

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

RALPH COLEMAN, et al.,

Plaintiffs,

No. 2:90-cv-0520 LKK JFM P

vs.

EDMUND G. BROWN, JR., et al.,

Defendants.

ORDER

On June 12, 2012, Defendants filed an ex parte request that this Court modify certain existing orders relating to their long-range mental health bed plan filed over a two-year period between 2009 and 2010. In addition, Defendants submitted data related to a revised mental health bed plan that they recently submitted for legislature review and funding.

Defendants' existing long-range mental health bed plan was based on Navigant Consulting's spring 2009 population projections to 2013. Defendants' newly revised plan uses mental health bed need projections to 2013, but updates the projected need based on McManis Consulting's spring 2012 population projections. John Misener (previously with Navigant Consulting) is the lead author and forecaster for the spring 2012 population projections.

Defendants request that the Court modify its January 4, 2010 order to the extent that it requires Defendants to create bed capacity based on the spring 2009 population

1 projections. Defendants seek an order requiring them to create bed capacity based on the spring  
2 2012 population projections. Defendants also ask the Court to modify or vacate several of its  
3 prior orders relating to bed capacity, facility use, and or full occupancy date so that they can  
4 fully implement their revised mental health bed plan.

5 On June 13, 2012, plaintiffs filed a response in part agreeing with and in part  
6 opposing defendants' application.

7 Good cause appearing, IT IS HEREBY ORDERED AS FOLLOWS:

8 1. The Court's January 4, 2010 order (Docket No. 3761) approving in  
9 substantial part Defendants long-range mental health bed plan shall be modified to allow  
10 Defendants to implement their revised mental health bed plan:

11 a. Defendants shall substitute McManis Consulting's spring 2012  
12 population projections to 2013 in place of Navigant Consulting's spring 2009 population  
13 projections to 2013.

14 b. Based on concerns raised by the Special Master and Plaintiffs, the  
15 Court orders Defendants to continue working with the Special Master to clarify the use of  
16 "trued" projections. The Special Master shall include Plaintiffs in this process as appropriate.

17 c. Based on concerns raised by the Special Master and Plaintiffs, the  
18 Court orders Defendants to continue working with the Special Master to address the issue of  
19 incorporating Defendants' use of alternative placements and Outpatient Housing Units for  
20 inmates who require crisis care in future Mental Health Bed Need population projections. The  
21 Special Master shall include Plaintiffs in this process as appropriate. To the extent this process  
22 identifies increased mental health crisis bed need above that projected by the McManis spring  
23 2012 projections, Defendants shall be required to ensure adequate beds to meet this need.  
24 Excess capacity built into the revised bed plan can be used to meet this need.

25 d. Defendants' proposed revised bed plan does not include a  
26 sufficient number of male EOP ASU beds. Pursuant to paragraph 1(b) of this order, defendants

1 will continue to work with the Special Master to clarify the use of “trued” projections. As part  
2 of this process, defendants shall ensure that sufficient EOP ASU beds are planned. The Special  
3 Master shall include plaintiffs in this process as appropriate.

4           2.       The following orders concerning construction and conversion projects in  
5 Defendants’ existing bed plan shall be modified to allow Defendants to implement their revised  
6 mental health bed plan:

7                   a.       January 4, 2010 (Docket No. 3761) with respect to Construction  
8 and Conversion Projects at Salinas Valley State Prison, California Medical Facility, California  
9 State Prison, Sacramento, California Health Care Facility, Estrella, and Stark:

10                           (1).     Salinas Valley State Prison - revise 27 short-term  
11 EOP-ASU beds (converted to permanent in existing long-range mental health bed plan) to 19  
12 EOP-ASU beds;

13                           (2).     California Medical Facility - revise the project to construct  
14 treatment and office space for the existing EOP-GP and EOP-ASU populations and convert  
15 existing housing for 67 EOP-GP male inmates with a project to construct treatment and office  
16 space only;

17                           (3).     California State Prison, Sacramento - revise the project to  
18 construct treatment and office space and convert housing for 152 PSU male inmates with a  
19 project to construct treatment and office space and convert housing for 128 PSU inmates;

20                           (4).     Salinas Valley State Prison - revise the project to construct  
21 treatment and office space for 300 EOP-GP inmates and convert existing housing for 108  
22 EOP-GP male inmates with a project to construct treatment and office space only;

23                           (5).     California Health Care Facility - revise the project to  
24 construct 137 MHCBs, 43 Acute beds, and 432 ICF beds with a project to construct 98 MHCBs,  
25 82 Acute beds, and 432 ICF beds;

26 /////

1 (6). Estrella - eliminate the project to construct 150 EOP-GP  
2 beds and 40 EOP-ASU beds; and

3 (7). Stark - eliminate the project to construct 30 MHCBS.

4 b. September 24, 2009 (Docket No. 3686), ordered full staffing and  
5 activation by 2013; January 4, 2010 (Docket No. 3761), approved Dewitt subject to 2013 full  
6 occupancy date; and March 24, 2010 (Docket No. 3823), ordered Dewitt to be fully occupied by  
7 the end of 2013 with respect to Dewitt:

8 (1). Revise the project full occupancy date so that Defendants  
9 are not required to fully occupy Dewitt by the end of 2013. Defendants are granted an extension  
10 to and including May 31, 2014 to fully occupy Dewitt. Defendants shall file an activation  
11 schedule for Dewitt consistent with this order and prior orders.

12 c. January 4, 2010 (Docket No. 3761), ordered bed plan for 70  
13 female EOP-GP inmates with respect to Central California Women's Facility:

14 (1). Revise the project to construct treatment and office space  
15 and convert existing housing unit beds to 70 EOP-GP beds with a project to construct treatment  
16 and office space for the existing 54 EOP-GP beds only.

17 d. October 18, 2007 order (Docket No. 2461), approving Defendants  
18 August 2007 supplemental bed plan that included project to convert housing to 150 EOP-GP  
19 beds and to construct treatment and office space to service 150 EOP-GP inmates; and January 4,  
20 2010 order (Docket No. 3761), approving conversion and construction project with respect to  
21 California State Prison, Los Angeles County:

22 (1). Revise the project to construct treatment and office space  
23 and convert housing for 150 EOP-GP inmates with a project to construct treatment and office  
24 space for 100 EOP-ASU inmates only.

25 e. June 18, 2009 (Docket No. 3613), approving short and  
26 intermediate-term projects with respect to California State Prison, Los Angeles County:

1 (1). Make Defendants' short-term project to add 20 temporary  
2 EOP-ASU beds permanent;

3 f. June 21, 2010 (Docket No. 3865):


4 (1). Richard J. Donovan Correctional Facility - make  
5 Defendants' intermediate-term project to create a 150-bed Level IV Enhanced Outpatient  
6 Program-Sensitive Needs Yard program permanent.

7 3. Based on concerns raised by the Special Master and Plaintiffs concerning  
8 Defendants' revised bed plan, the Court also orders the following:

9 a. No currently operating temporary mental health program will be  
10 decommissioned unless there is adequate alternative capacity to accommodate future need in that  
11 level of care. In addition, at least thirty days before decommissioning any operating temporary  
12 mental health program, Defendants shall notify the Special Master of their intent to  
13 decommission the program and shall provide a copy of that notice to Plaintiffs' counsel.

14 b. Defendants' request to modify the number of intermediate care  
15 facility beds available at Atascadero State Hospital from 256 to 206 is premature. Further  
16 consideration of the request is deferred until the hearing set for July 13, 2012.

17 DATED: June 15, 2012.

18  
19  
20   
21 LAWRENCE K. KARLTON  
22 SENIOR JUDGE  
23 UNITED STATES DISTRICT COURT  
24  
25  
26