UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

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

Defendants.

No. CIV. S-90-520 LKK/DAD (PC)

ORDER

Pursuant to court order, on September 24, 2013 the Special Master filed a Report on the Salinas Valley Psychiatric Program (SVPP) (Report) (ECF No. 4830). The Report contains numerous findings concerning the delivery of mental health care to class members at SVPP. Based on those findings, the Special Master makes six recommendations for orders to address inadequacies identified in the Report. Defendants have filed objections to and a motion to strike or modify the Report (ECF No. 4868). Plaintiffs have filed a response to the Report and a request for additional recommendations and orders (ECF No. 4867). Pursuant

to Fed. R. Civ. P. 53(f), the matters objected to are reviewed de novo.[1]

A. Defendants' General Objections

Defendants interpose two general objections to the Report and a number of specific objections to the recommendations contained therein. First, defendants contend that this court's July 11, 2013 order (ECF No. 4688) requiring the Special Master to issue the report was improper because it "contravenes the plain language" of restrictions contained in 18 U.S.C. § 3626(a)(1)(A) for prospective injunctive relief. Defs. Objs. (ECF No. 4868) at 3. Defendants renew their contention that the court could not order the Special Master to report to the court on care provided at SVPP, arguing (1) the Department of State Hospitals (DSH) was not a party to this case at the time of the original trial in 1995; (2) DSH care has "never been subject to the Special Master's supervisory powers" since the remedial phase of this action began; (3) the court's order "improperly imputed liability to DSH for the constitutional violations found against different Defendants in 1995;" and (4) the court did not, in its July 2013 order, find that DSH was violating the Constitution in its provision of hospital care to members of the plaintiff class. Id. at 3. The court already considered and rejected these contentions. See Order filed July 11, 2013 (ECF No. 4688) at 4-9; Order filed September 5, 2013 (ECF No. 4784) at 2-5. A few points bear repeating.

[1] All reports provided by the Special Master to the parties in accordance with the Order of Reference filed December 11, 1995 (Doc. No. 640) are reviewed under the standards set forth in that order. The Report at bar was filed directly with the court.

First, for the reasons explained in the court's September 5, 2013 Order, the provisions of 18 U.S.C. § 3626(a)(1)(A) do not apply to the court's order directing the Special Master to monitor inpatient mental health programs. See Order filed September 5, 2013 (ECF No. 4784) at 2-3. Monitoring by a Special Master is not "relief" within the meaning of that statute. See id.

Second, the monitoring ordered by this court in the July 11, 2013 order is necessary to a complete remedy in this action. In 1995, this court found the Governor of the State of California and the California Department of Corrections and Rehabilitation defendants in violation of their Eighth Amendment obligation to provide seriously mentally ill inmates with ready access to constitutionally adequate mental health care. See Coleman v. Wilson, 912 F.Supp. 1282 (E.D.Cal. 1995). The California Department of Corrections and Rehabilitation (CDCR) defendants are the custodians of the members of the plaintiff class and have the primary legal responsibility for providing constitutionally adequate mental health care to members of the plaintiff class.[2] See In re Estevez, 165 Cal.App.4th 1445, 1463 (Cal. App. 5 Dist. 2008) (even where federal receiver appointed, "the state, and through its appointed representative, the warden, cannot abdicate

[2] The plaintiff class consists of "all inmates with serious mental disorders who are now, or who will in the future, be confined within" the CDCR. July 23, 1999 Order & Stip. & Order Amending Plaintiff Class & Application of Remedy appended thereto at 2. All members of the plaintiff class are in the legal custody of the CDCR and, pursuant to state regulation, "remain under the jurisdiction" of CDCR when housed in Department of State Hospitals. 15 C.C.R. § 3369.1(c).

its constitutional responsibility to provide adequate medical care, concomitant with which is the duty to assure said care is not dispensed without any regard for the effect on the prison system as a whole.")

The remedial phase began with appointment of a Special Master, who was tasked first with working with defendants to develop a plan to remedy the "gross systemic failures in the delivery of mental health care" and thereafter with monitoring defendants' implementation of that plan. Coleman v. Brown, ___ F.Supp.2d ___, 2013 WL 1397335 (E.D.Cal. Apr. 5, 2013), slip op. at 1. The remedial plan, known as the Revised Program Guide, was developed over a decade of effort and most of its provisions were given final approval by this court in 2006. See id. at 12.[3] The Revised Program Guide includes provisions governing delivery of inpatient hospital care, and provides in relevant part:

> The California Department of Corrections and Rehabilitation (CDCR) is responsible for providing acute and intermediate inpatient care, in a timely manner, to those CDCR inmates clinically determined to be in need of such care. CDCR currently maintains a contract with the California Department of Mental Health (DMH) to provide acute and long-term intermediate inpatient mental health care to inmate-patients.

Program Guide, 2009 Revision, at 12-6-1 (footnote added).

Delivery of constitutionally adequate inpatient mental health care to class members is a necessary part of complete

[3] The version of the remedial plan under which defendants are currently operating is identified as the Mental Health Services Delivery System Program Guide, 2009 Revision. It will be referred to herein as the Revised Program Guide or the Program Guide; all citations will be to the 2009 Revision.

remediation of systemic Eighth Amendment violations in the delivery of prison mental health care in California and full compliance with defendants' own remedial plan. At all relevant times in the remedial phase of this action CDCR has contracted with DMH to provide most of the inpatient hospital care for class members, and the Director of DMH has therefore been joined in this action as a necessary party to the remedy.[4] However, as this court has previously explained, that contractual arrangement does not relieve the CDCR defendants in this action of their constitutional obligation to provide ready access to adequate hospital care, which also runs to DMH and its successor the Department of State Hospitals(DSH) as long as it maintains a contract with that agency to provide inpatient care to members of the plaintiff class. See Order filed July 11, 2013 (ECF No. 4688) at 8 (citing West v. Atkins, 487 U.S. 42, 56 (1988).

Finally, the court rejects defendants' suggestion that a separate finding of constitutional violations in the delivery of inpatient care is required to support the monitoring ordered in the July 11, 2013 order. The July 11, 2013 order arose in the context of ongoing remediation of systemic Eighth Amendment violations in the delivery of constitutionally adequate mental health care to California's seriously mentally ill prisoners which has been monitored by a Special Master since 1995 and is part of that remedial process. The order is also based on

[4] The Department of State Hospitals (DSH) is the current name for the state agency that provides inpatient mental health hospital care for CDCR inmates and was referred to as DMH earlier in this remedial process. See Twenty-Fifth Round Monitoring Report filed January 18, 2013 (ECF No. 4298) at 33 n.11.

significant and troubling evidence of serious deficiencies in the delivery of inpatient care to class members. See Order filed September 5, 2013 (ECF No. 4784) at 4-5 (quoting Order filed July 11, 2013 (ECF No. 4688) at 10-11). Nothing further is required.

For the foregoing reasons and those set forth in this court's July 11, 2013 and September 5, 2013 orders (ECF Nos. 4688 and 4784), defendants' first general objection is overruled.

Defendants' second general objection is that the Special Master's recommendations "are not tethered to constitutional standards." Defs. Objs. (ECF No. 4868) at 3. This objection is frivolous. The Special Master's recommendations focus on (1) staffing levels; (2) the adequacy of treatment provided at SVPP, particularly individualized and group therapy; (3) the impact of so-called Orientation or Cuff Status on timely access to adequate care; (4) delays in transfer to SVPP; and (5) timely provision of basic necessities including clean clothing, bedding, and towels. Report (ECF No. 4830) at 44-45. The recommendations are grounded in the fundamental requirement that defendants provide a "'system of *ready* access to *adequate* [mental health care, '" Coleman v. Brown, ___ F.Supp.2d ___, 2013 WL 1397335, slip op. at 16 (quoting Hoptowit v. Ray, 682 F.2d 1237, 1253 (9th Cir. 1982)). All but the last directly concern several of the components required for such a system, components which have been repeatedly identified by this court. See id.[5] Defendants' second general objection is overruled.

[5] The last recommendation implicates the fundamental Eighth Amendment requirement that prison institutions provide inmates in their care with adequate clothing and sanitation, see Hoptowit, 682 F.2d at 1246, as well as the adequacy of conditions that

B. Defendants' Specific Objections

1. Staffing/Programming

The Special Master's first recommendation is that SVPP be directed to fill remaining staffing vacancies, giving priority to filling psychiatry, psychology, and social work positions, and consider modifying its planned staff-to-patient ratio of 1:35. Report (ECF No. 4830) at 45. His second is that SVPP "be directed to increase significantly the amount and quality of individualized and group therapy provided." Id. The two are interrelated: the Special Master reports that

> [c]urrently, SVPP does not have the capacity or the resources to provide basic therapeutic and rehabilitative mental health support, services, and treatment to its inpatients in a coordinated, comprehensive, and individualized manner that is consistent with accepted standards for forensic and other hospital settings. The 1:35 clinical staffing ratio adopted by SVPP is inadequate for individual clinician caseloads as well as for admissions units and treatment teams. Clinician-to-patient staffing ratios in the field of inpatient psychiatric programs are more customarily 1:15 for admissions units, which conduct initial assessments and stabilization of newly arrived patients, and 1:25 for treatment units.

Report (ECF No. 4830) at 10. See also Report at 11 ("Staff often acknowledge the need for improvement in some of the areas identified by the monitor's expert, as discussed below, but they cited the shortage of staffing resources as a major obstacle to implementing them.")

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directly impact the care of inmate-patients housed at SVPP.

Defendants raise a number of objections to these recommendations and the findings on which they are based. Defendants' objections and the declaration in support thereof contain little if any substantive disagreement with the findings of the Special Master concerning staffing levels at SVPP during the period monitored by the Special Master.[6] Significantly, in an apparent acknowledgement that more staff is needed, defendants represent that SVPP "is already undertaking dramatic measures to recruit staff." Defs. Objs. (ECF No. 4868) at 5. Defendants assert that these efforts make a court order unnecessary. Id.

As noted above, the Special Master's recommendation concerning staffing levels is directly related to his recommendation to increase the quantity and quality of

[6] Defendants presently have a 1:35 staff to patient ratio for psychiatrists, psychologists, social workers, and rehabilitation therapists. See Report (ECF No. 4830) at 9. Defendants do not object to the Special Master's finding that social workers' caseloads average approximately 40 patients. See id. at 8. Defendants agree with the Special Master's finding that there were 8 psychologists on staff at SVPP as of August 9, 2013; they do not address his finding that one was due to transfer to the Correctional Health Care Facility (CHCF) in October 2013. Defendants do object to the Special Master's finding that as of August 22, 2013, there were five line psychiatrists and one chief psychiatrist, with contractors providing "some additional hours of coverage." Report at [cit.] Defendants' evidence, which consists of the declaration of Pam Ahlin, is insufficient to contravene the Special Master's finding. Ms. Ahlin avers that on August 22, 2013 there were eight psychiatrists on staff "not including the second positions worked by 2 full-time psychiatrists." It is unclear whether defendants are suggesting that there were eight psychiatrists, two of whom were working second positions, or something else. In any event, defendants' evidence is insufficient to contradict the Special Master's findings concerning the number of psychiatrists on staff at SVPP in August 2013.

individualized and group therapy at SVPP. The latter recommendation is based on several findings, including:

- "The amount of weekly group therapy per patient was too limited for the intermediate level of care, at only four to six hours per week on average";
- "The quality of group treatment was inconsistent and ranged from very poor to excellent";
- "Psychologists appeared to have an overly-narrow role and to be underutilized";
- "Individualized therapy by psychologists and social workers was not provided regularly and occurred rarely for most patients, even when prescribed by an IDTT,[7] when clinically indicated, or when requested by patients."

Id. at 4. Defendants interpose a number of objections to the findings concerning the quantity and quality of therapy provided, none of which contravene in any significant way the serious inadequacies reported by the Special Master.[8] Moreover, as with

[7] IDTT stands for Interdisciplinary Treatment Team. See Report (ECF No. 4830) at 12.

[8] Defendants first object that refusal to attend group therapy can be and is a basis for transfer of an inmate to SVPP which "explains, in part, the group therapy refusal rate of inmate-patients who have recently transferred to" SVPP. Defs. Objs. (ECF No. 4868) at 7. This objection is not responsive to the Special Master's findings concerning the insufficient amount of therapy available at SVPP.

Defendants next object that the Special Master's comparison of therapy received by inmate-patients at SVPP with the minimum number of therapy hours required for the Enhanced Outpatient (EOP) level of care is "inaccurate and unfair." Id. Defendants contend the Special Master should have "counted the number of group hours offered by [SVPP] and added to that number the hours

of individual therapy, recreational and occupational therapy with a clinician, and work and educational programs offered to inmate-patients." Id. Defendants also object that the Special Master does not explain how he arrived at the finding that weekly group therapy at SVPP is limited to an average of four to six hours per week, and they contend their evidence filed in opposition to plaintiffs' motion concerning access to inpatient care "demonstrated provision of group therapy at a significantly higher rate." Id. These objections are without merit. Defendants are correct that the "[t]en hours per week of scheduled structured therapeutic activities" required at the EOP level of care includes more than just group therapy. See Program Guide, 2009 Revision, at 12-4-9, 10. However, the Special Master's Report includes findings about other therapy and programming provided at SVPP, including individual therapy and "solo treatment activity/solo programming", which show that these other forms of therapy and programming do not materially increase the quantity or quality of programming offered to inmate-patients at SVPP. See Report (ECF No. 4830) at 18-22. Finally, the evidence cited by defendants about the amount of group therapy offered at SVPP is from March and April 2013, see Dec. Gaither (ECF No. 4602) at ¶¶19-20, while the Special Master's report is based on findings from three visits between July 31 and August 22, 2013. Report at 2, 14-15. Defendants have presented no evidence of therapeutic program hours from July or August 2013 that calls into question the Special Master's findings.

Finally, defendants suggest that the Special Master should have based his recommendation on therapy hours offered, not hours received, because the Program Guide only requires that EOP inmate-patients be offered ten hours of therapy, not that they receive ten hours of therapy. Defs. Objs. (ECF No. 4868) at 7; see Program Guide at 12-4-8. Had defendants presented evidence to the Special Master or to this court that they were in fact offering sufficient therapeutic programming at SVPP to meet therapeutic requirements for an ICF level of care (which presumably in most instances will over the course of a hospitalization, as the Special Master observes, exceed that required for EOP inmate-patients), this objection might merit further consideration. However, defendants represent that they have only begun to implement a program for tracking individual and group therapy hours, see Decl. of Ahlin at ¶ 16, and they have not presented any data from that tracking system concerning therapy hours offered. Absent such evidence, however, this objection is overruled.

The Special Master found significant deficiencies in the quantity and quality of therapy offered to inmate-patients at SVPP. Defendants acknowledge that SVPP "is in the process of

staffing levels defendants also represent that SVPP "is in the process of improving its group programming," "acknowledge that changes to group therapy can be and is" being made, and that they have been developing and implementing a program for tracking individual and group therapy hours. Defs. Objs. (ECF No. 4868) at 7-8.

After de novo review, the court will adopt in full the Special Master's factual findings concerning staffing levels and therapy provided at SVPP. However, in light of defendants' representations concerning their efforts to recruit and hire staff and to improve the quantity and quality of therapy provided to inmate-patients and SVPP and the fact that the Special Master is continuing to monitor SVPP and other DSH inpatient programs pursuant to the July 11, 2013 order, the court will not make specific orders concerning staffing or therapy at this time. Orders concerning staffing and the quantity and quality of therapy will be deferred pending a further report and recommendations from the Special Master.

2. Orientation Status/Cuff Status

The Special Master recommends that SVPP "be directed to reconsider and re-evaluate its use of Orientation Status to automatically require patient cuffing whenever out-of-cell and withhold mental health programming or treatment other than a daily cell-front contact by a member of the interdisciplinary

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improving its group programming." Defs. Objs. (ECF No. 4868) at 7. Defendants have not presented any evidence that calls into question the Special Master's findings concerning the inadequacies in individualized and group therapy at SVPP. Defendants' objections are overruled.

treatment team." Report (ECF No. 4830) at 45. He also recommends that SVPP "be directed to eliminate the use of Cuff Status to require automatic cuffing of patients when out-of-cell, overriding of patients' designations, and barring of patients' access to out-of-cell individual and group treatment." Id. Defendants contend the Special Master has failed to adequately weigh the safety and security needs that undergird use of Orientation Status. They characterize their objections to the recommendation concerning Cuff Status as a motion to modify the Special Master's findings concerning Cuff Status; however, they specifically request that the recommendation be rejected. Defs. Objs. (ECF No. 4868) at 9-10.

As reported by the Special Master, both Orientation Status and Cuff Status are part of a "status and staging paradigm" used at SVPP to set housing and programming for inmate-patients. Report (ECF No. 4830) at 23. The Special Master reports that all inmate-patients arriving at SVPP are placed on Orientation Status, which means that they

> are housed in a single cell for up to 14 days, have only personal hygiene items for property, and must be cuffed at all times they are outside of their cells (i.e. they are effectively on Cuff Status) until they are cleared by an ICC [Institution Classification Committee] to program without such restrictions. Patients on Orientation Status are to be seen daily by an IDTT member at the patient's cell front, but according to the SVPP Program Manual, they do not have additional programming.

Report (ECF No. 4830) at 23. After inmate-patients are released from Orientation Status, they program through three Stages. See

id. Cuff Status is a "behavior-driven" return to the conditions of Orientation Status. Report (ECF No. 4830) at 25. The SVPP Program Manual requires that inmate-patients "'who engage in aggressive/threatening behavior, assaultive behavior and indecent exposure" be placed on Cuff Status. Id. (quoting SVPP Program Manual, Section 6.12.) Cuff Status placement "overrides" the Stage to which an inmate-patient has progressed and requires handcuffs and escort by an MTA whenever an inmate it out of cell. Id. The Special Master describes in detail the procedures for Cuff Status, as well as the documentation required for that status. Id.

Defendants contend that the Special Master has not adequately considered the safety and security concerns in recommending that the use of Orientation Status and Cuff Status be reviewed and re-evaluated. This objection is without merit. The Special Master recommends review and re-evaluation of the use of Orientation Status and Cuff Status in light of the impact placement in these statuses has on hospitalized inmate-patients' access to necessary mental health care. See Report (ECF No. 4830) at 5.

Orientation Status and Cuff Status require the same restricted housing conditions and extremely limited programming for inmate-patients placed in either status. Orientation Status delays the start of all but the most basic level of mental health treatment for up to fourteen days for inmate-patients in need of hospital care, many of whom have already waited more than thirty days for necessary inpatient hospital care. Cuff Status interrupts for behavioral reasons all but the most basic mental

health treatment. A recommendation to review and re-evaluate these policies is not a recommendation for a particular outcome. It is a recommendation, entirely appropriate on this record, that defendants review these policies to assess whether the proper balance between security considerations and necessary inpatient mental health care has been achieved. After de novo review of the record, and good cause appearing, this court will adopt in full the Special Master's recommendation concerning review and re-evaluation of the use of Orientation Status and Cuff Status. In view of the fact that CDCR is the custodian of all members of the plaintiff class and ultimately responsible for the delivery of constitutionally adequate mental health care to them, and in view of defendants' continuing objection concerning the role of DSH in the remedial phase of this action, the order to review and re-evaluate these policies will be directed to both the CDCR and the DSH defendants. Given all the above, the review and re-evaluation will take place under the supervision of the Special Master and his experts.

Defendants seek modification of the Special Master's findings concerning a lack of adequate documentation for eleven inmates placed on cuff status because they contend "the Special Master failed to give [SVPP] adequate credit for the documentation that was present for these eleven inmates." Defs. Objs. (ECF No. 4868) at 10. Defendants' evidentiary support for this assertion is scant. See Decl. of Ahlin (ECF No. 4830-1) at ¶ 31. Moreover, as with most of the other findings underlying the Special Master's recommendations, defendants acknowledge the need for improvement. See Defs. Objs. (ECF No. 4868) at 10.

The motion to modify the Special Master's findings concerning the adequacy of documentation for inmate-patients on Cuff Status will be denied.

The Special Master reports that

> [m]ultiple patients were found to be on Cuff Status without any documented rationale, intervention and/or release criteria, leaving patients with very limited mental health programming for long periods of time. Patients on Cuff Status for longer than ten days were not referred to a psychologist supervisor for the development of a behavior plan, as required by SVPP policy.

Report (ECF No. 4830) at 5. As the Report makes clear, placement on Cuff Status interrupts the provision of necessary mental health care. As the Special Master finds,

> [b]y placing a patient on Cuff Status without documenting the reason for the placement, the intervention planned, and the criteria for release from Cuff Status, and by failing to develop a required behavior plan, SVPP in effect places the patient at risk of needless deprivation of treatment and isolation in his cell – the very antithesis of a therapeutic environment for a seriously mentally ill person. . . . The ability of a patient on Cuff Status to access treatment is also severely limited, despite the fact that he was transferred to an inpatient program *because he needs more treatment than he was receiving at the sending institution.*

Id. at 30.

While the security considerations at issue cannot be gainsaid, neither can the risk to members of the plaintiff class from inappropriate placement and retention on Cuff Status be underestimated. Defendants represent that they are correcting

the problems with documentation, have recently trained staff, and have developed and implement a "cuff status monitoring tool." Defs. Objs. (ECF No. 4868) at 10. Good cause appearing, defendants will be directed to report to the court within fifteen days whether there is any inmate-patient at SVPP on Cuff Status without the required documentation. If there is any such inmate-patient, defendants shall show cause in writing why this court should not issue an injunction preventing defendants from placing or maintaining any inmate-patient at SVPP on Cuff Status without the required documentation.

3. Transfer Timelines

The Special Master recommends that SVPP "be directed to begin tracking all patient bed assignments, and admit referred and accepted patients as quickly as bed availability permits so that beds are utilized to the fullest extent possible, and in no event beyond 72 hours following bed assignment and 30 days from the date of the referral." Report (ECF No. 4830) at 46. Defendants contend this recommendation is based on an inaccurate analysis of the wait list and an unreasonable interpretation of Program Guide requirements for transfer to inpatient care.[9]

[9] Defendants also contend that "strict compliance with transfer timelines is not the measure of whether SVPP is constitutionally compliant; defendants argue that the key question is whether transfer waiting periods expose inmates to significant risks of harm" and "[t]he Special Master's report fails to describe a single example in which an inmate-patient was exposed to an excessive risk of harm because his admission to the SVPP was not completed immediately." Defs. Objs. (ECF No. 4868) at 12. The court reminds defendants, once again, that the Program Guides are the remedial plan for this action and represent defendants' determination of what is required to meet their constitutional obligations to the plaintiff class. Moreover, the Special Master reminds the court that the thirty-day timeframe in the Program

The Special Master's recommendation is based on findings that (1) in a four month period between March 1, 2013 and June 30, 2013, twenty-seven percent of inmate-patients accepted for treatment at SVPP were transferred after the end of the thirty day period; (2) during that same four month period more than half of the transfers completed within the thirty day period occurred in the last five days of that period; and (3) SVPP does not track bed assignments, which makes compliance with the seventy-two hour timeframe for transport "difficult, if not impossible."

Defendants object to the percentages as reported by the Special Master. In defendants' view, the thirty day period runs from the time DSH decides to accept the inmate-patient, not from the date the patient is referred by CDCR. Defendants base their argument on language in the Program Guide that provides that some inmate-patients may be placed on a waitlist after "acceptance."

The Program Guide is clear. All inmate-patients accepted for treatment at SVPP, which is an intermediate care facility (ICF), must be transferred within thirty days of referral. Program Guide, 2009 Revision, at 12-1-16. Referral is defined as "the date the completed referral packet is received by DMH by

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Guide "was negotiated during a time when inpatient beds for CDCR inmates were slowly becoming less scarce, and there was need for a timeframe within which CDCR could conceivably comply under the circumstances at that time." Report (ECF No. 4830) at 32. He suggests, correctly, that in light of the dramatic increase in availability of inpatient beds and known vacant hospital beds, "[t]oday, transfers need not take anywhere close to 30 days to complete, and in no instance should they take more than 30 days." Id. Defendants are reminded that their constitutional obligation is to provide "ready" access to adequate mental health care. See Hoptowit v. Ray, 682 F.2d 1237, 1253 (9th Cir. 1982) *abrogated on other grounds by* Sandin v. Conner, 515 U.S. 472 (1995).

facsimile or overnight mail." Referral must be completed within five or ten working days from when an interdisciplinary treatment team (IDTT) identifies an inmate-patient for referral to inpatient care. Id. at 12-1-15, 12-1-16. Transfer is defined as the date on which an inmate-patient "is placed into the LOC and program to which s/he was referred." Id. at 12-1-15. The Program Guide also requires that transport of inmate-patients to the ICF "must be completed within 72 hours of bed assignment." Id. at 12-1-16. Under the Program Guide, all inmate-patients accepted by DSH for treatment at SVPP must arrive at SVPP within thirty days of the date the referral packet arrives at DSH from CDCR.[10] Within that thirty day period all of the following must occur: (1) the decision whether to accept an inmate-patient, which be made within three working days of DSH receipt of the referral, see id. at 12-6-10; (2) bed assignment for the accepted inmate-patient; and (3) transport of the accepted inmate-patient, which must occur within seventy-two hours of bed assignment, see id. at 12-6-11. None of these operates to extend the thirty day period, nor does the language cited by defendants change the controlling timeframe. Defendants' objections are overruled. The Special Master's recommendation will be adopted in full.

4. Laundry

The Special Master's final recommendation is that SVPP "resolve any and all remaining issues with, and obstacles to, providing patients with the full complement of clean clothing,

[10] In fact, the Program Guide defines "'Referral' to DMH" as "the date the completed referral packet is received by DMH by facsimile or overnight mail."

towels, and bed coverings, and make these provisions available to patients on a timely basis according to established schedules." Report (ECF No. 4830) at 46. Defendants contend an order concerning laundry is unnecessary because SVPP "has formed a laundry committee that inventories laundry and is responsible for resolving any laundry issues that arise." Defs. Objs. at 13. It is unclear when this committee was formed, but it may be that the existence of the committee will operate to fulfill the Special Master's final recommendation without a further order by this court.

C. Plaintiffs' Motion

Plaintiffs seek a further report from the Special Master within sixty days and a series of other specific orders. Two of the matters for which plaintiffs seek remedial orders, use of force and issuance of rules violation reports, are the subject of ongoing proceedings before this court. The Special Master has not included recommendations concerning these or the other two issues highlighted by plaintiffs. The court finds that resolution of plaintiffs' pending motion concerning use of force and disciplinary proceedings (ECF No. 4638), as well as further monitoring by the Special Master, is necessary before the court considers issuance of further specific orders in this area. Plaintiffs' motion will be denied without prejudice.

D. Standards for Injunctive Relief

The court does, by this order, direct specific action by defendants. In this court's view, the orders contained herein are in aid of the remedy required by this court's 1995 order. To the extent that the requirements of 18 U.S.C. § 3626(a)(1) may

apply, this court finds that the orders contained herein are narrowly drawn, extend no further than necessary to correct the Eighth Amendment violation in the delivery of mental health care to members of the plaintiff class, and are the least intrusive means to that end. See 18 U.S.C. § 3626(a)(1)(A).

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

1. Defendants' October 14, 2013 motion to modify findings in the September 24, 2013 Report of the Special Master on the Salinas Valley Psychiatric Program (ECF No. 4868) is denied.

2. The findings in the September 24, 2013 Report of the Special Master on the Salinas Valley Psychiatric Program (SVPP) (ECF No. 4830) are adopted in full.

3. The recommendations of the Special Master in said Report are adopted in part.

4. The CDCR and DHS defendants shall review and re-evaluate the use of Orientation and Cuff Status at SVPP to determine whether these policies as designed and implemented achieve the proper balance between legitimate security needs and access to necessary inpatient mental health care. This shall be carried out under the guidance of the Special Master and his staff, with participation and input from plaintiffs. The Special Master shall report to the court on the results of this review and re-evaluation in the report to be filed on March 31, 2014.

5. Within fifteen days from the date of this order defendants shall inform the court in writing whether any there is any inmate-patient at SVPP on Cuff Status without the documentation required for such status, including reason for placement, intervention planned, and criteria for release. If

there is any inmate-patient on Cuff Status without required documentation, defendants shall show cause in writing why this court should not issue an injunction preventing defendants from placing or maintaining any inmate-patient at SVPP on Cuff Status without the required documentation.

6. Defendants shall forthwith begin tracking all patient bed assignments at SVPP, and admit referred and accepted patients to SVPP as quickly as bed availability permits and in no event beyond seventy-two hours following bed assignment and thirty days from the date of the referral.

7. Plaintiffs' October 14, 2013 motion for additional orders (ECF No. 4867) is denied without prejudice.

IT IS SO ORDERED.

DATED: November 12, 2013.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT