

6
FDB
HCA

Cut
Aug

JUDGE BURGESS
ENTERED MAGISTRATE JUDGE ARNOLD
ON DOCKET

OCT 20 1995

RECEIVED

NOV - 2 - 1995

OCT 31 1995

FRED DIAMONDSTONE

By Deputy *CMG*

CMG

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

OCT 3 1995

SANDRA HERRERA, et al.,)

Plaintiffs,)

vs.)

PIERCE COUNTY, et al.,)

Defendants.)

No. C95-5025 FDB

STIPULATED ORDER

The parties stipulate that the following Order should be entered in this case and that it shall be enforceable as a preliminary injunction, subject to the dispute resolution mechanism established by paragraph 6.1, below.

Dated this 30 day of October, 1995.

For Plaintiffs:

For All Defendants:

[Signature]
STEPHEN PARSONS, WSBA #23440

[Signature]
DOUG SUTHERLAND
Pierce County Executive

[Signature]
JOHN PURBAUGH, WSBA #19559

[Signature]
JOHN MIDGLEY, WSBA #6511

[Signature]
JOHN W. LADENBURG, WSBA #5705
Pierce County Prosecuting Attorney

[Signature]
SALVADOR A. MUNGIA, WSBA #14807

[Signature]
FRED DIAMONDSTONE, WSBA #7138
Attorneys for Plaintiffs

Herrera v. Pierce Co.



JC-WA-001-001

STIPULATED ORDER - 1

Puget Sound Legal Assistance Foundation
625 Commerce St., Suite 420
Tacoma, WA 98402
(206) 572-4343

1 ORDER

2 Introduction

3 1.1 The parties have conducted initial negotiations and agree that the
4 entry of a stipulated order is appropriate to address certain issues of immediate
5 importance on which the parties have agreed while further negotiations and
6 litigation proceed in accord with the Court's scheduling order.

7 Definitions

8 2.1 "Defendants" means the named defendants, their officials, officers,
9 agents, subordinates, and employees.

10 2.2 "PCDCC" means the Pierce County Detention And Corrections Center
11 operated by the defendants, which consists of the Main Facility at 910 Tacoma
12 Avenue South in Tacoma, WA; the Armory Annex located at 1001 Yakima Avenue
13 South in Tacoma, WA; and any other facility which may come into existence
14 during the pendency of this action.

15 2.3 "Interim or new permanent facility" means any building or structure
16 or portion thereof, other than the currently-used portions of the Main Facility
17 and Armory Annex, in which Pierce County officials or employees house or detain
18 or plan to house or detain prisoners.

19 2.4 "Acceptable numbers" means

20 1110 (after 01-01-96)

21 772 (after 07-1-96).

22 2.5 "Unacceptable numbers" means

23 1160 (after 01-01-96)

24 808 (after 07-1-96).

25 Population

26 3.1 Defendants shall, no later than July 1, 1996, reduce the population

1 of the Main Facility of the PCDCC to 772 or fewer prisoners, shall maintain the
2 population of the Main Facility at 772 or fewer prisoners, and shall maintain 772
3 beds in the Main Facility, distributed as follows:

4 628 existing beds

5 144 additional beds

6 772 total beds.

7 3.2 Any beds added to the Main Facility under the provisions of
8 paragraph 3.1 of this Order, and any beds installed in any interim or new
9 permanent facility, shall be installed in a way that provides safety to those
10 occupying the bed, including but not limited to being suicide-resistant by not
11 providing anchor points from which a prisoner could hang a ligature.

12 3.3 No prisoner in the custody of the defendants shall be housed in the
13 Armory Annex after July 1, 1996. Until July 1, 1996, the population of the
14 Armory Annex shall not exceed 154 prisoners at any time.

15 3.4 The population of the Main Facility of the PCDCC should not exceed
16 acceptable numbers except if temporarily required by unforeseen circumstances
17 which are not under the defendants' control. The population of the Main Facility
18 may never exceed acceptable numbers for more than the total number of
19 Saturdays, Sundays, and Legal Holidays (as defined by RCW 1.16.050, Pierce
20 County Code 3.52.040, or Tacoma Municipal Code 1.12.200) combined in any
21 calendar month. Whenever the population exceeds acceptable numbers due to
22 such unforeseen circumstances beyond defendants' control, defendants shall
23 reduce the population to acceptable numbers by the end of the next weekday that
24 is not a Legal Holiday.

25 3.5 Defendants shall be in violation of this Order whenever defendants
26 violate the conditions set forth in paragraph 3.4, or whenever the population

1 exceeds unacceptable numbers for more than 48 consecutive hours.

2 Beds and Prisoners Without Beds

3 4.1 No prisoner at PCDCC shall be required to sleep directly on the floor
4 or other surface without a mattress for any period of time, except for medical
5 reasons upon the express written order of a physician who has personally
6 examined the prisoner.

7 4.2 After July 1, 1996, no PCDCC prisoner shall be required to sleep on
8 a mattress on the floor for more than 72 hours during any stay in the PCDCC.
9 This provision does not apply to a prisoner assigned to a mattress on the floor by
10 written direction of licensed medical or psychiatric staff.

11 4.3 No prisoner shall be assigned to a mattress on the floor in medical or
12 psychiatric housing areas except upon the written direction of licensed medical or
13 psychiatric staff. No prisoner with a special medical condition reported at
14 booking, including but not limited to pregnancy, serious back pain, or recent
15 surgery, shall be assigned to a floor mattress without written direction from
16 licensed medical staff. No prisoner with a special medical condition reported at
17 booking such as, but not limited to, epilepsy or a physical condition affecting the
18 prisoner's mobility, shall be assigned to an upper bunk without written direction
19 from licensed medical staff.

20 4.4. No prisoner in the Armory Annex or any temporary or interim
21 facility shall be assigned to a floor mattress at any time. Every prisoner held in
22 the Armory Annex or a temporary or interim facility must be given a bed.

23 4.5 The defendants shall establish a method of tracking and recording in
24 writing which prisoners are assigned to floor mattresses and how long each such
25 prisoner has been assigned to a floor mattress. Defendants shall make all such
26 records available to plaintiffs' counsel on request, and shall provide the records

1 no later than one weekday that is not a Legal Holiday after receiving the request.
2 In case any prisoner is assigned to a floor mattress for more than 72 hours after
3 July 1, 1996, defendants shall document this fact and send notice to plaintiffs'
4 counsel, on forms to be agreed upon by the parties, of the name of the prisoner
5 and how long he or she has been assigned to a floor mattress.

6 Health Care

7 5.1 At a minimum, defendants shall increase the health care staff to, and
8 maintain staffing at, the following Full Time Equivalent (FTE) staffing:

9	Medical Doctor	1.0
	Psychiatrist	0.5
10	Dentist	0.5
	Mental Health Professional	3.0
11	Registered Nurse	5.0
	Licensed Practical Nurse	7.0
12	Physicians Assistant	3.0
	Medical Administrative Assistant	3.0
13	Mental Health Clerical Assistant	1.0
	Senior Physicians Assistant or	
14	Nurse (RN) Manager	1.0
	Pharmacist	2.0

15 All staff required by this paragraph shall be hired and begin working no later
16 than February 1, 1996.

17 5.2 The staffing provided for in the preceding paragraph is designed to
18 cover medical care needs in the Main Facility and Armory Annex with a combined
19 monthly average total prisoner population less than 1250, and does not
20 necessarily reflect medical staffing needs in any interim or new permanent facility
21 that defendants may establish. Staffing needs in any interim or new permanent
22 facility shall be addressed in further negotiations. In the event that average
23 monthly population of the Main Facility and Armory Annex combined exceeds 1250
24 in any calendar month, the parties agree that further medical staffing shall be
25 required and shall be negotiated between the parties at that time.

26 5.3 Defendants shall assure that beginning January 2, 1996 and

1 thereafter that at least one health care staff of at least licensed practical nurse
2 level is on site at the PCDCC twenty-four hours per day every day of the year to
3 respond to medical needs and emergencies occurring anywhere in the PCDCC, and
4 to assess prisoners being booked into the PCDCC whenever professional medical
5 assessment is needed.

6 5.4 Defendants shall, no later than February 1, 1996, implement a
7 procedure for handling all prisoner requests for medical care that complies with
8 Standards J-38 and J-39 of the 1992 Standards For Health Services In Jails of the
9 National Commission On Correctional Health Care.

10 Dispute Resolution

11 6.1 In the event the parties disagree over defendants' performance of
12 their obligations under this Order, the parties shall first meet and confer in good
13 faith in order to attempt to resolve the disagreement. If the parties are not able
14 to resolve the matter by meeting and conferring in good faith, plaintiffs may
15 proceed to request court enforcement.

16 Effect Of This Order

17 7.1 This Order addresses population in the Main Facility and Armory
18 Annex; some health care staffing and procedure issues, but not all health care
19 issues; and certain other matters regarding the conditions of confinement of
20 prisoners in the PCDCC. However, this Order does not finally resolve or
21 compromise any of plaintiffs' claims or any defense in this case, and does not
22 constitute an admission regarding liability by any party. Any issues, claims, or
23 defenses not specifically addressed in this Order remain in dispute between the
24 parties.

25 7.2 Notwithstanding any provision of state or local law to the contrary
26 defendants shall have the duty and authority to effect this order.

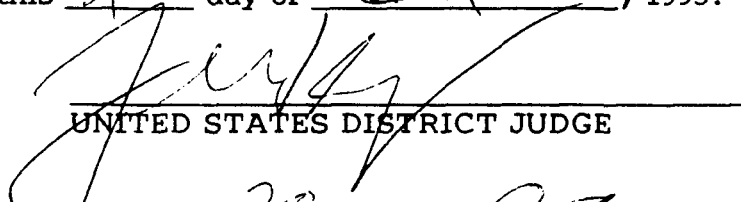
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Effective Date; Expiration

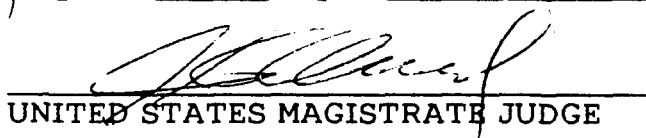
8.1 Except as otherwise specifically set out above, all provisions of this Order shall be effective immediately upon entry by the Court.

8.2 This Order shall remain in effect until further Order of the Court.

SO ORDERED this 31 day of Oct, 1995.


UNITED STATES DISTRICT JUDGE

Recommended for entry this 20 day of Oct, 1995.


UNITED STATES MAGISTRATE JUDGE