confidentiality and surprise  
15 of such visit is compromised. Any problem observed or discovered  
16 during such inspection shall be subject to a meet and confer with  
17 defendants' counsel prior to the initiation of court action related to  
18 such observation or discovery.

19 3. The defendants, and each of them, shall comply with any  
20 reasonable requests by the plaintiffs' counsel for specific types of data,  
21 information, or summaries of records not now in existence.

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25 X. ENFORCEMENT

26 A. The following procedures shall be used for enforcement  
27 of the Consent Decree during the term of the Decree.  
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1. Enforcement of this Decree may be sought by any party. If sought by the parties, it shall be by duly noticed motion or order to show cause. In either event, enforcement issues will be heard and decided by the United States Federal District Court.

IX. SCOPE OF ENFORCEMENT

1. This Decree empowers the Court to compel any act required by this Decree, enjoin any act proscribed by this Decree, to interpret this Decree, and to modify the Decree as set forth herein.

XI. COMPLIANCE

A. The provisions of this Consent Decree shall not be construed to abrogate the powers of the Sheriff or Jail Commander to temporarily suspend any standard or requirement herein prescribed in the event of a bonnified emergency. Such an emergency shall include a situation which threatens the safety (1) of the Plumas County Jail, or any of its facilities, (2) of any of its inmates or staff, or (3) the public as provided in Section 1012, Title 15, California Regulatory Code. The Sheriff or the Jail Commander shall give prompt written notice to counsel of record herein of any such emergency suspension of standards or requirements or of the requirements of this Consent Decree specifically stating the standards or requirements suspended and the facts and circumstances which are asserted as justification for such suspension. Examples of emergency situations include major damage to the jail facilities caused by fire, earthquake, or other disaster; labor strike or work stoppage involving the jail staff; inmate riot or insurrection; major civil disorder. If any party believes that such

suspension is unjustified, then such party may petition the Court for appropriate relief upon due and proper notice thereof to all parties.

C. The defendants shall do each and every act, execute all necessary directives and orders to subordinates, expend or authorize the expenditure of all necessary funds, and take whatever other actions are necessary to fully implement each and every provision of this Consent Decree as set forth herein so as to insure complete and full compliance therewith. Copies of the consent decree shall be distributed to all Plumas County employees, present and future who are involved with the housing of inmates, with instruction that the consent decree is to be observed and follow both in spirit and letter of the decree.

## XII. MODIFICATION

A. This Consent Decree may be modified, amended or terminated only by the Federal Court and on duly noticed motion or by written stipulation of counsel.

B. This Consent Decree shall be modified, amended or terminated only upon an affirmative showing that modification is necessary and appropriate because of:

1. Provisions of the Decree which have proved wasteful, unworkable or inherently adverse to carrying out the intent and purpose of this Consent Decree, or

2. A change in material fact or law so that the ends of justice will be served by modification consistent with the intent and purpose of this Consent Decree.

E. If plaintiffs' counsel successfully seek modification of the



Consent Decree, they shall be entitled to a reasonable attorney fee and cost award.

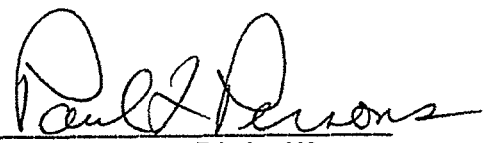
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XIV. CLAIMS, ATTORNEY FEES AND COSTS

Plaintiffs contend that they are entitled to attorney's fees and costs. Defendants dispute this contention. Therefore the parties agree that the above-entitled court shall determine the amount of attorney fees and costs, at a duly noticed motion for attorney fees and costs. Such award shall not preclude appropriate future awards of attorney costs and fees if appropriate.

We the undersigned, on behalf of our respective clients and in settlement of this action, agree to the entry of this Consent Decree. The effective date of this Consent Decree shall be the date it is approved and filed by the Court.

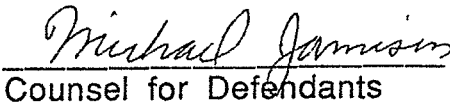
Dated: 2/7/92

  
Counsel for Plaintiffs

Dated: 10/1/91

  
Chairman, Board of Supervisors

Dated: 10-1-91

  
Counsel for Defendants

Dated: 10-3-91

  
Plumas County Sheriff

