

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

No. CIV S-90-0520 LKK JFM P

vs.

ARNOLD SCHWARZENEGGER,
et al.,

Defendants.

ORDER

On May 14, 2007, the special master filed a supplemental report and recommendations on defendants' plan to prevent suicides in administrative segregation. The report contains a series of recommendations for court orders requiring action by defendants. On May 29, 2007, defendants filed a response and objections to the special master's report and recommendations.

In the report, the special master finds that "the reliance on inmate day labor may be a major obstacle to more rapid completion" of small management yards which are necessary for outdoor exercise for inmates in administrative segregation. (Report, filed May 14, 2007, at 3.) Defendants request that this finding be amended to indicate that, for several reasons, the use of inmate day labor may expedite completion of the yards. (Defendants' Response to Special Master's Report, filed May 29, 2006, at 2.) At this stage of the proceedings, the court is not

1 prepared to make any specific findings concerning the use of inmate labor for these projects,
2 including whether the use of such labor would help or hurt the timely completion of the small
3 management yards. Defendants' request for an amended finding will be denied without
4 prejudice. Defendants may present additional information and evidence to the special master
5 concerning the use of inmate labor in the construction of small management yards and the special
6 master may, as appropriate, tender additional findings to the court concerning the use of such
7 labor in one of his subsequent semi-annual monitoring reports.

8 The special master's first recommendation is as follows:

9 Within 90 days defendants should be required to submit a plan that
10 will satisfy their need for sufficient small management yards to
11 meet Title 15 exercise requirements for inmates in administrative
12 segregation. This plan should call for the funding and completion
13 of construction of the remaining yards by the end of fiscal year
14 2008/2009. The plan should also include provisions for better
15 utilization of the existing small management yards and
16 coordination with available staff to maximize yard usage.

17 (Report, at 10.) Defendants object to that part of this recommendation that would require them to
18 complete construction of all required small management yards for administrative segregation use
19 by the end of fiscal year 2008/2009. Defendants contend that the "organizational resources"
20 required to meet this task "are also being called upon to meet the constitutional needs of inmates
21 for proper medical, mental health, and dental treatment spaces and to meet the statutory mandates
22 of AB 900" and that the "organizational resources must now be evaluated in light of those
23 multiple and often competing demands before any further commitments can be made."

24 (Defendants' Response, at 3.)

25 At present, defendants have only 719 of the 1,480 small management yards
26 required to give necessary out of cell exercise time to inmates in administrative segregation.
(Report, at 3.) Eighty-six additional yards are under construction, and defendants are presently
seeking legislative authority to fund 179 additional yards in fiscal year 2007/08. (Defendants'
Response, at 3.) If that funding were approved, defendants then planned to seek funding for an

1 additional 179 yards for fiscal year 2008/09. (Id.). They do not plan to complete building all the
2 necessary yards until 2012. (Report, at 3.) As the special master found, 2012 is “simply too
3 late.” Defendants’ objection will be overruled.

4 The only other recommendation to which the defendants interpose an objection is
5 the recommendation that they perform within sixty days an assessment of the space needs for
6 providing confidential mental health interviews. Defendants seek ninety days to complete this
7 assessment. The special master reports that defendants have not conducted the assessments
8 promised in their October 2006 plan for determining the resources needed to provide sufficient
9 space for confidential mental health interviews. (Report, at 8.) Beyond making the request for
10 more time, defendants tender no reason why the assessment cannot be completed on the schedule
11 recommended by the special master. Defendants’ objection will be overruled.

12 In accordance with the above, IT IS HEREBY ORDERED that:

13 1. Defendants’ request to amend the factual finding of the special master
14 concerning the use of inmate day labor in the construction of small management yards is denied
15 without prejudice.

16 2. Defendants’ objections to the special master’s May 14, 2007 report are
17 overruled.

18 3. The special master’s May 14, 2007 report and the recommendations contained
19 therein are adopted in full.

20 4. Within ninety days from the date of this order defendants shall submit a plan
21 that will satisfy their need for sufficient small management yards to meet Title 15 exercise
22 requirements for inmates in administrative segregation. This plan shall call for the funding and
23 completion of the remaining yards by the end of fiscal year 2008/2009. The plan shall also
24 include provisions for better utilization of the existing small management yards and coordination
25 with available staff to maximize yard usage.

26 5. Within sixty days from the date of this order, defendants shall accomplish the

1 following:

- 2 a. develop a plan to require each institution to train
3 staff on accurate logging of 30-minute welfare
checks and to track and self-monitor compliance
with the performance of these checks;
- 4 b. provide budgetary figures for the construction of
5 the physical features of the non-stand alone intake
cells;
- 6 c. submit a report on each institution's capability to
7 provide televisions and/or radios to inmates in
administrative segregation;
- 8 d. submit a status report on the implementation of
9 the suicide history tracking system and a plan to
train staff in its use and improve access to suicidal
history data at all relevant times;
- 10 e. provide a specific assessment of their space
11 needs for providing confidential mental health
12 interviews; and
- 13 f. produce evidence that required CPR refresher
14 training was accomplished by submitting
documentation of the required proof of practice.

15 6. Defendants shall include the following in the report on enhanced outpatient
16 programs in administrative segregation required by this court's March 9, 2007 order:

- 17 a. their plan for modification of the present
18 requirement that allows ICC reviews for inmates in
19 administrative segregation. Defendants should
20 consider conducting ICC reviews every 45 days for
those inmates awaiting disposition of referrals to
local district attorneys and possibly for all mental
health caseload inmates who have been held in
21 administrative segregation over 90 days.
22 Defendants should also consider transferring
inmates in administrative segregation to more
appropriate placements pending processing of their
23 DA referrals; and

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b. a breakdown of the numbers of administrative segregation inmates currently awaiting transfer to the sensitive needs yards.

DATED: May 31, 2007.

Lawrence K. Karlton
LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT