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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ALEX ROSAS and JONATHAN GOODWIN, on behalf of themselves and of those similarly situated,	)	Case No. CV 12-00428 DDP (SHx)
	)	
	)	
	)	
	)	
Plaintiffs,	)	<b>ORDER GRANTING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND DENYING DEFENDANT'S MOTION TO DISMISS</b>
v.	)	
	)	
LEROY BACA, Sheriff of Los Angeles County Jails; PAUL TANAKA, Undersheriff, Los Angeles Sheriff's Department; CECIL RHAMBO, Assistant Sheriff, Los Angeles Sheriff's Department and DENNIS BURNS, Chief of Custody Operations Division, Los Angeles Sheriff's Department,	)	[Dkt Nos. 20, 36]
	)	
	)	
Defendants.	)	
_____	)	

**I. Introduction**

Presently before the court is Plaintiffs' Motion for Class Certification under Rule 23(b)(2). Having considered the submissions of the parties and heard oral argument, the court grants the motion and adopts the following order. The court notes

1 that the threshold for satisfying class certification requirements  
2 is relatively low. See Parkinson v. Hyundai Motor Am., 258 F.R.D.  
3 580, 594 (C.D. Cal. 2008). The granting of this class  
4 certification motion is a procedural step allowing this matter to  
5 go forward. It is not intended, and does not constitute an opinion  
6 on the ultimate merits of the lawsuit.

7 The court has great confidence in the leadership and integrity  
8 of both sides to this dispute. The parties have proved to be  
9 effective partners in crafting cooperative solutions to issues  
10 raised in other, related matters before this court. Nothing in  
11 this order shall be read to discourage the parties from continuing  
12 to pursue collaborative efforts to address jail-related matters of  
13 mutual concern.

14 **I. Background**

15 The Los Angeles County Sheriff's Department has the  
16 responsibility of running the largest and likely most challenging  
17 jail system in the country. It is a system which admits and  
18 discharges over 150,000 inmates a year and is responsible, among  
19 other matters, for delivering inmates to courthouses located  
20 throughout the county. The inmate population is comprised of  
21 individuals charged with crimes ranging from misdemeanors to  
22 homicides, and includes pre-trial detainees, inmates who have been  
23 convicted and sentenced, and, under California's "realignment"  
24 program, an increasing number of state prisoners.

25 A substantial portion of the inmate population has serious  
26 medical and mental health needs, disability issues, and drug and  
27 alcohol dependency problems. While many inmates are non-violent or  
28 low-level offenders, a significant number are hard-core gang

1 members or present other serious security threats. Inmates are  
2 often housed in outdated facilities that are long past their life  
3 cycles, and were never designed to accommodate inmates as numerous  
4 and complex as today's jail population. It is in this context,  
5 against a challenging backdrop of dwindling fiscal resources and an  
6 increasing inmate population, that the Sheriff's Department has  
7 endeavored to fulfill its custodial responsibilities to both  
8 inmates and the public.

9         The American Civil Liberties Union's mission, in part, is to  
10 protect inmates' constitutional rights, and further to ensure that  
11 inmates are housed in a safe, humane environment that provides  
12 opportunities for rehabilitation. Consistent with these interests,  
13 the ACLU's monitors have, by order of this court and with the  
14 cooperation of the Sheriff's Department, had access to the jail,  
15 inmates, and senior Sheriff's Department jail supervisors.

16         The Sheriff's Department and the ACLU have a long history of  
17 both litigation and collaboration on jail-related matters. During  
18 some of that history, this court has decided contested issues and  
19 worked with the parties to identify and resolve issues of mutual  
20 concern, often without the need of formal litigation. The Los  
21 Angeles County Office of Independent Review has also been of great  
22 assistance to the court and the parties in resolving disputes.

23         Here, the ACLU, on behalf of Plaintiffs, has presented  
24 evidence to the court and to the Sheriff's Department of alleged  
25 instances of deputy-on-inmate and inmate-on-inmate altercations.  
26 The ACLU asserts that such examples are the result of deficiencies  
27 in the management of the jail system. (First Amended Complaint ¶¶  
28 3, 13.)

1 The Sheriff's Department has acknowledged the ACLU's concerns,  
2 and has made commendable efforts to implement positive jail reforms  
3 and new initiatives, such as the establishment of new investigatory  
4 and management task forces. The ACLU has made significant  
5 contributions to these reform efforts. The court has no doubt that  
6 the Sheriff's Department and the ACLU sincerely share the common  
7 goal of making the downtown Los Angeles jail the best possible  
8 facility.

9 The court recognizes that, while the Sheriff's Department and  
10 ACLU continue to work together to achieve this common goal,  
11 differences may arise requiring a judicial resolution. This  
12 lawsuit is a vehicle by which the plaintiffs may seek relief.  
13 Here, Plaintiffs seek only declaratory and injunctive relief on  
14 behalf of themselves and other current and future inmates in the  
15 downtown Los Angeles Jail Complex.<sup>1</sup> (FAC ¶¶ 3, 215.) The  
16 plaintiffs do not seek monetary damages.

17 **III. Legal Standard**

18 The party seeking class certification bears the burden of  
19 showing that each of the four requirements of Rule 23(a) and at  
20 least one of the requirements of Rule 23(b) are met. See Hanon v.  
21 Dataprods. Corp., 976 F.2d 497, 508-09 (9th Cir. 1992). Rule 23(a)  
22 sets forth four prerequisites for class certification:

- 23 (1) the class is so numerous that joinder of all members  
24 is impracticable, (2) there are questions of law or fact  
25 common to the class, (3) the claims or defenses of the  
26 representative parties are typical of the claims or  
27 defenses of the class, and (4) the representative parties

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28 <sup>1</sup> The Jail Complex is comprised of three interconnected  
facilities: Men's Central Jail, Twin Towers Correctional Facility,  
and the Inmate Reception Center (collectively, "the Jails").

1 will fairly and adequately protect the interests of the  
2 class.

3 Fed. R. Civ. P. 23(a); see also Hanon, 976 F.2d at 508.

4 These four requirements are often referred to as numerosity,  
5 commonality, typicality, and adequacy. See General Tel. Co.  
6 v. Falcon, 457 U.S. 147, 156 (1982). In determining the  
7 propriety of a class action, the question is not whether the  
8 plaintiff has stated a cause of action or will prevail on the  
9 merits, but rather whether the requirements of Rule 23 are  
10 met. Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 178  
11 (1974). This court, therefore, considers the merits of the  
12 underlying claim to the extent that the merits overlap with  
13 the Rule 23(a) requirements, but will not conduct a "mini-  
14 trial" or determine at this stage whether Plaintiffs could  
15 actually prevail. Ellis v. Costco Wholesale Corp., 657 F.3d  
16 970, 981, 983 n.8 (9th Cir. 2011).

#### 17 **IV. Discussion**

##### 18 A. Federal Rule of Civil Procedure 23(a)

##### 19 1. Numerosity

20 Plaintiffs must first demonstrate that "the class is so  
21 numerous that joinder of all members is impracticable." Fed.  
22 R. Civ. P. Rule 23(a)(1). The Jails currently house  
23 thousands of inmates, and are certain to house many more in  
24 the future. The court therefore agrees with Plaintiffs'  
25 undisputed assertion that the numerosity requirement has been  
26 satisfied.

##### 27 2. Commonality

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1           Second, the Plaintiffs must demonstrate that "there are  
2 questions of law or fact common to the class." Fed. R. Civ.  
3 P. 23(a)(2). "Rule 23(a)(2) has been construed permissively.  
4 All questions of fact and law need not be common to satisfy  
5 the rule. The existence of shared legal issues with divergent  
6 factual predicates is sufficient . . . ." Hanlon v. Chrysler  
7 Corp., 150 F.3d 1011, 1019 (9th Cir. 1998). Indeed, "even a  
8 single common question will do," so long as that question has  
9 the capacity to generate a common answer "apt to drive the  
10 resolution of the litigation." Wal-Mart Stores, Inc. v.  
11 Dukes, 131 S.Ct. 2541, 2551, 2556 (2011) (citations, internal  
12 quotations, and alterations omitted).

13           Defendant argues that the commonality requirement is  
14 lacking here because "most class members have not been harmed  
15 in any way," and that the "common denominator" of having been  
16 subjected to the risk of misconduct is insufficient. (Opp.  
17 at 4-5.) In a civil rights suit such as this one, however,  
18 "commonality is satisfied where the lawsuit challenges a  
19 system-wide practice or policy that affects all of the  
20 putative class members." Armstrong v. Davis, 275 F.3d 849,  
21 868 (9th Cir. 2001) abrogated on other grounds by Johnson v.  
22 California, 543 U.S. 499 (2005). Under such circumstances,  
23 individual factual differences among class members pose no  
24 obstacle to commonality. Id.; see also Spalding v. City of  
25 Oakland, No. C11-2867 THE, 2012 WL 994644 at \*2 (N.D. Cal.  
26 March 23, 2012).

27           Here, Plaintiffs contend that Sheriff's department  
28 supervisors knew of, and were deliberately indifferent to, a

1 pattern or practice of deputies using or threatening violence  
2 against inmates and facilitating inmate-on-inmate violence.  
3 As a result, Plaintiffs assert, all class members are at  
4 significant risk of excessive violence at the hands of  
5 deputies. Resolution of these common questions is likely to  
6 yield a common answer to the Eighth and Fourteenth Amendment  
7 issues Plaintiffs have raised on behalf of all inmates. Rule  
8 23(a)(2)'s commonality requirement is, therefore, satisfied.

9           3.    Typicality

10           Rule 23(a) also requires a plaintiff to demonstrate that  
11 "the claims or defenses of the representative parties are  
12 typical of the claims or defenses of the class." Fed. R.  
13 Civ. P. 23(a)(3). "[R]epresentative claims are 'typical' if  
14 they are reasonably co-extensive with those of absent class  
15 members; they need not be substantially identical." Hanlon,  
16 150 F.3d at 1020. The complaint alleges that named Plaintiff  
17 Rosas was threatened by Sheriff's deputies after witnessing a  
18 display of excessive force against another inmate, and was  
19 later himself the target of violence. (FAC ¶¶ 220-223.) The  
20 complaint also alleges that named Plaintiff Goodwin was  
21 physically assaulted by deputies without provocation. (FAC  
22 ¶¶ 228-231.) While the precise nature of the injuries  
23 suffered by the named Plaintiffs may differ from those  
24 suffered by other class members, the complaint alleges that  
25 the same pattern and practice of violence, and deliberate  
26 indifference thereto, exposes every class member, including  
27 the named Plaintiffs, to the same risk of violent attack.

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1 Plaintiffs' claims are therefore typical of the claims of  
2 absent class members.

3 4. Adequacy

4 Finally, the plaintiffs must demonstrate that "the  
5 representative parties will fairly and adequately protect the  
6 interests of the class." Fed. R. Civ. P. 23(a)(4).  
7 "Resolution of two questions determines legal adequacy: (1)  
8 do the named plaintiffs and their counsel have any conflicts  
9 of interest with other class members and (2) will the named  
10 plaintiffs and their counsel prosecute the action vigorously  
11 on behalf of the class?" Hanlon, 150 F.3d at 1020.

12 Defendant points to no conflict of interest among  
13 Plaintiffs' counsel, but asserts that counsel is nevertheless  
14 inadequate by dint of alleged misconduct in a related case.  
15 (Opp. at 5.) Defendant's contention is without merit.

16 Defendant also argues that named Plaintiffs Goodwin and  
17 Rosas are inadequate class representatives because they have  
18 not shown that they are likely to suffer from unlawful  
19 deputy-on-inmate violence in the future, and therefore lack  
20 Article III standing.<sup>2</sup> (Opp. At 6-7.) In order to  
21 demonstrate an injury in fact sufficient to confer standing,  
22 a plaintiff must demonstrate an "invasion of a legally  
23 protected interest which is (a) concrete and particularized,  
24 and (b) actual or imminent, not conjectural or hypothetical."  
25 D'Lil v. Best W. Encina Lodge & Suites, 538 F.3d 1031, 1036

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27 <sup>2</sup> This argument also serves as the basis for Defendant's  
28 separately filed Motion to Dismiss Plaintiffs' First Amended  
Complaint (Dkt. No. 45).



1 (9th Cir. 2008), citing Lujan v. Defenders of Wildlife, 504  
2 U.S. 555, 560-61 (1992). Defendant argues that the named  
3 Plaintiffs have not shown an imminent harm.

4 To support his argument, Defendant relies primarily upon  
5 City of Los Angeles v. Lyons, 461 U.S. 95 (1983). In Lyons,  
6 a plaintiff sought injunctive relief after police officers  
7 allegedly applied a chokehold on the plaintiff at a traffic  
8 stop, without provocation. Lyons, 461 U.S. at 97. The  
9 Court held that because the plaintiff could not show a real  
10 and immediate threat that he would again be stopped and  
11 placed in a chokehold, he could not make a showing of  
12 irreparable injury and, therefore, lacked standing to pursue  
13 injunctive relief. Id. at 105, 111.

14 Lyons, however, is readily distinguishable. Unlike the  
15 plaintiff in Lyons, who could do no more than speculate that  
16 he might someday once again interact with law enforcement  
17 officers, Plaintiffs here remain incarcerated in the Jails,  
18 and will necessarily come into frequent contact with  
19 Sheriff's deputies, including some of the very deputies who  
20 are alleged to have engaged in unlawful violent activity.  
21 Furthermore, Plaintiffs here have alleged a widespread  
22 pattern of violence and indifference to that violence,  
23 supported by numerous declarations from inmates, experts, and  
24 civilian witnesses. Where defendants have engaged in a  
25 pattern of injurious acts in the past, "there is a sufficient  
26 possibility that they will engage in them in the near future  
27 to satisfy the 'realistic repetition' requirement" necessary  
28 to demonstrate an actual injury. Armstrong, 275 F.3d at 861;

1 see also LaDuke v. Nelson, 762 F.2d 1318, 1324 (9th Cir.  
2 1985) (distinguishing Lyons from case involving a standard  
3 pattern of unconstitutional behavior). Having alleged a  
4 pattern of unlawful behavior that is likely to recur, the  
5 named Plaintiffs here have demonstrated injury in fact, and  
6 are adequate class representatives.

7 B. Federal Rule of Civil Procedure 23(b)

8 A party seeking class certification must also  
9 demonstrate that at least one of the following three  
10 conditions is satisfied: (1) the prosecution of separate  
11 actions would create a risk of: (a) inconsistent or varying  
12 adjudications, or (b) individual adjudications dispositive of  
13 the interests of other members not a party to those  
14 adjudications; (2) the party opposing the class has acted or  
15 refused to act on grounds generally applicable to the class;  
16 or (3) questions of law or fact common to the members of the  
17 class predominate over any questions affecting only  
18 individual members, and a class action is superior to other  
19 available methods for the fair and efficient adjudication of  
20 the controversy. See Fed. R. Civ. P. 23(b); Dukes v.  
21 Wal-Mart Stores, Inc., 603 F.3d 571, 580 (9th Cir. 2010) (en  
22 banc).

23 As noted above, Plaintiffs here seek certification under  
24 Rule 23(b)(2). Defendant contends that Plaintiffs have  
25 provided no evidence whatsoever that Rule 23(b)(2) is  
26 satisfied. (Opp. at 3.) The FAC clearly alleges, however,  
27 that Sheriff's command and supervisory staff have been and  
28 remain aware of the alleged pattern and practice of unlawful

1 violence and are deliberately indifferent to it. The  
2 complaint further alleges that multiple deputies ignored  
3 named Plaintiff Rosas' requests for a complaint form. (FAC ¶  
4 223.) Plaintiffs have also submitted expert declarations  
5 stating that Defendant has failed to rein in deputies'  
6 abusive behavior. (See, e.g., Declaration of Thomas Parker  
7 in Support of Plaintiffs' Motion for Class Certification ¶  
8 10). In light of these allegations, the court is satisfied  
9 that Plaintiffs have sufficiently demonstrated that the party  
10 opposing the class has acted or refused to act on grounds  
11 generally applicable to the class.

12 **V. Conclusion**

13 For the reasons stated above, Plaintiff's Motion to  
14 Certify Class is GRANTED.<sup>3</sup> The court hereby certifies a class  
15 comprised of all present and future inmates confined in the  
16 Jail Complex in downtown Los Angeles, pursuant to Federal  
17 Rule of Civil Procedure 23(b)(2). The court reiterates that  
18 the certification of the plaintiff class has no bearing on  
19 the viability or veracity of Plaintiffs' claims. The court  
20 remains available to assist the parties in mediating  
21 disputes, while recognizing the possibility that further  
22 litigation may also be necessary.

23 IT IS SO ORDERED.

24  
25 Dated: June 7, 2012

  
DEAN D. PREGERSON  
United States District Judge

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27 \_\_\_\_\_  
28 <sup>3</sup> For the reasons discussed in Section III.A.4, supra,  
Defendant's Motion to Dismiss the FAC is DENIED.