

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

On May 29, 2013, plaintiffs filed a motion for enforcement of court orders and affirmative relief related to use of force and disciplinary measures against members of the plaintiff class. (ECF No. 4638) Evidentiary hearing on plaintiffs' motion was conducted over a period which commenced on October 1, 2013 and continued over fourteen court days, concluding on November 6, 2013.¹ Following filing of closing briefs by the parties, the matter was submitted for decision.²

¹ Approximately five of those days were spent on testimony related to plaintiffs' motion concerning access to inpatient hospital care for inmates on death row (ECF No. 4543). That motion has been resolved by separate order.

² By separate order, submission of the motion has been vacated.

1 Defendants' written policy governing use of force is found
2 at 15 C.C.R. §§ 3268-3268.3 and at § 51020 of the California
3 Department of Corrections and Rehabilitations (CDCR) Department
4 Operations Manual (D.O.M.). Reporter's Transcript Re:
5 Evidentiary Hearing (RT) at 801:5-16. At the evidentiary
6 hearing, Michael Stainer, then Acting Director for CDCR's
7 Division of Adult Institutions³, testified concerning a process
8 that was underway to revise some of the use of force provisions
9 in the D.O.M. See, e.g., RT at 811:1-19; 825:11-826:25; 919:1-
10 925:19. On January 21, 2014, defendants filed a declaration from
11 Mr. Stainer to which is appended revisions to the use of force
12 provisions of the D.O.M. Decl. of Stainer and Ex. A thereto,
13 filed January 21, 2014 (ECF Nos. 4987 and 4987-1). Therein, Mr.
14 Stainer avers that the revisions have been finalized and "will be
15 fully implemented in the next 60 to 90 days following the
16 development and completion of staff training on the revisions."
17 Decl. of Stainer (ECF No. 4987) at ¶ 2.

18 Good cause appearing IT IS HEREBY ORDERED that:

- 19 1. Within twenty days from the date of this order,
20 plaintiffs shall file a brief addressing how, in their
21 view, the new D.O.M provisions bear on issues raised in
22 their May 29, 2013 motion. Defendants may file a
23 responsive brief within ten days thereafter.
- 24 2. Within thirty days from the date of this order defendants
25 shall file evidence of their plan for implementing the
26 new D.O.M. provisions, including but not limited to staff

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28 ³ On November 19, 2013, Mr. Stainer was sworn in as lead director of CDCR's
Division of Adult Institutions. RT at 3268:14-21.

1 training plans and any other directives that have been or
2 may be issued. Defendants shall also inform the court in
3 writing of how they plan to ensure and enforce compliance
4 with the new D.O.M. provisions and shall file, as
5 appropriate, affidavits or other evidence that bears on
6 these matters.

7 3. Within twenty days after the filing referred to in
8 paragraph 2 of this order, plaintiffs shall file a brief
9 addressing how, in their view, the documents filed by
10 defendants in response to that order bear on issues
11 raised in the May 29, 2013 motion. Defendants may file a
12 responsive brief within ten days thereafter.

13 DATED: January 23, 2014.

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17 LAWRENCE K. KARLTON
18 SENIOR JUDGE
19 UNITED STATES DISTRICT COURT
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