

1 (April 9, 1981), are now, or in the future may be, incarcerated
2 as inmates in the Yellowstone County Jail, Billings, Montana.

3 2. This Order and Decree is directed to the County of
4 Yellowstone, State of Montana, to the Board of County Commissioners
5 of Yellowstone County, to the Yellowstone County Sheriff, and to
6 the Head Jailer of the Yellowstone County Jail, without regard to
7 the individual or individuals who are members of said Board or
8 the holder of said office. The obligation for complying with the
9 provisions of this Order and Decree shall be upon the Board of
10 County Commissioners with respect to those matters which are
11 solely within the statutory duty and authority of said Board; and
12 shall be upon the Sheriff of Yellowstone County and Head Jailer
13 with respect to those matters which are solely within their
14 statutory duty and authority. Concerning those matters which are
15 within the joint, common or overlapping statutory duty and authority
16 of said Board, Sheriff, and Head Jailer, the obligation shall be
17 upon both said Board and Sheriff, jointly and severally.

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19 II. GENERAL MATTERS

20 3. The agreement of the parties and the provisions of this
21 Order and Decree are not to be construed to establish or modify
22 any standard of civil or criminal liability of any official,
23 employee, agent, or representative of Yellowstone County other
24 than for the sole and limited purpose of enforcement of this Order
25 and Decree.

26 4. The agreement of the parties and the terms of this Order
27 and Decree were voluntarily and mutually agreed upon by plaintiffs
28 and defendants as a compromise settlement of disputes between the
29 parties and neither said agreement nor this Order and Decree
30 constitute admissions by defendants that any previous or existing
31 condition, policy, procedure, act or omission of Yellowstone
32 County, its officials, employees, agents and representatives, was,

1 or is, in any way improper, negligent, unconstitutional, or in
2 violation of any rights of plaintiffs. Nothing in the agreement
3 of the parties or in the provisions of this Order and Decree
4 shall be deemed to constitute findings of fact or conclusions of
5 law with respect to the claims or defenses of the parties in this
6 action.

7 5. Neither the agreement of the parties nor the terms of
8 this Order and Decree shall be admissible in evidence in any
9 proceedings or trials other than for the sole and limited purpose
10 of the enforcement of this Order and Decree.

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12 III. JAIL POPULATION

13 6. The inmate population of the presently existing and
14 utilized facility of the Yellowstone County Jail shall be reduced
15 to, and thereafter maintained at, the level of 62 inmates with
16 said population distributed such that each inmate is assigned to
17 and/or provided with an individual bed or bunk in accord with the
18 manner in which said beds and bunks are presently constructed and
19 located in the now existing and utilized jail facility.

20 7. A temporary population level or distribution of population
21 resulting from an emergency or exigent circumstance occurring as
22 a result of the arrest and incarceration of numerous offenders
23 arising from a single incident, the arrest of a violent felon or
24 the incarceration of a violent person when such person cannot be
25 safely held in an appropriate treatment facility which exceeds
26 the requirement of paragraph 6 shall not be deemed a violation of
27 this Order provided that defendants, within 24 hours (or, if on
28 weekends, by noon on the next business day), reduce the population
29 and distribution thereof to the level set forth above. Defendants
30 shall provide to plaintiffs' attorneys, upon written request,
31 copies of jail population rosters showing the daily population
32 and distribution thereof.

1 IV. VENTILATION AND TEMPERATURE CONTROL

2 8. Defendants shall provide and maintain adequate venti-
3 lation and temperature control in the presently existing and
4 utilized facility of the Yellowstone County Jail.

5 9. To this end, defendants shall obtain the services of
6 The Montana Department of Health and Environmental Services or an
7 appropriately qualified consulting engineer for the purpose of
8 inspecting the jail and providing expert analysis concerning the
9 manner in which ventilation and temperature control in the jail
10 may be deficient and plans and recommendations concerning the
11 alternative methods for improvement and modification of the
12 facility so as to provide for adequate ventilation and temperature
13 control in accord with accepted engineering standards and practices.
14 Thereafter, defendants will implement such improvements and
15 modifications of the facility as are necessary to provide for
16 adequate ventilation and temperature control in the jail.

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18 V. SANITATION

19 10. The Yellowstone County Jail shall be maintained in a
20 sanitary condition and the plumbing systems in the jail shall be
21 maintained in a sanitary and serviceable condition. Adequate
22 maintenace, repair and modification of the plumbing systems shall
23 be undertaken to the extent necessary to maintain said systems in
24 a sanitary and servicable condition.

25 11. To this end, defendants shall obtain the services of
26 The Montana Department of Health and Environmental Services or an
27 appropriately qualified consulting sanitarian or engineer for the
28 purposes of inspecting the jail and providing expert analysis
29 concerning the manner in which sanitation in the jail may be
30 deficient and plans and recommendations concerning the alternative
31 methods for improvement and modification so as to provide for
32 adequate sanitation in accord with accepted standards and practices.

1 Thereafter, defendants will implement such improvements and
2 modifications of the facility as are necessary to provide for
3 adequate sanitation in the jail.

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5 VI. CLOTHING AND BEDDING

6 12. Uniforms, footwear, towels and bedding shall be kept
7 and maintained in good repair and shall be replaced as necessary.
8 Said items, as well as inmates' socks and undergarments, shall be
9 cleaned or laundered with sufficient frequency such that they can
10 be kept in a clean and sanitary condition.

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12 VII. STAFF

13 13. Defendants shall maintain an adequate staff level, both
14 in terms of number and training, such that the jail can be operated
15 in an efficient, adequate and secure manner.

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17 VIII. FIRE PROTECTION

18 14. Defendants shall provide and maintain adequate fire
19 protection in the Yellowstone County Jail in accord with the
20 standards and requirements set forth by the appropriate state
21 and/or local fire protection agencies.

22 15. To this end, defendants shall request that the State
23 Fire Marshall or other appropriate state or local fire official
24 to inspect the facility relative to fire protection; shall
25 thereafter take such steps as are necessary to bring fire
26 protection in the jail within substantial compliance with the
27 standards of said agency as required by the agency official; and
28 shall thereafter request said official to inspect, approve and
29 confirm substantial compliance with said standards and requirements
30 in a written report which will be submitted to the court.

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1 IX. VISUAL MONITORS

2 16. The visual monitor screens which view certain of the
3 cell areas in the Yellowstone County Jail shall be physically
4 shielded or otherwise modified such that they are not accessible
5 to general public view and can only be viewed by jail staff,
6 authorized law enforcement personnel and judicial officers, and
7 other duly authorized persons.

8 17. To the extent practicable, Defendants shall endeavor to
9 have males monitor male inmates and females monitor female inmates.

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11 X. LIGHTING

12 18. Defendants shall provide and maintain adequate lighting
13 in the jail.

14 19. To this end, defendants shall obtain the services of
15 The Montana Department of Health and Environmental Sciences or an
16 appropriately qualified consulting engineer for the purpose of
17 inspecting the jail and providing expert analysis concerning the
18 manner in which lighting in the jail may be deficient and plans and
19 recommendations concerning the alternative methods for improvements
20 and modification of the facility so as to provide for adequate
21 lighting in accord with accepted engineering standards and
22 practices. Thereafter, defendants will implement such improvements
23 and modifications of the facility as are necessary to provide for
24 adequate lighting in the jail.

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26 XI. RECREATION

27 20. The Yellowstone County Jail provides inmates with
28 access to an exercise room containing certain exercise equipment.
29 Said access is provided on a voluntary basis five days per week
30 (excluding Saturday and Sunday). Defendants will, in good faith,
31 attempt to determine whether it is feasible to extend access to
32 the exercise room to weekends and, if so, will do so. It is

1 recognized, however, that inmates incarcerated only on weekends
2 or for less than 72 hours, need not be provided access to the
3 exercise room. Defendants will generally seek to maximize access
4 to the exercise room and will attempt, in good faith, to provide
5 an opportunity for one hour of exercise per day per inmate.

6 21. Defendants will also attempt, in good faith, to maximize
7 access to reading materials, games, cards and other recreational
8 items and will periodically inspect said materials and replace
9 missing or damaged items as necessary.

10
11 XII. VISITATION

12 22. The presently existing and utilized visiting booths in
13 the Yellowstone County Jail shall be modified by the installation
14 of a telephonic device, or otherwise, so as to provide for
15 concurrent voice and eye contact between the inmate and the
16 visitor.

17 23. In addition, defendants shall attempt, in good faith,
18 to maximize the frequency and duration of visitations.

19
20 XIII. ACCESS TO COURTS AND INMATE DISCIPLINE

21 24. Issues relating to access to the courts and inmate
22 discipline are the subject of the Court's order dated March 9,
23 1982. Further proceedings concerning said issues will be in
24 accord with and pursuant to said order.

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26 XIV. IMPLEMENTATION, COMPLIANCE AND CONTINUING JURISDICTION

27 25. With respect to the matters which are the subject of
28 this Order and Decree, the Court shall retain continuing
29 jurisdiction for such time as may be necessary to implement,
30 modify or enforce its terms and provisions.

31 26. Defendants shall immediately undertake steps designed
32 to implement and comply with the terms of this Order and Decree;

1 and shall, within 45 days from the date upon which this Order and
2 Decree becomes final, submit to the Court and plaintiffs' counsel
3 a full report concerning those steps which have then been under-
4 taken, those matters which have been fully implemented, the
5 status of those matters concerning which implementation and
6 compliance is then in process, and those steps yet to be taken
7 toward implementation and compliance with the terms of this Order
8 and Decree. Said report shall include copies of all reports and
9 recommendations of the agencies or consultants required to be
10 utilized under the terms of this Order and Decree and shall
11 address each aspect of the conditions in the jail which are
12 addressed in this Order and Decree.

13 27. With respect to paragraphs 9, 11, 15 and 19, and in
14 the event defendants are unable to utilize the inspection and
15 consulting services of the governmental agencies referred to
16 therein, therefore being required to utilize private consultants,
17 defendants shall give prior notice to plaintiffs of their intent
18 to utilize the services of private consultants, including the
19 identity thereof.

20 28. Should defendants seek to modify the terms of this
21 Consent Order and Decree, seek to modify any approved plan of
22 implementation submitted in compliance with this Consent Order and
23 Decree, or fail to comply with the terms of this Consent Order and
24 Decree, and in the event that plaintiffs formally contest any such
25 modification or formally initiate any enforcement proceedings, and
26 in the further event that plaintiffs prevail in their formal
27 contest or enforcement proceedings, plaintiff shall be entitled to
28 recover costs, expenses and reasonable attorneys' fees incurred in
29 undertaking said proceedings.

30 29. Except as to continuing proceedings regarding the
31 implementation and enforcement of the terms of this Order and
32 Decree, this Consent Order and Decree resolves all matters at

1 issue between the parties in this action. Accordingly, all
2 allegations of plaintiffs' Complaint which are not specifically
3 covered by the terms and provisions of this Consent Order and
4 Decree, or by the Court's Order of March 9, 1982, are hereby
5 dismissed with prejudice.

6 30. Pursuant to Rule 23(e), Federal Rules of Civil Procedure,
7 plaintiffs shall provide notice of the entry of this Consent
8 Order and Decree to all inmates presently incarcerated in the
9 Yellowstone County Jail. The notice will include a statement
10 that this Consent Order and Decree is provisional until 15 days
11 after said notice during which time class members may submit to
12 the Clerk of this Court written objections to this Consent Order
13 and Decree which such objections will be fully considered by the
14 Court. This Consent Order and Decree will become final if not
15 rejected or modified by the Court based upon said objections
16 within 30 days from the entry hereof.

17 ORDERED, ADJUDGED AND DECREED this 30th day of August
18 1982.

19 James F. Battin
20 Chief United States District Judge
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