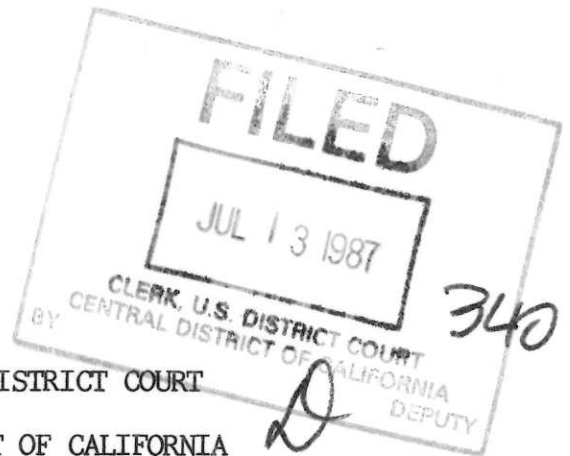


1 JOHN HAGAR
2 REBECCA JURADO
3 PAUL HOFFMAN
4 ACLU Foundation of
5 Southern California
6 633 South Shatto Place
7 Los Angeles, California 90005
8 (213) 487-1720

9 Attorneys for Plaintiffs

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA



12 GERALD GLEN BOYDEN; FRANK
13 CANNIZZARO; HORACE THOMAS;
14 ERNST GARCIA; DOUGLAS LYNUM;
15 ERROL JACKSON; and ROBERT
16 BEDIFORD,

17 Plaintiffs,

18 vs.

19 D. J. MC CARTHY; and OTIS
20 THURMAN,

21 Defendants.

22 NO. CV 86-1989-HLH(K)

23 SECOND AMENDED COMPLAINT

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PRELIMINARY STATEMENT

1. This class action for declaratory and injunctive relief is brought to challenge unconstitutional conditions and practices at the California Institute for Men (hereinafter "CIM") located in Chino, California. Specifically, this action challenges conditions of confinement in the three separate CIM facilities utilized as Reception Centers: CIM-Central, CIM-East, and CIM-West. This litigation does not address conditions of confinement at that portion of CIM which is know as "CIM Minimum." Two types of prisoners are confined at the three Reception Centers: (1) recently convicted prisoners are incarcerated at CIM Reception Centers as part of the Department of Corrections' initial classification and evaluation upon their entry into state prison; and (2) parole violators are confined at CIM while awaiting revocation hearings concerning alleged violations and while awaiting placement at other institutions within the Department of Corrections. The unconstitutional conditions complained of endanger the physical, emotional, and psychological well being of these prisoners, and deprive them of rights guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

JURISDICTION

2. This is a suit against California officials acting in their official capacities, authorized by 42 U.S.C. section 1983; to redress the deprivation, under color of state law, of rights secured by the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution. Jurisdiction is conferred on this court pursuant to 28 U.S.C., section 1331; 28 U.S.C., section 1343, providing for jurisdiction for claims arising under 28 U.S.C.,

1 section 1983; and under 28 U.S.C., sections 2201 and 2202, relating
2 to declaratory judgements.

3 **PARTIES**

4 3. Plaintiffs GERALD GLEN BOYDEN, FRANK CANNIZZARO, and HORACE
5 THOMAS are of majority age and at the time of the filing of the
6 original complaint, were incarcerated by the California Department
7 of Corrections in the CIM-Central Reception Guidance Center;
8 plaintiffs ERNEST GARCIA and DOUGLAS LYNUM were, at the time of the
9 filing of the Second Amended Complaint, incarcerated by the
10 California Department of Corrections in the CIM-West Reception
11 Guidance Center; and plaintiffs ERROL JACKSON and ROBERT BEDIFORD
12 were, at the time of the filing of the Second Amended Complaint,
13 incarcerated by the California Department of Corrections in the CIM-
14 East Reception Guidance Center. These named plaintiffs represent a
15 cross section of the transitory inmate population in the CIM
16 Reception Centers.

17 4. Defendant D.J. MC CARTHY was, at the time of the filing of
18 the original complaint, the Director of the California Department of
19 Corrections and legally responsible for the overall operation of the
20 Department and each institution under its jurisdiction; including
21 CIM.

22 5. Defendant OTIS THURMAN is the Superintendent of CIM. He is
23 legally responsible for the day to day operations of that
24 correctional facility.

25 **CLASS ACTION ALLEGATIONS**

26 6. Plaintiffs bring this action on their own behalf and on
27 behalf of all other inmates similarly imprisoned in CIM Reception
28 Centers pursuant to Rules 23(a) and 23(b) of the Federal Rules of

1 Civil Procedure.

2 7. The members of the plaintiffs' class are all present and
3 future convicted prisoners housed in the three CIM Reception
4 Centers, each of whom is subjected to the conditions and practices
5 alleged herein.

6 8. Plaintiffs are members of a class which at any given point in
7 time is comprised of more than four thousand members [for example,
8 on May 10, 1987, there were 1,089 inmates confined in CIM-East,
9 1,520 inmates confined in CIM-Central, and 1,310 inmates confined in
10 CIM-West]. The CIM Reception Centers' population is subject to
11 constant fluctuation, as recently convicted inmates and parole
12 violators enter the Department of Corrections while other Reception
13 Center inmates who have been classified or found guilty of a parole
14 violation are assigned more permanent housing in other California
15 prisons. Thus, the number of members in the class is both numerous
16 and ever-changing, so that joinder is impractical.

17 9. There are questions of law and fact common to all members of
18 the class; namely: do the practices and conditions alleged herein
19 violate the constitutional rights of the plaintiffs and the proposed
20 class?

21 10. The questions of law and fact which are common to members of
22 the class predominate over questions affecting only individual
23 members. Neither the differences in individual class members' legal
24 status nor other individual characteristics among the class members
25 are relevant to the questions raised by the allegations herein.

26 11. The plaintiffs' claims are typical of those of the members
27 of the class that they seek to represent. The defenses that the
28 defendants have raised and will raise are common to all members of

1 this class. The plaintiffs know of no conflict of interest among
2 members of the class with regard to the issues of this case, nor do
3 plaintiffs know of any interest which individual class members might
4 have in controlling or maintaining separate actions. Plaintiffs
5 will fairly and adequately represent the interests of the proposed
6 class as will the attorneys who represent them.

7 12. A class action is superior to other available methods for
8 the fair and efficient adjudication of this controversy, and the
9 plaintiffs know of no difficulties likely to be encountered in the
10 management of this case as a class action.

11 **FACTUAL ALLEGATIONS**

12 13. The CIM Reception Centers are located in in Chino,
13 California. They are maintained and operated by the California
14 Department of Corrections and are within the jurisdiction of the
15 Central District of California Federal District Court.

16 14. CIM-East was not designed as, nor originally used as a
17 Reception Center. It consists of 400 cells originally designated as
18 single cells because of their extremely small size and "over and
19 under" construction. Presently, each of those cells is double-
20 celled, and the CIM-East gymnasium, dayrooms, recreation rooms, and
21 television rooms have been converted as inmate housing units. The
22 Department of Corrections has set CIM-East's "design capacity" at
23 400 inmates, and it's "staffed capacity" [that number of inmates
24 which the Department feels can be confined in the facility given the
25 allocated correctional staff] at 856. As of May 10, 1987, there
26 were 1,089 inmates confined at CIM-East, 272.3% of design capacity.
27 The inmates confined at CIM-East are level III parole violators and
28 recently convicted felons. At present, the small recreation rooms

1 have been converted to eight man dorms, while large television rooms
2 are in the process of conversion [for example, the Colusa TV room
3 contains more than ten bunks which are not yet occupied]. In
4 addition, defendants have recently begun housing men in the East
5 Education building, which when complete, will render CIM-East more
6 than 300% of design capacity.

7 15. CIM-West was not designed as, nor originally used as a
8 Reception Center. It consists of approximately ten wooden frame
9 dormitories. The Department of Corrections has set CIM-West's
10 "design capacity" at 640 inmates, and it's "staffed capacity" at
11 1,097. As of May 10, 1987, there were 1,310 inmates confined at
12 CIM-West, 204.7% of design capacity. The inmates confined at CIM-
13 West are level I and II parole violators and recently convicted
14 felons.

15 16. CIM-Central was designed as a Reception Center. It consists
16 of six housing units of cells originally designated as single cells
17 because of their extremely small size and "over and under"
18 construction. Presently, each of those cells is double-celled, and
19 the CIM-Central gymnasium and dayrooms have been converted to inmate
20 housing units. The Department of Corrections has set CIM-Central's
21 "design capacity" at 618 inmates, and it's "staffed capacity" at
22 1,374. As of May 10, 1987, there were 1,563 inmates confined at
23 CIM-Central, 252.9% of design capacity. The inmates confined at
24 CIM-East are level IV [the highest security level in California
25 prisons] parole violators and recently convicted felons.

26 17. The prisoner population of the California Department of
27 Corrections has increased steadily since 1980. The December 1984
28 population was 43,314, by December 1986 it had risen to 59,484.

1 This increase is primarily due to three factors: (1) a continuing
2 increase in new admissions [of whom an increasing percentage are
3 recidivists]; (2) a steady increase in the number of parole
4 violators returning to prison; (3) an increasing number of parolees
5 being returned to prison pending investigation for revocation.

6 18. Despite almost unlimited funding and legislative support,
7 the Department of Corrections has failed to construct adequate
8 correctional facilities for this increasing population. When
9 California's Determinate Sentencing Law went into effect, the
10 Department took the position that there would not be an increase in
11 prison populations, contending that once a core group of career
12 offenders were incarcerated, the increase in prisoners would end.
13 Thereafter, the Department spent two years on a program to utilize
14 existing structures for prisons, subsequently abandoned that project
15 and implemented a massive prison building program. Not one of the
16 new prisons has been completed on schedule. Numerous prison
17 projects have been abandoned. Institutions have begun construction
18 for one classification of inmate and have been changed in middle of
19 construction into a different configuration for another
20 classification of inmate. The Department failed to obtain licensure
21 for their medical facilities, resulting in system wide litigation.
22 The Department overcrowded prisons without adequate staffing and
23 facility adjustments, resulting in Court ordered population caps at
24 San Quentin, CMF-South, and the California Mens Colony. The
25 Department failed to comply with instructions by the California
26 legislature to build at least one prison in Los Angeles County,
27 resulting in the Legislature refusing to open a men's prison in San
28 Diego and a women's prison in Stocton.

1 19. At the same time, the Department failed to construct
2 facilities for the housing of parole violators, despite departmental
3 statistical data showing both an increasing violation rate and an
4 increasing parole population. Because of the number of violators
5 and an inadequate staff of hearing officers, the 45 day standard for
6 revocation hearings has not been enforced [for example, the
7 Department admits to an average processing time of 65 days for
8 violators processed between July and December 1986], a situation
9 which has aggravated overcrowding. Until late 1986 the Department
10 refused to accept pre-hearing violators in their prisons, and
11 attempted to force their confinement in county jails. Federal Court
12 mandated population caps at the Los Angeles and Orange County Jails,
13 and the subsequent threat of County litigation against the
14 Department, has created the current Department practice of confining
15 violators in the two California Reception Centers, CIM and the
16 California Medical Facility.

17 20. The Department's Spring 1987 population projections for the
18 years 1987-1991 call for a continuation of increased admissions of
19 male felons, with the most significant increase being in drug
20 related crimes. That same projection predicts a steady increases in
21 the number of parole violators returned to prison. Despite this
22 increase in new commitments and parole violators, the Department has
23 not implemented plans for the construction of new Reception Centers,
24 nor have formal plans been submitted for another wave of prison
25 construction.

26 21. Approximately 212 inmates are housed in the CIM-Central
27 Gymnasium. That Gymnasium has inadequate fire prevention and fire
28 safety equipment. There is no automatic smoke detection equipment

1 and no sprinkler system. The emergency exits of the Gymnasium and
2 evacuation procedures are inadequate given the number of inmates
3 confined therein. It contains inadequate sanitary facilities,
4 including an inadequate number of toilets and showers. Sanitation
5 procedures and practices, including clothing exchange, are
6 inadequate and do not meet defendants' regulations. Hot water has
7 not been available to inmates on a regular basis. Inmates of
8 different classifications [from level I workers to level IV parole
9 violators] are confined together in the crowded, insecure
10 environment of the Gymnasium, necessitating the installation of a
11 twenty-four hour gun position, wherein a correctional officer
12 constantly "covers" Gymnasium inmates with an automatic rifle.
13 There exists no prior medical, security, and psychological screening
14 of inmates placed in the CIM-Central Gymnasium. Inmates are locked
15 into the Gymnasium for twenty-four hours per day. Although outdoor
16 exercise is scheduled, until the filing of this litigation is was
17 rarely granted, and when it was, inmates must choose between
18 exercise, use of the law library, purchases at the commissary, and
19 taking a shower. There are no CIM-Central facilities for indoor
20 exercise.

21 22. Approximately 200 inmates are housed in the CIM-East
22 Gymnasium. That Gymnasium has inadequate fire prevention and fire
23 safety equipment. There is no automatic smoke detection equipment
24 and no sprinkler system. The emergency exits of the Gymnasium and
25 evacuation procedures are inadequate given the number of inmates
26 confined therein. It contains inadequate sanitary facilities,
27 including an inadequate number of toilets [3], showers [1], urinals
28 [3], and sinks [3]. Sanitation procedures and practices, including

1 clothing exchange, are inadequate and do not meet defendants'
2 regulations. Hot water has not been available to inmates on a
3 regular basis. There exists no prior medical, security, and
4 psychological screening of inmates placed in the CIM-East Gymnasium.
5 Although outdoor exercise is scheduled, until the filing of this
6 litigation is was rarely granted, and when it was, inmates must
7 choose between exercise, use of the law library, purchases at the
8 commissary, and taking a shower. There are no CIM-East facilities
9 for indoor exercise.

10 23. Inmates are housed in converted dormitories in dayrooms,
11 recreation rooms, and television rooms at both CIM-East and CIM-
12 Central. As presently utilized, these housing areas provide
13 inadequate floorspace, evacuation, fire, safety, and sanitation
14 facilities [for example, there are no toilets or showers available
15 in certain East dayrooms, almost all other converted recreation and
16 dayrooms contain no showers for inmate use]. There are no showers
17 available for inmate use in the East Education Building presently
18 being "converted" for inmate housing.

19 24. Although CIM has requested funding for additional toilets,
20 sinks, urinals, and showers for the Gymnasiums and converted
21 dormitories, the Sacramento office of the Department of Corrections
22 has denied those requests. Defendants refuse to officially label
23 the converted Gymnasiums and dormitories as inmate housing units,
24 referring to them as "overflow" or "emergency housing" and thus
25 avoid providing minimum sanitation facilities. At the same time,
26 the Department of Corrections is unable to state when the
27 "emergency" will end.

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1 25. An excessive number of inmates are housed in each of the
2 CIM-West wooden frame dormitories. As presently utilized, these
3 housing areas provide inadequate floorspace, evacuation, fire,
4 safety, and sanitation facilities.

5 26. Inmates are housed under unconstitutional conditions in
6 double-cells in CIM-East and CIM-Central. Floorspace is inadequate.
7 No formal screening process exists prior to double-celling.
8 Although outdoor exercise is scheduled, until the filing of this
9 litigation is was rarely granted, and when it was, inmates must
10 choose between exercise, use of the law library, purchases at the
11 commissary, and taking a shower. There are no facilities for indoor
12 exercise, thus inmates spend an inordinate period of time each day
13 confined within the double-cells. There exists inadequate education
14 and work programs available to reception inmates and parole
15 violators during their CIM double-celled confinement.

16 27. Because of the above described overcrowding, generalized
17 problems exist which affect all CIM facilities:

18 A. There exists an inadequate number of correction staff, CIM-
19 East, CIM-Central, and CIM-West presently confine hundreds of
20 inmates more the Department's own "staffed capacity" level.

21 B. There exists an inadequate number of Department support
22 staff, including counselors and parole revocation hearing personnel,
23 a situation which delays the reception and revocation process and
24 aggravates CIM overcrowding.

25 C. Clothing exchange is not timely, nor are clothes properly
26 cleaned.

27 D. Inmates are not provided with an adequate time to eat.
28 East inmates complain that the messhall periodically does not have

1 adequate supplies of food. Inmates for Central, East, and West
2 complain about the quality of CIM food when compared to County Jail
3 meals.

4 E. Medical care is not timely, overcrowding related security
5 problems limit inmates' access to medical care.

6 F. Inmates are provided with inadequate opportunities for
7 indoor and outdoor exercise. Outdoor exercise yards are
8 inadequately supervised, and except for weight piles, little
9 recreational opportunities are available. Until the filing of this
10 litigation defendants failed to maintain records of which inmates
11 were provided with outdoor exercise. Indoor recreation has been
12 curtailed because of the conversion of recreation areas into inmate
13 housing.

14 G. Inmates are not provided with adequate access to the
15 Courts. For example, the CIM-East law library has fifteen seats,
16 available only during limited hours on a first come first serve
17 basis, for 1,089 inmates. Inmates are not provided with regular
18 hours of access to the law libraries, but must choose between
19 outdoor exercise, showers [defendants encourage inmates to shower in
20 the open areas outdoors because of inadequate showers in the housing
21 units], commissary, and the law library.

22 H. Because of the overcrowding at CIM, there exists inadequate
23 education and work assignments to alleviate the pressures and
24 restraints of CIM confinement.

25 28. The above mentioned conditions adversely affect inmates
26 during one of the most crucial periods of their state prison
27 confinement, while they are undoing tests and classifications that
28 determines how they will program for years in the future.

ADMINISTRATIVE REMEDIES

29. The plaintiff class has attempted to file numerous oral reports, written complaints, and administrative remedies and administrative appeals concerning the above mentioned unconstitutional conditions.

30. Inmate inquiries and requests for administrative remedies have been ignored by the defendants and their employees and agents. Inmates are told that the problem cannot be addressed by local officials as the orders for the crowded conditions at the CIM Reception Centers are coming from Department of Corrections headquarters in Sacramento.

31. Members of the plaintiff class are not confined at CIM for periods long enough to pursue effective administrative remedies, as the California Department of Corrections administrative remedy process does not function according to the time limits applicable to those Regulations which govern its operation.

CONTINUING CONTROVERSY

32. An equitable resolution of the dispute raised by the allegations of the plaintiffs on their own behalf and for the class they represent is required. Injunctive and declaratory relief is necessary in that the dispute is continuing and cannot be resolved by any available remedy at law.

CAUSES OF ACTION

33. The above described conditions in the Gymnasium in the CIM Reception Guidance Center violate the constitutional rights of the named plaintiffs and those in the class that they seek to represent:

A. By denying the plaintiffs and the class they represent the right to be free from cruel and unusual punishment, as guaranteed by

1 the Eighth Amendment of the United States Constitution.

2 B. By denying the plaintiffs and the class they represent the
3 right to access to the courts, as guaranteed by the Sixth Amendment
4 of the United States Constitution.

5 C. By denying the plaintiffs, and the class they represent,
6 due process and equal protection rights as guaranteed by the Fifth
7 and Fourteenth Amendment of the United States Constitution.

8 **WHEREFORE**, plaintiffs and the class they represent request that
9 this Court grant the following injunctive and declaratory relief:

10 A. A Preliminary Judgement which limits overcrowding in CIM
11 facilities not designed as housing units.

12 B. A Declaratory Judgement that the acts, policies and
13 practices of the officials of the California Institution for Men
14 herein described and complained of violate the plaintiffs rights
15 under the Constitution of the United States.

16 C. An Injunction which:

17 1. Defines the appropriate standards to be followed to
18 permanently correct the problems complained of in this complaint.

19 2. Requires the defendants to submit within 90 days of this
20 Court's judgement, orders, and declaration, a list of proposed
21 procedures, regulations, and physical plant improvements that comply
22 with this Court's judgement, orders, and declaration.

23 3. Sets a population cap for each and every housing unit
24 and converted recreational and/or education unit at CIM-East, CIM-
25 West, and CIM-Central.

26 D. Reasonable costs of suit and attorney fees incurred herein.

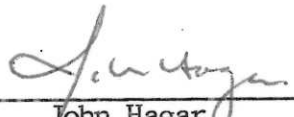
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1 E. Such other and further relief that this Court deems to be
2 appropriate and just.

3
4 Dated: July 10, 1987

5
6 JOHN HAGAR
7 REBECCA JURADO
8 PAUL HOFFMAN
9 ACLU Foundation of
10 Southern California

11 By 
12 John Hagar
13 Attorneys for Plaintiffs
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PROOF OF SERVICE BY MAIL

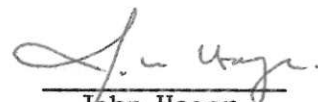
John Hagar declares:

I am over the age of 18 years, not a party to this action, a member of the bar of this Court, and employed in Los Angeles County, California.

On July 13, 1987 I deposited in the mail at Los Angeles, a copy of the attached SECOND AMENDED COMPLAINT in a sealed envelope, with postage fully prepaid, addressed to:

CAROL SLATER FREDERICK
Supervising Deputy Attorney General
3580 Wilshire Blvd., Suite 800
Los Angeles, CA 90010

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 13, 1987 at Los Angeles, California.



John Hagar

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