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United States District Court,
E.D. California.

Ralph COLEMAN, et al., Plaintiffs,

v.

Arnold SCHWARZENEGGER, et al., Defendants.

No. CIV S-90-0520 LKK JFM P. | Aug. 27, 2007.

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Opinion

ORDER

LAWRENCE K. KARLTON, Senior Judge.

*1 On July 30, 2007, the special master filed his eighteenth round monitoring report. On August 9, 2007, plaintiffs filed a request for relief based on findings in the eighteenth round monitoring report. Plaintiffs seek a series of orders designed to remedy what they describe as "the disproportionate and inappropriate" use of force against class members housed at California State Prison-Corcoran (CSP/Corcoran). (Plaintiffs' Request for Relief, filed August 9, 2007, at 14.)

The special master's eighteenth round monitoring report contains several findings responsive to comments plaintiffs submitted to him in response to his draft eighteenth round monitoring report. *See* Eighteenth Round Monitoring Report, filed July 30, 2007, at 335-339. Those findings include a description of the "characteristics" of CSP/Corcoran and "its particular population" to put into context the higher rate of incidents reported from CSP/Corcoran when compared to many other institutions within the California Department of Corrections and Rehabilitation. The special master finds that the rate of use of force incidents involving mental health inmates at CSP/Corcoran is four percent higher than those involving all inmates at the same institution. *See id.* at 337. He describes this percentage difference as "relatively small," but specifically notes that "it does not mean that use of force is no longer of concern at CSP/Corcoran." *Id.* He informs the court that in the twentieth monitoring period, the monitor "will re-focus on use of force, with examination and reporting to compare force used in incidents involving mental health inmates with those involving non-mental health inmates" and that "[a]ny signs of change for the worse must draw timely and meaningful reaction." *Id.* at 338. He finds that

[t]he data gathered during the Eighteenth Monitoring Period does not necessarily signal a systemic failure of the existing policy to avoid unjustified use of force at CSP/Corcoran. The more plausible explanation for the higher rate of incidents and use of force in incidents involving mental health inmates may well be a failure of implementation of the policy rather than a flaw in the policy itself.

Id. The special master concludes that, while the requests made to him by plaintiffs are not warranted by the findings made in the eighteenth monitoring period, appropriate recommendations will be made in the next monitoring period if warranted by subsequent findings of

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the monitor. *Id.* at 338-9.

The special master concludes his eighteenth round monitoring report with a list of eight significant and substantial reports and plans due from defendants in June, July and August of this year, as well as a reference to additional requirements to emanate from part C of his seventeenth round monitoring report.¹ The special master correctly observes that

[t]hese plans and reports presage a great deal of intensive study and reassessment for mental health programming for *Coleman* plaintiff class members not only in CDCR institutions but in DMH programs as well. The task for the parties, particularly defendants, is weighty and far reaching. Because there is so much work to be done, it is now time to focus on defining and implementing the changes that will emanate from these many plans and reports. It is not a time to make additional recommendations that would generate yet further orders imposing more tasks that the parties' resources cannot reasonably be expected to manage.

Footnotes

¹ Those requirements, for defendants to develop two additional plans, one for "identifying and developing the changes deemed necessary to broaden the impact of the mental health assessment process in prison disciplinary matters on 3CMS inmates, testing those changes and implementing them systemwide," and one for a "plan, funding proposal and timetable for implementing an effective staff recruitment capability and strategy" were ordered by this court on August 2, 2007.

*2 Eighteenth Monitoring Report, at 341.

The court has carefully reviewed the plaintiffs' request for relief and the special master's findings concerning use of force incidents at CSP/Corcoran. Plaintiffs' request keeps on the table an issue that must, and will, be the subject of remedial relief if there is not a change for the better in the apparent trend of use of force incidents at CSP/Corcoran. However, the court concurs in full with the special master's finding that the tasks before the parties in this action, and in particular before the defendants, are at a significantly high level, and that successful accomplishment of those tasks is critical. The court is also satisfied that the special master will monitor carefully the use of force at CSP/Corcoran and report back to the court in the twentieth monitoring period.

For these reasons, IT IS HEREBY ORDERED that plaintiffs' August 9, 2007 request for relief is denied without prejudice.