

1 McCUTCHEM, DOYLE, BROWN & ENERSEN  
 2 WARREN E. GEORGE  
 3 CHRISTOPHER C. MAGORIAN  
 4 CYNTHIA JO GRECO  
 Three Embarcadero Center  
 San Francisco, California 94111  
 Telephone: (415) 393-2000

5 DONALD SPECTER  
 6 MILLARD MURPHY  
 7 PRISON LAW OFFICE  
 Freedom Mall, Main Street  
 San Quentin, California 94964  
 Telephone: (415) 457-9144

8 BROBECK, PHLEGER & HARRISON  
 9 MICHAEL W. BIEN  
 10 Spear Street Tower  
 11 One Market Plaza  
 San Francisco, California 94105  
 Telephone: (415) 442-0900

ACLU FOUNDATION OF NORTHER  
 CALIFORNIA, INC.  
 MATTHEW A. COLES  
 1663 Mission Street  
 San Francisco, CA 94103  
 Telephone: (415) 621-2493



Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

15 JAY LEE GATES, HARVEY CANADAY, )  
 16 JEROLD DANIELS, RODGER PARKER, )  
 17 CARL KIMBROUGH, DENNIS WILBELY, )  
 18 LONNIE WEST, and TIMOTHY McCAPES )  
 Plaintiffs, )

18 vs. )

19 GEORGE DEUKMEJIAN, Governor of the )  
 20 State of California, N.A. )  
 21 CHADERJIAN, Secretary of Youth and )  
 22 Corrections Agency, JAMES ROWLAND, )  
 23 Acting Director of the Department )  
 24 of Corrections, NADIM KHOURY, M.D., )  
 25 Chief, Medical Services, EDDIE YLST )  
 26 Superintendent, California Medical )  
 Facility, KENNETH SHEPPARD, M.D., )  
 Medical Director, California Medical )  
 Facility, NICHOLAS POULOS, M.D. Chief )  
 Physician and Surgeon, California )  
 Medical Facility, V. MEENAKSHI, M.D., )  
 Chief Psychiatrist, California Medical )  
 Facility, and H. BENTON, M.D., Chief )  
 Psychiatrist, Northern Reception Center )

Defendants. )

No. CIVS 87-1636 LKK-JFN

AMENDED COMPLAINT -  
CLASS ACTION

NATURE OF ACTION

1  
2           1.     Plaintiffs, prisoners incarcerated at the  
3 California Medical Facility ("CMF") and at the Northern  
4 Reception Center ("NRC"), bring this action to remedy the  
5 constitutionally deficient medical care and psychiatric care  
6 that are presently being provided at CMF and NRC.

7           2.     These prisoner plaintiffs also contend that the  
8 conditions of confinement experienced by prisoners at CMF and  
9 NRC fall beneath the standards of human decency, inflict  
10 needless suffering on prisoners, create an environment which  
11 threatens the prisoners' mental and physical well-being, and  
12 result in the physical and mental deterioration and  
13 debilitation of such prisoners. These conditions of  
14 confinement are both unnecessary and penologically  
15 unjustifiable. Plaintiffs bring this action to remedy these  
16 conditions as well.

17           3.     Plaintiffs bring this action under 42 U.S.C.  
18 § 1983, the Eighth and Fourteenth Amendments of the  
19 Constitution of the United States on behalf of all inmates  
20 confined at CMF and NRC (but excluding CMF South) for  
21 declaratory and injunctive relief against California officials  
22 who have responsibility for, and complete control over, the  
23 health care and conditions of confinement of the plaintiffs.  
24 Defendants, although apprised of plaintiffs' medical and  
25 psychiatric needs, and needs for humane and appropriate  
26 conditions of confinement have, under color of state law,

1 repeatedly and persistently denied plaintiffs necessary medical  
2 and psychiatric care, and humane and appropriate conditions of  
3 confinement thereby subjecting them to severe and unnecessary  
4 physical pain and injury. Defendants have thus violated  
5 plaintiffs' rights under the Eighth and Fourteenth Amendments  
6 to the United States Constitution.

7 JURISDICTION

8 4. Jurisdiction is conferred upon this Court by 28  
9 U.S.C. § 1343. Plaintiffs seek declaratory relief under 28  
10 U.S.C. § 2201 and injunctive relief under 28 U.S.C. § 1343.

11 PARTIES

12 5. Plaintiffs are citizens of the United States who  
13 are presently confined at CMF and at NRC. Plaintiff Jay Lee  
14 Gates is a prisoner confined at CMF. He has been denied access  
15 to medical care, and deprived of access to the law library,  
16 during lockdowns at CMF. Plaintiff Harvey Canaday is a  
17 prisoner confined at CMF. He suffers from lung cancer.  
18 Although Mr. Canaday needs regular chemotherapy for his  
19 condition, defendants have failed and refused to provide such  
20 treatment. Plaintiff Jerold Daniels is a prisoner confined at  
21 CMF. He suffers from cancer of his lymphatic system. Mr.  
22 Daniels needs regular chemotherapy for his condition but  
23 defendants have failed and refused to provide such treatment.  
24 Plaintiff Rodger Parker is a prisoner confined at CMF. He  
25 suffers from, among other things, a life-threatening sleep  
26 apnea syndrome. Defendants have failed and refused to provide

1 appropriate medical treatment for his condition. Plaintiff  
2 Carl Kimbrough is a prisoner confined at CMF in the prison's  
3 "AIDS Wing." He has tested seropositive to the AIDS virus;  
4 i.e., he has developed antibodies to the human immunodeficiency  
5 virus. Defendants have failed and refused to provide  
6 appropriate medical and psychiatric treatment for his  
7 condition. Plaintiff Dennis Wilbely is a prisoner confined at  
8 CMF in the "AIDS Wing." He suffers from AIDS-Related Complex  
9 ("ARC"). Defendants have failed and refused to provide  
10 appropriate medical and psychiatric treatment for his  
11 condition. Plaintiff Lonnie West is a prisoner confined at CMF  
12 in the "AIDS Wing." He suffers from AIDS. Defendants have  
13 failed and refused to provide appropriate medical and  
14 psychiatric treatment for his condition. Plaintiff Timothy  
15 McCapes is a prisoner confined at NRC. He and the other named  
16 plaintiffs suffer from the pervasive impact overcrowding has  
17 had on the conditions of their confinement.

18 6. Defendant George Deukmejian is Governor of the  
19 State of California and the Chief Executive Officer of the  
20 state government. He is sued herein in his official capacity.  
21 As Governor he is obligated to supervise the official conduct  
22 of all executive and ministerial officers and to see that all  
23 offices are filled and their duties performed. Defendant  
24 Deukmejian has the authority to appoint and remove the  
25 subordinate defendants named herein. Governor Deukmejian  
26 retains the ultimate state authority over the care and

1 treatment of plaintiffs.

2 7. Defendant N.A. Chaderjian is Secretary of the  
3 Youth and Corrections Agency of the State of California and is  
4 sued herein in this capacity. The Youth and Corrections Agency  
5 supervises the operation of the California state prison system,  
6 including CMF and NRC.

7 8. Defendant James Rowland is the acting Director of  
8 the California Department of Corrections and is sued herein in  
9 that capacity. The Department of Corrections is responsible  
10 for the operation of the California State prison system,  
11 including CMF and NRC.

12 9. Defendant Nadim Khoury, M.D. is the Chief of  
13 Medical Services for the California Department of Corrections  
14 and is sued in this capacity. As Chief of Medical Services,  
15 Dr. Khoury is responsible for supervising the provision of  
16 medical and psychiatric care for all prisoners within the  
17 custody of the Department, including those at CMF and NRC.

18 10. Defendant Eddie Ylst is the Superintendent of  
19 CMF. He is sued in that capacity. Defendant Ylst is  
20 responsible for the daily operations at CMF and NRC.

21 11. Defendant Kenneth Sheppard, M.D. is the Medical  
22 Director of CMF and is sued in this capacity. He is directly  
23 responsible for the medical care provided to all prisoners at  
24 CMF and NRC. Defendant Nicholas Poulos, M.D., is the Chief  
25 Physician and Surgeon at CMF and is sued in this capacity.  
26 Defendant Poulos is directly responsible for the medical care

1 provided to prisoners at CMF and NRC.

2 12. Defendant V. Meenakshi, M.D. is the Chief  
3 Psychiatrist at CMF. She is sued in that capacity. Defendant  
4 Meenakshi is directly responsible for the psychiatric care of  
5 all prisoners confined at CMF. Defendant H. Benton, M.D. is  
6 the Chief Psychiatrist at NRC. He is sued in that capacity.  
7 Defendant Benton is directly responsible for the psychiatric  
8 care of all prisoners confined at NRC.

9 CLASS ACTION ALLEGATIONS

10 13. Plaintiffs bring this action on their own behalf  
11 and, pursuant to Rule 23(b)(1) and Rule 23(b)(2) of the Federal  
12 Rules of Civil Procedure, on behalf of all persons who are and  
13 will be confined at CMF and NRC, but not including CMF South.

14 (a) Approximately 6,000 prisoners are confined  
15 at CMF and NRC at the present time. Accordingly, the class is  
16 so numerous that joinder of all its members is impracticable.

17 (b) The conditions, practices and omissions that  
18 form the basis of this complaint are common to all members of  
19 the class and the relief sought will apply to all of them.

20 (c) The claims of the plaintiffs are typical of  
21 the claims of the entire class.

22 (d) The prosecution of separate actions by  
23 individual members of the class would create a risk of  
24 inconsistent and varying adjudications which would establish  
25 incompatible standards of conduct for the defendants.

26 (e) The prosecution of separate actions by

1 individual members of the class would create a risk of  
2 adjudications with respect to individual members which would,  
3 as a practical matter, substantially impair the ability of  
4 other members to protect their interests.

5 (f) Defendants have acted or refused to act on  
6 grounds generally applicable to the class, making appropriate  
7 injunctive and declaratory relief with respect to the class as  
8 a whole, or to particular subclasses.

9 (g) There are questions of law and fact common  
10 to the members of the class including defendants' violations of  
11 the Eighth and Fourteenth Amendments to the United States  
12 Constitution because of overcrowding, deficient medical care,  
13 and deficient psychiatric care.

14 (h) The named plaintiffs are capable, through  
15 counsel, of fairly and adequately representing the class and  
16 protecting its interests because they are prisoners confined at  
17 CMF who suffer from, among other things, defendants' violations  
18 of the Eighth and Fourteenth Amendments to the United States  
19 Constitution set forth in plaintiffs' statement of Class Claims.

#### 20 STATEMENT OF CLASS CLAIMS

##### 21 Overcrowding

22 14. CMF and NRC are, and are known by defendants to  
23 be, grossly overcrowded and understaffed. Currently, these  
24 institutions are operating at approximately 200% of design  
25 capacity. Classrooms, conference rooms, meeting rooms, and  
26 library areas have been converted to dormitory space in a

1 futile effort to deal with this overcrowding. These  
2 circumstances, in combination with deteriorated and inadequate  
3 physical facilities, have resulted in, among other things:

4 (a) The inhumane confinement of prisoners two to  
5 a cell. Confinement of two prisoners to a cell the size of  
6 those at CMF leaves no room for prisoners to move about within  
7 their cells, precludes the possibility of any semblance of  
8 privacy and unreasonably increases the hostility and the  
9 potential for violent conflicts between prisoners;

10 (b) At NRC double-celled prisoners are locked in  
11 their cells 24 hours a day, Monday through Friday, except for  
12 meals, showers, medical appointments and classification  
13 hearings. One of the inmates is forced to sleep on a mattress  
14 on the floor, resulting in a complete lack of floor space for  
15 both prisoners.

16 (c) Other NRC prisoners are crammed into  
17 dormitories, converted dayrooms, classrooms with 50 other  
18 prisoners with only two toilets and two showers. They have no  
19 physical access to the law library. They are not adequately  
20 supervised by correctional personnel.

21 (d) NRC prisoners often spend six months living  
22 in these conditions. During this time they are not eligible  
23 under California law to earn sentence reducing credits, as are  
24 most other California prisoners.

25 (e) An increase in the level of hostility and  
26 violence at CMF. Prisoners are not being kept in safe custody,



1 but instead are being subjected to discriminatory and arbitrary  
2 treatment and live in constant fear for their personal safety  
3 and even their lives;

4 (f) The imposition by prison officials of  
5 increasingly harsh and repressive security measures, including  
6 frequent lockdowns, in an attempt to forestall an outbreak of  
7 uncontrollable violence;

8 (g) Serious emotional and psychological problems  
9 for the prisoners and the prison staff. Prisoners and staff  
10 members are experiencing severe psychological symptoms of  
11 frustration, tension, paranoia and psychosis;

12 (h) Intolerable noise levels resulting from  
13 housing the prisoner population in open cell blocks;

14 (i) Food service facilities which are inadequate  
15 to serve the needs of the prisoner population, with the result  
16 that the food provided to prisoners is nutritionally  
17 inadequate, and the food service facilities and procedures fail  
18 to meet minimal public health and sanitation standards;

19 (j) Inadequate prison work and educational  
20 programs. Work programs have not been expanded to serve the  
21 increased prison population, and educational programs are being  
22 reduced. The result is a lack of constructive activity for  
23 prisoners;

24 (k) A "pass" system (used by defendants to  
25 control the movement of prisoners from place to place within  
26 CMF) which frequently fails and leads to unreasonable delays

1 and deprivation of access to visitation, religious, law  
2 library, health care and other facilities;

3 (l) An undermanned and inadequately trained  
4 administrative and security staff; and

5 (m) Denial of access to medical and psychiatric  
6 care, and denial of humane, safe, appropriate, and speedy  
7 medical and psychiatric care.

8 Psychiatric Care

9 15. Pursuant to defendants' policies and practices,  
10 prisoners at CMF and NRC are denied access to psychiatric care,  
11 are denied humane, safe, appropriate and speedy psychiatric  
12 care and are denied their rights to appropriate procedures  
13 prior to the administration of involuntary psychiatric  
14 treatment including involuntary psychiatric medication in the  
15 following ways:

16 (a) Professional staffing for treatment and  
17 handling of inmates with psychiatric illness is grossly  
18 inadequate. Consequently, prisoners with serious mental  
19 illness are often untreated.

20 (b) The absence of psychiatric staffing results  
21 in treatment of only a fraction of prisoners in acute care  
22 units requiring attention. Instead, attention is given largely  
23 to "crisis" cases. Lack of psychiatric staffing results in an  
24 inability to distinguish which prisoners are most in need of  
25 medical attention. Some prisoners are admitted to psychiatric  
26 units without legitimate psychiatric diagnoses, including

1 inmates who are merely disruptive.

2 (c) The psychiatric care units at CMF lack  
3 sufficient space to properly care for prisoners with mental  
4 illness. Pressure to make space available for new psychiatric  
5 admissions results in the discharge of prisoners to outpatient  
6 units before such discharges are medically warranted.  
7 Decisions regarding the release of prisoners from acute  
8 psychiatric care are based on shortage of space and custodial  
9 considerations, rather than proper medical factors.

10 (d) The health and safety of these prematurely  
11 discharged prisoners with mental illness is jeopardized by  
12 subsequent lack of treatment.

13 (e) The use of certain medications on patients  
14 with psychiatric problems, including psychotropic drugs,  
15 requires close medical supervision and testing. Prisoners at  
16 CMF who receive such drugs are inadequately monitored by  
17 medical or psychiatric staff. Prisoners are often not  
18 evaluated for adverse drug effects or toxicity.

19 (f) Suicide prone individuals are not properly  
20 identified and monitored. Suicide watches in psychiatric units  
21 are not properly monitored by medical staff. There is needless  
22 loss of life as a result.

23 (g) Prisoners at the "S-Unit" at CMF, the  
24 psychiatric ward, are continually locked up and have no access  
25 to an exercise yard.

26 / / /

1 (h) Violent or hostile prisoners with mental  
2 illness are treated with excessive and unsafe levels of force  
3 by prison officials. Prison protocol allows the use of  
4 electric-shock stun guns to subdue certain prisoners. At least  
5 one inmate with mental illness has died following use of a stun  
6 gun and other excessive force by prison officials.

7 (i) Prisoners' rights to refuse psychiatric  
8 commitment, to refuse medication, including powerful  
9 anti-psychotics, and to give full informed consent to  
10 psychiatric treatments, are frequently violated. The practices  
11 and procedures for determining whether or not a prisoner should  
12 receive involuntary psychiatric treatment and medication, and  
13 for administering such medication, are improper and  
14 inadequate. Neither are prisoners provided with sufficient  
15 information concerning side effects, alternatives, risks and  
16 benefits of psychiatric medications to give fully informed  
17 consent to such medication.

18 Medical Care

19 16. Pursuant to defendants' policies and practices,  
20 prisoners at CMF and NRC as a class are denied access to  
21 medical care and are denied humane, safe, appropriate and  
22 speedy medical treatment in the following ways:

23 (a) Prisoners are repeatedly denied access to  
24 necessary medical care both for conditions previously diagnosed  
25 as requiring a physician's care and for new conditions for  
26 which treatment is repeatedly requested or is obviously

1 necessary because:

2 (1) Medical Technical Assistants ("MTAs"),  
3 who control the issuance of sick-call passes and the  
4 arrangement of guard escort services, arbitrarily and  
5 unreasonably refuse to grant prisoners access to  
6 physicians and medical clinics;

7 (2) Security staff often fail to release  
8 prisoners seeking medical attention from work  
9 assignments and for non-medical reasons deny access to  
10 sick call;

11 (3) Staff shortages at the primary care  
12 outpatient clinics prohibit prisoners from receiving  
13 meaningful access to timely diagnosis and treatment  
14 for serious medical conditions;

15 (4) Staff shortages at the acute care  
16 clinics for the most serious medical problems prohibit  
17 CMF prisoners from receiving meaningful access to  
18 adequate treatment for chronic renal failure,  
19 diabetes, cancer, bone/joint/muscle injuries, and  
20 serious infectious diseases;

21 (5) Staff shortages during non-weekday  
22 hours, often amounting to only one physician for the  
23 entire prisoner population of CMF and NRC, result in  
24 grossly inadequate physician access for prisoners  
25 during evening and weekend shifts; and

26 / / /

1 (6) Defendants in charge of administrative  
2 segregation routinely deny prisoners access to needed  
3 medical aid.

4 (b) Prisoners receive constitutionally deficient  
5 medical care because:

6 (1) Untrained and unsupervised prisoners  
7 provide direct patient services to other prisoners;

8 (2) Untrained and unsupervised MTAs provide  
9 direct patient services to prisoners;

10 (3) The lack of medical staff prevents  
11 sufficient evaluation, diagnosis, and treatment of  
12 serious prisoner illnesses and acute medical  
13 conditions;

14 (4) Serious overcrowding among the prisoner  
15 population strains the medical and sanitation  
16 resources of CMF to a medically dangerous level and  
17 jeopardizes the health of the prisoners;

18 (5) Defendants refuse to allow outside  
19 specialists to provide necessary and vital medical  
20 care to prisoners who require it.

21 (6) Unsanitary conditions such as lack of  
22 showering and toilet facilities in the hospital  
23 directly and adversely affect the quality of health  
24 care services provided to prisoners at CMF;

25 / / /  
26 / / /

1 (7) Poor ventilation, inadequate natural  
2 lighting and overcrowding in the hospital unit  
3 exacerbate the deficient health care services provided  
4 to prisoners, and;

5 (8) There are not enough isolation units  
6 for acute medical/surgical problems which precludes  
7 effective medical care for prisoners with serious  
8 illnesses.

9 (c) Defendants needlessly and indifferently  
10 create serious medical risks to prisoners by:

11 (1) Failing to keep adequate or accurate  
12 medical records for prisoners which results in  
13 incomplete medical analysis and inconsistent  
14 medication treatment;

15 (2) Prescribing medication with obvious  
16 physical side effects such as vomiting and by ignoring  
17 prisoners' requests to discontinue such medications;

18 (3) Inadequately providing for the disposal  
19 of infectious waste and enhancing the potential for  
20 infectious disease among both sick and healthy  
21 prisoners;

22 (4) Ignoring prisoners' complaints of pain  
23 and refusing to administer pain medication despite  
24 clear and obvious need;

25 (5) Not providing medically appropriate  
26 special diets to prisoners who have colostomies,

1           bleeding ulcers, diabetes, or other conditions  
2           requiring special medical attention;

3                   (6) Employing the lethal "Taser" stun gun  
4           to immobilize prisoners for the involuntary injection  
5           of medication;

6                   (7) Prematurely transferring sick medical  
7           attention and return prisoners to their "home" prisons  
8           and endangering the recuperation of these prisoners;  
9           and

10                   (8) Refusing to inform prisoners of the  
11           diagnosis, treatment plan, side effects of medication,  
12           or the expected course of illness.

13    AIDS Unit

14                   17. Pursuant to defendants' policies and practices,  
15           certain prisoners at CMF are placed in an "AIDS Wing." Some of  
16           these prisoners are incorrectly diagnosed as having the AIDS  
17           virus. Prisoners in the "AIDS Wing" are confined in inhumane  
18           and unconscionable conditions, in the following ways:

19                   (a) Prisoners in the "AIDS Wing" are confined in  
20           cramped, double-celled conditions;

21                   (b) Prisoners in the "AIDS Wing" are confined in  
22           poorly lit and inadequately ventilated quarters, which serve to  
23           undermine their already compromised health and morale;

24                   (c) Prisoners in the "AIDS Wing" are not  
25           provided physical access to the law library nor do they have  
26           access to any "paging" system;



1 (d) Prisoners in the "AIDS Wing" have no access  
2 to the main exercise yard or to other programs or facilities in  
3 the prison and are instead confined in the "AIDS Wing"; and

4 (e) Prisoners in the "AIDS Wing" have less  
5 access to medical, psychiatric and other services and  
6 facilities than other prisoners confined at CMF and NRC.

7 18. Pursuant to defendants' policies and practices,  
8 prisoners who simply test positive for the AIDS antibody and  
9 are segregated in the "AIDS Wing" may be more likely to develop  
10 the disease if housed in the "AIDS Wing," since the presence of  
11 certain adverse factors such as stress, poor nutrition, lack of  
12 exercise, and exposure to opportunistic infections, all present  
13 in the "AIDS Wing," may increase their likelihood of developing  
14 AIDS.

15 19. Pursuant to defendants' policies and practices,  
16 the lives and well-being of prisoners confined in the "AIDS  
17 Wing" are severely endangered in that prisoners classified at  
18 different levels (e.g., parole violators, minimum, medium and  
19 maximum security risks) are all housed together, creating  
20 tensions and hostilities between all of these prisoners.

21 20. Pursuant to defendants' policies and practices,  
22 prisoners in the "AIDS Wing" are treated as a new class of  
23 lepers, cut off from contact with their peers and deprived of  
24 reasonable contacts with their families.

25 21. Pursuant to defendants' policies and practices,  
26 inmates in the "AIDS Wing" are, without rational or medical

1 purpose, deprived of opportunities for therapeutic occupational  
2 and educational activities and from desperately needed support  
3 services.

4 Segregation

5           22. Both NRC and CMF prisoners are placed in  
6 segregation units at their respective institutions. At NRC  
7 these prisoners are double-celled. Prisoners in these units  
8 suffer from lack of adequate exercise, poorly ventilated and  
9 lighted cells, and cold food. These prisoners gain access to  
10 physicians and other qualified medical personnel only through  
11 MTAs who are not properly trained or supervised to make initial  
12 screening decisions. These prisoners also do not have physical  
13 access to the law library, thereby preventing any meaningful  
14 access to the courts.

15 Access to Attorneys

16           23. In contrast to all other California prisons,  
17 prisoners at CMF and NRC cannot receive confidential visits  
18 from an attorney or a representative of an attorney unless the  
19 prisoner consents in writing before the visit or the attorney  
20 has been appointed by a court to represent the prisoner. As a  
21 result of this policy and practice, prisoners experience  
22 unnecessary and unreasonable delays in gaining access to  
23 attorneys, thereby suffering irreparable injury.

24           24. The cruel and inhumane conditions of confinement  
25 at CMF and NRC are not cruel and inhumane simply by accident.  
26 By their actions and inactions, defendants have caused and

1 exacerbated these cruel and unusual conditions in violation of  
2 the Eighth and Fourteenth Amendments to the United States  
3 Constitution and have permitted them to persist, in that, among  
4 other things:

5 (a) Defendants have long recognized that the  
6 conditions of confinement at CMF and NRC jeopardize the health  
7 and safety of the prisoners confined there;

8 (b) Although experts, within and without the  
9 employ of defendants, have made numerous recommendations for  
10 the elimination or alleviation of the inhumane incarceration of  
11 prisoners at CMF and NRC, defendants have done little to  
12 implement the recommendations of these experts or otherwise to  
13 terminate the illegal and unconstitutional confinement of  
14 prisoners at CMF;

15 (c) Defendants have expended, at best, a  
16 negligible portion of their available funds in recent years in  
17 ways reasonably calculated to alleviate the inhumane conditions  
18 at CMF and NRC; and

19 (d) Defendants have violated and are continuing  
20 to violate state laws governing conditions of confinement and  
21 medical and psychiatric care for prisoners at CMF and NRC.

22 25. As a result of defendants' repeated and  
23 continuing denial of necessary medical and psychiatric care,  
24 and as a result of defendants' repeated and continuing refusal  
25 to correct overcrowding, plaintiffs and the plaintiff class  
26 presently suffer unnecessary physical pain, mental anguish,

1 physical deterioration, and temporary or permanent disabilities.

2           26. By repeatedly and persistently denying plaintiffs  
3 and the plaintiff class necessary medical and psychiatric care,  
4 and as a result of defendants' repeated and continuing refusal  
5 to correct overcrowding despite repeated requests and obvious  
6 need as herein alleged, defendants, acting under color of state  
7 law, have acted with deliberate indifference depriving the  
8 plaintiff class of their rights to be free from cruel and  
9 unusual punishment as guaranteed by the Eighth Amendment to the  
10 United States Constitution.

11           27. By repeatedly and persistently denying plaintiffs  
12 and the plaintiff class necessary medical and psychiatric care,  
13 and as a result of defendants' repeated and continuing refusal  
14 to correct overcrowding despite repeated requests and obvious  
15 need as herein alleged, defendants, acting under color of state  
16 law, are depriving plaintiffs and the plaintiff class of their  
17 rights to due process as guaranteed by the Fourteenth Amendment  
18 to the United States Constitution.

19           28. By repeatedly and persistently denying plaintiffs  
20 and the plaintiff class prompt access to their attorneys,  
21 defendants, acting under color of state law, are depriving  
22 plaintiffs and the plaintiff class of their right to due  
23 process as guaranteed by the Fourteenth Amendment to the United  
24 States Constitution.

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WHEREFORE, plaintiffs pray that this Court:

A. Declare this suit is maintainable as a class action pursuant to Federal Rule of Civil Procedure 23(b)(1) and 23(b)(2);

B. Adjudge and declare that the conditions, practices, and omissions described above are in violation of the rights of the plaintiffs and the class they represent under the Constitution of the United States;

C. Enjoin defendants, their agents, employees, and all persons acting in concert with them, from subjecting plaintiffs and the class they represent to the unconstitutional conditions, practices and omissions described above;

D. Order the defendants to provide plaintiffs with medical and psychiatric care and conditions of confinement which are consistent with their constitutional rights.

E. Award attorneys' fees, costs, and such further relief as the Court may deem just and proper.

Dated: January 5, 1988.

McCUTCHEM, DOYLE, BROWN & ENERSEN

WARREN E. GEORGE

By \_\_\_\_\_  
Attorneys for Plaintiffs