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7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF KINGS

10 KEN MARVIN, as Sheriff,

NO. 01 C0040

11 Plaintiff,

[PROPOSED] STIPIULATED ORDER  
FOR MODIFICATION  
OF PERMANENT INJUNCTION  
AND JUDGMENT

12 vs.  
13

14 THE COUNTY OF KINGS,

Defendant.  
15 \_\_\_\_\_/

16  
17 **INTRODUCTION**

18 Chris Jordon, as Sheriff, and the County of Kings jointly move for a modification to a  
19 Permanent Injunction and Judgment which establishes a population limit for the Kings  
20 County Jail and prisoner release order. Relevant historical information concerning the  
21 application is summarized below.

22 The permanent injunction granted in 2001 established a population capacity limit and  
23 prisoner release order for the old Kings County Jail ("Old Jail"). To their credit, the Sheriff  
24 and County jointly worked together during the years which followed to manage  
25 overcrowding in the Old Jail. In 2006, for example, the County completed construction of a  
26 new county jail located at 1570 Kings County Drive in Hanford, California. Thereafter, the  
27 Old Jail and branch jail populations were transferred to the New Kings County Jail ("New  
28 Jail").

1 While the New Jail was constructed in a manner which provides for substantial  
2 improvements in public and staff safety, and while it is designed in a manner that allows for  
3 the necessary classification and separation of different groups of prisoners, because of  
4 funding limitations the overall capacity of the New Jail is not substantially different from  
5 the capacities of the Old Jail and Branch Jail (although the New Jail was constructed in a  
6 manner whereby future additional housing units can be added with relatively little adverse  
7 impact on centralize provisions for food services, visiting, intake and release, etc.). Not  
8 surprisingly, the New Jail has begun to experience capacity problems which, at this point in  
9 time, jeopardize the safety of jail personnel and inmates. The parties have concluded that  
10 the original injunction in this case is limited to Old Jail and Branch Jail, and therefore seek  
11 to modify the injunction so that it will apply to the New Jail.

#### 12 **THE COURT'S EVALUATION OF THE PARTIES' APPLICATION**

13 This matter was originally filed as an ex parte application. The Court declined to rule  
14 upon the application as presented, and in order to more carefully consider the issues  
15 presented by the joint request, the Court scheduled a jail inspection and public hearing. In  
16 addition to the Court, the inspection of August 10, 2007 included the following: Chris  
17 Jordon, Sheriff; Larry Spikes, County Administrative Officer; Harry Verheul, Public Works  
18 Director; Loren Aiton, Architect, Talor Teter Partnership; Don Allen, California Corrections  
19 Standards Authority, Kim Pedreiro, Commander, Kings County Jail; Kyle Sands, Deputy  
20 County Counsel; and John Hagar, Attorney for the Kings County Sheriff. The inspection  
21 proved to be informative concerning (a) the limited options available within the New Jail to  
22 handle additional prisoners, and (2) the burdens faced by Jail staff concerning an ever  
23 increasing number of "floor sleepers" (prisoners who sleep on mattresses on the floor of the  
24 New Jail because all elevated bunks are filled).

25 As was made apparent during the inspection, a safe operational capacity of the New  
26 Jail is driven not only by the number of available beds, but also by the need to separate non-  
27 compatible groups of prisoners. For example, female inmates must be separated from  
28 males. Among male prisoners, however, General Population (prisoner who do not need

1 special considerations, e.g. Northern, Crips, Asian, Whites and any other non gang affiliated  
2 inmates) must be separated from Surenos, a Southern California prison gang that does not  
3 get along with certain Northern California inmates. Likewise, “keep-aways” (informants)  
4 require special housing, as do certain classifications of Sexual Offenders, Fresno Bulldogs,  
5 and various gang “drop-outs.” For this reason, the parties propose a population management  
6 plan that does not only limit the overall capacity of the New Jail, it also provides for  
7 capacity limits for each housing unit.

8         Following the inspection and a meeting with counsel and the parties, the Court  
9 conducted a hearing, at which time additional information was requested from counsel. A  
10 second hearing calendared for Friday, September 22, 2007. Within two weeks, however,  
11 there was a significant increase in the number of floor sleepers in the New Jail (up to sixty),  
12 followed by an increase in jail incidents including a disturbance and several attempted  
13 suicides. At the request of the parties the Court moved the hearing to Friday, September 14,  
14 2007.

15         On September 14, 2007 the Court again inspected the New Jail, met and  
16 conferred with counsel and the parties, and thereafter conducted a second public hearing. In  
17 addition to discussing overcrowding and its impact on the New Jail with jail staff, with the  
18 architect who designed the jail, with County personnel, counsel and a representative from  
19 the Corrections Standards Authority (the California agency which established minimum  
20 standards for and conducts compliance inspections of California jails), the Court also  
21 reviewed a number of relevant documents including a “snapshots” of the population of the  
22 New Jail, a report from a New Jail nurse, booking reports, population reports, and  
23 classification summaries. Given a joint request from both the Sheriff and the County, and  
24 based upon all of the evidence evaluated, the Court concludes that a modification to the  
25 original, and as amended, order previously issued is warranted at this time.

1                   **THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:**

2           1.       The Sheriff of Kings County shall operate the Kings County Jail located at  
3 1570 Kings County Drive in Hanford, California at the unit capacities and according to the  
4 unit classifications hereinafter set forth.

5

	<u>Pod</u>	<u>Classification</u>	<u>Capacity</u>
6	1.    POD A1	A1 holds females only/Gen Pop	29
7	2.    POD A2	A2 holds males only/Gen Segr	32
8	3.    POD A3	A3 holds males only/Gen Segr/Bulldogs	30
9	4.    POD A4	A4 holds males only/Gen Segr/Mix with A2 & A3	32
10	5.    POD A5	A5 holds males only/surenos	32
11	6.    POD A6	A6 holds females only/Gen Pop	32
12	7.    POD B1	B1 holds males only/Gen Pop	32
13	8.    POD B2	B2 holds males only/Gen Pop	32
14	9.    POD B3	B3 holds males only/Gen Pop	30
15	10.   POD B4	B4 holds males only/Gen Pop	32
16	11.   POD B5	B5 holds males only/Inm workers/loc time	32
17	12.   POD B6	B6 holds males only/Adm Segr (AD-SEG)	16

18           The classifications are set forth above only for the purpose of stating the  
19 classifications of inmates housed in a particular pod at the time of the issuance of this order.  
20 If changes are made to the unit classifications or unit capacities, the parties shall return to  
21 court as soon as feasible to request that the court modify this order.

22           2.       No inmate shall be housed at the Kings County Jail in an area not designated  
23 for inmate housing unit by the California Board of Corrections, except as set forth in  
24 paragraph 9 below. All inmates shall be provided with an elevated bed. No inmate shall be  
25 assigned to sleep on the floor.

26           3.       The Sheriff of Kings County is authorized to release inmates from the Kings  
27 County Jail, and to classify and release newly-booked and newly-committed inmates  
28 pursuant to paragraphs 1 and 2 above and consistent with the other criteria set forth below,

1 whenever the Kings County Jail, or any specific housing unit therein, is within ten percent  
2 of the capacities set forth above. The Sheriff shall release inmates, and classify and release  
3 newly-booked inmates and newly-committed inmates, whenever the Kings County Jail, or  
4 any specific housing unit therein, reaches the capacities set forth above. The Sheriff is  
5 authorized to effectuate releases by delegating the administration of the release process to  
6 jail command personnel, and by selecting the time whereby reconciliation of jail capacity  
7 limits with actual inmate populations will be completed on a daily basis.

8 4. To meet the jail capacity limits set forth above, the Sheriff shall continue to  
9 utilize properly posted bail, Misdemeanor Citation Release as authorized by California  
10 Penal Code Section 822 and Section 853.6, prisoner release as authorized by California  
11 Penal Code Section 4018.6 and Section 4019, accelerated release as authorized by  
12 California Penal Code Section 4024.1, Own Recognizance release, County parole as  
13 authorized by California Penal Code Section 3074, Work Furlough as authorized by  
14 California Penal Code Section 1208, Adult Offender Work Program as authorized by  
15 California Penal Code Section 4024.2, the Weekender Program as authorized by California  
16 Penal Code Section 4024.2, Community Service, and Electronic Monitoring as authorized  
17 by California Penal Code Section 1203.016.

18 5. In the event that additional inmate population control measures are needed to  
19 comply with the capacity limits set forth above, the Sheriff shall release inmates according  
20 to the criteria set forth below:

21 A. Unconvicted and/or unsentenced inmates charged with misdemeanor crime(s)  
22 against property regardless of bail amount (open charge), in descending order of their  
23 length of stay.

24 B. Unconvicted and/or unsentenced inmates charged with misdemeanor crimes(s)  
25 against property, regardless of bail amount (warrant charges - including out of county  
26 warrants), in descending order of their length of stay.

27 C. Unconvicted and/or unsentenced inmates charged with misdemeanor crime(s)  
28 against persons, regardless of bail amount (open charges), in descending order of

1 their length of stay.

2 D. Unconvicted and/or unsentenced inmates charged with misdemeanor crimes(s)  
3 against persons, regardless of bail amount (warrant charges - including out of county  
4 warrants), in descending order of their length of stay.

5 E. Inmates sentenced to jail for misdemeanor charges in descending order of the  
6 percentage of total sentence served and in the following order:

7 i. Inmates sentenced for crime(s) against property.

8 ii. Inmates sentenced for crime(s) against persons.

9 Inmates subject to release under this paragraph shall be deemed to have their  
10 custodial time decreased to actual time served. All other conditions shall  
11 remain in effect and continue from the inmate's actual release date.

12 F. Inmates sentenced to jail for felony charges in descending order of the  
13 percentage of total sentence served and in the following order:

14 i. Inmates sentenced for crime(s) against property.

15 ii. Inmates sentenced for crime(s) against persons.

16 Inmates subject to release under this paragraph shall be deemed to have their  
17 custodial time decreased to actual time served. All other conditions shall  
18 remain in effect and continue from the inmate's actual release date.

19 G. Pre-sentenced inmates charged with felony crime(s) as follows:

20 i. Unconvicted and/or unsentenced inmates charged with felony crime(s)  
21 against property regardless of bail amount, in descending order of their length  
22 of stay.

23 ii. Unconvicted and/or unsentenced inmates charged with felony crime(s)  
24 against persons regardless of bail amount, in descending order of their length  
25 of stay.

26 All pre-sentenced inmates released pursuant to the provisions of this paragraph  
27 shall be given a citation to appear on their next regularly scheduled court date.

28 No person charged with a crime falling within the provisions of California

1 Penal Code Section 667.5 (Violent Felony), charged with Burglary as defined  
2 in California Penal Code Section 457/460, charged with a crime falling under  
3 the provisions of California Penal Code Section 667 d & e, or identified as a  
4 Career Criminal as outlined in California Penal Code Section 13853 shall be  
5 released under any section of this paragraph.

6 6. The Sheriff may for good cause apply to the court hearing the inmate's  
7 criminal case for an order retaining in custody certain inmates who might otherwise be  
8 released pursuant to the criteria set forth above for good cause. In the event an inmate is  
9 retained in custody, the reason(s) for the retention shall be stated in the order and placed in  
10 the inmates jail classification file. Good cause shall include, but is not limited to  
11 information that an inmate has threatened, plans to threaten, or has a history of threatening  
12 harm to the victim or a witness of a crime; the inmate has any history of failing to appear in  
13 court on criminal charges during the previous three years; information that an on-going  
14 criminal investigation may be jeopardized by the release of the inmate; the inmate is under  
15 discipline in the jail for a major jail rule violation, or the jail disciplinary process have been  
16 ineffective in controlling the inmate's behavior while in jail. The Sheriff shall apply for the  
17 retention order within three judicial days following the Sheriff's initial determination under  
18 this paragraph.

19 7. The parties agree that changes in inmate classification and separation  
20 requirements, possible modifications to the Kings County Jail, the possible construction of  
21 additional housing units, a possible increase in available funding to provide for additional  
22 custody and health services staff, and other factors may require future modifications to this  
23 order. The parties shall meet and confer, and consult with the California Corrections  
24 Standards Authority prior to bringing proposed modifications to this order agreement before  
25 the Court.

26 8. This order shall not apply to inmates on hold from other jurisdictions.

27 9. The Sheriff and County shall work together to add additional New Jail beds for  
28 the confinement of weekend prisoners by converting the existing video arraignment space in

1 the New Jail into a housing unit suitable for the confinement of inmates sentenced to jail for  
2 weekend confinement. This conversion, which will require construction of showers, the  
3 installation of telephones, security coverings, surveillance cameras, etc., shall be completed  
4 in a timely manner. The parties shall work with the California Corrections Standards  
5 Authority to ensure that the New Jail weekender unit meets the Corrections Standards  
6 Authority minimum standards concerning jail operational requirements (e.g. staffing,  
7 programs, etc.). The parties shall report to the Court concerning the status of this project as  
8 required in paragraph 11 below.

9 10. The Sheriff and County shall, in conjunction with the Court, work together to  
10 establish a Kings County Jail Overcrowding Task Force to address appropriate strategies to  
11 reduce jail overcrowding including but not limited to criminal justice system efficiencies,  
12 alternatives to incarceration, and the construction of additional jail beds.

13 11. Within ninety days following entry of this order, and every ninety days  
14 thereafter, the Sheriff and County shall independently report in writing to the court on the  
15 following issues:

- 16 A. Inmates releases based on this order during the reporting period, itemized by  
17 classification;
- 18 B. Retentions in custody, including failures to appear;
- 19 C. Progress made toward more effective use of the New Jail, including but not  
20 limited to the implementation of criminal justice system efficiencies, altheratives to  
21 incarceration, and the construction of additional jail beds;
- 22 D. Other matters deemed relevant to the issue of jail overcrowding in Kings  
23 County.

24  
25 **IT IS SO ORDERED**

26 Dated: \_\_\_\_\_

\_\_\_\_\_  
27 JUDGE OF THE SUPERIOR COURT

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