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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JERRY VALDIVIA, ALFRED YANCY,  
and HOSSIE WELCH, on their own  
behalf and on behalf of the class  
of all persons similarly situated,

NO. CIV. S-94-671 LKK/GGH

Plaintiffs,

v.

O R D E R

ARNOLD SCHWARZENEGGER, Governor of  
the State of California, et al.,

Defendants.

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On November 12, 2009, the court indicated its intent to adopt the special master's recommendations as contained in his seventh report. The parties were given twenty days to object, with fifteen days to file a response, and ten days to file a reply. Plaintiffs filed objections, which defendants opposed. The time for filing a reply has expired. Defendants did not file any independent objections to the tentative order. Having considered plaintiffs' objections and defendants' response, the court finds plaintiffs' proposed modifications appropriate.

1           Accordingly, the court hereby finds that defendants are  
2 substantially in compliance with the following requirements of  
3 the Permanent Injunction, entered March 8, 2004 (Doc. No. 1034)  
4 and Remedial Sanctions Order, entered April 4, 2007 (Doc. No.  
5 1323).

6           **Permanent Injunction Requirements**

- 7           • Return to Custody Assessment (except for Los Angeles County  
8 Jail Decentralized Unit)
- 9           • Revocation hearings within 50 miles of the alleged  
10 violation
- 11           • Parolee defense counsel shall have access to  
12 non-confidential portions of the field file

13           **Remedial Sanctions Order Requirements**

- 14           • Policies and procedures regarding the requirements of the  
15 April 2007 remedial sanctions order
- 16           • Expanding jail and community based ICDTP
- 17           • Determining availability of ICDTP
- 18           • Electronic in-home detention
- 19           • Training about the remedial sanctions requirements of the  
20 April 2007 remedial sanctions order
- 21           • Dedication of 50% of certain programs as Interim Remedial  
22 Sanctions under the April 2007 remedial sanctions order
- 23           • Sharing information with parolee defense counsel regarding  
24 the provisions of the April 2007 remedial sanctions order
- 25           • Reporting on the development of the Parole Violation  
26 Decision-Making Instrument

          As a result of this substantial compliance, the above  
requirements will no longer be a primary focus of Plaintiffs' or  
the Special Master's monitoring unless and until it comes to

1 their attention that there has been a significant decline in  
2 compliance. Except interim remedial sanctions, sharing  
3 information with defense counsel, and reporting on the  
4 development of the Parole Violation Decision-Making Instrument,  
5 defendants shall report the status of these requirements to all  
6 parties every six months. These reports may be incorporated in  
7 the Defendants' Compliance Reports.


8 As explained by the Special Master, information about the  
9 above requirements remains relevant to overall monitoring and  
10 compliance to the extent they arise in the course of  
11 investigating an individual parolee's situation, or in assessing  
12 whether staff considered remedial sanctions or articulated the  
13 basis for hearing findings.

14 While Defendants have met the Remedial Sanctions Order's  
15 goal of establishing 1,800 ICOTP beds, information about the  
16 number and availability of ICOTP placements remains relevant to  
17 overall monitoring compliance with the Permanent Injunction's  
18 remedial sanctions requirement.

19 IT IS SO ORDERED.

20 DATED: January 8, 2010.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT