

**Special Master's Final Report Filed:
Investigate Schwarzenegger's prison policy reversal,
union ties and the effect on reform**

On Tuesday, August 22, 2006, Special Master John Hagar filed his Final Report to the United States District Court on the status of California corrective plans for investigations and discipline in the California Department of Corrections and Rehabilitation (CDCR). The Report was submitted to District Court Judge Thelton Henderson in San Francisco in the case of Madrid v. Tilton.

Special Master's Participation in Madrid

Since 1997, the federal court monitor has been observing and investigating the problems underlying the constitutional violations found at Pelican Bay State Prison. His role has since expanded to include the entire CDCR, in response to his findings of systemic dysfunction in administrative and employee practices and identification.

In 2004, Hagar submitted a Final Report that noted the ongoing problems in the CDCR that prevented adequate investigation and discipline. That report described the "pervasive code of silence" within California prisons that was so ingrained in the system that Hagar described a "code of silence about the code of silence itself." The 2004 Final Report also detailed a pattern of interference by representatives of the California Correctional Peace Officers Association, the powerful prison guards' union party to the most expensive public contract in California history.

Following Hagar's 2004 Report, the Court ordered ongoing monitoring to "encompass investigations and discipline arising from

violations of the use of force policies, including integrity issues such as the code of silence." The Court opened the door at that time for the Special Master to consider incidents of violations from prisons other than Pelican Bay.

The Progress Stopped in 2006

While the 2004 Report applauded the positive changes resulting from then newly elected Schwarzenegger's commitment to prison reform, the 2006 Report notes the reversal of that policy since January 2006. Hagar's 2006 Report points to the January 2006 appointment of Susan Kennedy as Schwarzenegger's Chief of Staff as the turning point in the administration's interest in reform. Examples of the change include Kennedy's practice of consulting with CCPOA in the absence of CDCR leadership, and the quick resignation of former Director Roderick Hickman followed by the resignation of his successor Jeanne Woodford six weeks later. Hagar also describes ongoing efforts by the CCPOA to "embarrass and humiliate CDCR employees who have the courage to report misconduct."

The 2006 Report describes the regression as “three steps back... that signal a return to the prior Davis administration’s practice of allowing the CCPOA to over-rule the most critical decisions of the CDCR Secretary.” The abrupt shift in policy is identified as a threat to the Court’s ability to enforce the remedial plan and break the code of silence that Director Hickman worked diligently to eradicate.

What Happened to Schwarzenegger’s Commitment to Reform?

The new report makes several recommendations to Judge Henderson, in an effort to maintain or re-energize the state’s commitment to the court-ordered remedial plan. Hagar calls for continued monitoring of the reforms through periodic meetings with parties to the case and the agency charged with oversight of internal affairs.

More importantly, he requests the Court to order an investigation and public hearings to determine whether the Governor’s shift in policy will compromise the remedial plan. Hagar explains the threat is evident in the aftermath of Kennedy’s appointment and her subsequent decisions to work closely with

the CCPOA instead of the two former Directors of the CDCR.

As the CCPOA renegotiates its 2006 contract, Hagar asserts, there is reason to become protective of the remedial plans in place. He cites several CCPOA contract demands that he describes as “nothing less than a concerted attack on the remedial plan and CDCR policies ... developed to improve investigations and discipline.”

He concludes his recommendations by asking that the Court clarify to the CCPOA that they are not, in fact, parties for the purposes of the report or the investigations Hagar requested.

Should Judge Henderson follow the Special Master’s recommendations, it seems an investigation into the CCPOA’s interference in CDCR reform may finally be on the horizon.

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