1 2 3 4 5 6 7 8 9	DONALD SPECTER – 083925 RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583 PRISON LAW OFFICE 1917 Fifth Street Berkeley, California 94710-1916 Telephone: (510) 280-2621 Facsimile: (510) 280-2704 LINDA D. KILB – 136101 DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC. 3075 Adeline Street, Suite 201 Berkeley, California 94703 Telephone: (510) 644-2555 Facsimile: (510) 841-8645 Attorneys for Plaintiffs	MICHAEL W. BIEN – 096891 GAY C. GRUNFELD – 121944 THOMAS NOLAN – 169692 PENNY GODBOLD – 226925 MICHAEL FREEDMAN – 262850 ROSEN BIEN GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor San Francisco, California 94105-1738 Telephone: (415) 433-6830 Facsimile: (415) 433-7104
11	UNITED STATE	ES DISTRICT COURT
12	NORTHERN DIST	RICT OF CALIFORNIA
13	OAKLA	ND DIVISION
14		
15	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW
16	Plaintiffs,	[REDACTED] REPLY DECLARATION OF GAY
17	V.	CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION
18	GAVIN NEWSOM, et al.,	TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND
1920	Defendants.	RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL
21		FACILITY
22		Judge: Hon. Claudia Wilken Date: August 11, 2020
23		Date: August 11, 2020 Time: 2:30 p.m. Crtrm.: TBD
24		_
25		
26		
27		
28		
		Case No. C94 2307 C

REPLY DECL. OF GAY C. GRUNFELD ISO PLS.' MOTION TO STOP DEFS. FROM ASSAULTING, ABUSING & RETALIATING AGAINST PEOPLE W/ DISABILITIES AT R.J. DONOVAN CORR. FACILITY – **REDACTED**

I, Gay Crosthwait Grunfeld, declare:

1. I am an attorney duly admitted to practice before this Court. I am a partner in the law firm of Rosen Bien Galvan & Grunfeld LLP, counsel of record for Plaintiffs. I have personal knowledge of the facts set forth herein, and if called as a witness, I could competently so testify. I make this reply declaration in support of Plaintiffs' Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against People with Disabilities at R.J. Donovan Correctional Facility ("RJD").

2. I incorporate by reference the following pleadings: my declaration filed February 28, 2020, Docket No. 2922-1, in support of Plaintiffs' Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against Persons with Disabilities at R.J. Donovan Correctional Facility ("RJD Motion"), Docket No. 2922; my declaration filed June 3, 2020, Docket No. 2948-1, in support of Plaintiffs' Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against Persons with Disabilities ("Statewide Motion," and collectively, with the RJD Motion, "the Motions"), Docket No. 2948; and my declaration filed July 15, 2020, Docket No. 2999-2, in support of Plaintiffs' Response in Support of Preliminary Injunction ("PI Resp."), Docket No. 2999. Attached hereto as an Appendix is an Index of the Exhibits attached to this declaration.

In Total, Plaintiffs Have Filed Eighty-Seven Declarations from Sixty-Six Declarants Regarding Abuse They Have Experienced or Witnessed at RJD

- 3. Plaintiffs have now submitted eighty-seven declarations from people with disabilities regarding abuse they have experienced or witnessed at RJD, broken down as follows:
- (a) In support of the RJD Motion, Plaintiffs filed fifty-four declarations. *See* Decl. of Michael Freedman in Supp. of RJD Mot.("Freedman RJD Decl."), Docket Nos. 2922-2 to 5, Exs. 6-58, 88.
- (b) In support of the Statewide Motion, Plaintiffs filed nineteen declarations. *See* Decl. of Michael Freedman in Supp. of Statewide Mot. ("Freedman Statewide Decl."), Docket No. 2947-5, Exs. 3-5, 9-24.

revised their Proposed Order Granting the RJD Motion, using redline to show the differences in relief requested on February 28, 2020 versus now. Attached hereto as **Exhibit A** is a true and correct copy of the redlined version of the Revised Proposed Order. A clean copy of the Revised Proposed Order is being filed herewith.

- 6. Since the filing of the Motions, Plaintiffs' counsel has gathered fourteen new declarations from people with disabilities at RJD. These declarations demonstrate that custody staff at RJD continue to abuse and retaliate against people with disabilities. The incidents catalogued in the attached declarations occurred after the filing of the Statewide Motion on June 3, 2020.
- Freedman Statewide Decl., ¶ 4 & Exs. 1-2, preventing in-person interviews with our clients. Due to the pervasive retaliation faced by declarants at RJD, including reports that custody officers tampered with legal mail, Plaintiffs' counsel was not willing to endanger the declarants' welfare by sending declarations into the prisons for the declarants to sign and then return by mail. Given what Plaintiffs' counsel has learned in the course of this investigation, trusting custody officers not to read legal mail from our office was too risky. Instead, Plaintiffs' counsel read the contents of each person's declaration, verbatim, to the declarant by telephone during a confidential telephone call. Each declarant then orally confirmed under penalty of perjury that the contents of the declaration were true and correct Each declarant also orally granted Plaintiffs' counsel permission to affix his or her signature to the declaration and to file the declaration in this matter.
- 8. Plaintiffs' counsel has previously provided copies of the declarations from people with disabilities to Defendants, as well as the *Coleman* Special Master and representatives of California Correctional Health Care Services ("CCHCS" or the "Receiver"), through a secure file sharing website on June 26, June 30, July 10, July 22, July 24, July 25, and July 27, 2020. Plaintiffs' counsel has also provided a summary of the incidents described in the declarations that are related to mental health and medical care at CDCR's prisons. Attached hereto as **Exhibit B** is a true and correct copy of a July 27, Case No. C94 2307 CW

DNH, EOP, 47
Case No. C94 2307 CW

third and fourth supplemental declarations of

- 1	
1	years old), respectively signed on June 26, 2020 and July 11, 2020. Ms. third and
2	fourth supplemental declarations have previously been submitted to this Court in support
3	of the TRO Motion and PI Response. See Freedman TRO Decl., Ex. 5; Freedman PI
4	Decl., Ex. 3. Ms. initial declaration was submitted in support of the RJD Motion.
5	See Freedman RJD Decl., Ex. 9. Ms. first supplemental and second supplemental
6	declarations were submitted in support of the Statewide Motion. See Freedman Statewide
7	Decl., Exs. 5, 9.
8	12. Attached hereto as Exhibit K is a true and correct copy of the second
9	supplemental declaration of Coleman class member
10	CCCMS, 52 years old) signed on July 10, 2020. Mr. second supplemental
11	declaration was previously filed with the court in support of Plaintiffs' PI Response. See
12	Freedman PI Decl., Ex. 11. Attached hereto as Exhibit L is a true and correct copy of a
13	letter from Penny Godbold dated July 10, 2020 requesting that Defendants take appropriate
14	measures to protect Mr. from retaliation. Defendants have not yet responded to
15	this letter. Mr. previously submitted declarations in support of the RJD Motion
16	and Statewide Motions. See Freedman RJD Decl., Ex. 19; Freedman Statewide Decl.,
17	Ex. 12.
18	13. Attached hereto as Exhibit M is a true and correct copy of the second
19	supplemental declaration of Armstrong and Coleman class member
20	(3, DPO, EOP, 69 years old), signed on July 24, 2020. Mr. previously
21	submitted declarations in support of the Motions. See Freedman RJD Decl., Ex. 24;
22	Freedman Statewide Decl., Ex. 14.
23	14. Attached hereto as Exhibit N is a true and correct copy of the declaration of
24	Armstrong and Coleman class member , DPH, EOP, 47 years
25	old) signed on July 23, 2020.
26	15. Attached hereto as Exhibit O is a true and correct copy of the declaration of
27	Coleman and Armstrong class member , EOP, DPM, 53 years old),
28	signed on July 27, 2020.

1	20. Mr. who had provided a declaration in support of Plaintiffs' TRO
2	Motion and PI Response, has been subjected to significant retaliation for his participation
3	as a witness. In Mr. s most recent declaration, he describes being labelled a "snitch"
4	by multiple custody staff members in the days following the transfer of Mr.
5	Ms. Ex. H, ¶¶ 8-9. After officers intercepted and listened in on his non-
6	confidential call with Plaintiffs' counsel on July 17, 2020, they called Mr. a "witness
7	for the Feds," and threatened him, "Yeah, we are going to get rid of his ass, one way or the
8	other, unless he recants to them fucking lawyers." $Id.$, ¶ 9. On July 20, 2020, multiple
9	incarcerated people believed to be working at the behest of custody staff approached
10	Mr. and threatened him about filing declarations in this matter after officers had
11	announced over the loudspeaker that Mr. was being called to speak with the
12	Armstrong attorneys. Id., $\P\P$ 5, 12.
13	21. On July 22, 2020, Penny Godbold sent an email, a true and correct copy of
14	which is attached hereto as Exhibit T, to Patricia Ferguson, attorney with the CDCR
15	Office of Legal Affairs, requesting Mr. immediate transfer out of RJD. After further
16	discussion between counsel and the Court's Expert, Defendants agreed on July 24, 2020 to
17	transfer Mr. upon receipt of a negative COVID-19 test. Attached hereto as Exhibit U
18	is a true and correct copy of a July 24, 2020 email from Patricia Ferguson regarding the
19	transfer.
20	Retaliatory Rules Violation Reports Harm the Armstrong Class
21	22. Attached hereto as Exhibit V is a true and correct copy of a July 9, 2020

- 22. Attached hereto as **Exhibit V** is a true and correct copy of a July 9, 2020 letter from Secretary Diaz establishing Positive Programming Credits ("PPC") in light of the hardships faced by incarcerated people due to COVID-19. The letter and its enclosure describe that the PPC will provide twelve weeks of credit to everyone in CDCR custody, except those found guilty of a serious rules violation between March 1, 2020, and July 5, 2020.
- 23. Of the sixty-six declarants who filed declarations in support of the Motions, the TRO, the PI, and this Reply, seventeen had improper RVRs imposed, including

22

23

24

25

26

27

1	Mr. See Freedman RJD Decl., Ex. 7, ¶ 24; Ex. 10, ¶ 16, Ex. 20, ¶ 24; Ex. 21, ¶ 10;
2	Ex. 26, ¶¶ 6-11, Ex. 33, ¶ 12; Ex. 45, ¶¶ 15-17, Ex. 47, ¶ 15, Ex. 50, ¶¶ 20, 23, Ex. 53,
3	¶ 24, Ex. 56, ¶ 16; Freedman Statewide Decl., Ex. 12, ¶ 16; Ex. 18, ¶ 7; Ex. 17, ¶ 9, Ex. 19,
4	¶ 10, Ex. 23, ¶ 13; Freedman TRO Decl., Ex. 3, ¶ 11. The issuance of false RVRs to class
5	members—which denies class members access to PPC, as well as substantially undermines
6	the likelihood of their being granted parole at a hearing conducted by the Board of Parole
7	Hearing—is one of the many ways in which custody staff have, and are continuing, to
8	retaliate against people with disabilities at RJD. In the PI Response, we asked the Court to
9	rescind two RVRs issued to Mr. after he was thrown from his wheelchair. At the
10	July 16 Preliminary Injunction hearing, the Court stated an intention to wait until after
11	CDCR addressed the RVRs. Docket. No. 3021, 49:9-18. Attached hereto as Exhibit W is
12	a true and correct copy of a July 17, 2020 letter from Penny Godbold to Joanna Hood
13	requesting that the RVRs against Mr. be dropped.
14	24. On July 24, 2020, Defendants' counsel, Court Expert Edward Swanson, my
15	colleague Michael Freedman, and I had a telephonic meet-and-confer about various issues
16	related to Plaintiffs' Motions. I again asked Defendants to drop the two RVRs against
17	Mr. Patricia Ferguson of the Office of Legal Affairs stated that the hearing on the
18	RVRs had been postponed and no firm date for a hearing had yet been set. Deputy
19	Attorney General Trace Maiorino stated that Defendants were deferring my request until
20	they were able to see a copy of the alleged cellular telephone video of the incident,
21	discussed in more detail in paragraphs 25-26, infra.
22	Defendants Have Not Yet Shared Material Eviden elated to the June 17, 2020 Incident Involving Mr.
23	
24	25. On July 17, 2020, Plaintiffs' counsel received reports that Defendants had
25	obtained a cellular telephone from an incarcerated person housed on Building 1 on Facility
26	A at RJD that contained evidence material to the June 17, 2020 incident involving
27	Mr. On that day, I sent a letter to Defendants, a true and correct copy of which is
28	attached hereto as Exhibit X , requesting the placement of an immediate litigation hold on

1	the cellular telephone in question. My colleague Mr. Freedman also sent an email to
2	Defendants on July 17, 2020, a true and correct copy of which is attached hereto as
3	Exhibit Y , reiterating Plaintiffs' request and notifying Defendants that Plaintiffs' planned
4	to serve a Request for Inspection and a Request for Production of Documents later that
5	day, which we did.
6	26. On July 20, 2020, Defendants served their Response to Plaintiffs' Request
7	for Inspection and Request for Production of Documents, a true and correct copy of which
8	is attached hereto as Exhibit Z . After further discussion between the parties, Defendants
9	represented in a July 21, 2020 email, a true and correct copy of which is attached hereto as
10	Exhibit AA, that was processing the cellular
11	telephone and retrieving the contents therein. To date, Defendants have not provided an
12	estimate of when the retrieval process would be completed or confirmed that they will
13	produce any video contained on the cellular telephone.
14	Defendants' Use-of-Force Data for 2020 Was Produced on July 28, 2020
15	27. On June 18, 2020, Jack Rhein Gleiberman, a paralegal working under my
16	direction and supervision, sent an email to the CDCR's Office of Research requesting
17	COMPSTAT data for CDCR's Reception Center Mission (to which RJD belongs) and
18	High Security Mission (to which California State Prison – Los Angeles County ("LAC"),
19	California Correctional Institution ("CCI"), Kern Valley State Prison ("KVSP"), California
20	Substance Abuse Treatment Facility ("SATF"), and California State Prison – Corcoran
21	("COR") belong) from January 2017 through May 2020. In an email dated June 24, 2020,
22	CDCR produced COMPSTAT data claiming to be for the requested missions from January
23	2017 through April 2020 (the most recent available month). However, upon reviewing the
24	data, Plaintiffs' counsel determined that the data omitted Use of Force ("UOF") data for all
25	of the institutions included in the reports for the months of January, February, March, and
26	April 2020.
27	28. On June 24, 2020, Mr. Gleiberman sent a follow-up email to CDCR's Office
28	of Research notifying Defendants of this error and requesting an updated and accurate set

of COMPSTAT data for the first four months of 2020. In response, Katie Riley, counsel for CDCR, sent an email on July 7, 2020 noting that CDCR was unable to provide that data because it was now being processed by CDCR through a new system. Ms. Riley further represented that "[t]he Office of Research should have information on how this data will be reported within the next few months." A true and correct copy of this email correspondence, along with the data ultimately produced by Defendants at 6:10 p.m. on July 28, 2020 separated by a slip sheet, is attached hereto as **Exhibit BB**.

29. On July 8, 2020, I spoke by telephone with Ms. Riley and again requested the immediate production of this data. In our telephone call, Ms. Riley represented that CDCR could not presently provide the requested COMPSTAT data regarding 2020 UOF incidents. Later that day, I sent an email to Ms. Riley memorializing our telephone call, and once again requesting the production of the requested COMPSTAT data on an expedited timeframe for use in the ongoing litigation. On July 28, 2020, at 6:10 p.m., a day before this Reply was due, Ms. Riley produced the requested data, 67 pages in all, for the first six months of 2020. Ex. BB.

Defendants Have Repeatedly Failed to Produce Peace Officer Personnel Records Pursuant to California's Public Records Act

30. Over the course of Plaintiffs' investigation into disability-related staff misconduct at RJD, we have sent CDCR four requests for copies of peace officer personnel records pursuant to the California Public Records Act ("CPRA"). *See* California Government Code §§ 6250, *et seq*. Most recently, I sent a CPRA request letter to Defendants on July 10, 2020, a true and correct copy of which is attached hereto as **Exhibit CC**. In that letter, I described the three previous CPRA requests sent by Plaintiffs' counsel. Ex. CC, at 3-5. In response to those three CPRA requests, Defendants produced personnel files for only 4 officers compared with 124 requested. Some of the personnel file produced had not even been requested. *Id*. Plaintiffs' counsel later determined that for some officers for whom Defendants had claimed that no responsive records could be identified, Defendants had, in fact, produced documents in this litigation Case No. C94 2307 CW

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

that indicated that those officers' personnel records were responsive to Plaintiffs' prior requests and were required to be produced pursuant to CPRA. *Id.* In my July 10 letter, I requested that CDCR explain its failure to produce these documents in response to our initial requests, as well as a description of the system used by CDCR to search for responsive documents in light of CDCR's repeated failure to produce responsive documents. *Id.* at 6. As of the date of this letter, CDCR has not responded substantively in writing to our letter, nor provided as public documents any of the personnel files of officers that are producible under the categories specified by the CPRA.

It Took Many Months for Defendants to Provide the Number of Employees CDCR Has Terminated at RJD for Misconduct that Victimized an Incarcerated Person

31. On February 6, 2020, Plaintiffs served Defendants with a set of special interrogatories requesting, *inter alia*, the number of instances since January 1, 2017 where the hiring authority at RJD sustained an allegation of misconduct in which the victim of the misconduct was an incarcerated person and terminated the employee as a penalty. See Grunfeld RJD Decl., Ex. Q. The purpose of the special interrogatories was to determine how many times CDCR has fired an employee since January 1, 2017 for harming an incarcerated person at RJD. As described in further detail in my previous declaration, over the next five months, Defendants served on Plaintiffs a response and multiple revisions and amendments to the response. CDCR's ever-changing answers suggest that it cannot competently track its misconduct and disciplinary processes. Grunfeld Statewide Decl., ¶¶ 16-20.

32. On June 25, 2020, I sent a letter, a true and correct copy of which is attached hereto as **Exhibit DD**, to Sean Lodholz, Deputy Attorney General, requesting that Defendants amend their interrogatory responses to reflect their prior representation that only nine, rather than twelve, officers had been terminated for sustained findings of misconduct against incarcerated people at RJD. See Grunfeld Statewide Decl., Ex. G. In my June 25 letter, I also objected to Defendants' characterization of Lieutenant

was permitted to retire prior to 's dismissal as a termination because Mr. Case No. C94 2307 CW

the imposition of discipline. Ex. DD , at 2. Citing the case of Officer
who had initially been terminated by Warden Covello for using unnecessary force agains
a person with a disability, but who later returned to work after CDCR negotiated a
settlement with Officer during State Personnel Board proceedings—I requested
information regarding the finality of the eight possible terminations, i.e., whether the
termination was currently being challenged in any forum. <i>Id.</i> at 3.

- On July 8, 2020, I sent another letter to Defendants, a true and correct copy of which is attached hereto as Exhibit EE, renewing Plaintiffs' request that Defendants' amend their interrogatory responses and provide Plaintiffs' counsel with information regarding the finality of the eight possible terminations.
- On July 17, 2020, Defendants served their Second Amended Response to Plaintiffs' Special Interrogatories ("Second Amended Response"), a true and correct copy of which is attached hereto as **Exhibit FF**. In their Second Amended Response, Defendants represent that the RJD hiring authority imposed a level 9 penalty (termination) against 10 officers from 2017-2019. Ex. FF, at 20-21.
- Defendants' Second Amended Response states that in 2017, one level 9 penalty was imposed. However, Defendants state that the level 9 penalty was imposed (S-RJD-358-17-A). As to him, Defendants admit: "...the hiring authority sustained the allegation of misconduct and issued a dismissal, but the employee resigned before their termination was final." Id. at 20.
- 36. Of the three level 9 penalties applied in 2018, one staff member, Officer (discussed above), "was reinstated subject to a five month suspension as the result of a settlement agreement while the case was on appeal to the State Personnel Board." *Id.* at 21. Attached hereto as **Exhibit GG** is a true and correct copy of a video produced to Plaintiffs on June 10, 2020, that shows, starting at approximately 4:10 into the video, Officer inflicting force on an incarcerated person.

28

20

21

22

23

24

25

1	37. Defendants further represented that the other two 2018 terminations,
2	associated with cases S-RJD-144-18 (Sergeant and S-RJD-198-18-A
3	(Officer), are final. <i>Id</i> .
4	38. With respect to the six 2019 terminations, associated with cases S-RJD-026-
5	19-A (Officer , and Officer , and Officer) and S-RJD-
6	086-19-A (Officer , and Officer , and Office
7), Defendants' Second Amended Response indicates that "these cases are pending
8	evidentiary hearings before the State Personnel Board," meaning that none of the six 2019
9	terminations were final as of July 17, 2020. <i>Id.</i> Between January 1, 2017 and the present,
10	only two officer terminations by CDCR for officer misconduct against an incarcerated
11	person at RJD are final.
12	39. Defendants' Second Amended Response represents that the eight possible
13	terminations that were applied against officers who had been found to have committed
14	misconduct against incarcerated people were associated with only four individual
15	incidents: S-RJD-144-18-A, S-RJD-198-18-A, S-RJD-026-19-A, S-RJD-086-19-A. <i>Id.</i> at
16	20, 21. In all four of these cases, the victim of these officers' abuse was a person with a
17	disability. See Grunfeld Statewide Decl., Ex. G, at 2-3.
18	40. In all four cases, either there was video evidence of the officers engaging in
19	misconduct or a staff member reported the officers' misconduct. See Freedman Statewide
20	Decl., ¶¶ 91-94. Defendants have not terminated a single officer at RJD based on the
21	testimony of incarcerated people, standing alone. <i>Id</i> .
22	41. For example, Officer and Officer were terminated
23	in 2019 because they pulled <i>Armstrong</i> class member out of his
24	wheelchair and slammed him to the ground as Officer held his wheelchair and
25	observed them use force. Attached hereto as Exhibit HH is a true and correct copy of
26	surveillance video recorded in administrative segregation in Building 7 on Facility B at
27	RJD on December 9, 2018, showing this incident at around 1:39. After an OIA
28	investigation, the Hiring Authority found that Officers had used 13 Case No. C94 2307 CW

1	unnecessary force, and also sustained a finding that all three of the officers had been
2	intentionally dishonest in their incident reports and their interviews with OIA investigators.
3	Freedman Statewide Decl., Exs. 77-78.
4	42. On the other hand, even video evidence is not always enough. Attached
5	hereto as Exhibit II and Exhibit JJ are true and correct copies of video surveillance
6	recorded from two different vantage points in the B-Pod Section of Building 25 on
7	Facility E at RJD on March 28, 2017. At around 3:09 in Exhibit II and at around 3:15 in
8	Exhibit JJ, the video depicts Officer forcefully pull the wheelchair of
9	Armstrong class member (), launching Mr. onto the
10	ground. As discussed at length by Mr. Schwartz, a nearby officer, Officer
11	, received no discipline for failing to report the use of force by Officer
12	Officer himself received little more than a slap on the wrist, even though he had
13	unnecessarily used force and was dishonest in his interviews with investigators. See
14	Schwartz Report, ¶¶ 108-126.
15	43. Despite being caught on video harming incarcerated people, Officer
16	and Officer were not terminated and continue to receive a CDCR paycheck
17	through 2019. See https://transparentcalifornia.com/salaries/2019/state-of-california
18	last accessed July 26, 2020; https://transparentcalifornia.com/salaries/2019/state-
19	of-california/ last accessed July 26, 2020.
20	44. Defendants have issued almost no discipline related to any of the incidents
21	described in the 87 declarations submitted in support of Plaintiffs' Motion. As part of
22	discovery in this dispute, Defendants have represented that they have produced to
23	Plaintiffs all documents related to staff misconduct incidents in which the victim was an
24	Armstrong class member, the RJD hiring authority found that misconduct had occurred,
25	and the hiring authority then issued discipline. Defendants produced ten such files: S-
26	RJD-126-17-A, S-RJD-018-17-A, S-RJD-358-17-A, S-RJD-397-17-A, S-RJD-026-19-A,
27	S-RJD-144-18-A, S-RJD-363-18-D, S-RJD-105-19-A, S-RJD-124-19-D, S-RJD-086-9-A.
28	Plaintiffs have closely reviewed every file. Only one of the files (S-RJD-086-19-A) Case No. C94 2307 CW

2	
_	
2	
3	

involved discipline related to an incident raised in the 87 declarations from incarcerated people with disabilities. See Freedman RJD Decl., Ex. 29, ¶ 29; see also Ex. 62, Ex. 62a, Ex. 62b.

Officers Have Not Been Criminally Prosecuted for Staff Misconduct Against People **With Disabilities**

5

6

7

8

9

10

11

4

45. Defendants' Response to the RJD Motion ("Defs.' Resp."), Docket No. 3006, relies on a declaration from Amy Miller, in which she writes: "It is noteworthy that in 2017, there were no criminal prosecution referrals. In contrast, in 2018, there was one referral for criminal prosecution. And in 2019, there were three referrals for criminal prosecution." See Declaration of Amy Miller, Docket No. 3006-1., ¶ 34. This statement is ambiguous, so on July 22, 2020, my colleague Mr. Freedman sent an email to Defendants' counsel, a true and correct copy of which is attached here to as **Exhibit KK**, asking the following:

12 13

> "Can you clarify for us whether Ms. Miller is stating (a) that in 2018 there was one criminal investigation opened by OIA from RJD or (2) that in 2018, OIA, after completing a criminal investigation at RJD, referred one case to a prosecuting agency? Similarly, can you clarify whether Ms. Miller is stating (a) that in 2019 there were three criminal investigation opened by OIA from RJD or (2) that in 2019, OIA, after completing three criminal investigations at RJD, referred three cases to a prosecuting agency?"

15

14

16 17

18 19

46.

20

22

21

23 24

26

25

27

On July 24, 2020, Deputy Attorney General Trace Maiorino responded,

- stating that Defendants "... think that Director Miller's testimony is clear within the context of her declaration. But for further clarification, we invite you to review the transcript from your deposition of Chief Ramos." Id. 47. In the deposition of Tricia Ramos, Ms. Ramos represented that, from 2017 to
- late January 2020, the OIA had referred only one case at RJD to the District Attorney for possible prosecution. Grunfeld RJD Decl., Ex. R, at 138. Ms. Ramos further represented that the one case that had been referred to a prosecutor had not involved misconduct against incarcerated people, but instead involved "illegal communications." *Id.* at 138-140. That case was not prosecuted by the District Attorney. *Id.* at 140.

48. Attached hereto as **Exhibit LL** is a true and correct copy of a July 8, 2020 email from Sean Lodholz indicating that the OIA has opened a criminal investigation as a result of a referral from RJD. We have received no evidence from Defendants of a referral to a prosecuting authority, let alone an actual prosecution, of a correctional officer for misconduct against an incarcerated person at RJD in the time period beginning January 1, 2017.

Defendants Withheld Responsive Documents Until Days Before Plaintiffs' Reply Deadline

- 49. In Secretary Diaz's declaration in support of Defendants' Response to Plaintiffs' RJD Motion, he states "CDCR has a contract in place with a third-party vendor to install [surveillance video systems] at its institutions through June 2023 for video surveillance equipment and installation services." Docket No. 3006-4, at ¶ 42; *see also* Decl. of Jeff Macomber, Docket No. 3006-5, ¶ 12. On July 12, 2020, we requested that Defendants produce the contract between CDCR and the third-party vendor, which is responsive to our November 21, 2019 document requests. Attached hereto as **Exhibit MM** is a true and correct copy of a letter dated July 20, 2020 from Michael Freedman to Sean Lodholz requesting the contract. During our July 24 meet and confer discussion, Defendants stated they were "pulling" the requested contract mentioned in Secretary Diaz's declaration.
- 50. In the July 20 letter, we further requested that Defendants produce all contracts (current and terminated) between CDCR and vendors regarding audio-video surveillance systems ("AVSS") at any of its institutions, physical infrastructure-related to AVSS, software related to AVSS, training or consulting services related to AVSS, or data storage related to AVSS. We also requested that Defendants produce all bids from vendors seeking to contract with CDCR to provide AVSS at any of its institutions, physical infrastructure-related to AVSS, software related to AVSS, training or consulting services related to AVSS, or data storage related to AVSS.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

- 51. At 6:02 p.m. on July 24, 2020, Mr. Lodholz sent us instructions to download the AVSS contracts and related documents. I am informed and believe that this download consisted of 49 documents. Attached hereto as **Exhibit NN** is a true and correct copy of an agreement between Stanley Convergence Security Solutions Inc. and CDCR, which I believe to be the contract referenced in Secretary Diaz's declaration. The contract runs from February 29, 2016 through June 30, 2023 and describes its purpose as to "design and install an enterprise state wide correctional video surveillance ('SCVS') solution for ..." CDCR. *Id.* at 1. The contract further states that High Desert State Prison "will be used as the model for all prisons statewide." *Id.* (footnote omitted).
- Defendants' Response relies heavily on follow-up to the Strike Team 52. interviews that took place in December 2018 as evidence that the situation on Facility C has improved. Attached hereto as **Exhibit OO** is a true and correct copy of an Excel spreadsheet called the RJD Master Allegation Tracking Log ("Tracking Log"), which was produced by Defendants on June 9, 2020, and which purports to describe what happened to the allegations of misconduct gathered by the Strike Team. The Tracking Log includes a column called "Outcome" that references numerous confidential memoranda. At the July 24 meet-and-confer, we asked Defendants if they had provided those memoranda to their expert, Kenneth McGinnis, in connection with his expert report. Defendants' counsel stated they had not provided those memoranda because they did not have them in their possession. I objected that we had not received the memoranda even though they are responsive to our November 2019 document request. As we had only a few days left to file our reply brief, Defendants' counsel promised to look into the matter and get back to me. On July 24, 2020 at 4:21 p.m., Mr. Lodholz sent instructions for downloading some of the memoranda referenced in the RJD Master Allegation Tracking Log. Attached hereto as **Exhibit PP** is a true and correct copy of Mr. Lodholz's email to Plaintiffs' counsel in which he describes the production. Mr. Lodholz stated that the "documents are being produced informally because there is not sufficient time to produce them formally in Monday's production These documents are confidential under the Court's protective Case No. C94 2307 CW

orders." This document production consisted of 36 memoranda totaling 178 pages. Plaintiffs' counsel immediately provided these memoranda to our expert Eldon Vail.

- 53. The RJD Allegation Tracking Log contains at least sixty-one allegations of misconduct arising out of the Strike Team interviews. Ex. OO. There are sixty-one lines of data, with each line of data corresponding to a unique tracking log number, indicating that sixty-one cases were opened in response to the Strike Team. *Id.* Of those sixty-one cases, the Tracking Log indicates that nine allegations were referred by the Hiring Authority to the Office of Internal Affairs ("OIA"): C-19-012, C-19-015, C-19-016, C-19-017, C-19-019, C-19-020, C-19-035, C-19-054, and C-19-059. *Id.* According to the Tracking Log, OIA rejected eight out of the nine cases. *Id.*
- 54. After reviewing Defendants' production of these memoranda on July 24, 2020, Plaintiffs' counsel determined that Defendants had not produced all of the memoranda: only thirty-six confidential memoranda out of sixty-one inquiries were produced. On July 25, 2020, I sent an email to Mr. Lodholz requesting the remainder of the memoranda. A true and copy of my request and Mr. Lodholz's response is attached hereto as **Exhibit QQ**. On July 27, 2020 at 2:13 p.m. Mr. Lodholz produced the remainder of the confidential memoranda.
- 55. Attached hereto as **Exhibit RR** is a true and correct copy of all of the confidential memoranda produced to us on June 24 and 27, 2020. The two batches are separated by a slip sheet. Collectively, there are fifty-six unique memoranda (the productions included some duplicates). The memoranda indicate the dates of any investigative follow up conducted following the December 2018 and January 2019 Strike Team interviews and show the final outcome for each case. In thirty-five of the thirty-six cases produced on June 24, 2020, there was no investigative follow up until January 16, 2020 or later, nearly a year after the conclusion of the December 2018 and January 2019 Strike Team interviews, and only after Plaintiffs' counsel had made clear that they intended to seek relief from this Court. *See* Freedman RJD Decl., Ex. 1. In four of the thirty-six cases, no investigative follow-up was conducted until April 2020. Ex. RR. In Case No. C94 2307 CW

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

thirty-two cases, the allegations were closed and the allegation was determined unfounded, after more than a year had elapsed since the Strike Team interview. *Id.* In three cases (C-19-004, C-19-007, C-19-026), the Warden chose to submit a 989-referral to the OIA for investigation or direct adverse action. *Id.* Notably, two of those cases had already been referred to and rejected without further investigation by OIA. *Id.* Eight of the memoranda relied exclusively on past documentation in rendering their findings because, for example, complainants and witnesses had died or paroled or could not otherwise be reached. *Id.* For those eight cases, the investigators and the Hiring Authority chose to close the cases without gathering additional evidence. *Id.*

- 56. In the second production on July 27, 2020, Defendants produced twenty additional memoranda. In eleven of these twenty memoranda, investigators did not conduct follow-up interviews with the complainants and instead relied exclusively on past documentation for recommending a disposition. For the nine cases in which follow-up interviews were conducted, the earliest interview was conducted on May 30, 2019, nearly six months after the Strike Team report was issued. Two of these twenty cases (C-19-035) and C-19-006) were recommended for a referral to OIA; it is not clear whether these cases were in fact referred to OIA because the Warden did not sign the memoranda approving the recommended referral. One of those two possible OIA referrals (C-19-035) had initially been referred to and rejected by the Office of Internal Affairs in the wake of the Strike Team. The reviewer, Lieutenant determined that the initial OIA-referral was missing critical documentation, including the video-taped interview of the victims, which he believed indicated that the victims suffered injuries "not consistent with the amount of force reported" in the incident packet, and he therefore recommended that the Warden again re-refer the case to OIA with the additional evidence.
- 57. Pursuant to California Government Code § 3304(d)(1), there is a one-year statute of limitations from the date of discovery of potential misconduct for CDCR to complete an administrative investigation. Of the memoranda produced by Defendants that are signed by the Warden— which represent only a fraction of the total memoranda

produced because many of the memoranda are unsigned—the earliest date on which the Warden reviewed, closed, and signed the inquiries was January 23, 2020. Since CDCR discovered all of these allegations during the Strike Team interviews in December 2018 and January 2019, it is likely that the statute of limitations for administrative action on the incidents had already been exceeded by the time the Warden resolved the inquiries.

58. Attached hereto as **Exhibit SS** is a true and correct copy of a June 8, 2018 email from the Chief of CDCR's Office of Appeals to RJD Warden Covello produced by Defendants, in which he notes the "systemic problem wherein the staff preparing appeal responses . . . are not interviewing all of the appropriate witnesses, . . . not asking all the appropriate questions of witnesses, . . . and are making determinations based on insufficient evidence."

Defendants Have Continued to Fail to Respond to Plaintiffs' Advocacy Letters

59. In my declaration submitted in support of the RJD declaration, I stated: "As of the date of the filing of this declaration, Defendants still have not substantively responded to eight of Plaintiffs' counsel's letters." Grunfeld RJD Decl., ¶ 32. Plaintiffs' advocacy letters and Defendants' responses are included in the Freedman RJD Declaration, ¶¶ 70, 167, 182, 243, 256, 257, 262 & Exs. 21b, c, 41b-d, 45b, 57b-d, 59, 60, 63. Since the filing of the RJD Motion, Defendants have not provided substantive responses to the eight pending letters.

Defendants Have Failed to Log and Investigate Allegations Pursuant to this Court's Accountability Order

- 60. Since the filing of the RJD motion, Defendants produced to Plaintiffs' counsel DAI Non-Compliance Logs ("Accountability Logs") for the months of January and February 2020 on April 3, 2020 and March 30, 2020, respectively. Freedman Statewide Decl., Ex. 75.
- 61. As of the filing of this Reply, Defendants have not produced any

 Accountability Logs for the months of March through July 2020. For the entire period for which Defendants have produced Accountability Logs, September 2016 through February

 20 Case No. C94 2307 CW

been confirmed. *Id.*; Freedman RJD Decl., ¶ 283; *see also* Freedman Statewide Decl., Ex. 75; Grunfeld RJD Decl., ¶ 33.

Defendants Have Failed to Produce Documents Pursuant to this Court's Accountability Order

2020, the Accountability Logs reflect that only a single allegation of staff misconduct has

24 | 25 |

62. On June 17, 2020, I sent a letter, a true and correct copy of which is attached hereto as **Exhibit TT**, to Tamiya Davis, CDCR Office of Legal Affairs, disputing the decision not to confirm allegations of staff misconduct included on Defendants' Accountability Logs for institutions covered by the Statewide Motion and requesting the underlying investigative files as allowed by the Accountability Order. In my July 8, 2020 letter to Defendants, Ex. EE, I renewed our request for the production of responsive documents pursuant to the Accountability Order, both in response to my January 3, 2020 and June 17, 2020 letters. Ex. EE, at 2. As of the filing of this declaration, Defendants have not responded to either of my letters and it is unclear what responsive documents have been produced.

Defendants' Data Is Incomplete and Supports the Need for a Remedial Order

- 63. Mr. Gleiberman, working under my direction and supervision, reviewed the use of force, staff complaint, and appeals and grievances data cited in Defendants' Response. *See* Decl. of L. Olgin ("Olgin Decl."), Docket No. 3006-3, Ex. A; Decl. of Ken McGinnis ("McGinnis Decl."), Docket No. 3006-2, Ex. B, at 13-15, 23-24.
- 64. Using Defendants' data, Mr. Gleiberman created a table of all use of force incidents from 2017 through 2019 by RJD facility. McGinnis Decl., Ex. B, at 13-15, 23. 24. In the table below, "A" through "E" are the names of yards at RJD. HCA refers to "Health Care Access" and covers the Correctional Treatment Center. "M" Refers to the Minimum Yard. *Id.* at 6-7.

Facility	A	В	C	D	E	HCA	M	Total
2017	38	36	121	14	15	17	1	242

1	
2	
3	

Facility	A	В	C	D	E	HCA	M	Total
2018	53	35	156	20	20	16	4	304
2019	44	25	87	21	8	8	3	196

65. Using this data, Mr. Gleiberman calculated the year-over-year change and percentage change in use of force rates by facility. The data indicate that, while some facilities have seen a reduction in use of force, the rate of use of force has increased on a number of facilities, including Facility A—where much of the recent violence catalogued in the declarations is concentrated, including the June 17, 2020 assault on Mr.

Facility	A	В	C	D	E	HCA	M
2017-18 Change	15	-1	35	6	5	-1	3
2017-18 % Change	39.4%	-2.8%	28.9%	42.9%	33.3%	-5.9%	300%
2018-19 Change	-9	-10	-69	1	-12	-8	-1
2018-19 % Change	-17.0%	-28.6%	-44.2%	5%	-60%	-50%	-25%
2017-19 Change	6	-11	-34	7	-7	-9	2
2017-19 % Change	15.8%	-30.6%	-28.1%	50%	-46.7%	-53%	200%

66. Mr. Gleiberman also reviewed the IATS print-out of all appeals and grievances filed by the declarants from 2017 through 2019. *See* Olgin Decl., Ex. A, at 3-77. Using a search function, he counted the number of appeals and grievances filed by each of the declarants included on the IATS print-out. Mr. Gleiberman determined that the following five declarants submitted the most appeals and grievances between 2017 and 2019: (102 appeals), (71 appeals), (65 appeals). (65 appeals), (65 app

grievances filed by the declarants.

67. Mr. Gleiberman also reviewed the print-out and determined that 345 of the 1,180 (29.2%) appeals and grievances filed by the declarants were healthcare grievances.

Case No. C94 2307 CW

REPLY DECL. OF GAY C. GRUNFELD ISO PLS.' MOTION TO STOP DEFS. FROM ASSAULTING, ABUSING & RETALIATING AGAINST PEOPLE W/ DISABILITIES AT R.J. DONOVAN CORR. FACILITY

Analysis of Declarations Signed After the RJD Motion

- 68. Mr. Gleiberman, working under my direction and supervision, reviewed all thirty-three RJD declarations signed after the RJD Motion was filed on February 28, 2020 to determine the number of staff misconduct incidents the declarants described. For purposes of counting the incidents of staff misconduct, Mr. Gleiberman considered a continuing course of misconduct to count as one incident of misconduct. For example, if a class member was assaulted by staff and then subjected to retaliation for filing a staff complaint about the assault, Mr. Gleiberman counted those events as only one staff misconduct incident. This methodology is conservative. CDCR policy would treat the above example as involving at least two separate instances of misconduct for which an employee could face discipline. Using this conservative methodology, we determined that the class member declarations signed following the filing of the RJD Motion describe more than twenty discrete incidents of staff misconduct. Taken together with the declarations filed in support of the RJD Motion, the class member declarations describe, in total, well over one-hundred-twenty discrete incidents of staff misconduct. See Freedman RJD Decl., ¶ 248.
- 69. Mr. Gleiberman reviewed each declaration submitted after the filing of the RJD declaration and created a tally of every incident described in the declarations as well as the names of officers involved in each incident. We determined that these declarations, taken together with the declarations described in the RJD declaration, describe by name one hundred and four unique officers involved in misconduct. *See* Freedman RJD Decl., ¶ 249.
- 70. Mr. Gleiberman also determined that the declarations also included information about dozens of officers who perpetrated staff misconduct against class members but for whom the declarants did not know the names of the officers. For that reason, the number of officers involved in misconduct against class members at RJD likely exceeds one-hundred-four by a great deal.

28

27

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- 71. Mr. Gleiberman also made a list of the officers identified in the declarations as being involved in misconduct, as well as the number of staff misconduct incidents in which each named officer was involved. In compiling this information, he only included officers who engaged in acts or omissions that resulted in harm to an incarcerated person. He did not include officers who were bystanders to incidents of excessive and/or unnecessary uses of force. He also made sure that each incident associated with an officer was unique to avoid double-counting in cases where multiple declarations described the same incident.
- 72. For purposes of counting the incidents in which officers were involved, Mr. Gleiberman considered the following names to refer to the same staff member: He treated "Toolie," "Toele," and "Tooele" as Toele; "Asberry" and "Asbury" as Asbury; "Torronez" and "Terronez" as Terronez; "Cruz" and "Cruz-Osorio" as Cruz; "Cassas," and "Casas" as Casas; "Colon," and "Colone," as Colon; and "Mesa," and "Meza," as Meza. I directed Mr. Gleiberman to do so because we considered those differently-spelled names to refer to the same people based on our experience monitoring RJD, our knowledge of the officers involved in misconduct at RJD, and information about state employee salaries available on https://transparentcalifornia.com/.
- 73. Through this analysis, Mr. Gleiberman determined that forty-nine officers were identified as having participated in more than one incident of staff misconduct reported in the declarations. For purposes of this tally, Mr. Gleiberman again considered a continuing course of misconduct to count as one incident of misconduct. For example, we counted the multi-week campaign of retaliation carried out against Mr. Ms. and Mr. by Officers Doyle, Armstead, Sanchez, Mesa, Larios, and Colon as only one incident of misconduct for each of the officers involved. Our analysis of the declarations submitted in support of the Motions, the TRO, the PI, and this Reply shows that the following officers were involved in the number of incidents indicated in brackets:

Cruz [9]	Herrera [3]	Perez [2]
Navarro [9]	LaRocco [3]	Sheppard [2]

1	Salas [8]	Romero [3]	Taylor [2]
2	Sigala [8]	Toele [3]	Terronez [2]
	Torres [6]	Uhde [3]	Zambrano [2]
3	Aviles [5]	Aranda [2]	Casas [2]
4	Duran [5]	Asbury [2]	Colon [2]
5	Hubert [5]	Correa [2]	Larios [2]
	Lopez [5]	Cuevas [2]	Lizarraga [2]
6	Camacho [5]	Godinez [2]	Meza [2]
7	Garcia [5]	Hernandez [2]	Owens [2]
8	Gonzalez [4]	Hurm [2]	Santana [2]
	Rucker [5]	Jimenez [2]	Barrientos [2]
9	Walker [4]	Miller [2]	Armstead [2]
10	Sanchez [4]	Noriega [2]	Gutierrez [2]
11	Downs [3]	Orozco [2]	
	Falcon [3]	Parker [2]	
12			

To our knowledge, only one of these officers has been disciplined for the incidents described in the declarations; three of these officers have been disciplined in connection with misconduct against people with disabilities that was not related to the incidents documented in the declarations.

The Evidence Reveals Serious Culture Issues at RJD and Within CDCR

- 74. In the Grunfeld Statewide Declaration, I described social media posts that appear to have been made by officers from CDCR that were either racist or insensitive toward people with hearing disabilities, developmental disabilities, and mental illness. *See* Grunfeld Statewide Decl., ¶¶ 42-43 & Exs. W, X.
- 75. There is also evidence of a culture problem specific to RJD. Of the eighty-seven declarations Plaintiffs have submitted regarding abuse at RJD, four allege blatantly racist comments made during the incident of misconduct. *See* Ex. K; *see also* Freedman RJD Decl., Ex. 11, ¶ 35; Ex. 16, ¶ 19; Freedman Statewide Decl., Ex. 12, ¶ 14. In Mr. second supplemental declaration, he describes a June 16, 2020 incident in which Officer Salazar called him a "stupid ass nigger" and accused him of "snitching on [Officer Salazar]," after Mr. complained of Officer Salazar's failing to wear a face mask.

Ex. K, ¶ 5. Officer Salazar went on to tell him that, "Black lives don't matter." *Id.*, ¶ 7. On June 17, 2020, Mr. observed Officer Salazar tell other incarcerated people he was "always snitching on staff," calling him a "602 queen," and again, reiterating that "Black lives don't mean shit to me." Id., ¶ 8. These same incarcerated people went on to attempt to assault Mr. in the administrative segregation unit—a restrictive form of housing ostensibly meant to protect incarcerated people from violence—on July 3, 2020. *Id.*, ¶ 9.

76. Moreover, on June 29, 2020, Defendants produced a number of "weekly report" memoranda, true and correct copies of which are attached hereto as **Exhibit UU**, signed by Facility C field training sergeants and addressed to the Facility C Captain. One of these memoranda noted that second watch staff on Facility "continue[] to show great motivation with a positive drive to **make Facility C great again**." Ex. UU, at DOJ00116225 (emphasis added). This appears to be a reference to President Trump's election slogan, which is considered racially insensitive by some. *See* https://www.voanews.com/usa/make-america-great-again-racist, last accessed July 26, 2020.

77. In addition, there is also reason to believe that the misconduct at RJD has disproportionately affected black incarcerated people. Working under my supervision, Mr. Gleiberman reviewed the demographic data, available through CDCR's Electronic Health Record System ("EHRS"), for the sixty-six unique RJD declarants. Although the sample of declarants may not be statistically representative of the people who have been abused by staff, it does provide some information about who has been affected by the rampant misconduct at RJD.

Race	Total	Percentage
White	21	31.8%
Latinx	11	16.7%
Black	31	47.0%

I	
2	

Race	Total	Percentage
NA	1	1.4%
Other	2	2.9%

78. According to the December 2018 CDCR "Offender Data Points" Report (the most recent official demographic data produced by CDCR), CDCR incarceration rates by race, as of December 31, 2018, are as follows:

Race	Percentage
White	21.0%
Latinx	44.1%
Black	28.3%
Other	6.6%

79. If these data remain accurate through 2020, then black people are significantly overrepresented among the RJD victims of staff misconduct. Black people submitted RJD declarations at a rate more than 1.5 times their representation in the population (their proportion of the declarations is 63% higher than their populations proportions).

Recent Reports from the Office of the Inspector General Provide Further Evidence of the Systemic Problems at RJD and in CDCR

80. Attached hereto as **Exhibit VV** is a true and correct excerpted copy of the July 2020 Office of Inspector General ("OIG") Report titled, "Monitoring the Use-of-Force Review Process of the California Department of Corrections and Rehabilitation." The Report calls into question the ability of CDCR to effectively monitor its use of force processes:

In many instances, reviewers at all levels, from the incident commander to the institution's review committee, failed to identify use-of-force policy deviations. Furthermore, reviewers concurred with the reviewers at the prior level all the way through the multilevel review process, leaving the deviations to be identified by the use-of-force coordinator, a non-custody

staff member, or the institution's review committee. These missed deviations led the OIG to question whether the reviewers require more training on their responsibilities in this area, or whether the department fails to hold accountable reviewers who neglect their responsibilities.

Ex. VV, at 83.

81. Attached hereto as **Exhibit WW** is a true and correct of the June 11, 2020 Sentinel Case Report (20-02) issued by the OIG titled, "The Department Settled a Case Against an Officer Who Was Dishonest at a State Personnel Board Hearing Regarding Another Officer's Misconduct." The Sentinel Case Report describes how a CDCR Deputy Director decided to reduce the penalty of an officer—who the Warden had terminated after finding the staff member to have been dishonest in an apparent "code of silence"—to a 30-working-day suspension. Ex. WW, at 1-2.

- 82. Attached hereto as **Exhibit XX** is a true and correct excerpted copy of the June 2020 Complaint Intake and Field Inquiries Report issued by the OIG on June 2, 2020. Among other things, the OIG determined that, "the department performed inadequate inquiries into 21 of the 36 complaints (58 percent)," reviewed by the OIG. Ex. XX, at 37. The OIG also found that four Wardens failed to initiate inquiries into serious allegations of misconduct referred to them by the OIG. *Id.* at 37-40. Of the cases that it did investigate, in nearly half, CDCR failed to initiate timely and thorough investigations. *Id.*, 40-52. The report also chronicles a June 2018 incident in which an incarcerated person was issued a dishonest RVR, which was contradicted by video surveillance evidence. *Id.* at 53-55. While the person's RVR was later reduced to a counselling chrono, CDCR executive staff declined the OIG's recommendation to refer the dishonest staff member to OIA because the executive staff "did not believe the officer was 'blatantly dishonest,'" when reporting facts that proved to be inaccurate based on the video surveillance evidence. *Id.* at 55.
- 83. On July 27, 2020 my colleague Penny Godbold took the deposition of Defendants' expert Kenneth McGinnis via Zoom. Attached hereto as **Exhibit YY** is a true and correct copy of an expedited "rough" transcript of the deposition.

1	84. Attached hereto as Exhibit ZZ is a true and correct copy of Department of
2	Finance Form 580, entitled "Unanticipated Cost Funding Request", available at
3	http://dof.ca.gov/budget/resources_for_departments/budget_forms/index.html and
4	previously filed with the Court at Docket 2922-1 as Exhibit BB to my February 28, 2020
5	declaration in support of this motion.
6	85. Attached hereto as Exhibit AAA is a true and correct excerpted copy of the
7	CDCR Supplemental Report of the 2018-19 Budget Package Annual Performance
8	Measures, available on CDCR's website. See https://www.cdcr.ca.gov/research/wp-
9	content/uploads/sites/174/2020/02/CDCRFiscal_Year_2018
10	2019 Annual Performance Measures Report.pdf, last accessed July 28, 2020. The report
11	indicates that the average cost per incarcerated person housed at RJD was \$99,170 in fiscal
12	year 2018-2019. Ex. AAA, at 10. The Report also indicates that the Statewide
13	Correctional Video Surveillance System had an actual cost of \$13,496,426 through June
14	30, 2019 with a total project cost of \$385,896,040. <i>Id.</i> at 30.
15	
16	I declare under penalty of perjury under the laws of the United States of America
17	that the foregoing is true and correct, and that this declaration is executed at San Francisco,
18	California this 28th day of July, 2020.
19	
20	/s/ Gay Crosthwait Grunfeld
21	Gay Crosthwait Grunfeld
22	
23	
24	
25	
26	
27	
28	0. N 004 2207 O

[3575838.2]

INDEX OF EXHIBITS TO REPLY DECLARATION OF GAY CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL FACILITY

Redacted and Under Seal versions filed on July 29, 2020

Exhibit	Description
A	Redlined version of Revised Proposed Order Granting Motion to Stop
	Defendants from Assaulting, Abusing, and Retaliating Against People with
	Disability at R.J. Donovan Correctional Facility and Requiring Defendants to
	Develop a Remedial Plan.
В	Letter from Gay Crosthwait Grunfeld to the Coleman Special Master, the
	Receiver, and Diana Toche, regarding Plaintiffs' Staff Misconduct Motions in
	Armstrong, and the Duty of Mental Health and Medical Staff to Report
	Violence against People with Disabilities, dated July 27, 2020
С	First Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed June 25, 2020
D	Second Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed July 3, 2020
Е	Third Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed July 13, 2020
F	Declaration by <i>Coleman</i> class member 2020 signed June 30,
G	First Supplemental Declaration by <i>Coleman</i> class member signed July 13, 2020
Н	Second Supplemental Declaration by <i>Coleman</i> class member signed July 22, 2020
I	Third Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed June 25, 2020
J	Fourth Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed July 11, 2020
K	Second Supplemental Declaration by <i>Coleman</i> class member, signed July 10, 2020
L	Letter from Penny Godbold to Defendants regarding renewed safety concerns
	for <i>Coleman</i> class member , dated July 10, 2020
M	Second Supplemental Declaration by <i>Armstrong</i> and <i>Coleman</i> class member, signed July 24, 2020
N	Declaration by <i>Armstrong</i> and <i>Coleman</i> class member signed July 23, 2020
O	Declaration of <i>Armstrong</i> and <i>Coleman</i> class member signed July 27, 2020

Р	Declaration of <i>Coleman</i> class member 27, 2020,
Q	Email correspondence from Tamiya Davis to Plaintiffs' Counsel attaching a scanned copy of note sent to <i>Coleman</i> class member dated July 17, 2020
R	Video interview of Mr. by AW in which Mr. provided the note, dated July 17, 2020
S	Copy of CDCR 128-B chrono by AW summarizing the interview conducted with Mr. at signed July 17, 2020
T	Email correspondence from Penny Godbold to Defendants requesting Mr. immediate transfer out of RJD, dated July 22, 2020
U	Email correspondence from Patricia Ferguson to Plaintiffs' Counsel regarding Mr. transfer, dated July 24, 2020
V	Letter and Memorandum from Secretary Ralph Diaz establishing Positive Programming Credits ("PPC") for incarcerated persons due to COVID-19, dated July 9, 2020
W	Letter from Penny Godbold to Defendants requesting the dismissal of Mr. RVRs related to the June 17, 2020 incident, dated July 17, 2020
X	Letter from Gay Crosthwait Grunfeld to Defendants requesting a litigation hold on cellular telephone related to the June 17, 2020 incident, dated July 17, 2020
Y	Email correspondence from Michael Freedman to Defendants regarding Plaintiffs' request for the litigation hold and notifying Defendants that Plaintiffs planned to serve a Request for Inspection and a Request for Production of Documents, dated July 17, 2020
Z	Defendants' Response to Plaintiffs' Request for Inspection and Request for Production of Documents, dated July 20, 2020
AA	Email correspondence between Plaintiffs' Counsel and Defendants regarding processing and retrieval of contents of cellular telephone, dated July 21, 2020
BB	Email correspondence between Plaintiffs' Counsel and CDCR's Office of Research requesting COMPSTAT data for CDCR's Reception Center Mission and High Security Mission, dated June 18, 2020, and data produced July 28, 2020, separated by slip sheet
CC	Letter from Gay Crosthwait Grunfeld to Defendants regarding California Public Record Act requests for copies of peace officer personnel records, dated July 10, 2020
DD	Letter from Gay Crosthwait Grunfeld to Defendants regarding Termination of Correctional Officers in Connection with Misconduct Against People with Disabilities, dated June 25, 2020

EE	Letter from Gay Crosthwait Grunfeld to Defendants requesting that
	Defendants amend their interrogatory responses and provide information
	regarding the finality of eight possible officer terminations, dated July 8, 2020
FF	Defendants' Second Amended Response to Plaintiffs' Special Interrogatories, dated July 17, 2020
GG	Video recording showing Officer inflict force on an incarcerated person
	at RJD, produced to Plaintiffs' Counsel on June 10, 2020
HH	Video surveillance of Officers and using excessive force
	against Armstrong class member, in RJD's Facility
	B, recorded on December 9, 2018
II	Video surveillance of officer pulling the wheelchair of Armstrong class
	member , and launching him onto the ground,
	Vantage Point 1, recorded on March 28, 2017
JJ	Video surveillance of Officer pulling the wheelchair of Armstrong
	class member , and launching him onto the ground,
	Vantage Point 2, recorded on March 28, 2017
KK	Email correspondence between Michael Freedman and Defendants regarding
	the reference in Amy Miller's declaration to criminal investigations opened
	by the Office of Internal Affairs ("OIA") in 2018 and 2019, dated July 22,
	2020
LL	Email correspondence from Defendants to Plaintiffs' Counsel indicating OIA
	has opened a criminal investigation as a result of a referral from RJD, dated
MM	July 8, 2020
MM	Letter from Michael Freedman to Defendants requesting copy of audio
	surveillance video systems contract between CDCR and third party vendor, dated July 20, 2020
NN	Contract between Stanley Convergence Security Solutions Inc. and CDCR,
1111	produced to Plaintiffs' Counsel on July 24, 2020
OO	Copy of Spreadsheet, "RJD Master Allegation Tracking Log," describing
	outcome of staff misconduct allegations gathered by the Strike Team,
	produced by Defendants on June 9, 2020
PP	Email correspondence from Defendants to Plaintiffs' Counsel regarding
	production of documents, dated July 24, 2020
QQ	Email correspondence between Plaintiffs' Counsel and Defendants regarding
	the production of the remainder of the Strike Team memoranda, dated July
	25, 2020 through July 27, 2020
RR	Memoranda of December 2018 and January 2019 Strike Team interviews,
	produced on June 24, 2020 and June 27, 2020, separated by slip sheets
SS	Email correspondence from Chief Office of Appeals noting systemic
	problems with staff investigations into allegations of misconduct, dated June
	8, 2018

TT	Letter from Gay Crosthwait Grunfeld to Defendants regarding decision not to
	confirm allegations of staff misconduct included on Defendants'
	Accountability Logs, dated June 17, 2020
UU	"Weekly Report" memoranda signed by RJD's Facility C field training
	sergeants, produced by Defendants on June 29, 2020
VV	Excerpts of OIG Report, entitled "Monitoring the Use-of-Force Review
	Process of the California Department of Corrections and Rehabilitation,"
	dated July 2020
WW	OIG's Sentinel Case Report, entitled "The Department Settled a Case Against
	an Officer Who Was Dishonest at a State Personnel Board Hearing Regarding
	Another Officer's Misconduct," dated June 11, 2020
XX	OIG's Complaint Intake and Field Inquiry Report, issued June 2, 2020
YY	Rough transcript of the deposition of Kenneth McGinnis taken on July 27,
	2020
ZZ	Department of Finance Form 580, entitled "Unanticipated Cost Funding
	Request"
AAA	Excerpts of CDCR's Supplemental Report of the 2018-19 Budget Package
	Annual Performance Measures, last accessed July 28, 2020

EXHIBIT A

1	DONALD SPECTER – 083925 RITA K. LOMIO – 254501	
2	MARGOT MENDELSON – 268583 PRISON LAW OFFICE	
3	1917 Fifth Street Berkeley, California 94710-1916	
4	Telephone: (510) 280-2621 Facsimile: (510) 280-2704	
5		
6	MICHAEL W. BIEN – 096891 GAY C. GRUNFELD – 121944 PENNY GODBOLD – 226925	
7	MICHAEL FREEDMAN – 262850	
8	ROSEN BIEN GALVAN & GRUNFELD LLP	
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738	
10	Telephone: (415) 433-6830 Facsimile: (415) 433-7104	
11	LINDA D. KILB – 136101	
12	DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.	
13	3075 Adeline Street, Suite 201 Berkeley, California 94703	
14	Telephone: (510) 644-2555 Facsimile: (510) 841-8645	
15	Attorneys for Plaintiffs	
16	UNITED STATES DISTRICT COURT	
17	NORTHERN DISTRICT OF CALIFORNIA	
18	OAKLAND DIVISION	
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW
20	Plaintiffs,	REVISED [PROPOSED] ORDER GRANTING MOTION TO STOP
21	V.	DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING
22	GAVIN NEWSOM, et al.,	AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN
23	Defendants.	CORRECTIONAL FACILITY AND
24		REQUIRING DEFENDANTS TO DEVELOP A REMEDIAL PLAN
25		Judge: Hon. Claudia Wilken
26		Date: August 11, 2020 May 19, 2020 Time: 2:30 p.m. 2:00 p.m. TBD, Oakland
27		Crtrm: TBD, Oakland
28		

1

5

7

12 13

11

14 15

16 17

19

18

20 21

22

23 24

25

27

28

26

Against People with Disabilities at R.J. Donovan Correctional Facility ("RJD") came on for hearing before this Court on May 19 August 11, 2020 at 2:0030 p.m. The Court, having considered the parties' pleadings, the arguments of counsel, and the entire record, GRANTS Plaintiff's motion and makes the following findings: This lawsuit was originally filed twenty-six years ago by incarcerated people and

Plaintiffs' Motion to Stop Defendants from Assaulting, Abusing and Retaliating

parolees with disabilities against the California officials with responsibility over the corrections and parole system. This Court certified Plaintiffs as representatives for a class including "all present and future California state prisoners and parolees with mobility, sight, hearing, learning, developmental and kidney disabilities that substantially limit one or more of their major life activities." Order Granting Pls.' Mots. to Am. Compl. and Modify the Class, Docket No. 345, Jan. 5, 1999, at 2.1 On behalf of the class, Plaintiffs sought accommodations for their disabilities, as required under federal statutes and the United States Constitution.

Initially, Plaintiffs sued two divisions of the then California Youth and Adult Corrections authority (the "Agency"). The two divisions sued had separate areas of responsibility toward incarcerated people and parolees: The Board of Prison Terms ("BPT") had authority over parole and parole revocation hearings, and the California Department of Corrections ("CDC") was responsible for all other aspects of incarcerated people's and parolees' lives, including supervisions of parolees.² By agreement of the

¹ The Plaintiff class was certified on January 13, 1995. On December 24, 1999, the parties stipulated to amend the class definition to include "all present and future California state prisoners and parolees with mobility, sight, hearing, learning and kidney disabilities that substantially limit one or more of their major life activities." Stipulation and Order Am.Pl. Class, Dkt. 342, Dec. 24, 1993, at 2. The class definition was subsequently modified, as to Defendants Board of Prison Terms ("BPT") and Chairman of the BPT only, to add incarcerated people and parolees with developmental disabilities on January 5, 1999. Order Granting Pls.' Mots. to Am. Compl. and Modify the Class, Jan. 5, 1999, at 2.

² Since this lawsuit was originally commenced, the Agency has been reorganized and superseded by the California Department of Corrections and Rehabilitation ("CDCR"). BPT is now the Board of Parole Hearings ("BPH"). CDC has been replaced by the Division of Adult Institutions ("DAI") and the Division of Adult Parole Operations ("DAPO").

2

3

4

1

5

7

9

8

11

10

12

13 14

15

16

17

18

19

20 21

22

23

24

25 26

27

28

parties, litigation against the two divisions was initially bifurcated and proceeded on two separate tracks.

On September 20, 1996, this Court ordered CDC and related Defendants to develop plans to ensure that their facilities and programs were compliant with the Americans With Disabilities Act ("ADA"), 42 U.S.C. §§ 12131 et seq., and the Rehabilitation Act ("RA"), and readily accessible to and usable by incarcerated people and parolees with disabilities. The order also required Defendants to develop policies to provide a prompt and equitable disability grievance procedure, to allow approved assistive aids for incarcerated people with disabilities in segregation units and reception centers, and to ensure accessibility in new construction and alterations. Remedial Order, Injunction and Certification for Interlocutory Appeal, September 20, 1996. The Court retained jurisdiction to enforce its terms. Id. at 5.3 Subsequent proceedings against the BPT, now the BPH, are summarized in the Court's Order Granting Plaintiffs' Renewed Motion to Require Defendants to Track and Accommodate Needs of Armstrong Class Members Housed in County Jails, Ensure Access to a Grievance Procedure, and to Enforce 2001 Permanent Injunction, Dkt. 1974, Jan. 13, 2012, at 3-5 and 6-11, aff'd 732 F.3d. 955 (9th Cir. 2013), cert. denied 134 S.Ct. 2725 (2014).

On January 3, 2001, the CDC Defendants amended their Court Ordered Remedial Plan regarding the provision of programs and services to incarcerated people and parolees with disabilities. The Armstrong Remedial Plan ("ARP") requires Defendants to ensure that incarcerated people and parolees with disabilities are accessibly housed, that they are able to obtain and keep necessarily assistive devices, and that they receive effective communication regarding accommodations. The Remedial Plan also requires Defendants to include in all contracts language that requires subcontractors to comply with the ADA.

Plaintiffs' counsel began monitoring compliance with the ARP around the time of

³ The Ninth Circuit affirmed the injunction against the CDC Defendants on appeal. See

Armstrong v. Wilson, 124 F.3d 1019 (9th Cir. 1997), cert. denied, 524 U.S. 937 (1998).

	its implementation, and have filed a series of enforcement motions in the years since. On
2	January 18, 2007, in light of significant evidence of multiple violations of the Remedial
3	Plan, the Court issued an Injunction that addressed these violations and ordered
ŀ	Defendants to comply with sections of the Remedial Plan. See Dkt. No. 1045. ⁴ A key
5	aspect of the 2007 Injunction was a section on accountability:
5	[Defendants, in cooperation with the Office of the Inspector General and the
7	Receiver in <i>Plata v. Schwarzenegger</i> , shall develop a system for holding wardens and prison medical administrators accountable for compliance with
3	the <i>Armstrong</i> Remedial Plan and the orders of this Court. This system shall track the records of each institution and the conduct of individual staff members who are not complying with these requirements. Defendants shall

refer individuals with repeated instances of non-compliance to the Office of

Internal Affairs for investigation and discipline, if appropriate.

Id. at 7.

On March 22, 2012, Plaintiffs filed a Request for an Order to Show Cause and Notice of Motion and Motion for an Order Holding Defendants in Contempt of Court (the "Accountability Motion"). *See* Dkt. No. 2024. Plaintiffs argued in the Accountability Motion that Defendants were violating the accountability section of the 2007 Injunction by "fail[ing] to take any action to track ... reported instances of staff member noncompliance, or to refer repeated instances of non-compliance to the [Office of Internal Affairs]."

On August 22, 2012, this Court issued an Order Denying Motion for Contempt, Denying as Moot Motion to Strike, and Modifying Permanent Injunction. Dkt. 2180. As the Court explained in this Order, the accountability provisions of the 2007 Injunction "required Defendants to develop effective internal oversight and accountability procedures to ensure that Defendants learned what was taking place in their facilities, in order to find violations, rectify them, and prevent them from recurring in the future, without

⁴ Plaintiffs subsequently filed enforcement motions, and the Court issued orders, addressing the lack of sufficient beds for people who need wheelchairs full-time, Dkt. No. 1661, the unavailability of sign language interpreters for deaf people in education and medical settings, Dkt. No. 2345, and the unlawful retention of people in administrative segregation due to a lack of accessible beds. *See* Dkt. No. 2495.

1	involvement by Plaintiffs' counsel or the Court." <i>Id.</i> at 10. The Court further explained
2	that "investigations, including the documentation of the results, are necessary to ensure
3	that grievances are addressed and to identify staff error or misconduct and institutional
4	deficiencies that violate class members' rights." <i>Id.</i> at 11.
5	The Court found that Defendants had failed to track or investigate "numerous
6	incidents" of violations of the ARP and Court orders. <i>Id.</i> at 12. The Court further held
7	that "Defendants' accountability system has not been effective." <i>Id.</i> at 15-16.
8	While denying Plaintiffs' motion to hold defendants in contempt, the "Court
9	[found] the 2007 Injunction should be clarified and made more detailed, to make clear
10	what is expected of Defendants and to allow Defendants to conform their future behavior
11	to its terms." <i>Id.</i> at 16. The Court modified the Injunction to
12	require Defends to track all allegations of non-compliance with the ARP and
13	list when the investigation was initiated, the name and title of the
ا4	
15	the involved employee or employees.
16	Id. at 17. The Court further held that Defendants would be required to initiate a timely
17	investigation, within 10 business days,
18	to ensure that allegations are investigated while memories are fresh, the facts surrounding the allegations are still in existence, and the violation can be
19	remedied. Further, in order to reconcile disagreements between the parties resulting from investigations, [the] Court finds that Plaintiffs' counsel
must have access to the results of the investigation, including all sources of	must have access to the results of the investigation, including all sources of information relied on to substantiate or refute the allegations.
21	information rened on to substantiate of refute the diregations.
22	Id. at 18. The Court went on to hold that with referrals to the Office of Internal Affairs
23	("OIA") for investigation and discipline of non-complying employees, Defendants would
24	be required to "comply with the Employee Disciplinary Matrix set forth in the CDCR
25	Departmental Operations Manual, Chapter 3, Article 22." <i>Id.</i> The Court further found it
26	necessary "to create a process for resolving disputes between the parties regarding whether
27	an incident constitutes a violation of the ARP and this Court's orders[]" <i>Id.</i> at 19.
28	Defendants appealed the Modified Injunction. The Ninth Circuit affirmed the

[3584154.1]

1	Court's order in all respects except with regard to the dispute resolution process. See
2	Armstrong v. Brown, 768 F.3d 975 (2014). On remand, this Court issued an order
3	addressing the Ninth Circuit opinion and mandating that Plaintiffs submit a second
4	Modified Injunction incorporating the changes required by the Ninth Circuit. See Order
5	Revising Modified Injunction, Dec. 5, 2014, Dkt. No. 2462.
6	On December 29, 2014, the Court issued an Order Modifying January 18, 2007
7	Injunction. See Dkt. No. 2479. This Modified Injunction governs accountability for
8	CDCR staff misconduct and violations of the ARP and Court orders. Pursuant to the
9	Modified Injunction, CDCR has issued two memoranda governing CDCR's process for
10	reporting, logging, conducting an "inquiry" into the alleged non-compliance, and
11	investigating allegations. Currently, Defendants track accountability issues through logs
12	generated by software purchased from Salesforce.
13	In 2013, the Court ordered the parties to work together to develop better means for
14	monitoring Defendants' compliance with the ADA, the Remedial Plan, and this Court's
15	orders. Order Regarding Monitoring, Dkt. No. 2344. The Court directed "the parties to
16	meet and confer, with the assistance of the court's expert as needed, on how to resolve
17	[monitoring] issues and improvements that might be made on the monitoring process."
18	<i>Id.</i> at 2.
19	Since July 2013, the parties have met regularly under the supervision and with the

er the supervision and with the guidance of the Court Expert to draft and refine a joint monitoring tool. The parties have also conducted a number of joint audits of Defendants' prisons for compliance with the ARP and this Court's orders. See CMC Statements. The thrust of both the Joint Audit Process and the Accountability Memorandum and Modified Injunction ("Accountability Order") are to share information among the parties with the goals of ultimately having Defendants monitor their own compliance and of creating a sustainable, ADA-compliant system that protects the rights of *Armstrong* class members.

The parties' and the Court's efforts to create a sustainable remedy have been undermined by an epidemic of staff abuse and excessive use of force at CDCR's high

Case No. C94 2307 CW

20

21

22

23

24

25

26

27

security prisons. In December 2015, the OIG issued a report at the request of the California Legislature and the Prison Law Office detailing numerous incidents at High Desert State Prison ("HDSP").

By January 2018, reports of serious abuse of people with disabilities were emanating from the California Institute for Women ("CIW") and Salinas Valley State Prison ("SVSP"). In response to monitoring by Plaintiffs' counsel, the OIG issued a report detailing the inadequacy of CDCR's investigative process for finding and remedying staff misconduct and excessive use of force.

These issues have regularly been reported to the Court in the parties' Case Management Statements. *See, e.g.*, Dkt. Nos. 2821, 2844, 2863, 2874, 2887 & 2896. Plaintiffs have presented evidence of abuse and retaliation targeted at people with disabilities at a number of prisons, including HDSP, CIW, SVSP, California State Prison – Los Angeles County ("LAC"), and California State Prison – Corcoran ("COR").

Plaintiffs have brought the instant Motion to stop officers at RJD from assaulting, abusing, and retaliating against people with disabilities at RJD. Plaintiffs' counsel have been notifying Defendants of incidents of staff misconduct and violence at RJD against *Armstrong* class members in tour reports and letters for three-and-a-half years. This issue was first discussed in a Case Management Conference Statement on July 14, 2017. Dkt. No. 2688 at 4.

RJD, which houses nearly 4,000 people in San Diego, is one of CDCR's most important prisons with respect to accommodating people with disabilities and caring for people with physical and mental health problems. RJD has the second largest population of incarcerated people with disabilities in the CDCR system. As of November 2019, there were nearly 1,000 *Armstrong* class members at RJD, including 297 people who use wheelchairs, 217 people who are deaf or hard of hearing (including more than 10 who use sign language as their primary method of communication), and 13 blind class members.

RJD houses more than 2,000 class members in *Coleman v. Newsom*, Case No. 2:90-cv-00520-KJM-DB (E.D. Cal.), including more than 700 individuals in CDCR's enhanced

mental health program; 92 class members in *Clark v. California*, Case No. 3:96-cv-01486-CRB (N.D. Cal.) with developmental disabilities; and more than 1,500 people who CDCR has deemed as having high risk medical conditions.

Plaintiffs' counsel has filed fifty-four eighty-seven declarations from people with disabilities describing well over one_hundred_twenty discrete instances of abuse of and discrimination and retaliation against people with disabilities occurring since 2016. This horrific conduct has occurred in almost every area of the prison, including on all five yards at RJD. The declarants identify, by name, eighty-nine_one-hundred-four different correctional officers who have participated directly in the misconduct, including thirty forty-nine who are identified as having participated in more than one incident. The names of dozens of other officers who participated directly in the misconduct are unknown to the declarants.

Correctional officers at RJD have repeatedly assaulted or otherwise engaged in misconduct against people with disabilities because of their disabilities or because they have requested disability accommodations. Officers at RJD demonstrate a deep disregard for and discriminatory animus toward individuals with disabilities and other vulnerable groups of people. Without adequate or sometimes any justification, staff threwhave thrown people out of wheelchairs or beat them so badly that they fell out of their wheelchairs. Officers have attacked victims who were using their walkers at the time of the assault. Officers have routinely and intentionally closed cell doors on people with disabilities and elderly people who move slowly. Staff have accused people of faking disabilities or used discriminatory language to refer to people with disabilities and other minorities. Staff have created a near-universal perception among incarcerated people that staff target people with disabilities for misconduct. Staff have engaged in a pattern and practice of targeting abuse, violence, discrimination and retaliation toward class members and other vulnerable incarcerated people.

Staff or incarcerated people working at staff's behest have broken victims' arms, wrists, ribs, legs, orbital sockets, teeth, feet, fingers, and jaws; many of the broken bones

Case No. C94 2307 CW

3

4 5

7 8

9

6

10 11

12 13

14

15 16 17

19 20

21

18

22 23 24

26

25

27

28

required surgical repairs. At least twelve fourteen of the assaults by staff resulted in the victim being transported from RJD to a hospital for medical attention.

Following attacks by custody staff, some Armstrong class members' disabilities have become more severe, including a few for whom doctors changed the class members' disability designations to reflect higher levels of impairment.

In addition to the untold human suffering for the direct victims, the medical care for these unnecessary injuries is all paid for by the taxpayers. Staff regularly exposed to this conduct can be traumatized, which can negatively impact their mental health, productivity, and attendance, all of which also affects the public fisc.

When people complain about staff misconduct or staff's failure to provide accommodations, staff frequently engage in or threaten serious retaliation. Officers use the Rules Violation Report (RVR) process to retaliate against and punish people, fabricating RVRs against the people they assault to cover up inappropriate and excessive uses of force.

For example, this Court issued a Temporary Restraining Order requiring CDCR to transfer two of the class member declarants out of RJD's Facility A after they were subjected to retaliation. See Dkt. No. 2972. In connection with one of the incidents of retaliation, in which a 69-year-old wheelchair user was thrown to the ground, he received two RVRs, both of which threaten his likelihood of obtaining credits or early release under the Governor's COVID-19 protocols or elderly parole.

CDCR is well aware of this pattern, having sent a strike team of investigators to conduct interviews with more than one hundred incarcerated people on Facility C at RJD in December 2018. The associate warden who led the strike team and CDCR's own investigators concluded that staff at RJD were targeting people with disabilities because of their disabilities, finding that "custody staff actively retaliat[e] against inmates for filing appeals or staff complaints or requesting assistance with safety concerns." They further concluded that "within 24 hours of an inmate dropping off an appeal ... retaliation begins." The retaliation has included assaulting complainants in places with limited visibility; arranging for incarcerated people in gangs to assault the complainant; seizing a com-

Case No. C94 2307 CW

REVISED [PROPOSED] ORDER GRANTING MOT. TO STOP DEFS. FROM ASSAULTING. ABUSING & RETALIATING AGAINST PEOPLE W/ DISABILITIES AT RJD & REQUIRING DEFS. TO DEVELOP REMEDIAL PLAN

plainant's property; announcing to other incarcerated people that the complainant had a disfavored commitment offense; or announcing that the complainant was responsible for other incarcerated people not receiving programs (i.e., televisions, dayroom, showers, etc.) Retaliation has also been leveled against staff members who participate in efforts to discipline officers.

Because of the violent misconduct and retaliation at RJD, incarcerated people are terrified of custody staff. To avoid becoming the next victim, people with disabilities forgo requesting from staff the disability accommodations they need to participate in CDCR programs, services and activities. The same fear causes class members to refrain from complaining, either informally or using an 1824 or 602 grievance, when staff deny them accommodations to which they are entitled. Defendants' own investigators concluded that "[t]he inmate allegations, taken as a whole, seem to describe an environment with no relief mechanism for inmates who feel mistreated by staff." As a result of custody staff's concerted efforts to stifle and punish complaints, "[i]nmates ... 'hide' within their daily routines and suffer minor abuse in order to avoid greater abuses."

CDCR has been aware for more than three years of the problems at RJD with staff abuse of and discrimination against people with disabilities. Beginning in September 2016, a series of Plaintiffs' monitoring reports and letters, a letter from Defendants' Office of Audits and Court Compliance, and Defendants' own ombudsman and staff have documented the ongoing violence and retaliation at RJD against people with disabilities. The Chief Ombudsman for CDCR, who reports to Secretary Diaz and who was part of the RJD strike team, wrote the following in an email to CDCR's Director of Adult Institutions:

[W]hat we heard was overwhelming accusations of abuse by the Officers with Sgt's and Lt's looking in the other direction. I have never heard accusations like these in all my years. I would strongly suggest placing a strike team on this yard immediately. Many of the inmates have expressed fear of what will happen to them tomorrow when the team is not there.... This is a very serious situation and needs immediate attention. If there is any means of installing cameras immediately I would strongly suggest it, at least in the blind spots and the back door by the gym. A review of the appeal process, RVR's and staff complaints off that yard also needs to take place ASAP. (Emphasis added.)

Later in the email chain, the Chief Ombudsman wrote:

[T]here has been little to no progress since September.... I am not typically an alarmist, but again, I have never heard such despair, hopelessness, and fear from inmates and I have been on quite a few of these teams to review and interview inmates. The CIW tour results don't come close to this and CIW was very bad. (Emphasis added.)

The Office of the Inspector General conducted its own review of CDCR's responses to Plaintiffs' advocacy letters and found a "pervasive lack of timely follow through," including that CDCR "ignored" many allegations, failed to investigate twenty-eight allegations not previously known to CDCR, and failed to refer pertinent information to the Office of Internal Affairs when warranted.

CDCR has provided very little information about its investigations of staff misconduct and its decisions to impose little or no discipline on the officers at RJD who have perpetrated the staff misconduct against class members.

Those few investigations that resulted in CDCR terminating officers involved video of the incident or a statement from a CDCR employee who witnessed the misconduct. CDCR gives little to no weight to the testimony of incarcerated people who were either victims or witnesses.

With respect to the crisis at RJD, Defendants have failed to meet their obligations pursuant to this Court's orders regarding accountability. Defendants failed to include on their non-compliance logs at least twelve allegations of staff misconduct (1) that Plaintiffs' counsel raised with Defendants in advocacy letters and tour reports and (2) that are directly related to Defendants' compliance with the ADA, the RA, the ARP, and prior orders of this Court. Defendants also failed to include on the accountability logs incidents documented by their own investigators. Many of the items that Defendants did log were logged many months after Plaintiffs' counsel reported the allegations to Defendants in advocacy letters or tour reports. On the accountability logs for RJD for September 2016 to December 2019, Defendants have confirmed only one allegation of staff misconduct against a class member and have made only two referrals to OIA.

Contrary to the spirit of the Court's orders regarding accountability and the order

10 Case No. C94 2307 CW

aimed at improving monitoring in this case, Defendants have not been transparent with 1 Plaintiffs regarding the serious problems at RJD. The August 2018 joint audit at RJD, 2 3 conducted as part of those collaborative efforts, served as one of the first moments when CDCR recognized it had a problem with staff misconduct at RJD. Yet CDCR has 4 5 repeatedly failed to share information with Plaintiffs' counsel regarding CDCR's attempts to diagnose and treat the staff misconduct epidemic at RJD. 6 7 CDCR's remedial efforts to date have been inadequate and ineffective. CDCR has 8 failed (1) to discipline officers who have engaged in misconduct; (2) to investigate all of 9 the allegations of misconduct about which it was aware; (3) to install cameras in all areas to which incarcerated people have access; and (4) to take any steps to determine whether 10 11 misconduct was occurring in areas of the prison other than Facility C or whether its effort 12 to reduce staff misconduct have been successful. The few efforts CDCR has made 13 primarily involve minor changes in staffing and training. Because CDCR has refused to 14 take the problem seriously, staff misconduct continues to occur at an alarming rate. 15 CDCR has only terminated five eight officers for four instances of misconduct 16 17 18 19

against incarcerated people at RJD. Six of those terminations are pending evidentiary hearings before the State Personnel Board. All four instances involved a victim who was a person with a disability. CDCR also has not referred any officers for criminal prosecution related to misconduct against incarcerated people. Furthermore, many of CDCR's investigations into misconduct have been inadequate. Only three officers, all of whom were involved in the same incident of misconduct, have faced any discipline for any of the abuses described in the declarations from incarcerated people with disabilities. And overall imposition of discipline at RJD has actually decreased, from 21 instances in 2017 to 19 in 2018 to 14 in 2019. In order to fix staff misconduct crisis at RJD, far more discipline is necessary.

There are many reasons why the discipline has been so inadequate. Local inquiries conducted by staff at RJD were incomplete, unprofessional, and profoundly biased against incarcerated complainants and witnesses. CDCR's new Allegation Inquiry Management

Case No. C94 2307 CW

20

21

22

23

24

25

26

27

1	Section ("AIMS") will not solve the problems with inquires. As it stands, reported use of
2	force allegations that do not result in serious bodily injury have been excised from the new
3	process. In order to trigger an AIMS inquiry, incarcerated people have to submit a written
4	staff complaint. AIMS investigators have displayed the same bias as the local
5	investigators they are replacing. And without better tools for gathering evidence of staff
6	misconduct, including cameras and better enforcement of reporting requirements for staff,
7	AIMS will suffer from the same problems as the current system, where allegations of staff
8	misconduct are rejected for lack of corroborating evidence and officers go undisciplined
9	and undeterred.
10	The OIA Central Intake Unit ("CIU")—which functions as the gatekeeper for all
11	discipline of CDCR employees—blocked many potentially meritorious complaints against
12	RJD staff from even being investigated by OIA, an issue Plaintiffs have been bringing to
13	CDCR's attention for years. The CIU misapplied the "reasonable belief" standard in a
14	number of cases. Moreover, the standard is inappropriate to use as an exclusionary
15	criterion before a formal investigation has even been conducted.
16	Wardens at RJD—who, like all wardens in CDCR, have the authority to decide
17	whether to find an officer has violated policy and to impose discipline—exercised their
18	discretion poorly and inconsistently. In some cases, the wardens elected not to sustain
19	allegations fully supported by the facts. In others, wardens made inconsistent decisions in
20	finding misconduct and imposing penalties where allegations of misconduct were
21	substantially similar. The Employee Disciplinary Matrix—which sets forth presumptive
22	penalties for different types of misconduct—is seriously flawed and leads to penalties that
23	are too low for serious misconduct that harms incarcerated people. Staff members accused
24	of serious misconduct were nearly always permitted to remain in positions with control
25	over incarcerated people, sometimes including their victims, and receive their salaries
26	during the pendency of investigations. Even where evidence indicated that officers had
27	engaged in criminal conduct, CDCR rarely referred the cases to local prosecutors.
28	The discipline system is designed to discredit incarcerated people and exonerate
	12 Case No. C94 2307 CW

1	staff. Since January 1, 2017, all of the terminations at RJD involved either a video or a
2	staff report of the misconduct. CDCR has not identified a single instance of any type of
3	discipline that does not fit that pattern. Put differently, in every instance where an
4	investigation boils down to a conflict between a report of misconduct by an incarcerated
5	person and a report of policy compliance by an officer (which is most cases because of
6	Defendants' lack of video surveillance), Defendants find that no misconduct occurred.
7	These problems with the staff complaint, investigation, and discipline system apply to
8	CDCR as whole. The primary failings—lack of video surveillance, biased and poor-
9	quality inquiries, inappropriate rejections of referrals by the CIU, inadequate investigations
10	by OIA, and improper exercise by wardens of their authority to discipline—are endemic to
11	the system created by CDCR.
12	Notwithstanding broad agreement by its own investigators and administrators-and
13	by, the OIG, Plaintiffs' experts and Defendants' expert that cameras are critical for
ا 4	deterring misconduct and holding accountable officers who engage in misconduct, and the
15	existence of a multi-year contract to install video surveillance throughout its system,
16	CDCR has not added any camera coverage at RJD or other prisons with recent reports of
17	violence and abuse. As was the case in December 2018, the vast majority of RJD,
18	including most of the areas in which misconduct has occurred, has no camera coverage.
19	CDCR could have sought emergency funding from the legislature, as CDCR has
20	done to address other emergencies, to fund cameras at RJD. CDCR chose not to. Instead,
21	CDCR waited until January 2020 to submit a budget change proposal ("BCP") for the
22	purchase and installation of some cameras at RJD, as well as for CIW and SVSP. H
23	approved, The Governor then rejected CDCR's modest camera proposal as part of the BCP
24	would not result in additional operational cameras at RJD until June 2021 at the
25	earliest. May 2020 Budget Revise. CDCR has no plan to install surveillance cameras at
26	RJD or to purchase or use body-worn cameras, which are essential for achieving full
27	camera coverage, including in cells and other areas in which the budget change proposal
28	cameras will not reach, and for capturing sound. CDCR also has no plan to deploy
l	10 C N C04 2007 C

cameras at other prisons experiencing violence and abuse, notwithstanding its own studies showing that installation of cameras at HDSP resulted in a 50% reduction in violence.

Defendants have failed to implement other recommendations their own staff made in response to the epidemic of violence and abuse at RJD, including increased supervisory staff, enhanced training, a review to reduce the impact of gangs on Facility C, enforcement of its policy regarding uniforms to deter officer gang activity, or issuance of a corrective action plan.

CDCR's initiative to create a new group called the Allegation Inquiry Management Section ("AIMS") housed within the Office of Internal Affairs is not yet fully implemented and is underfunded. As it stands, use of force allegations have been excised from the new process. Without better tools for gathering evidence of staff misconduct, including cameras and better enforcement of reporting requirements for staff, AIMS will suffer from the same problems as the current system, where allegations of staff misconduct are rejected for lack of corroborating evidence and officers go undisciplined and undeterred.

CDCR has little or no information regarding the current scope of problems at RJD and other prisons, and no reliable means of collecting and using data as an early warning system to signal if there are problematic officers, locations, or times of day with respect to misconduct.

Defendants had years to solve the problems at RJD on their own and failed. The crisis at RJD —now it its fourth year—and at other prisons requires CDCR to undertake robust and immediate action to address widespread violations of the ADA, RA, the Constitution, and this Court's prior orders, and to end untold human suffering.

The widespread and egregious abuse and violence at RJD violates the ADA, the RA, and prior orders of this Court because staff are hurting, permanently injuring and retaliating against people with disabilities because they have disabilities. *See* 42 U.S.C. §§ 12132; *see also* Dkt. 1045, at 9.

The ADA also prohibits any individuals, including public entities, from retaliating against people who exercise their rights under Title II. *See* 42 U.S.C. § 12203(a) ("No

person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.").

The evidence is overwhelming that Defendants are allowing systemic attacks on people with disabilities at RJD by reason of their disabilities and retaliating against them for exercising their rights under the ADA. This conduct violates the statute and the Court's prior orders. *See* 42 U.S.C. §§ 12132, 12203(a); *Vos v. City of Newport Beach*, 892 F.3d 1024, 1036-38 (9th Cir. 2018) (same); *Sheehan v. City and County of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014), *rev'd in part on other grounds*, 575 U.S. 600 (2015); Dkt. 1045, at 9.

The pervasive violence and retaliation at RJD have made *Armstrong* class members too afraid to exercise their right under the ADA, RA, ARP, and prior orders of this Court to request and receive reasonable accommodations needed to participate in CDCR programs, services, and activities. *See Updike v. Multnomah Cty.*, 870 F.3d 939, 949 (9th Cir. 2017). The ADA's implementing regulations require that "[a] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7)(i). The Court has ordered CDCR to abide by this requirement. *See* Dkt. 1045 at 9. The Court has also ordered CDCR to provide a special grievance process for incarcerated people to request accommodations. *Id.*

23 || *1*

The ADA also includes a broad anti-interference provision which makes it

unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by

[Chapter 126, which includes Title II].

42 U.S.C. § 12203(b). This provision prohibits not only retaliation against people who

expressly exercise their rights under the ADA, but also conduct that has a chilling effect on others' exercise of their ADA rights. *See Brown v. City of Tucson*, 336 F.3d 1181 (9th Cir. 2003); *EEOC v. Day & Zimmerman NPS, Inc.*, 265 F. Supp. 3d 179 (D. Conn. 2017).

People with disabilities are so afraid of becoming the next victim of staff misconduct at RJD that they refrain from requesting accommodations they require to participate in CDCR programs, services, and activities. Defendants, by tolerating such an environment, are preventing a prompt and equitable grievance procedure and interfering with Plaintiffs' ADA rights, all in violation of 42 U.S.C. § 12203(b), 28 C.F.R. § 35.130(b)(7)(i), 28 C.F.R. § 35.107(b), and the Court's 2007 Injunction.

Defendants are also in violation of this Court's Modified Injunction, Dkt. No. 2462, regarding accountability. Defendants have failed to log and investigate many allegations of non-compliance related to staff violence and abuse of people with disabilities at RJD. Defendant have also failed to comply with the requirement that allegations of non-compliance be logged within ten business days of Defendants' discovery of the allegation. Defendants' violations of this Court's Modified Injunction have prevented them from having a complete record of searchable allegations by officer and allegation type. A complete accountability log would also have allowed CDCR to impose progressive discipline and to engage the OIA more thoroughly in stopping the officer misconduct, including through criminal referrals.

CDCR's inability to put an end to the violence, abuse and retaliation at RJD has vitiated the Court's Accountability Order and undermined joint monitoring. For the accountability remedies to work, Defendants must have mechanisms for self-monitoring non-compliance. Because *Armstrong* class members at RJD are too afraid to complain when staff violate their rights, CDCR has lost the central means for discovering, logging, and investigating non-compliance and ultimately appropriately disciplining officers.

CDCR's action and inaction not only violate the ADA, RA, and this Courts' prior orders, but also the Eighth and Fourteenth Amendments to the United States Constitution, further empowering this Court to order relief here. Officers' harassment, retaliation, and

Case No. C94 2307 CW

1	u
2	iı
3	a
4	S
5	F
6	(
7	F
8	c
9	tł
10	Е
11	U
12	
13	Г
14	S
15	a
- 1	l

16

17

18

19

20

21

22

23

24

25

26

27

28

intransigence and willful lack of responsiveness in the face of pervasive and systemic abuse of class members, demonstrate CDCR and RJD staff members' malicious and sadistic, let alone deliberately indifferent, attitude toward incarcerated people at RJD. *See Farmer v. Brennan*, 511 U.S. 825, 833 (1994); *Hudson v. McMillian*, 503 U.S. 1, 5-6 (1992); *Chess v. Dovey*, 790 F.3d 961, 972-73 (9th Cir. 2015); *Hoptowit v. Spellman*, 753 F.2d 779, 784 (9th Cir. 1985). CDCR's action and inaction also have directly impeded class members' basic Fourteenth Amendment Due Process rights, including, for example, their abilities to have fair hearings regarding RVRs and to prepare for Board of Parole Hearings without false RVRs leveled against them. *See, e.g., Wolff v. McDonnell*, 418 U.S. 539, 563-67 (1974).

In order to remedy the ongoing harm to *Armstrong* class members, to ensure that Defendants meet their obligations under the ADA, RA, prior Court orders, and the United States Constitution, and to enforce the 2007 Injunction and the orders regarding accountability <u>Accountability Order</u>, and based on the entire record in this action, the Court hereby ORDERS the following relief:

- 1. Within thirty days of this Order, Defendants shall develop a plan for stopping violence, abuse and retaliation against *Armstrong* class members at RJD that includes, at a minimum, the following elements:
- (a) <u>Cameras</u> Within ninety days, CDCR must install operational surveillance cameras that have coverage of all areas of RJD in which incarcerated people have access, including, but not limited to, all exercise yards, housing units, sally-ports, dining halls, program areas, and gyms. Within <u>one-hundred-and-eightysixty</u> days, CDCR must purchase and begin using body-worn cameras for all correctional officers at RJD.

Within ninety days of the deployment of each type of camera, CDCR must adopt policies and procedures regarding the use of camera footage, including requirements that all footage be retained for a minimum of ninety days, that footage of use of force and other triggering events (staff complaints, self-harm, medical emergencies, RVRs, etc.) be

1	retained indefinitely, and that footage, when available, be reviewed and considered as part
2	of the consideration of the incident. CDCR must also train RJD staff regarding how and
3	when to request that footage be retained and reviewed.
4	(b) Reforms to Staff Complaint, Investigation, and Discipline
5	<u>Process – CDCR must develop a plan to reform the staff complaint, investigation, and</u>
6	discipline process to ensure (1) that CDCR completes unbiased, comprehensive
7	investigations into all allegations of staff misconduct in which the victim was an
8	Armstrong class member, (2) that CDCR imposes appropriate and consistent discipline
9	against employees who engage in misconduct against Armstrong class members, and (3)
10	that employees who engage in criminal misconduct against Armstrong class members are
11	appropriately investigated and, if warranted, referred for prosecution ("Investigation and
12	Discipline Plan"). CDCR's plan must also ensure that officers accused of serious
13	misconduct are reassigned so they cannot further harm their victims.
14	(c) Third-Party Expert Monitoring of Defendants' Investigation and
15	<u>Discipline Plan – The Court shall appoint an expert pursuant to Federal Rule of Evidence</u>
16	706 to monitor Defendants' implementation of their Investigation and Discipline Plan.
17	The Court's Expert shall have access to all documents—including, but not limited to
18	grievances, incident reports, documents from staff misconduct inquiries, documents from
19	Institutional Executive Review Committee inquiries in which the person alleges excessive
20	use of force or other staff misconduct, 989 forms and all supporting documents, responses
21	of the Central Intake Unit of OIA to 989 forms, OIA investigation files, investigation
22	reports produced by the OIA and all supporting documents, 402 and 403 forms issued by
23	the hiring authority, notices of adverse action, and Skelly and State Personnel Board
24	Documents—necessary to complete the monitoring. The Court's Expert shall issue
25	quarterly reports regarding Defendants' implementation of the Investigation and Discipline
26	Plan. Prior to the issuance of each quarterly report, the parties and the Court's Expert shall
27	meet and confer regarding the Court Expert's findings for the quarter.
28	(d) Information Sharing with Plaintiffs' counsel and the Court

Case No. C94 2307 CW

1	Expert – CDCR must produce to Plaintiffs' counsel and the Court Expert on a quarterly
2	basis all documents related to RJD staff complaints in which the alleged victim is an
3	<u>Armstrong class member, including, but not limited to, grievances, incident reports,</u>
4	documents from staff misconduct inquiries, documents from Institutional Executive
5	Review Committee inquiries in which the person alleges excessive use of force or other
6	staff misconduct, 989 forms and all supporting documents, responses of the Central Intake
7	Unit of OIA to 989 forms, investigation reports produced by the OIA, and 402 and 403
8	forms issued by the hiring authority. CDCR must also provide Plaintiffs' counsel with
9	monthly, written updates regarding progress on the elements of its plan to stop staff
10	misconduct at RJD, including data regarding staff complaints and use of force.
11	(b)(e) Staffing – CDCR must significantly increase supervisory staff on all
12	watches on all yards at RJD. CDCR must create non-uniformed positions in each housing
13	unit fully empowered to supervise correctional staff in those units, with a focus on
14	improving the relationships between uniformed staff and incarcerated people.
15	(c)(f) Training – CDCR must development and implement Human Rights,
16	de-escalation, and cultural training for all custody, mental health staff, and medical staff at
17	RJD to include discussion of reporting requirements, whistleblowing, non-retaliation, and
18	treatment of incarcerated people as patients.
19	(d)(g) Data Collection and Early Warning System – CDCR must
20	immediately develop an effective, electronic system to track all incidents at RJD, including
21	use of force, staff misconduct complaints, fights between incarcerated people, rule
22	violations, injuries suffered by incarcerated people, suicide attempts, cell extractions,
23	medical emergencies, found contraband, vandalism, escapes and escape attempts, and fires
24	by data time location staff involved incorporated months involved and whather the
	by date, time, location, staff involved, incarcerated people involved, and whether the
25	incarcerated people are <i>Armstrong</i> class members. The RJD tracking system should
252627	incarcerated people are Armstrong class members. The RJD tracking system should

(e)(h) Oversight – CDCR headquarters must exercise oversight over all staff complaints, use of force reviews, and related staff disciplinary proceedings at RJD in which an employee is accused of engaging in misconduct against an incarcerated person. CDCR must conduct quarterly interviews of randomly-selected incarcerated people at RJD using the methodology and interview questionnaire utilized by the December 2018 Criminal Referrals and Staff Discipline CDCR must come up with a plan to enhance accountability at RJD through greater OIA referrals, discipline of

(g)(a) Information Sharing with Plaintiffs' counsel and the Court Expert - CDCR must produce to Plaintiffs' counsel and the Court Expert on a quarterly basis all documents related to RJD staff complaints in which the alleged victim is an Armstrong class member, including, but not limited to, grievances, incident reports, documents from staff misconduct inquiries, documents from Institutional Executive Review Committee inquiries in which the person alleges excessive use of force or other staff misconduct, 989 forms and all supporting documents, responses of the Central Intake Unit of OIA to 989 forms, investigation reports produced by the OIA, and 402 and 403 forms issued by the hiring authority. CDCR must also provide Plaintiffs' counsel with monthly, written updates regarding progress on the elements of its plan to stop staff misconduct at RJD, including data regarding staff complaints and use of force.

AGAINST PEOPLE W/ DISABILITIES AT RJD & REQUIRING DEFS. TO DEVELOP REMEDIAL PLAN

members and staff at RJD who report staff misconduct and must ensure complainants' Case No. C94 2307 CW REVISED [PROPOSED] ORDER GRANTING MOT. TO STOP DEFS. FROM ASSAULTING, ABUSING & RETALIATING

safety.

1

2

10

11

12

18

19

26 27

28

24

25

(i)(i) Other Remedies – CDCR must create a policy requiring that all pepper spray canisters at RJD be weighed before and after use. CDCR The Court Expert appointed to monitor Defendants' implementation of Defendants' Investigation and Discipline Plan must review all RVRs issued at RJD in the last three years to Armstrong class members and individuals who filed declarations in support of this motion to determine if the charges were false and whether RJD afforded the individuals due process. CDCR must create a policy requiring monitoring, for a period of ninety days following a person filing a staff complaint at RJD, of the person's conduct and treatment to ensure staff are not engaging in retaliation.

(i)(k) Other Prisons – CDCR must explain whether additional prisons, including its high-security missions, should adopt the remedies listed here based on such factors as violence against vulnerable people with disabilities, number of homicides and suicides, number of complaints, presence of contraband, prevalence of overdoses and other similar factors, and if not, why not. CDCR cannot wait years to address abuse of and retaliation against people with disabilities when it knows this conduct is occurring. The remedies developed here to address this unfortunately prevalent conduct should be extended across the prison system as soon as possible.

(k)(1) Suspension of State Law – If any provisions of state law interfere with CDCR's ability to enact remedies necessary to remedy the violations of the ADA, RA, ARP, the Constitution, and orders of this Court, CDCR must request a court order suspending those provisions including the suspension of state law if necessary to achieve these purposes.

2. Within forty-five days of this Order, after reviewing comments from Plaintiffs' counsel, Defendants shall issue the plan in final form and implement its provisions forthwith. Defendants must present drafts of all plans, policies, and procedures developed pursuant to this Order to Plaintiffs' counsel at least fifteen days in advance of the deadlines. Both parties must make all possible efforts to resolve any disagreements as

[3584154.1]

4. These remedies are all consistent with the Prison Litigation Reform Act's requirement that the Court's orders be narrowly drawn, extend no further than necessary to correct the violation of a federal right, and be the least intrusive means necessary to correct the violation. *See* 18 U.S.C. § 3626(a)(1)(A). Anything short of these remedies will not put an end to Defendants' ongoing and pervasive violation of *Armstrong* class members' rights at RJD and other prisons. Given CDCR's failure to adequately address the staff misconduct crisis at RJD and other prisons over the past three-plus years, the specificity of the remedies is appropriate. *See Armstrong v. Brown*, 768 F.3d 975, 985-86 (9th Cir. 2014).

IT IS SO ORDERED.

DATED: _____, 2020

Honorable Claudia Wilken
United States District Judge

2728

16

17

18

19

20

21

22

23

24

25

26

EXHIBIT B



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Gay Crosthwait Grunfeld Email: ggrunfeld@rbgg.com

July 27, 2020

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Matthew A. Lopes, Jr.
Special Master
Pannone Lopes
Devereaux & O'Gara LLC
Northwoods Office Park
1301 Atwood Avenue, Suite 215 N
Johnston, RI 02919
mlopes@pldolaw.com

J. Clark Kelso Receiver Office of the Receiver California Prison Health Care Receivership Clark.Kelso@cdcr.ca.gov

Diana Toche Undersecretary, Health Care Services diana.toche@cdcr.ca.gov

Re: Armstrong v. Newsom

Plaintiffs' Staff Misconduct Motions in *Armstrong*, and the Duty of Mental Health and Medical Staff to Report Violence against People

with Disabilities
Our File No. 0581-03

Dear Mr. Lopes, Mr. Kelso, and Ms. Toche:

We understand that you, as well as all of CDCR, are currently under tremendous pressure to address the ever-worsening and tragic outbreak of COVID-19 in CDCR facilities across the State. However, we wanted to bring to your attention some of the key evidence in our recent staff misconduct motions that has relevance for the operation, oversight and monitoring of CDCR's health care and mental health care delivery systems.

For over two years, Plaintiffs' counsel in *Armstrong* have been investigating serious incidents of abuse, violence and retaliation against people with disabilities by officers at CDCR institutions. On February 28, 2020, Plaintiffs filed their Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against People With Disabilities at R.J. Donovan Correctional Facility ("RJD Motion"), which included fifty-four

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 2

declarations describing many horrific incidents in which officers caused serious injuries including broken bones. The RJD Motion will be heard by the Court on August 11, 2020.

On June 3, 2020, Plaintiffs filed a second Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against People With Disabilities ("Statewide Motion" and collectively the "Motions"), this one seeking state-wide relief. With the Statewide Motion, Plaintiffs filed another fifty-eight declarations from *Armstrong* and *Coleman* class members describing additional incidents at RJD and at other prisons, including California State Prison – Los Angeles County ("LAC"), Kern Valley State Prison ("KVSP"), California State Prison – Corcoran ("COR"), Substance Abuse Treatment Facility and State Prison –Corcoran ("SATF"), and the California Correctional Institution ("CCI"). The Statewide Motion has been tentatively set for an October 6, 2020 hearing.

Beginning in January 2020, all class member declarations were uploaded to a ShareFile that provides access to the *Coleman* Special Master team and CCHCS attorney Bruce Beland. In all, as of today, Plaintiffs have uploaded to the ShareFile and filed in *Armstrong* one hundred and twenty-eight declarations from over one hundred people with disabilities describing horrific abuse and retaliation at many prisons in California. The majority of the declarants are *Coleman* class members (about 90 out of 128 at last count.)

Many of the incidents described in the declarations are similar. Multiple officers use excessive and unreasonable force against people with disabilities who are then taken to a gym or other out-of-the-way place, where many individuals were beaten a second time, away from witnesses. Then later these individuals are often taken to the Treatment and Triage Area ("TTA") and then all too often to a local hospital. Although some declarations describe helpful conduct by medical and mental health personnel, a number describe the opposite—with medical and mental health personnel avoiding their obligation to render or document treatment. This problem is addressed below in the section on medical and mental health personnel.

Relationship to the *Coleman* 2014 Use of Force Orders

These issues are closely related to the use of force issues that have long been central to the *Coleman* case. Judge Karlton's 1995 *Coleman* decision found that prisoners with serious mental illnesses are subjected to punitive measures by custody staff "without regard to the cause of the [inmate's] behavior, the efficacy of such

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 3

measures, or the impact of those measures on the inmates' mental illnesses." *Coleman v. Wilson*, 912 F. Supp. 1282, 1320 (1995). In 2014, the Court again found that Defendants subjected class members to unconstitutional use of force and ordered Defendants to revise their policies accordingly. *See* April 10, 2014 Order, ECF No. 5131 at 72. In response, Defendants filed policies and procedures meant to foster a "sweeping culture change for CDCR as it expects staff to step back and evaluate the totality of the circumstances, whenever circumstances permit, before using force." ECF No. 5190 at 10. Six years later, our declarations show that this sweeping culture change has yet to arrive at many CDCR prisons.

To use CSP-Lancaster (LAC) as one example, Plaintiffs filed 29 declarations from *Armstrong* and *Coleman* class members. *See* Decl. of Michael Freedman in Supp. of Mot. to Stop Defendants from Assaulting, Abusing and Retaliating Against People with Disabilities ("Decl. of Michael Freedman in Supp. of Statewide Mot."), Dkt. 2948-2, Exs. 25-53.

Taken together, these declarations make clear that despite the significant reforms in use of force regulations over the years, and educational efforts to improve the professionalism and skill of custody staff, staff misconduct is a stubborn problem, and the remedy for use of force problems remains incomplete. Several LAC declarations report that custody staff routinely enter class members' cells based on pretexts for an immediate, emergency use of force, rather than using the more prolonged and burdensome approach for controlled use of force incidents, (requiring videotaping, among other measures) that was mandated by the 2014 *Coleman* use of force reforms.

For example, Mr. ________, a *Coleman* class member at the CCCMS level of care, recounts in his declaration that he had a verbal exchange with staff when he was feeling suicidal and wanted to see mental health staff. He reports that even though he was cooperative, LAC custody staff formed a cell extraction team and shouted "unresponsive inmate" to justify an emergency use of force and their entry into his cell. *See* Decl. of Michael Freedman in Supp. of Statewide Mot.", Dkt. 2948-2, Ex. 47 at ¶¶ 16-19. Mr. ______ also reports that this kind of improper "emergency" use of force based on a phony pretext is common: "I have many times witnessed officer yelling that an incarcerated person at LAC is 'unresponsive' in order to rush their cell" and thereby avoid the restrictive *Coleman* mandates on controlled uses of force. *Id.* at ¶ 18. Other declarations report similar emergency uses of force and cell entries based on false assertions of an emergency. *See* Decl. of Michael Freedman in Supp. of Statewide Mot., Dkt. 2948-2, Ex. 32, at ¶¶ 10-15, respectively.

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 4

We are aware that the *Coleman* Special Master, in particular, is familiar with the stubbornness of these issues, given the Special Master's past recommendations that resulted in court orders directing sweeping cultural change initiatives at Corcoran and SVSP, and his more recent efforts to address staff misconduct at CSP-Sacramento in 2016, which succeeded in convincing Defendants to install cameras in many parts of CSP-Sacramento.

Medical and Mental Health Personnel

Our work on the recent *Armstrong* Motions suggests two significant areas of concern to you as managers and monitors of the CDCR's mental health care and medical care systems. First, there are some instances where medical and mental health staff seem to actively impede the ability of assaulted class members to seek relief, by failing to accurately document injuries and/or failing to take the individual to the TTA or medical clinic in a timely manner in order to obtain needed care. Second, our work has illustrated a culture in which medical and mental health staff are not reporting misconduct by custody staff through the appropriate channels.

With respect to the first problem, CCHCS's Health Care Department Operations Manual, Chapter 4, Article 1.3, Medical Evaluation for Assaults, Cell Extractions, and Use of Force, requires Licensed Nursing Staff to "evaluate the patient as soon as practicable after the patient has been involved with an assault, cell extraction or any application of use of force." *Id.*, Section 4.1.3(d)(6)(A). The Manual further requires Licensed Nursing Staff to "document the incident with findings on a CDCR 7219, Medical Report of Injury or Unusual Occurrence, and document comprehensive medical information in the health record." *Id.*, Section 4.1.3(d)(6)(B).

We have received many reports, some of which are summarized in **Exhibit A** hereto, of nursing staff or psychiatric technicians failing to follow the Manual and instead refusing to fully document the injuries sustained by class members due to use of force by staff members. If true, these staff members are failing to follow CCHCS policy. *See* HCDOM, Chapter 4, Article 4.1.3.

For example, according to one declaration, officers at LAC brutally assaulted
—an EOP *Coleman* class member—on April 12, 2019. Once the
beating stopped, officers cuffed Mr. and dragged him to the D-Yard gym, where
they beat him again. After the assault, a psychiatric nurse evaluated Mr. while in a
holding cage in the gym, but refused Mr. request to speak without an officer

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 5

present and then failed to complete a comprehensive Form 7219. As a result of the nurse's failure to perform her duties, Mr. remained in the holding cage, naked and bleeding, for five hours, until another psychiatric technician examined him and comprehensively documented his injuries. Copies of the two, inconsistent Form 7219s attached hereto as **Exhibit B**, confirm that there were two evaluations of Mr. by different psychiatric technicians five hours apart. As a result of the second evaluation, Mr. was quickly sent out to the Antelope Valley Hospital ("AVH") where he was diagnosed with blunt head trauma and fractured ribs. Hospital staff members at AVH tried to take photographs of him because they believed a crime had taken place against him, but LAC custody staff would not allow this. Decl. of Michael Freedman in Supp. of Statewide Mot., Dkt. 2948-2, Ex. 41, ¶¶ 16-26.

The second problem has to do with whether adequate channels and support are being provided by CDCR to allow and require clinical staff members to safely report any misconduct that they observe. In *Coleman*, the Court ordered Defendants to implement a Custody Mental Health Partnership Plan (CMHPP) in an effort to make custody staff more knowledgeable and professional in their dealings with individuals with mental health issues. That order was in response to recommendations made by the Special Master regarding staff misconduct that the *Coleman* court monitors observed, heard about from staff and class members on their tours, and documented in the Twenty-Sixth Round monitoring report. *See* August 9, 2016 Order, ECF No. 5477 at 7, 9 (order in response to 26th round report requiring the creation and implementation of plan to achieve successful collaboration between custody and mental health); Special Master's Twenty-Seventh Round Report, ECF No. 5779 at 145 (reporting on defendants' completion of the initial phase of the CMHPP).

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 6

The declarations that plaintiffs have uploaded show that the CMHPP, whatever benefits it has had, has not fully solved CDCR's problems with staff misconduct against individuals with physical disabilities and mental health disabilities. Indeed, it is striking and discouraging that the two institutions where we have documented the most pervasive staff misconduct thus far in our two motions – RJD and LAC – were two of the very first institutions trained in the CMHPP in the summer of 2017.

Moreover, the experiences of two CDCR psychologist whistleblowers who came forward at RJD, Dr. and Ms. Turner, which are documented in Plaintiffs' Motions, see Dkts. 2922-5 and 2948-2, Exhibits 84 and 64 respectively, show that whistleblowers currently face a lack of support from superiors, rejection from their peers, and serious retaliation when they report misconduct against individuals with disabilities. Taken together with the paucity of reports we know about by medical and mental health staff regarding excessive force incidents where clinical staff were present, we believe that the so-called "Safe Reporting" component of the CMHPP training needs to be strengthened. In addition, separate from the CMHPP, clinical staff should be reminded of their ethical and professional duties to report misconduct.

We also intend to seek discovery regarding the CCHCS hotline for reporting misconduct. If that process is working, it is important to remind staff of the availability of that channel for reporting misconduct. As Homer Venters has documented in his book *Life and Death in Rikers Island* (2019), medical and mental health staff can play an important role in decreasing unnecessary violence in prison and jail settings.

Consistent with Dr. Venters' approach, our proposed orders in support of the Motions seek remedies that will require your cooperation. For example, item (g) in our proposed order to the *Armstrong* court seeks training on basic human rights and deescalation for all custody, mental health, and medical staff. This training would include reporting requirements, whistleblowing, non-retaliation, and treatment of incarcerated people as patients. The proposed order would also require CDCR staff to collect the names of all staff and incarcerated person witnesses to all uses of force and medical staff to document fully and report suspicious injuries to incarcerated people. Dkt. 2948-6 at 19-20.

We ask you to assign staff to investigate the issues involving medical and mental health staff members described in the declarations. We also request that you provide additional training on reporting injuries. Such reports, especially if kept in the electronic medical record, could help provide an early warning system for pockets of violence and

Matthew A. Lopes, Jr. J. Clark Kelso Diana Toche July 27, 2020 Page 7

abuse within the system. These issues should continue to be a part of the Coordination Meetings conducted pursuant to the formal case coordination orders.

It is in all our interests to reduce unnecessary injury and suffering within the system, especially during this terrible time of pandemic. Thank you for taking the time to review and investigate the declarations. We look forward to a productive discussion of ways to reduce these incidents.

Very truly yours,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:cg

Enclosures: Exhibits A-B

Chance Andes

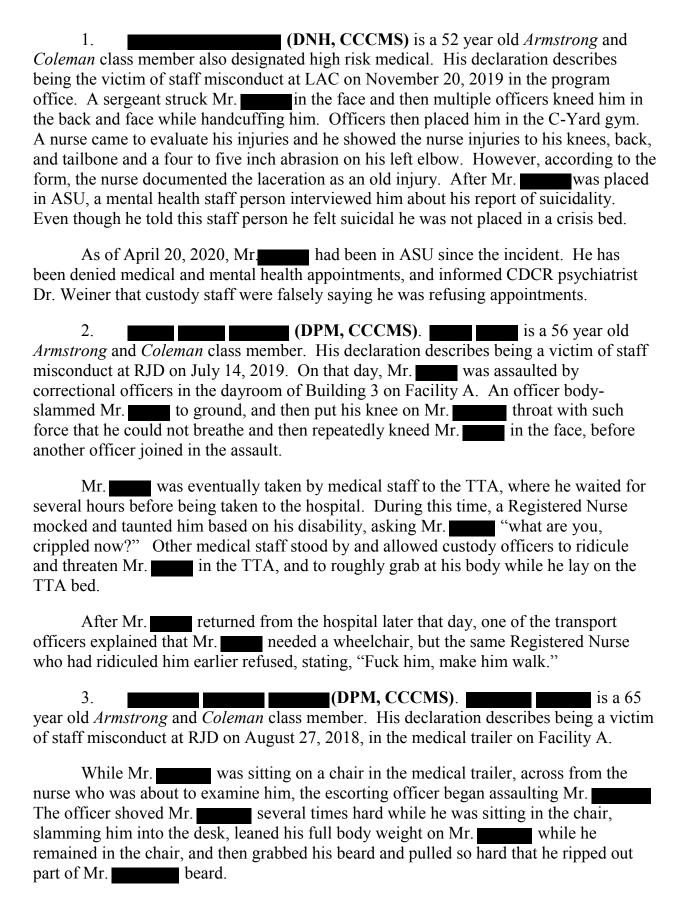
cc: Ed Swanson Coleman Special Master Team Miguel Solis Landon Bravo Olga Dobrynina Tamiya Davis Alexander "Lex" Powell Dawn Stevens Laurie Hoogland Nicholas Meyer Bruce Beland Alexandrea Tonis Patricia Ferguson Robert Gaultney Gently Armedo Amber Lopez John Dovey Lois Welch Erin Anderson Robin Hart Steven Faris **CCHCS** Accountability Robin Stringer Jennifer Neill OLA Armstrong Cindy Flores Roscoe Barrow Joseph (Jason) Williams Damon McClain Kyle Lewis Kelly Allen Joanna Hood Martin Dodd Sean Lodholz Cathy Jefferson Nick Weber Trace Maiorino Vincent Cullen Melissa Bentz Joseph Edwards Anthony Tartaglio Elise Thorn Jeremy Duggan Lynda Robinson Co-counsel Alicia Bower **Barb Pires** Adam Fouch Ngoc Vo

[3584043.2]

Exhibit A

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 68 of 858

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS



Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 69 of 858

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

There were two nurses present in the medical trailer during the assault, but they simply got up and walked to the other end of the trailer, and did not say or do anything to intervene. After the escorting officer stopped attacking Mr. the nurses came back and conducted an examination of Mr. as if nothing had happened. , (DLT, DNH, EOP) is a 64 year old 4. Armstrong and Coleman class member also designated high risk medical. His declaration describes being the victim of staff misconduct at RJD on April 24, 2019 in Building 2 on Facility A. After clearing the building of all possible witnesses, three officers trapped Mr. in the sally-port of Building 2 and beat him severely. Mr. incurred fractures to his left arm and jaw. At the direction of custody staff, nursing staff then denied Mr. medical attention for his serious injuries until 1:00 a.m. – approximately eight hours after the assault. (**DPM**, **EOP**) is a 55 year old *Armstrong* and 5. Coleman class member also designated high risk medical and chronic-care. His declaration describes being the victim of staff misconduct at RJD on February 14, 2020 both on the central plaza at RJD and on the yard of Facility A. After Mr. expressed that he was feeling suicidal and needed to speak with a clinician, a group of sergeants escorted him outside of the clinic, threw him on the ground, and told him, "there's your fucking clinician, now kill yourself." The officers then drove Mr. to Building 2, escorted him into the sally-port, and beat him. After the incident, Mr. was examined by a nurse, who documented some, but not all, of his injuries. When Mr. showed her his undocumented bruising and redness, she said, "Oh, that's just because you are old." Three days after that incident, medical staff completed a second 7219 form that documented a more extensive set of injuries. 6. **, (DPM, CCCMS)** is a 57 year old *Armstrong* and Coleman class member also designated high risk medical and chronic-care. His declaration describes being the victim of staff misconduct at RJD on April 2, 2020 outside of Building 19. As he lay unconscious, suffering from a hypoglycemic seizure, officers assaulted Mr. After the incident, a nurse told Mr. that medical staff had observed the incident but failed to intervene. The nurse reportedly felt that medical staff did not do enough to prevent custody staff from assaulting someone clearly in the midst of a medical emergency. (DPO). is a 34-year-old Armstrong class member. According to Mr. declaration, an officer at LAC slammed Mr. to the ground on December 9, 2018 in his housing area on B-Yard, in Building 1.

Following the assault, a nurse examined him. He told her he was in a lot of pain

and asked her for help, but she told him to submit a medical request. He submitted an emergency request the next day, but no medical staff saw him that day. The next day,

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 70 of 858

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

two days after the incident, he went "man down" and was finally examined by medical staff. As a result of his injuries from the assault, Mr. needed surgery to correct a disc that was pinching a nerve. During the surgery, Mr. suffered nerve damage causing him to have ongoing incontinence issues. **(EOP)** is a 42 year-old *Coleman* class member. 8. His declaration describes being the victim of staff misconduct at Corcoran on April 7, was going to an appointment with his mental health treatment team when an officer tried to slam him onto the ground for walking with his hands in his pockets. Multiple officers then punched and kicked Mr. in the head, face, nose and jaw. They then escorted him to a holding cage and rammed his head into the side of the cage three times. After officers assaulted Mr. they charged him with a Rules Violation Report ("RVR") for Battery on a Peace Officer. In his declaration, Mr. reports that he has tried to call attention to what happened to him to multiple members of mental health and medical staff in confidential appointments. He said medical and mental health staff do not listen to him or seem to care that officers assaulted him. (CCCMS, Previously DPM) is a 55 year-old 9. Coleman class member. At the time of the assault, he was also an Armstrong class member. His declaration describes being the victim of staff misconduct at LAC on December 1, 2018. When Mr. first arrived at LAC on November 26, 2018, officers confiscated his durable medical equipment ("DME") from his cell while he was on suicide watch. On the morning of the assault, Mr. was in severe pain and unable to walk without his prescribed DME. Nursing staff on LAC's B-Yard clinic did not evaluate him and refused to take him to the central clinic at the institution. While being escorted back to his housing unit in a wheelchair, Mr. went "man down" because he needed urgent medical attention. Multiple officers then tried to force him back into his wheelchair, grabbing and jerking at Mr. They proceeded to punch him in his head and lower back and pulled him across the cement. Mr. was in so much pain that he passed out. In the days following the assault, Mr. put in several requests to see medical staff at LAC, but he reported in his declaration that it took at least a week for medical staff to evaluate him. A nurse did not fill out a 7219 form until December 21, 2018, three weeks after the assault on Mr. By that time, much of Mr. bruising had healed. As of May 28, 2020, Mr. at Corcoran, continues to experience pain and discomfort in his lower back from the assault. (CCCMS) is a 58 year-old *Coleman* class 10. member. At the time of the assault, he was at the EOP level of mental health care. His declaration describes being the victim of staff misconduct at LAC on March 13, 2018. On the morning of March 13, Mr. told several members of custody staff that he was

hearing voices and feeling suicidal. Mental health staff did not know about Mr.

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 71 of 858

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

mental health decompensation until 2:30 p.m. that afternoon, when staff placed him in a
holding cage to await evaluation by a psychologist. A psychologist did not come to see
Mr. until 8:00 p.m. that evening. He stayed in the cage, with no access to water
or a bathroom, for over five hours. When the psychologist did evaluate Mr.
did not give Mr. a chance to explain his mental health issues. The psychologist
cleared Mr. to return to his cell despite the fact that Mr. continued to say
that he wanted to kill himself. After the psychologist left, Mr. attempted to hang
himself in the holding cage, using a torn piece of cloth from his T-shirt as a makeshift
noose. An officer then approached him, called him a "stupid nigger," and pepper sprayed
him in the face until he passed out. Mr. continued to experience severe mental
health decompensation after the assault. He reported in his declaration that he attempted
to commit suicide three times in the months following this incident.

- (CCCMS) is a 35 year old *Coleman* class member who also is diagnosed with a pituitary tumor and a lipoma that pulls on his right eye and causes him pain, headaches, and twitching. He is currently undergoing chemotherapy to treat the tumor. His declaration describes being a victim of staff misconduct at LAC on June 29, 2018 in the CTC building. At the time of this incident, he had just returned from going to the hospital because he had not urinated in two days. Hospital staff were not able to fully treat him, so he returned to LAC still not having urinated, and with a distended bladder. He was assaulted by officers after he refused to return to his housing unit without important medical papers he had received at the hospital. A nurse in the CTC had insisted on taking these from him. While he was being assaulted, the officers yelled "we don't give a fuck about your bladder." They kicked him so hard that he defecated. He received three 7219 forms after the assault—the first two said he had no injuries. He finally got the third 7219, accurately documenting his injuries, after talking to the psych tech that filled out this true 7219 and filing a 602. He did not receive a copy of the accurate 7291 until March 19, 2019, nearly 9 months after the assault. He received X-rays on his ribs 3-4 days after the assault. He was told his ribs were not broken, but was never shown the X-rays. About a year after the assault, he went to the outside hospital and was told that it looked like his ribs had been fractured in the past and had healed themselves over time. He also received a mental health assessment for the RVR he received to cover up this assault. Dr. Seliktar at LAC did the evaluation. Dr. Seliktar never evaluated him for the correct RVR, because he came to his cell to evaluate him about the incorrect charge, and then never came back after promising he would come back to re-do the evaluation.
- His declaration describes being the victim of staff misconduct on three separate occasions while at LAC—on November 30, 2018 in R&R when he first arrived to LAC, on August 1, 2019, on the D-4 yard, and on November 8, 2019, while walking back from pill line in D-4. On the first occasion in R&R, he was assaulted after telling officers did not want a cell-mate due to his mental health symptoms, namely paranoia. When he expressed these

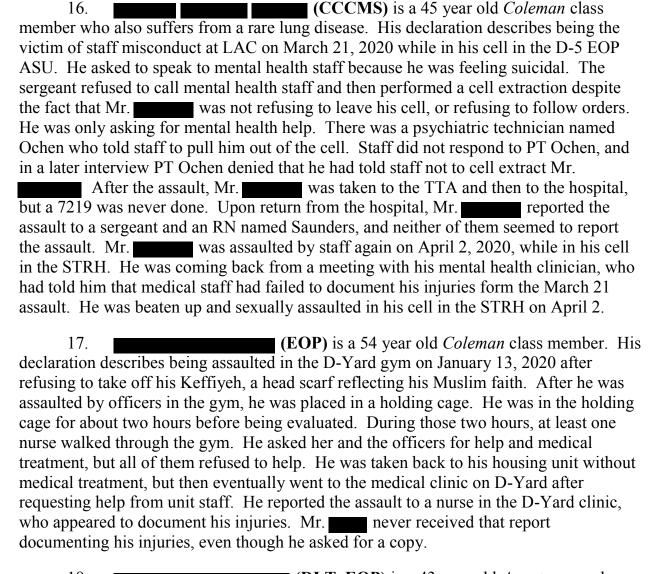
PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

mental health concerns, the sergeant threatened him with a battery charge if he did not house in the cell they put him in. After reporting that he did not want to be housed with anyone, he was evaluated by a nurse in a holding cage in R&R, and during the evaluation was threatened again by a lieutenant and told that he was going to get beaten up and charged with a battery. The nurse did not intervene.

- (CCCMS) is a 52 year old *Coleman* class member. He also has medical issues including a hernia and foot pain, and though he is not listed as an Armstrong class member, he receives accommodations such as a lower bunk chrono, hernia belt, and orthotic inserts in his shoes. His declaration describes being the victim of staff misconduct on April 12, 2019, while housed in D-4 at LAC. He was assaulted as he was walking back to his unit after a meeting with his mental health clinician. During this meeting, he asked her to help him report some staff misconduct he had been experiencing on D-Yard. Officers had torn up his cell a few times, he believes in retaliation for filing a 602 requesting single-cell status because of his medical and mental health issues. He was assaulted by a number of officers as he was exiting the gate from the EOP treatment building on D-Yard, and beaten until he was unconscious. After the assault, he was dragged into a holding cage in the gym. Initially, a psychiatric technician named Mr. Chhura came in fill out a 7219 and evaluate his injuries. After about five minutes of the evaluation, Mr. asked Mr. Chuura if he could talk with him privately, since one of the officers who assaulted him was present during the evaluation and kept taunting him. Instead of taking him to a private setting or asking the officers to grant them privacy, Mr. Chuura said he could not do anything for Mr. and left the gym without completing the evaluation. He then sat in the holding cage for five hours until a different psychiatric technician entered the gym and took him to the TTA for treatment.
- also has periodic seizures and falls, and was designated high risk medical in the past for this reason. His declaration describes being the victim of staff misconduct at LAC on September 9, 2019. After he was assaulted by officers in his cell in D-4, he was taken to the gym and then to the TTA after being evaluated. At the TTA, the doctor said he should go to an outside hospital to be treated. After speaking with officers, the doctor rescinded his comment about the outside hospital for no apparent reason, and said that Mr. would be treated in the EOP ASU, which is not a medical unit. Three days after the assault, Mr. requested X-rays on his collarbone and shoulder due to the extreme pain he was in. He found out his shoulder was fractured, but did not see the orthopedist until November 9 or 10, almost 2 months after being assaulted. He was told he needed to have surgery for a fracture in his shoulder, but was not approved for that surgery by CDCR until March of 2020. He is currently waiting on this surgery.
- 15. **(EOP)** is a 42 year old *Coleman* class member. He is also diagnosed with HIV. His declaration describes being the victim of staff misconduct at LAC on April 14, 2020, after refusing to cell with his old cellmate,

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

who he knew was exhibiting COVID-19 symptoms, upon returning from the mental health crisis bed. He refused to cell with him due to his compromised immune system and not wanting to contract COVID-19. The clinician who performed his mental health evaluation for the RVR he received for battery because of the incident reported that his mental health played no role in his RVR, even though he had just returned from the MHCB and was experiencing paranoia and distress over being celled with someone with COVID-19.



(DLT, EOP) is a 43 year old *Armstrong* and *Coleman* class member. His declaration describes being assaulted by officers at KVSP on three separate occasions. On January 29, 2019, he assaulted in the B Section dayroom of C-8 while trying to get his medications. He was assaulted after asking to speak with a sergeant. He was ordered to lie on the ground, even though he was wearing a mobility vest indicating he cannot lie on the ground. The officers slammed his face into the

[3558423.1]

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 74 of 858

PRIVILEGED AND CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDERS

dayroom table multiple times. He never had his injuries evaluated or documented on a 7219 form, and never received the medications that he set out to get that morning, despite asking for both of these things. On July 8, 2019, he was assaulted again in the dayroom and forced to walk to the holding cage without his cane. He sustained injuries to his shoulder and his legs were in pain after being forced to walk without his cane, but he again did not receive evaluation of or treatment for his injuries, and a 7219 form was never filled out. He filed a 7362 requesting medical care the day after the assault, and in response, the nurse told me that he should have told her sooner about the injuries. However, this nurse witnessed him being assaulted, so she knew about the injuries.

member, formerly housed at CSP-Corcoran at the CCCMS level of care. Mr. alleges that on September 3, 2019 he was the victim of a series of use of force incidents at CSP-Corcoran while being taken to segregation in 3A03. During one of these incidents he was hit with a baton and his jaw broken. After arriving at 3A03, he was left in a cage for several hours with a broken jaw, unconscious and without medical treatment. He awoke and signaled to the pill call nurse, pointing to his swollen jaw. She finished her rounds before informing the sergeant of his injuries. Mr. then was told he had to wait until his bleeding calmed down to be taken to the CTC.

He received two Rules Violation Reports for these September 2019 incidents, but the Mental Health Assessment for an RVR resulting in a SHU term did not occur until March of 2020, approximately six months later and at a different institution. He alleges that the clinician did not document everything he said in the assessment.

20. **(EOP)** is a 23 year old Coleman class member, formerly housed at Kern Valley State Prison at the EOP level of care. Mr. alleges that on September 16, 2019 officers assaulted his cellmate, and as they were finishing assaulting his cellmate, removed Mr. from his cell, slammed his head of the floor, and assaulted him as well. Officers then picked him up off the ground, threw him head first into the showers on his unit, and slammed his legs into the door two times. He was then escorted outside onto the yard of his unit to walk to the program office. On the walk, he was kicked in the testicles and threatened with being shot by the gun in the yard tower. When he arrived to the program office, he was placed in a holding cage for two hours. He was handcuffed the entire time. He was evaluated for injuries by nurses two or three different times for pain in his legs and head. The first two times nurses came to evaluate him, they barely investigated his injuries, did not use a flashlight, and documented that he had no injuries. The third time a nurse came, she used a flashlight to examine him, and partially documented the injuries, but refused to document his leg and ankle injury, despite that his leg and ankle was visibly swollen. He was eventually transported to an outside hospital where he was diagnosed with swelling of his scalp and ankle. He filed a 602 staff complaint about this incident around September 19, 2020, and was not evaluated by a nurse prior to his videotaped use of force interview. This nurse

[3558423.1]

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 75 of 858 PRIVILEGED AND CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDERS

documented no injuries at first, but after Mr. showed her the knots in his head and ankle, she wrote those injuries down on the 7219 form.

[3558423.1]

Exhibit B

$^{\prime}$	
	DEPARTMENT OF CORRECTIONS AND REHABILITATION
STATE OF CALIFORNIA MEDICAL-REPORT OF INJURY	
OR UNUSUAL OCCURRENCE	Page 1 of 3
CDCR 7219 (Rev. 01/18)	
	DATE
NAME OF INSTITUTION LSI-LAC 1,00 ATION OF EXALUATION	04/12/19
	SE OF FORCE IT INJURY IT OTM RETURNS
REASON FOR REPORT \square ALLEGATION \square ON THE JOB INJURY \square U	SE OF FORCE DIJURY ' DOTM RETURNS
M UNUSUAL OCCURRENCE PRE AD/SEG ADMISSION	R&R OTHER
	PERNR/INST ID W VISITOR ID # (SOMS)
	NANA
PLACE OF OCCURRENCE DATE OF OCCURRENCE TIME OF OCCURRENCE	TIME SEEN RY NOTHIED TIME PHYSICIAN NOTIFIED TIME
D-012 MH 04/12/19 1051	1112 RAKIDD N/A
BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUA	LOCCURRENCE (2)
" MY RIGS ARE BROKEN"	
MY RICK ARE BROKEN	To the state of th
i I I ((i)) I a D I DE CADI	I/P REFUSED MEDIKAL TREATOR
injuries foundy feg/ no	
Abrasion/Scratch (1) Right	Left
Active Bleeding	
Broken Bone 3	
Bruise/Discolored Area	
Burn	
Dislocation ()	A // T
Dried Biood	
Fresh Talico	
Front	Back
Swollen Area (14)	$\sqrt{17}$
Pain di	
Protrusion 12:	
Puncture 13	
Reddened Area (14)	
Skin Flap 15	
Pre-Existing 16	
Other 1/	
	/ / / / / / / / / / / / / / / / / / /
Chemical Agent	
Exposure? YES NO	
Cliem. Agent	
Exposure Area EX	
Deconteminated w/ Water? YES / NO / REPUSED	
97	10 9/1
Decontaminated W Air YES NO. REFUSED	
Self-decontentination	
Instructions given? YES/NO	
Staff Isaued	1) fellow \
Exposure packet? YES/NO	
Q15 min. eheck times	
Iditijal I* Check 1	
NW I WALL I I I I I I I I I I I I I I I I I I	
2500 4 1	
2 rd Check	collis to
TIME ON OSITION @ 1120	
REPORT COMPLETED BY/TITLE (PRINT) AND SIGN)	PERNR/INST. ID.5 RIDOS ASSIGNMENT AREA,
O charts of	ASSIGNMENT AREA
K MANAY H	- Cos - I to the I to

2 · · · · · · · · · · · · · · · · · · ·					
STATE OF CALIFORNIA			DEPARTM	ENT OF CORRE	CTIONS AND REHABILITATION
MEDICAL REPORT OF INJU	RY				Dear Laf 1
OR UNUSUAL OCCURRENCE	E.				Page 1 of 2
GDCR 7219 (Rev. 01/18)	,				
NAME OF INSTITUTION A	LOCATION OF EVALUATION	T-A		DATE	4/12/2019
i Wac		ITA			
REASON FOR REPORT ALLEGAT	ION ON THE JOB I	NJURY DUSE	OF FORCE	INJURY	☐ OTM RETURNS
MUNUSUAL OCCURRENCE	☐ PRE AD/SEG A	• •		OTHER_	
SE ONOSUAL OCCORRENCE	C FKG AD/9BO F		PERNR/INST.		VISITOR ID # (SOMS)
			PERIAR / MIST		
PLACE OF OCCURRENCE	DAYE OF OCCURRENCE TI	ME OF CICUIPPENCE TIME	SEEN RN NO	TIFIED TIME	PHYSICIAN NOTIFIED THE
	1/12/2019	1000)		530	5wasa 1530
U Yourd gym				J. J. (J.)	200001102
BRIEF STATEMENT IN SUBJECT'S WORDS	S OF THE CIRCUMSTANCES OF TH	4.3	CURRENCE		*
	V T cal	had no			
1 · · · · · · · · · · · · · · · · · · ·	"I got !	least Up		•	
		,1			
1					
VALUE TO LINE AND AND AND					
injuries found? (Yes) no	Right	•	Left		
Abrasion/Scratch			· 14	~	
Active Bleeding	1/2	.u 11	U'		
Broken Bone. 3) · 1		. \ .	-1,2,4,10,21
Bruise/Discolored Area	CON FEE		NA TO)	- 10 MIN 11
Burn 5	(Nation)	i		4	•
Dislocation 6	X A I B				
Dried Blood		vi	الإساني		±*.
Fresh Tatioo 8. Cut/Laceration/Stash 9 17-4	10/11	† 7		(
Citt/Laceration/Stash 9 17 1	The second second	Front	y/C	· · · · · ·	Back
Syvollen Area (10)	1-1	W.	5-1		
Pain (1) 870	13294	DAR DOLLAN		•	(1)
Protrusion 12	1771	(1)	711	(1)	
Puncture 13		12	·		
Reddened Area 14			10-	_	
Skin Flap 15			1	من المسترخ.	
Pre-Existing 16	The state of the s	\1),		· 1 /	$A \cap A \cap A$
	/ -41/ }	14		1	, , , ,
	Y 1			/ λ	
18	/ /λ			$\mathcal{A} = \mathcal{A} = I'$	\
Chemical Agent Exposure? YES (NO)	/ -//			1 1	
Chem. Agent	1 /9	' { \			, , , , , , ,
Exposite Area EX.	-1/4			1/1	
Decontaminated w/ Water?	2 (1	1 1 1		/ /	
YEST NO TREFUSED	4-1		Ly.		TIP
Decontaminated w/ Air?	(JiP	, W	J	1101	ا المُرْدُنَّا المُرْدُنِّا المُرْدُنِّا المُرْدُنِّا المُرْدُنِّا المُرْدُنِّا المُرْدُنِّا المُرْدُنِّا
YES /NO / REFUSED	· · · · · · · · · · · · · · · · · · ·		h.r.	4	\mathcal{N}
Self-decontainingtion	· ·	1 x 0 - 1			
Instructions given? YES/NO		13/ Mart	·		1 1 1
Staff issued Exposure packet ? YES / NO	İ	121 11			[]
·)				
Q-15 min, check times	<i>I</i> ; ·	\mathcal{M}	•		\
Initial L' Check	0.4	11 2			
	× 1	DIT			
2nd Check Final	1-	TITI			pod
		/ / \ \			\cup
TIME!/DISPOSITION		وحديا الشديف			
		· · · · · · · · · · · · · · · · · · ·		ļ.,	
REPORT COMPLETED BY/TITLE (PRINT A	Ferns, JIZ	A PE	RNR/INST IT	RIDOS	ASSIGNMENT AREA
	101110		سے اور کیے۔	1 10/00	ea HA
		\bigcup_{i}	· Luftur -		
				'3,	

EXHIBIT C

SUPPLEMENTAL DECLARATION OF

I, declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in Building 1 on Facility A. I am 69 years old.
- 3. I have previously submitted a declaration about my experiences with staff misconduct at RJD, which I signed on March 27, 2020. I submit this supplemental declaration about staff misconduct that I have recently experienced at RJD.
- 4. Ever since I reported the February 2020 incident involving Officer and resulting in the death of my friend, staff members at RJD have been harassing me. Staff have been making comments to other incarcerated people calling me a "rat." I know this because my friends tell me that officers and other incarcerated people are calling me a "snitch" behind my back.
- 5. The biggest problem I have experienced is that staff no longer let me out of my cell during medication time. I have serious medical conditions and I am supposed to receive my routine medication four times a day and my diabetic medication twice a day. Staff release people in the housing unit section by section. Now, instead of releasing me for medication with everyone else in my section, staff keep me locked in my cell. This happens multiple times a day. I have to yell to staff and kick my door just to be let out. I fear for my life when staff will not let me out of my cell for medication. I have serious medical conditions, including diabetes, and if I do not take my medication I could die.
- 6. I believe this harassment is tied to my participation in the *Armstrong* case and my reporting on Officer I believe this because the timing of the comments and harassment started after I reported Officer Staff know that I participated in the *Armstrong* case because I have had confidential legal phone calls with *Armstrong*

attorneys on March 16, 2020, March 27, 2020, April 10, 2020, and May 15, 2020. In order to conduct the legal call, officers have to call the law offices which are known around the prison to be affiliated with the *Armstrong* case. There are posters everywhere on the walls that explain who the *Armstrong* attorneys are, so staff know when they call that office that I am talking to *Armstrong* attorneys. I have also been in contact with the *Armstrong* attorneys through the non-confidential phone line in my housing unit. I last spoke with the *Armstrong* attorneys on a non-confidential line on May 29, 2020.

- 7. On June 17, 2020, at around 8:30 p.m., I was in my cell when I was supposed to be released for the last medication call of the night. The tower released everyone else in my section but did not let me out of my cell to get my medication. I started to panic because it was my last chance of the day to get medication and I was worried that the medication line would close at 9:00 p.m. before I could get there. I started to bang and kick on my cell door and to yell to staff to let me out.
- 8. Finally, after everyone else was back in their cell, staff let me out. I was very angry at this point because staff were messing with me by refusing to let me out for my medication which could really harm me. When I came out of my cell in my wheelchair, I started yelling at staff. I know I shouldn't yell at staff but I was angry and worried about my health. One of the officers started yelling back at me and we got into an argument. I had a cup of water in my hand and, at some point, I dumped it on the ground. I became frustrated during the argument. I was going to give up on getting my medication that night, so I started to head back to my cell.
- 9. Next thing I know, I was being lifted up out of my wheelchair from behind. The officer yanked me up out of my wheelchair to a standing position and then slammed me to the ground. I landed on my head and on my stomach. Then, the officer started putting his knee on my upper back and my neck. I was yelling that I couldn't breathe and I was choking. I could hear everyone in the cells going crazy, yelling at the officer to let me go. While I was down on the ground, the officer handcuffed me. Next, he took what I

think was his key or some other sort of sharp object and he stabbed me in my right arm. After he stabbed me, he said, "This is for my homeboy motherfucker." The officer said a lot of things to me but I think was drifting in and out of consciousness, so I do not know everything he said. But, after I heard him say that about I realized that he assaulted me because of my involvement in the *Armstrong* case and because I reported an incident involving Officer

- 10. The officer's partner was present during the assault, but the partner did not do anything. He just stood there and he did not get involved.
- 11. Not only can staff physically hurt me; they can also cause me to be locked up indefinitely. I am a life-term prisoner and I am supposed to go before the Board of Parole Hearings ("BPH") in order to be granted release. As a result of this incident, I received a false 115 rules violation report ("RVR") for assaulting staff. I did not assault staff. But, it will not matter when I go before the BPH. I will have the 115 report in my file now and this will make the BPH less likely to want to release me. Staff can cause us to be locked up in prison for longer and that is a lot of control to have over us.
- 12. When I helped out on this case and told the *Armstrong* attorneys what I saw, I was just trying to do the right thing. I especially wanted to help my friend, Mr.

In return, my life has been made a hell. I really thought the officer that assaulted me was going to kill me. I do not feel safe at RJD. I am now suicidal and this situation has me completely stressed out. I feel like it would be easier to be dead. I will not stick my neck out again and try to help in the *Armstrong* case because the harassment is not worth dying for.

///

24 | | / / /

25 | / / /

26 | / / /

27 | / / /

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 25th day of June, 2020.



and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, I read the contents of this declaration, verbatim, to by telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

On June 25, 2020, due to the closure of RJD in light of the COVID-19 pandemic

DATED: June 25, 2020

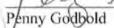


EXHIBIT D

1 SECOND SUPPLEMENTAL DECLARATION OF 2 , declare: 3 1. I have personal knowledge of the matters set forth herein, and if called as a 4 witness, I could and would competently so testify. 5 2. My California Department of Corrections and Rehabilitation ("CDCR") 6 number is . I am currently housed at Richard J. Donovan Correctional Facility 7 ("RJD") in Building 1 on Facility A. I am 69 years old. 8 3. I have previously submitted two declarations about my experiences with staff 9 misconduct at RJD, which I signed on March 27, 2020 and June 25, 2020. I submit this 10 second supplemental declaration about staff misconduct that I have recently experienced at 11 RJD. 12 4. While I was in a mental health crisis bed, in _____, at RJD on or around June 26, 2020, a pair of nail clippers were slipped under the door of my room with a note 13 that stated "kill yourself." I was very upset and afraid and I swallowed them to get out of 14 15 RJD. 16 I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, 17 18 California this 3d day of July, 2020. 19 20 21 On July 3, 2020, due to the closure of RJD in light of the COVID-19 pandemic and 22 ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' 23 24 Motion, including ongoing concerns about the confidentiality of the legal mail system at R.J. Donovan Correctional Facility, I read the contents of this declaration, verbatim, to 25 /// 26 /// 27 /// 28 1 [3573042.1]

Casse 44:9944-cov-00233077-COW Doccumeentt 302299-11 FFileed 007/2097200 FPagge 8160 off 85518

, by telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter. DATED: July 3, 2020

[3573042.1]

EXHIBIT E

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

THIRD SUPPLEMENTAL DECLARATION OF , declare: 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify. 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in Building 1 on Facility A. I am 69 years old. 3. I have previously submitted three declarations about my experiences with staff misconduct at RJD, which I signed on March 27, 2020, June 25, 2020, and July 3, 2020. I submit this third supplemental declaration about staff misconduct that I have recently experienced at RJD. 4. In my declaration signed March 27, 2020, I explained the events that took place when I was in the hospital bed next to my friend my March 27, 2020, declaration, Mr. was in very rough shape. He was barely recognizable. He seemed confused at times and, I believe, he knew he was not going to make it because he repeatedly told me to get in touch with his family. 5. In my prior declaration I explained that told me details of being also told me he tried to get a cell move before the attack attacked by his cellmate. but that Officer Rucker refused it. At one point told me that Officer Rucker also physically attacked him and had hurt him. I had the impression that he meant that, on the day that he was attacked by his cellmate, Officer Rucker also attacked him. I provided that information to staff for Plaintiffs' counsel. 6. Later, the *Armstrong* lawyers told me that Mr. his cellmate, just as he told me, but that Officer Rucker was not on duty during the incident. Based on the information provided to me by Plaintiffs' counsel, I did not include any information that had told me about Officer Rucker attacking him in my declaration because it did not seem true. If I would have known that he was going to die,

and that I would be doing a declaration, I probably would have tried to take notes or pay

As I stated in

was attacked by

1 [3577068.1]

closer attention to what he was telling me. I was sick and in the hospital myself, recovering from surgery.

- 7. Two weeks after the incident where officers assaulted me, after I received a Rules Violation Report ("RVR") for assaulting a peace officer, and after Plaintiffs' counsel told me that they were reporting the issue to CDCR, I received another RVR for possession of alcohol. This RVR is for the same day of the incident with staff. This surprised me because no one ever accused me of being drunk on that day nor did anyone tell me that staff supposedly found alcohol in my cell. I learned about it weeks later when I was served with the RVR.
- 8. I was never offered a urinalysis test. If staff are claiming that I was offered a test and that I refused, that is not true. It is not even common for staff to conduct a urinalysis test for possession of alcohol. Also, if I did refused the test, why didn't I receive an RVR for refusing? It is common for staff to give an RVR for refusing a test.
- 9. I was not drunk on June 17, 2020, the day of the incident where I was assaulted.
- 10. I did not have alcohol in my cell. I did have a bucket of cleaning solution. I use Purell wipes to clean my cell and my wheelchair. I put a few wipes in a bucket of water in the middle of my cell. If you mix the wipes with water, you can clean your whole cell with only a few of them and make the pack last longer.
- 11. Pruno is illegal. If I had pruno in my cell I would have hidden it and would not have left it out in the open in a bucket.

27 | / / / 28 | / / /

[3577068.1]

12. I believe staff are retaliating against further me by including this additional, false charge. I do not see any other reason why staff would add this charge against me, out of the blue, weeks after the fact. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 13th day of July, 2020. On July 13, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to by telephone. Mr. orally confirmed that the contents of the declaration were true and also orally granted me permission to affix his signature to the correct. Mr. declaration and to file the declaration in this matter. DATED: July 13, 2020

Penny Godbold

[3577068.1]

EXHIBIT F

DECLARATION OF 1 2 declare: 3 1. I have personal knowledge of the matters set forth herein, and if called as a 4 witness, I could and would competently so testify. 5 2. My California Department of Corrections and Rehabilitation ("CDCR") I am currently housed at Richard J. Donovan Correctional Facility 6 number is 7 ("RJD") in Building 1 on Facility A. I am 56 years old. 8 3. I have been housed at RJD since approximately January 31, 2020. 9 4. During my time at RJD, I was housed in Building 2 on Facility A briefly 10 when I first arrived, the Correctional Treatment Center ("CTC") in a mental health crisis bed ("MHCB") on two different occasions, as well as Building 1, where I am currently 11 12 housed. 13 5. I am a Coleman class member. I am at the EOP level of care. I am diagnosed with depression and borderline personality disorder. In order to cope with my 14 15 mental health symptoms, I take Remeron, Zypreza, and Paxil. I also speak with a clinician 16 on a regular basis and participate in EOP groups on a daily basis. 6. 17 I witnessed staff assault my neighbor, on June 17, 2020. 18 7. On the day in question, during the first pill call at around 6:30 p.m., the 19 building was released section by section. Mr. lived in cell in Building 1, just two cells down from my cell, cell had been housed in Building 1 with me 20 ever since I arrived in late February of 2020. Like most people in my building, Mr. 21 22 takes medication multiple times per day. I know this because I am just two cells down 23 from him, and I am released for medication at the same time as Mr. because Mr. 24 is in the same section as me. On the day in question, everyone in our section but Mr. 25 was released for pill line. 8. I observed Mr. yelling and banging on his door to be let out of his cell. 26 27 After an incarcerated person told Officer the control tower officer, that Mr. 28

1 was still confined to his cell, Mr. cell door was finally opened. He was the last to leave his cell for pill line. 2 3 9. Ever since I was first housed in Building 1, I had seen that staff regularly refused to open or delay in opening up Mr. cell door for medication and his 4 diabetic shots. I have observed Mr. kick his door and yell out to staff multiple times 5 a day just to be released for his medication. This sort of thing happens to Mr. 6 7 about every day or every other day at least. Because the officers regularly refuse to let Mr. 8 out of his cell for his medication, I believe that they are intentionally doing this to 9 him. 10 10. Before the June 17, 2020 incident, I asked Mr. why the officers were 11 singling him out and refusing to allow him to take his medication. In response, Mr. 12 told me that the officers did not like him and were retaliating against him because he 13 submitted a declaration regarding the death of someone in our housing unit. cell door was finally opened, Mr. left his cell in his 14 11. When Mr. wheelchair and wheeled himself over to the pill line. Immediately, Officer 15 started antagonizing Mr. while he was waiting in line for his medication. Officer 16 17 was yelling at him over the PA system, "Why are you banging on my damn" 18 door," and Mr. started yelling back in response. Officer then called Mr. 19 an "old motherfucker," and egged him on, saying things like, "Get out of your wheelchair, you're not gonna do shit, motherfucker." Mr. responded by calling 20 an "Uncle Tom." At that point, one of the floor officers, who is Black, 21 Officer 22 started approaching Mr. as the verbal altercation continued. I do not know this 23 officer's name. As the officer approached Mr. I observed that he removed his baton 24 from his utility belt. The look on his face was very menacing. Based on his facial 25 expression and the fact that he was holding the baton, I thought that he was trying to called the floor officer an "Uncle Tom" as well. The floor 26 threaten Mr. Mr. 27 officer then aggravated Mr. further, telling Mr. to "try something," and saying 28 "you aren't gonna do shit." Mr. then rolled back into his cell without getting his

1	medication, while the officer followed him. I was waiting in the pill line while all of this
2	was happening, and heard and saw everything that happened between the officers and Mr.
3	
4	12. Once Mr. returned to his cell, I heard the floor officers start making
5	fun of Mr. to other incarcerated people, saying things like, "This old motherfucker
6	always talk shit, he's not gonna do shit." The Black officer said that he wanted to beat Mr.
7	up. I tried to defend Mr. After all, Mr. is an old man with a disability.
8	The Black officer responded, "Well, he talks shit like he's gonna do something, so sooner
9	or later, he's gonna get it." I then walked away from the officers because I was getting
10	riled up and upset at what I had just witnessed.
11	13. The dayroom was then recalled because they had to start distributing
12	medication for people in the housing unit who are on quarantine status. I was allowed to
13	be out of my cell because I am assigned as a porter in the housing unit and had to clean the
14	tables. While I was cleaning, the Black officer called me over and asked me, "Hey,
15	why are you so worried about this dude?" I told the officer that I wasn't worried, but that I
16	felt that they had mistreated Mr. In response, the officer just told me to "mind my
17	business." I then walked away from the officer and continued cleaning.
18	14. At around 7:00 p.m., I returned to my cell and waited for the bedtime pill
19	call, which usually begins at 8:00 p.m. Again, the housing unit is released section by
20	section for pill call, and Mr. is in the same section as me. Once my section was
21	released for the bedtime pill call, I left my cell and started walking to the pill call line. I
22	immediately realized that Mr. had again not been released for pill call, and I called
23	out to Officer to open up Mr. cell. In response, Officer
24	announced over the PA system, "Fuck him, he isn't getting out until last. He's gonna be
25	the last one out," just as what happened during the earlier pill call.
26	15. I then observed that Mr. started to bang on his cell door and yell at
27	Officer asking him why he was going to be let out last. In response, Officer
28	yelled, "Stop banging on my fucking door, you're last and you're going to be

1	last. Shut the fuck up." That comment riled Mr. up. Mr. started using his
2	wheelchair to hit his cell door, and Officer then did a big belly-laugh over the
3	PA system. In response, I observed that Mr. started tossing water from his cup
4	through cracks in his door.
5	16. After I got my medication along with the rest of my section, I walked over to
6	Mr. Coll. Outside of the cell, I noticed that there was a puddle of clear liquid,
7	which I believed to be water, from where Mr. was pouring his cup out. I then
8	walked over to the area nearby my cell. I noticed an incarcerated person, Mr.
9	approach the area under the tower. It appeared that he was exchanging words with Officer
10	They talked for a couple of minutes. As soon as they finished talking, I saw
11	Mr. approach Mr. door. Mr. started screaming at Mr. telling
12	him, "Stop throwing water, old man! You're not hurting the police, you're hurting us,
13	we're the ones who have to clean shit up." In response, Mr. told him to "fuck off."
14	Mr. then threatened Mr. telling him something like, "once they [i.e., the
15	officers] open up your door for meds, I'm gonna fuck your ass up." After Mr.
16	this threat, Mr. continued to throw water through the door and yell. Officer
17	once again announced that Mr. would be let out last.
18	17. It is well known that many incarcerated people in the building, including Mr.
19	are compensated by custody staff to carry out threats and acts of violence against
20	other incarcerated people. I have observed Mr. and other people in the building
21	threaten incarcerated people for filing complaints against custody staff. For example, I
22	have filed a number of 602s against Officer who used to be stationed as a floor
23	officer in Building 1. A few days after I filed a 602 against her, Mr.
24	my cell and threatened me, telling me that I should drop my complaint or else I would end
25	up hurt.
26	18. On another occasion, I observed Officer announce over the PA system
27	that another incarcerated person, Mr. had "snitched" on custody staff to Internal
28	Affairs. Hours after that announcement, I saw Mr. and other incarcerated people go

1	over to Mr. While I couldn't hear		
2	what was being said, Mr. later told me that he had been threatened by these people.		
3	On many occasions, I have observed Mr. and other incarcerated people I believe to		
4	be working with custody staff receive extra privileges from custody staff, including extra		
5	toilet paper, soap, and disinfectant, multiple food trays, and additional out-of-cell hours.		
6	Because of this, I believe that custody staff pay these incarcerated people in privileges to		
7	do their dirty work.		
8	19. Eventually, at around 8:40 p.m. everyone had finished getting their pills		
9	except for Mr. and everyone was returned to their cells for the night. The dayroom		
10	was completely empty when Mr. was finally let out of his cell. As soon as Mr.		
11	door was opened, the Black officer and the other floor officer at the time, a		
12	Hispanic officer, approached Mr. cell. I do not know the name of the Hispanic		
13	officer either. The officers then surrounded Mr. after he had only wheeled a few feet		
14	out of his cell. I was standing at the very front of my cell with my face up against the		
15	window to my cell, observing everything that was going on just a few feey away from me.		
16	20. As the floor officers surrounded Mr. Officer announced		
17	over the PA system, "What are you gonna do now, old motherfucker?" The Hispanic		
18	officer then took out his pepper spray canister and the Black officer removed his baton and		
19	expanded it. A verbal altercation ensued between the officers and Mr. Mr.		
20	just kept repeating that he just wanted to get his meds. The floor officers and Officer		
21	continued to egg on Mr. calling him names and provoking him.		
22	21. It was then that I observed that Mr. was holding a small cup filled with		
23	water. In the past, I had seen Mr. bring that same plastic water cup to the pill line in		
24	order for him to take his medication. Many people in Building 1, including myself, always		
25	bring a filled cup of water to pill line in order to take our pills.		
26	22. As they continued to argue, the Black officer advanced further toward Mr.		
27	until he was about three feet in front of him. He kept saying to Mr. "Do it, do		
28	something about it." Mr. kept repeating that he just wanted to get his medication.		

Mr. then began to try to stand up out of his wheelchair. In my opinion, Mr.
was trying to stand up out of fear because the officer was being so threatening to him. Mr.
did not move toward the Black officer or make any other movements that, in my
opinion, would have made the officer feel threatened. In addition, Mr. is a small, old
person with very serious disabilities. Mr. cannot even easily stand up from his
wheelchair. In my opinion, Mr. was not in a position to physically threaten the
officer at all. Instead, the officers were threatening Mr. While Mr. was in the
process of standing up, the Black officer grabbed Mr. by his left arm and shoulder,
picked him up out of his wheelchair, and then used both his hand and his baton to throw
Mr. to the ground. As soon as Mr. was thrown to the ground, he dropped his
cup and the liquid spilled all over the floor. At no point did the officers order Mr.
return to his cell or order him to submit to handcuffs or stop resisting. In fact, they did not
order him to do anything at any point. They just threatened him and assaulted him.
23. At no point did I see Mr. throw his cup of water in the direction of the
officers. It was clear to me that he dropped the cup as a result of the officer slamming him
to the ground. It also appeared to me that the liquid in his cup was clear and odor-free. If
the liquid instead had been urine or some other bodily fluid, the officers would have had to
call the healthcare facility maintenance ("HFM") workers to clean up and sanitize the area
appropriately. In my experience, whenever there are incidents involving bodily fluids in

24. After being thrown to the ground, I observed Mr. impact the ground with the left side of his face. As soon as he hit the ground, I noticed that he went limp and his body weight was pinning down his left arm in what looked like a very awkward and uncomfortable position. Based on the position of his body, it looked to me that Mr. was unconscious. As Mr. lay on the ground, not moving, the Black officer jammed his knee into Mr. back and yanked Mr. left arm from under him. The

prison, the HFM workers have to respond to the incident and clean up the area. Because

no HFM worker were summoned to clean up after the incident, and based on the color and

cup.

[3570960.1]

smell of the liquid, I believe that there was only water in Mr.

1	Black officer then continued yanking Mr. arm toward his shoulders and over his
2	head, as if he was trying to hurt him rather than restrain him. The other officer then
3	grabbed Mr. right arm and placed handcuffs on him. At some point, Mr.
4	appeared to regain consciousness. As the officers were roughing up and restraining Mr.
5	the Black officer taunted Mr. saying things like, "Now, motherfucker, now
6	what?" The Black officer then got up in Mr. face and started quietly talking to Mr.
7	but I could not hear exactly what was said. The whole time, Mr. was crying
8	out in pain.
9	25. After they exchanged words for about a minute, I heard an alarm ringing out
10	through the building. Moments later, Sergeant and five other responding officers
11	arrived in Building 1. When Mr. told Sergeant that he had been attacked for
12	no reason, I heard Sergeant respond, "No, you must have done something."
13	Sergeant then ordered the officers to take Mr. to the cages in the mental
14	health services building, and to take his property. As the responding officers wheeled Mr.
15	out of the building, I head Officer announce over the PA system, "Yeah,
16	motherfucker, that's what you get. That's how we do it." Based on what Mr.
17	told me about the retaliation he suffered for submitting a declaration about misconduct, as
18	well as the retaliation I observed with Mr. being kept in his cell and denied access to
19	medication, I believe that Officer was saying that Mr. got beat up because
20	he was speaking out about brutality and abuse by custody staff.
21	26. I have not seen Mr. since this incident. Since the incident, when I have
22	asked other officers about what happened to Mr. officers have just told me to "mind
23	my own business."
24	27. In the days following the incident, an incarcerated person named Mr.
25	— who I believe works with correctional staff to commit misconduct — was going around
26	Building 1 and threatening people about reporting staff misconduct at RJD. I believe that
27	Mr. works with staff at RJD because he is one of the people who staff commonly
28	give extra privileges, including extra food, nearly unlimited out-of-cell time, and other

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

privileges. On two occasions in the past few months, I have observed Mr. coordinate with custody staff to assault incarcerated people. On these occasions, I observed Mr. signal to the tower officer in Building 1 to open up the cell door of an incarcerated person. Once the tower officer opened up that person's cell door in request, I observed Mr. response to Mr. and other incarcerated people enter that cell and assault the person housed in that cell. I think that the first incident occurred in cell , and I believe the victim's name was Mr. I believe that the second assault of this type occurred in cell. The victim of the second assault now lives in cell In the days following the assault on Mr. 28. I observed Mr. going around Building 1 and telling incarcerated people that "people who give declarations are snitches," and that "you know what happens to people who snitch." Based on these threatening comments, I believe that the officers are working with Mr. intimidate people and make sure that they don't speak out about what happened to Mr. and about abuse by staff at RJD. 29. On or around June 29, 2020, the tower officer, Officer announced and Report to the program office. Internal Affairs is over the PA system, " waiting for you." I had already been interviewed by Internal Affairs on Friday, June 26, 2020 in the chapel on the yard. During the interview that occurred in the chapel, three different sergeants interrupted my interview at various times by knocking on the door, looking into the closed room, and then walking away. The only reason I can think of for this behavior was that these sergeants were attempting to intimidate me and communicate to me that they knew I was reporting staff misconduct to Internal Affairs. Because of their behavior, as well as the fact that my name is being broadcast over the loudspeaker, it is

very obvious to everyone, including other incarcerated people, that I am making

for custody staff as well as the incarcerated people who work for custody staff.

complaints about staff at RJD. That obviously puts me in danger and makes me a target

30. Although I am worried about retaliation and violence for submitting a declaration and working with the *Armstrong* attorneys, I have to speak out because it is the right thing to do. Staff beat up Mr. an old man with a disability, for no reason at all. I am willing to do whatever it takes to fix the problems at RJD because what they did to Mr. is plain wrong.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 30th day of June, 2020.

/s/

On June 30, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to by telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

DATED: June 30, 2020

[3570960.1]

ack Rhein Gleiberman

EXHIBIT G

SUPPLEMENTAL DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in Building 1 on Facility A. I am 56 years old.
- 3. I previously submitted a declaration about witnessing staff misconduct at RJD, which I signed on June 30, 2020. I now submit this supplemental declaration about staff misconduct at RJD.
- 4. In Building 1 on Facility A, Section A cells 101-108 and 201-208 are considered quarantine cells. Cells 101, 102, 103 are currently left empty. These are considered the least desirable cells by incarcerated people. There is a stairway that blocks other incarcerated people from seeing in to these cells so, these cells are not considered safe.
- 5. On July 13, 2020, at approximately 8:30 am, I saw the porters cleaning out cell 102. I assumed they were preparing that cell for someone to move in.
- 6. Then, at approximately 9:00 am, I heard Officer Colone (I am not sure of the spelling of his name) approach Ms. and tell her that, per the Sgt. on duty, she was required to switch cells to a quarantine cell because she was recently tested for COVID-19. I heard Ms. say that she was refusing to switch cells because she never left the institution, and she is already housed alone in her cell. I was able to hear this because I am housed in cell right, right next to Ms. who is in cell Next, the Sgt. on duty came to her cell and told Ms. "If you don't move, I am going to get the cell extraction team together and force you to move." I do not know the name of the Sgt. He is not the regular, EOP Sgt. in our building.
- 7. I do not see any justification for staff to transfer her to a different cell. Since July 12, 2020, staff have had a bright pink "quarantine" sign posted on the outside of her

cell door. I have observed that, since then, they have not let her out of her cell for dayroom, to pick up her hot food tray, or her medication. Instead, I have seen staff bring her medication to her cell. I have seen staff bring her the "paper tray" of food. The paper tray is served to people who are in Ad Seg, it contains only cold food and is considered punitive. Ms. told me through the cell door when I got my medication yesterday, and then again this morning, that she was very upset about the way she was being treated and about receiving cold food. She believes she is being further retaliated against.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 13th day of July, 2020.

/s/

On July 13, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

DATED: July 13, 2020

Penny Godbold

6-2

EXHIBIT H

1	DONALD SPECTER – 083925 RITA K. LOMIO – 254501	
2	MARGOT MENDELSON – 268583 PRISON LAW OFFICE	
3 4	1917 Fifth Street Berkeley, California 94710-1916 Telephone: (510) 280-2621	
5	Facsimile: (510) 280-2704	
6	MICHAEL W. BIEN – 096891 GAY C. GRUNFELD – 121944	
	THOMAS NOLAN – 169692	
/	PENNY GODBOLD – 226925 MICHAEL FREEDMAN – 262850	
8	ROSEN BIEN GALVAN & GRUNFELD LLP	
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738	
10	Telephone: (415) 433-6830	
11	Facsimile: (415) 433-7104	
12	LINDA D. KILB – 136101 DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.	
13	3075 Adeline Street, Suite 201	
14	Berkeley, California 94703 Telephone: (510) 644-2555	
15	Facsimile: (510) 841-8645	
16	Attorneys for Plaintiffs	
17	UNITED STATES	DISTRICT COURT
18	NORTHERN DISTRI	CT OF CALIFORNIA
19		
20	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW
21	Plaintiffs,	SECOND SUPPLEMENTAL
22	V.	DECLARATION OF SUPPORT OF PRELIMINARY
23	GAVIN NEWSOM, et al.,	INJUNCTION
24	Defendants.	Judge: Hon. Claudia Wilken Date: July 16, 2020
25		Time: 2:30 p.m. Crtrm.: Remote
26		
27		
	DED	CTED
28	REDA	CTED Case No. C94 2307 CW

SECOND SUPPLEMENTAL DECLARATION OF INSUPPORT OF PRELIMINARY INJUNCTION REDACTED

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

SECOND SUPPLEMENTAL DECLARATION OF declare: 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify. 2. My California Department of Corrections and Rehabilitation ("CDCR") I am currently housed at Richard J. Donovan Correctional number is Facility ("RJD") in Building 1 on Facility A. I am 56 years old. 3. I have previously submitted two declarations about my experiences with staff misconduct at RJD, which I signed on June 30, 2020 and July 13, 2020. I submit this third supplemental declaration about staff misconduct that I have recently experienced at RJD. 4. It is widely known in the housing unit that I submitted declarations regarding the incident involving Mr. Staff and other incarcerated people have made comments about it publically. 5. I believe that staff are preparing to have me assaulted. Mr. are incarcerated people who are commonly known to be affiliated with staff in Building 1. They are frequently allowed out of their cells when others are required to be locked up. I have also seen them approach other incarcerated people to attempt to convince them to drop staff complaints. Because I have seen this happen, I believe these inmates work for officers in the building. On Monday, July 20, 2020, these three incarcerated people came to my building and asked if I was still providing declarations against staff. I told them it was my business and that I do not answer to them. They walked away and said something like, "We will see about that." I took that as a threat. 6. I have seen incarcerated people assault other people at the direction of staff. For example, a few weeks ago, I saw an incarcerated person in a wheelchair get assaulted by another incarcerated person, Mr. Prior to the assault I saw Mr. go to the control booth and talk to Officer Armstead. When he was finished talking to Officer

[3582026.1]

Armstead, Mr. immediately walked over to the person in a wheelchair and assaulted

him. I was in my cell when I saw this incident occur. I believe, because of the timing of the assault, that Officer Armstead directed Mr. to assault this person.

- 7. On July 17, 2020, I was in my cell when I saw staff come and escort Ms. to be transferred to her new prison. I saw AW Anderson, a plain clothed officer with a badge on his belt, two officers and two sergeants come to get her. I saw that the person with plain clothes was recording the event on video. I heard one of the officers, I am not sure which one, say something like, "get your fucking stuff bitch, you snitch ass." I am not sure if the video has sound on it but, if it does, it may have caught that statement. I heard multiple incarcerated people yelling from their cells. I heard Mr. yell something like, "Oh, is this how they treat Federal snitches?" It was such a spectacle.
- 8. On Friday, July 17, 2020, when I was coming out of my cell to get my medication, Officer Sanchez stated to me, "Your little snitch buddy left you to get what you both have coming, and you will get yours I did not respond, I did not want to escalate the situation.
- 9. Later that day, on Friday, July 17, 2020, I placed a non-confidential phone call to Plaintiffs' counsel. Officer Armstead was in the tower at the time I talked to Plaintiffs' counsel. I told Plaintiffs' counsel that I had been threatened by staff. Counsel told me that they would set up a confidential legal call. Officer Armstead in the control tower has the ability to listen in on all non-confidential calls. After the call, I noticed that Officer Larios was acting differently towards me during my shift as a porter. For example, I asked him for a spray bottle and he ignored me. I followed him in to the custody office to ask him what was going on. He said, "You're a witness for the Feds, you do not have shit coming." I noticed, as he was saying this, that the roof of the office was open to the control tower above. As soon as Officer Larios said that to me, Officer Armstead in the control tower picked up the PA and announced over the loudspeaker, as if he was backing up Officer Larios, "Yeah, we are going to get rid of his ass, one way or the other, unless he recants to them fucking lawyers." I felt threatened and said I wanted to speak to a sergeant. Officer Larios replied, "Sergeant Jackson instructed us not to call him for your

[3582026.1]

bullshit. But, if you fear for your life, we got Ad Seg for you. Just say the magic words." I took that as an outright threat because I know that if I am transferred to Ad Seg, I will not be able to call Plaintiffs' counsel, I will be stripped of all my property, I will be worse off. It feel like staff are taunting me, trying to get me that I say I fear for my life so that they can put me in that situation.

- 10. On Saturday, July 18, I was unable to reach Plaintiffs' counsel on the dayroom telephone. I was frustrated, walking back to my cell, and Officer Armstead stated over the PA system in the housing unit, "and are both gone. You are left for dead. Now the attorneys don't even want to talk to you." Officer Armstead in the control tower has access to all the outgoing numbers so, he knows exactly who I was trying to call.
- 11. On July 19, 2020, when I came out of my cell for pill line, Officer Sanchez, who was standing in the dayroom talking to Mr. Mr. and Mr. said loudly in my direction, "Snitch is gone. One is the loneliest number. And now my homeboy [Officer] Larios is back." The incarcerated people who were standing there talking to her started laughing.
- 12. On July 20, 2020, when I was called out of my cell for a scheduled call with Plaintiffs' counsel, Officer Meza announced over the PA system, "You have an Armstrong attorney visit." That is like calling me a "snitch" over the intercom. Everyone knows what happened to Mr. that he was assaulted, that the *Armstrong* attorneys found out and that he was transferred as a result. Talking to *Armstrong* attorneys is considered the same thing as snitching on staff.
- 13. On July 20, 2020, I participated in an interview with OIA about the allegations in my declaration about the incident with Mr.

 The OIA investigator was 6 foot 5 inches. He was covered in tattoos. I was sitting down and he was standing over me. He was very intimidating and I did not feel comfortable during the interview. The officers who were working in the BPH area where the interview took place were standing outside of the room. They knew I was there talking to OIA.

[3582026.1]

- 14. I know that other incarcerated people have been called for interviews regarding the incident with Mr. On July 16, 2020, I saw Mr. and Mr. dressed in their prison "blues" walking to the program office. This was unusual because they normally wear t-shirts and sweats so, I assumed it was something important for them to be dressed differently. I later asked a friend of mine if he knew what they were up to. I asked him because I knew that he was also friends with and talked to Mr. He told me that they were called in as witnesses to the incident involving Mr.
- counsel, I had to go get a pass from Officer Garcia. Officer Garcia said, "Oh, I guess you and have the same attorneys, huh?" I asked why he said that. Officer Garcia said, "Oh we know that was transferred to and I never asked. I assumed, for her safety, she would not want anyone to know where she was going. When Officer Garcia announced today that she was transferred to he said it very loudly in the dayroom and multiple other incarcerated people and staff, including Mr. were within earshot. I saw Officer Mesa in the control tower start laughing when Officer Garcia said that. I felt very intimidated. I believe they were threatening me by making me aware that no matter where I go, I will not be safe, they will know where I am.
- 16. In addition to the threats, I am also being ostracized by staff and other incarcerated people in Building 1. For example, there is a big sign on my door stating that I am a third watch porter. There have been multiple times when staff don't let me out of my cell to do my job. This started around the same time as the incident with Mr. after I submitted a declaration. I believe staff are not letting me out of my cell and are not letting me do my job in retaliation for my participation in this case.
- 17. Even though I do not feel safe, I do not want to transfer to Ad Seg. I would rather be transferred out of RJD than to have to go to Ad Seg. I believe staff misconduct is

[3582026.1]

1	just as bad on other yards so I do not believe I will be safe if I am transferred to another
2	yard at RJD.
3	18. I have level-II points and I been endorsed for transfer to
4	and to . I was told I will not be transferred
5	because, due to COVID-19, all transfers have been stopped.
6	
7	I declare under penalty of perjury under the laws of the United States of America
8	that the foregoing is true and correct, and that this declaration is executed at San Diego,
9	California this 22nd day of July, 2020.
10	
11	<u>/s/</u>
12	
13	
14	On July 22, 2020, due to the closure of RJD in light of the COVID-19 pandemic
15	and ongoing concerns that officers might retaliate against witnesses in support of
16	Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail
17	system at RJD, I read the contents of this declaration, verbatim, to by
18	telephone. Mr. orally confirmed that the contents of the declaration were true and
19	correct. Mr. also orally granted me permission to affix his signature to the declaration
20	and to file the declaration in this matter.
21	
22	DATED: July 22, 2020
23	Penny Godbold
24	Y
25	
26	
27	

5

[3582026.1]

28

EXHIBIT I

THIRD SUPPLEMENTAL DECLARATION OF 1 2 declare: 3 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify. 4 5 2. My California Department of Corrections and Rehabilitation ("CDCR") 6 number is I am currently housed at Richard J. Donovan Correctional Facility 7 ("RJD") on Facility A, Building 1, Cell I am 47 years old. 8 3. I have previously submitted three declarations about my experiences with 9 staff misconduct at RJD, which I signed on January 29, 2020, March 27, 2020, and May 10 21, 2020. I submit this fourth declaration about staff misconduct that I have recently witnessed and experienced at RJD. 11 12 4. I witnessed staff assault my neighbor, on June 17, 2020. 13 5. In Building 1, the officers let out one section at a time for medication. Mr. 14 who has been housed in my unit since I arrived in December of 2019 and who currently lives in my section of the building, takes medication approximately four times 15 per day. I am also aware that he is released twice a day for diabetic medication. I know 16 this because I am in the cell next to him and I am released for medication at the same time. 17 18 When I first arrived in the housing unit in December of last year, I did not notice any 19 problems with Mr. being released for his medication. In the past few months, however, I have seen that staff regularly let everyone else out for medication besides 20 him. I have observed Mr. kick his door and yell out to staff multiple times a day just 21 to be released for his medication. On the day in question, June 17, 2020, when I came out 22 23 for my medication, I asked the tower control officer, Officer if he was going to 24 let Mr. out for medication. Previously, I had already heard Mr. kicking at his 25 door and velling to be let out, and I noticed they did not release him when they had released the rest of the housing unit. The officer in the tower said they would let him out 26 27 last.

[3568344.1]

28

- 6. When I got back from picking up my meds, I went to talk to an incarcerated person who is the Men's Advisory Council representative. He told me to go talk to Mr. because he was upset. Mr. told me they were still not letting him out. I was worried for him because it was almost 9:00 p.m., which is when the housing unit is cleared and everyone is locked up in their cells for the night. I was worried that he would miss his medication that day.
- 7. The tower officer finally let him out of his cell close to 9:00 p.m. When I saw that he exited his cell in his wheelchair to get his medication, I was already back in my cell, along with the rest of the housing unit. Mr. was the only person outside of his cell. Once he was released, I heard and saw him yell at the floor officers for not letting him out. The officers yelled back and a heated argument ensued for about two minutes. At one point, the African American officer I do not know his name took out his pepper-spray and pointed it at Mr. I saw that Mr. had a cup of water in his hand. I heard Mr. say, "I should throw this water at you." Next, Mr. dumped the water on the ground and said something like, "I don't even want my medication anyway." I then saw Mr. turn his back to the officer.
- 8. Next, I saw the African American officer rush towards him as he had his back turned towards the officer. The officer slammed Mr. to the ground from a standing position. I saw the officer pin Mr. to the ground with his knee on his back. I heard the officer say something like, "Explain that to the lawyers that you talk to." The officer was also saying other things, but I couldn't make out everything that was said. Mr. appeared to be knocked out on the ground, as he wasn't moving. He was laying there still for about ten minutes. The officer who was pinning him to the ground then handcuffed him. Everyone was going crazy at their doors, screaming and yelling at the officers to stop abusing Mr. Because he was still not moving at that point, I do not believe that he was conscious or responsive when he was escorted out of the housing unit. I have not seen Mr. since that incident.

[3568344.1]

9. I live in great fear now that I have seen what staff did to Mr. Staff know that I am participating in the Armstrong case and I have experienced retaliation as a result. Staff routinely call me a "snitch" which places my life in danger in prison. Staff make a point of publically calling me out as a snitch. For example, when I was called for my visit to take a phone call with the attorney in this case, staff publically called over the loud speaker while I was out on the prison yard, "go have your phone call with the Armstrong attorneys." Talking to the Armstrong attorneys is considered the equivalent of snitching on staff so it is dangerous to be publically called out for it. I have also been partner. Other incarcerated people have told me that Officer has it in for me because of my involvement in the Armstrong case and complaints I have filed complaints against Officer over the death of Mr. 10. Yesterday, when I had an interview with Internal Affairs about a complaint I filed, the tower officer, Officer announced over the loud speaker, " it's time for you to go talk to Internal Affairs." Officer opened the cell door for me to go get my pass from Officer Officer said, "I know you are snitching, make sure you spell my name right." Officer who was standing right there said, "That's if you even know how to spell." Staff made a spectacle of my attempting to report misconduct which called attention to me and placed me in greater danger. What's worse is that the Internal Affairs interview took place in the chapel which is on the prison yard. Therefore everyone on the yard saw the Internal Affairs investigator, who is easily identifiable because he wears a uniform of tan pants and a black shirt with an Internal Affairs badge on it, arrive on the prison yard. Then they saw me get called out to go to the same location to talk to him. I am very afraid for my safety. It is very obvious to everyone, including other incarcerated people, the danger that I have been placed in as a result of my participation in this case. I do not think most people would not want to go through this danger just to be a witness.

28 | / / /

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

[3568344.1]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 26th day of June, 2020. On June 26, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, I read the contents of this declaration, verbatim, to by telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter. DATED: June 26, 2020

[3568344.1]

EXHIBIT J

FOURTH SUPPLEMENTAL DECLARATION OF

I, declare:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A, Building 1, Cell II. I am 47 years old.
- 3. I have previously submitted four declarations about my experiences with staff misconduct at RJD, which I signed on January 29, 2020, March 27, 2020, May 21, 2020, and June 26, 2020. I submit this fourth supplemental declaration about staff misconduct that I have recently experienced at RJD.
- 4. Starting in May, I was interviewed by staff at RJD a number of times regarding whether I had safety concerns. Each of those times, staff informed me that they had received information that incarcerated people on the yard intended to harm me. Each time, I told them that I did not have safety concerns. It is commonly known that if you report that you have safety concerns, staff transfer you to administrative segregation. I do fear for my safety, and did so at that time, based on the information that they provided to me. I fear for my safety because, as detailed in my prior declarations, officers on Facility A have engaged in a campaign of harassment and retaliation against me for complaining about staff misconduct and participating in Plaintiffs' motions regarding staff misconduct. But I denied having safety concerns when asked because I did not want to go to administrative segregation. As I detailed in one of my prior declarations, the last time that I was in administrative segregation, officers left me in handcuffs for 48 hours in retaliation for my filing PREA complaints. So, even though I do have safety concerns on Facility A, I do not want to be transferred to administrative segregation where I also fear for my safety. I tell staff I do not have safety concerns so that I will not be transferred to administrative segregation.
 - 5. At approximately 2 p.m. on July 7, 2020, two sergeants whose names I do

plus not know, and four correctional officers (Officers another officer whose name I do not know) came to my cell, cell in Building 1 on Facility A. The control tower officer then cracked my cell door open. Officer me that I needed to submit to handcuffs because I was being taken to administrative segregation for "safety concerns," but he did not provide any specifics when I asked him. I told him that I would refuse to go to the administrative segregation and that I did not have any safety concerns. He informed me that they already had an administrative segregation lockup order and that there was a cell waiting for me in administrative segregation. I again informed him that I was not going to go to administrative segregation. The officers then left, saying they would be back later.

- 6. The entire interaction scared me because I thought they would force me to go to administrative segregation. Usually, such a large group of officers gather in front of a cell only to perform a cell extraction. I was worried that they were going to do that to me.
- 7. I told the officers that I did not have safety concerns and did not want to go to administrative segregation for the reasons I explain above.
- 8. About an hour later, Sergeant and a female lieutenant whose name I do not know came to my cell. They spoke to me through my closed cell door. They said "Your lawyer called and said that you have safety concerns." I told them that I would not go to administrative segregation for safety, that it was safer for me in Building 1 than in ad-seg, that I never told my lawyer that I wanted to be placed in ad-seg for safety, and that I had just talked to my attorney earlier that day. I showed Sergeant the ducat I had been issued to go speak to my attorney by telephone earlier that day. They asked me if I would be willing to sign a chrono about not wanting to go to administrative segregation. I said yes. They then walked to the office in Building 1. After some time, they returned to my cell, informed me they would bring the chrono back later, and then left the building.
- 9. About an hour and a half later, Associate Warden Anderson and Counselor came to my cell. The control tower officer opened the cell door all the way.

 AW Anderson said that I had to go with him to the mental health building to sign the

1 chrono. I agreed to go with him. He pushed me to the mental health building in my wheelchair and we went into Associate Warden Armenta's office in that building. AW 2 3 Armenta was waiting in the office for us. Counselor then filmed a short interview between AW Anderson and me. AW Anderson asked me if I had any safety 4 5 concerns. I said that I did not. After the end of the video interview, I explained to AW Anderson and AW Armenta exactly why I did not want to go to ad-seg and told them 6 about the time I was left in handcuffs there. 7 8 10. I am still in the same situation that I have been in for months. I am afraid for my safety on Facility A because of the retaliation from staff and because of threats from 9 10 other incarcerated people. But I am terrified to be sent to administrative segregation, where I fear staff would hurt me, as they did previously when they left me in handcuffs. I 11 12 also fear that staff would allow other incarcerated people to hurt me. I prefer to stay in 13 Building 1, notwithstanding my fears on Facility A, because there are more incarcerated people around 14 15 /// 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// 28

[3576560.1]

to witness misconduct. In addition, on Facility A, I have the ability to talk to my family and have property to prepare for my upcoming parole hearing, things I could not do in administrative segregation. So, for me, Building 1 is the better of two very bad options.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 11th day of July, 2020.



On July 11, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to

by telephone. Ms. orally confirmed that the contents of the declaration were true and correct. Ms. also orally granted me permission to affix her signature to the declaration and to file the declaration in this manner.

DATED: July 11, 2020 /s/ Michael Freedman

Michael Freedman

EXHIBIT K

SUPPLEMENTAL DECLARATION OF

I, declare:

[3575949.1]

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in administrative segregation ("ASU") in Building 7 on Facility B . I am 52 years old.
- 3. I previously submitted two declarations about staff misconduct that I experienced and witnessed at RJD. I submit this second supplemental declaration about additional incidents of staff misconduct I recently experienced at RJD.
- 4. As I reported in my previous declaration, staff in Building 7 do not wear their masks consistently, which puts me and other incarcerated people at serious risk of contracting COVID-19. Sometime around June 9, 2020, I filed a 602 against Officer J. Salazar for failing to wear his mask on multiple occasions while he was assigned as a floor officer in Building 7. I also observed Officer Salazar frequently prepare food for incarcerated people without wearing gloves, masks, or any other personal protective equipment, and I reported that in my 602.
- 5. On or around June 16, 2020, I complained to Officer Salazar that he was once again serving food without a mask. Officer Salazar responded, "I don't have to wear a mask," and then he denied me food. I only got fed that night because a sergeant, Sergeant Wilborn, happened to come into the building right as Officer Salazar was denying me food. After I called the sergeant over to report Officer Salazar's misconduct, Officer Salazar said to me, "Oh you're snitching on me, stupid ass nigger." He then walked away. I then complained to Sergeant Wilborn about Officer Salazar failing to wear a mask and denying me dinner, and the sergeant fed me personally and told me to file a complaint. I believe that this incident was caught on camera.

- 6. After dinner that night, Officer Salazar escorted me from my cell for a phone call. I receive phone calls even though I am in administrative segregation because I am on non-disciplinary status. After Officer Salazar cuffed me at the entrance of my door, he asked me why I needed special cuffing. I told him that I have a chronic right shoulder injury, which requires that I be cuffed in the front of my body with waist chains. In response, all of a sudden, Officer Salazar grabbed my right shoulder from behind and slammed me against the doorframe of my cell. He kept twisting and hitting my right arm and shoulder against the doorframe, saying things like, "Oh, does that hurt?" and "Oh, is this the arm?" At one point, I felt and heard my shoulder pop. He also threatened to throw me to the ground and charge me with assault on staff.
- 7. After he roughed me up for a few seconds more, he escorted me to the phone. After I made my phone call, Officer Salazar harassed me as he escorted me back to my cell. He was telling me things like, "Black lives don't matter," and that he would give me coronavirus if he got it. When I threatened to write him up, Officer Salazar responded, "Oh, the cameras don't work, they won't believe you." I believe that the entirety of the incident was caught on the cameras that are installed in Building 7. As a result of the incident, my existing shoulder injury was exacerbated.
- 8. On or around June 17, 2020, I submitted a 602 about Officer Salazar roughing me up in retaliation for filing 602s against him and complaining about him to Sergeant Wilborn. Ever since I filed that 602, I have observed Officer Salazar talking to other incarcerated people in the building about me. I have heard and seen Officer Salazar talking to a particular group of people about me. These people are housed in cells through in Building 7. I believe that they are associated with an STG ("security threat group"). I believe that these people are associated with an STG because they were well known as STG members when I was on Facility C with them. After I filed my 602 against Officer Salazar, I overheard Officer Salazar tell these people that I was "always snitching on staff," and that I was a "602 queen." Officer Salazar also told them that "Black lives don't mean shit to me." I even heard Officer Salazar incite violence against me, telling

[3575949.1]

these people that, when they have the chance, they should "get" me, meaning that they should assault me in retaliation for complaining about staff.

9. On July 3, 2020, I was being escorted to the yard right before one of those STG members, Mr. was set to be escorted. Mr. was being escorted by Officer Henry, and they were about 15 feet behind me and Officer Dobwell, who was escorting me. While I was being escorted by Officer Dobwell, I heard some footsteps approaching from behind me very quickly, as if someone was running toward me. I turned around, and saw that Mr. was charging at me. It appeared that he had broken free of Officer Henry because Officer Henry was down on the ground. Officer Henry was ordering Mr. to get down on the ground, but Mr. did not comply and continued charging at me. As Mr. charged toward me, I heard the other STG members yelling from the cages to Mr. "Get that nigger!," referring to me. Just as Mr. got really close to me, Officer Dobwell placed his body in front of mine and shielded me from the attack. As soon as Mr. collided with Officer Dobwell's body, fell to the ground. After Mr. was on the ground, I heard the alarm sounding through the building. Responding officers then arrived and cuffed Mr. then escorted him back into the building. When I came back to my cell from the yard, was in his cell, as if nothing had ever happened. As I walked to my cell, Mr. yelled at me, "I'm gonna get you, just watch." To this day, Mr. Mr. housed in his cell, just a few cells down from me. ///

21 || / /

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

22 || / / /

23 || / / /

24 || / / /

25 || / / /

26 | / / /

27 || / / /

28 | / / /

[3575949.1]

10. I am still in serious fear for my life. RJD has done nothing in response to my expressed concerns about custody staff and incarcerated people who staff have incited to hurt me. This is not how things should be run in any prison. All it would take is one mistake (or one intentional act by an officer) for me to get seriously hurt or killed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 10 day of July, 2020.

On July 10, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against declarants in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to _______ by telephone. Mr. ______ orally confirmed that the contents of the declaration were true and correct. Mr. ______ also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

DATED: July 10, 2020

Jack Rhein Gleiberman

| | I3575949.11

EXHIBIT L



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Penny Godbold

Email: PGodbold@rbgg.com

July 10, 2020

VIA ELECTRONIC MAIL

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Tamiya Davis
CDCR Office of Legal Affairs
Tamiya.Davis@cdcr.ca.gov

Nicholas Weber CDCR Office of Legal Affairs Nicholas.Weber@cdcr.ca.gov

Re: Armstrong v. Newsom; Coleman v. Newsom: Renewed Concerns about Safety of Class Member Declarant

Our File No. 0581-03; 0489-03

Dear Tamiya and Nick:

I write to follow-up on Michael Freedman's May 20, 2020 letter regarding safety concerns expressed by *Coleman* class member previously submitted declarations in support of Plaintiffs' RJD and Statewide Motions. *See* Exhibit 19 to Declaration of Michael Freedman In Support of Motion to Stop Staff from Assaulting, Abusing, and Retaliating Against People with Disabilities at RJD ("Freedman RJD Decl."), Dkt. 2921; Exhibit 12 to Declaration of Michael Freedman In Support of Motion to Stop Staff from Assaulting, Abusing, and Retaliating Against People with Disabilities ("Freedman Statewide Decl."), Dkt. 2948-2. Defendants have not responded to Plaintiffs' May 20, 2020 letter.

Today, Plaintiffs' counsel shared with Defendants a second supplemental declaration signed by Mr. on July 10, 2020. In that declaration, Mr. declares that Officer J. Salazar called him the n-word, told other incarcerated people, including a Mr. that he is a "snitch" and encouraged these people to assault him. This mistreatment stemmed from Mr. 's filing 602 complaints against Officer Salazar.

PRIVILEGED AND CONFIDENTIAL

Tamiya Davis Nicholas Weber July 10, 2020 Page 2

Mr. alleges that Officer Salazar labelled him a "snitch" to other incarcerated people and incited an assault on him. Mr. was the victim of an attempted assault by another incarcerated person, Mr. who was one of the people who Officer Salazar was overhead speaking to. As recounted in Mr. while being escorted to the yard.
In light of this and other reported incidents, Plaintiffs remain extremely concerned about the safety of Mr. and other <i>Armstrong</i> and <i>Coleman</i> class members who are housed in administrative segregation as a result of safety concerns related to staff misconduct. This incident suggests that staff at RJD cannot guarantee the safety of class members and declarants housed in administrative segregation. As Mr. astutely notes in his declaration, "All it would take is one mistake (or one intentional act by an officer) for me to get seriously hurt or killed." RJD has also chosen to continue housing Mr. Building 7, just a few cells away from Mr.
Plaintiffs' request that an investigation be opened into the events discussed in Mr. 's declaration. We request that CDCR take steps to (a) ensure that Mr. remains safe in his current placement; or (b) that Mr. be transferred to a non-segregation facility at RJD other than Facility C (as requested in our May 20, 2020 letter); or (c) that Mr. be transferred to another institution altogether. Please note that if you wish to interview Mr. any communications with him about the content of his declarations must be made through Plaintiffs' counsel or with Plaintiffs' counsel present pursuant to the Court's March 17, 2020 Anti-retaliation Order. See Dkt. 2931, at 2. We look forward to receiving your response, including an explanation of what steps are being taken to ensure Mr. 's safety.
///

PRIVILEGED AND CONFIDENTIAL

Tamiya Davis Nicholas Weber July 10, 2020 Page 3

Thank you for your prompt attention to this issue.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

By: Penny Godbold

PG:JRG

cc:Ed SwansonSean LodholzNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainJoanna B. HoodAnthony TartaglioTrace MaiorinoAlicia Bower

Armstrongteam@rbgg.com arm-plo@prisonlaw.com Colemanteam@rbgg.com

EXHIBIT M

SECOND SUPPLEMENTAL DECLARATION OF

- I, declare:
- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is ______. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A, in Building 1. I am 69 years old. I previously submitted two declarations in this matter, which I signed on January 7, 2020 and May 20, 2020.
- 3. In the evening of July 4, 2020, at around 8:30 p.m., I was in the evening pill line in Building 1. As I was waiting at a table to get my medication, I observed an incarcerated person (Person 1) arguing with another person who was in a wheelchair (Person 2). Person 2 was sitting in his wheelchair right outside of the counselor's office. I could not hear what they were saying, but it seemed to be getting heated. As they argued, I noticed that the floor officers, including an especially tall officer, were standing nearby them and observing their argument. At some point, their argument escalated and Person 1 attempted to leave. Person 2 appeared to be agitated and upset about this. I then observed Person 2 stand up out of his wheelchair, remove the foot pedal from his chair, and approach Person 1 in an attempt to strike him with the foot pedal. At that point, the tall officer intervened by putting his hand in Person 2's chest and preventing him from advancing further. I had never seen officers intervene to prevent an attack like this in my multiple decades of incarceration, and I do not know why the tall officer did that.

 Generally, in my experience at RJD, officers just let incarcerated people fight.
- 4. Person 2 then returned to his wheelchair, and Person 1 walked away from the situation. I then saw Person 2 talking to the tall officer, but I could not hear exactly what was said. After that, I noticed at least one of the floor officers—I cannot identify which one—had followed Person 1 as he walked to the stairs located in the B-section of the building. At the same time, I heard an alarm begin to ring out throughout the building. I

then noticed that at least one officer was striking an incarcerated person right underneath the stairs, where I had seen Person 1 walk toward just moments ago. I could see at least one officer hitting someone who was on the ground. Due to my positioning, the stairs partially obstructed my vision of the ground, so I could not identify the victim of the attack or whether other officers were involved. As far as I could see, there did not appear to be any justification for the assault of this person. This person did not appear to be resisting in any way. I just saw the officer repeatedly punch this man four or five times, as the incarcerated person lay on the ground. When this person was eventually handcuffed and escorted out of the building, I identified him as Person 1, who had previously been involved in the altercation with Person 2.

- 5. Because the dayroom was so crowded at the time, everyone stopped what they were doing to watch what was going on. Midway through the attack, five or six people who live on the second tier of the building started coming down the stairs to yell at the officers. They were standing about ten feet away from the assault. I was on the other side of the building, so I could not hear exactly what they were saying. I did hear one person, who I believe is named Mr. ______, protest, "That's on my mama, you can't do that to him. Get off him!" All the while, the officers were screaming at the people protesting to get down.
- 6. The men continued to protest the mistreatment of Person 1 even after the officers had ordered them to get down on the ground. From about ten feet away from the officers, the five or six men shouted and told the officers to stop abusing Person 1. They did not approach or advance toward the officers at any time. They were nowhere near striking distance of these officers. The men just stood and protested. The officer in the control booth, Officer Armstead, then began firing non-lethal rounds into the housing unit, toward the direction of the people who protesting the mistreatment of Person 1. I was surprised that Officer Armstead decided to use the non-lethal gun because there were a number of officers in the vicinity of where he was shooting, including, I believe, some

officers who had responded to the alarm from the yard. I heard Officer Armstead shoot at least two rounds into the housing unit. After he shot those rounds, the people protesting got down on the ground. I did not see anyone get hit by the rubber bullets.

- 7. After the shots were fired, a large group of officers rushed into the building from the yard, with pepper spray canisters and large block guns, just like the one used by Officer Armstead, and they got into what looked like a riot formation. As soon as the people protesting the mistreatment of Person 1 got on the ground, three or four officers immediately started pepper-spraying them. I observed these officers spray the men for six to seven seconds. I saw that these men did not resist or obstruct the officers in any way. The men just lay on the ground as the officers sprayed them. I could not see any reason for these officers to unload their pepper-spray on these men in the way they did. The men were on the ground, compliant, and the officers should have just cuffed them.
- 8. After spraying the protestors, the officers cuffed them and escorted them out of the building, along with Person 1. I observed that the faces of the protestors were dripping and wet from the pepper-spray and their tears. On the floor, where these men had been sprayed, I saw a puddle of pepper spray. The floor was sticky with pepper-spray residue for days following the incident.
- 9. I was too far away to observe whether Person 1 was visibly injured as a result of this incident. After things quieted down, I picked up one rubber bullet on the floor, and saw another one elsewhere on the floor. I returned the bullet I picked up to staff. The bullet was very heavy, which I was surprised by. Based on the weight of the bullet, I believe that the rubber bullets could seriously injure someone hit by them.
- 10. I have not seen any of the men who protested the mistreatment of Person 1 since the incident. I have also not seen Person 1 since the incident. After the incident, I observed officers packing the property of the protestors, as well as Person 1. Because of the nature of this incident, as well as the fact that these people's property was packed up and they have not yet returned to Building 1, I believe that these people were moved to

administrative segregation following the incident. Person 2, who I believe instigated the entire incident, was also escorted out of the building after the incident. After about an hour, he was returned to Building 1. He is still housed in Building 1.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 24th day of July 2020.

<u>/s/</u>

On July 24, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to _______ by telephone. Mr. ______ orally confirmed that the contents of the declaration were true and correct. Mr. ______ also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

DATED: July 24, 2020

Jack Rhein Gleiberman

EXHIBIT N

DECLARATION OF

, declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is _____. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 1 Room _____. I am 47 years old.
 - 3. I have been housed at RJD from July 2018 to the present.
 - 4. During my time at RJD, I have been housed in Building 1 of Facility A.
- 5. I am an *Armstrong* class member. I am designated as DPH, and I am deaf. As accommodations for my disability, I use a hearing aid, a sign language interpreter, written notes, I read lips somewhat, and I wear a vest to indicate that I have a hearing disability.
- 6. I am a *Coleman* class member. I am at the EOP level of care. I am diagnosed with bipolar disorder and PTSD, I experience mood swings and anxiety a lot. To manage my mental health symptoms, I take a medication similar to lithium to decrease my depressive symptoms and thoughts of suicide, and I take Vistaril for anxiety. I meet with a mental health clinician about once every week, and I am visited by a recreational therapist one to three times each week. Prior to the COVID-19 outbreak, I participated in mental health programs and groups on a daily basis.
- 7. I have a number of serious medical conditions. I have ear infections, high blood pressure, and I use a catheter. I am classified as high risk medical.
 - 8. I have witnessed staff engage in misconduct against other people at RJD.
- 9. One instance of staff misconduct I witnessed occurred within the last three months, but I do not recall the exact date.
- 10. I was in my cell when my roommate told me there was an alarm. I immediately got up and I observed multiple officers being rough with another incarcerated person whose last name is _____. One officer twisted his arm as another drove his knee

into Mr. 's side repeatedly and with violent force. I do not recall how long the incident lasted.

- 11. After that point, the officers removed Mr. from the building and I did not see anything else that occurred.
- 12. Approximately one month ago, I learned of another incident of staff misconduct.
- 13. I observed two officers attempt to apprehend an incarcerated individual named Mr. who is Latino. Mr. was exhibiting symptoms of mental illness at the time. The officers apprehended him successfully and he was unharmed during the incident.
- 14. Thereafter, I watched as the officers handcuffed Mr. and walked him out of the building.
- 15. Approximately three hours later, Mr. returned. I saw that his face was badly injured. He had a butterfly bandage on his nose, his eyes were swollen and his face was purple. He appeared to have been severely beaten.
- 16. I gestured to Mr. to ask what had happened. He gestured back to me that he had fallen on the stairs. I responded, in gesture, that I had watched and did not see him fall. He responded, in gesture, that the officers had beaten him in the hallway.
- 17. Mr. was placed in a quarantine room number at that time. Individuals housed in quarantine rooms are not permitted to leave and interact with other incarcerated people. I believe the officers placed Mr. in the quarantine room to prevent others from observing the injuries to his face and to prevent him from discussing the incident with anyone else.
- 18. He remained in the quarantine room until his face was healed, approximately two weeks.
- 19. I reported the incident to my clinician, Ms. Clayton, through an interpreter, Mr. Shatwell. Ms. Clayton later told me that she had reported the incident to her superior via email. Approximately two weeks later, also through an interpreter, Ms. Clayton asked

if I had been interviewed about what I had witnessed. I responded that I had not. She stated that I should have been interviewed.

- 20. On July 4, 2020 at 8:40 PM, I witnessed another staff assault. I know the date and time is correct because I wrote it down at the time of the incident.
- 21. I keep a log of incidents of apparent staff misconduct and can provide it if requested.
- 22. I was in the dayroom of my building. An alarm had sounded, which I learned of because the lights flashed to alert me to the alarm. I saw an officer appearing to speak to an African American person in a wheelchair. And I saw two other officers approach a different African American man named , who was seated on the floor of his cell.
- After Mr. had rolled onto his stomach, an officer grabbed his arm and twisted it violently. Mr. appeared to struggle due to the pain of the arm twist. A second officer knelt near Mr. shead and held the man down by his shoulders while a third officer twisted Mr. so other arm behind his back.
- 24. A fourth officer joined and had a large stick in his right hand. He jumped in the air and struck Mr. on his legs with full force. He struck Mr. two or three times. Mr. tried to move out of the way of this violent assault but was unable to.
- 25. Then, another incarcerated person named stood up and walked over to the officers. He appeared to try to urge the officers to stop beating Mr. Three other individuals approached, one was named and another They appeared to speak to the officers to urge them to stop beating the man. The four individuals did not behave in a manner that seemed to be threatening or aggressive and they did not attempt to strike the officers.
- 26. I observed an officer on the second tier holding a block gun gesture for the officers to stand back. A female officer on the ground tier repeated the gesture and they

moved back. The officer on the second tier then aimed the gun at the four individuals who had intervened and fired non-lethal ammunition, striking in the side.

- 27. Around the time the ammunition was fired, twenty-three additional officers entered the building carrying repeater block guns and large pepper spray cannisters. About five or six other officers began spraying all four men with pepper spray. The men proceeded to lie down, apparently at the officer's direction, and the officers continued to spray them. By the end, they were drenched in orange from the pepper spray. There was also a large puddle of pepper spray on the ground.
- 28. All five incarcerated people were placed in handcuffs and made to stand up. The four men who had intervened were dripping in pepper spray. They were escorted out of the building. The fifth man was escorted out soon after.
 - 29. At that point, we were directed to return to our rooms.
- 30. The officers entered the cells of each man who had been cuffed and began removing objects, throwing some of the individuals' personal objects in the trash, such as clothing and bowls. One officer took a television set he had recovered, placed it in a box and pressed hard on it in an apparent attempt to break the TV.
- 31. Approximately one year ago, I witnessed another incident against an incarcerated person named.
- 32. Mr. had assaulted Officer Rucker by punching him in the face. Officer Rucker and one other officer, known as "Officer B" took him down the ground.
- 33. Officer Rucker placed Mr. in a choke hold as Officer B placed him in handcuffs. Once Mr. was cuffed, Officer Rucker maintained the choke hold and Officer B began punching Mr. in the face and kicking him in the ribs. Approximately four other officers joined and began kicking Mr. and holding him down. Officer Rucker then released the hold, grabbed Mr. is head and began smashing his face into the ground. Several other officers stood by watching the incident. The beating lasted approximately two minutes.
 - 34. After the beating, Mr. s face was covered in blood.

- 35. The following day, Officer B had a swollen hand. I observed him high-fiving the other officers. He appeared to be proud of the injury he had sustained from beating an incarcerated person, and appeared to be bragging about the incident.
- 36. On April 19, 2020 at 6:35 PM, I witnessed an incident when two officers, Officer Torronez and Officer Stone, set up an incarcerated person to be beaten. I recorded the incident contemporaneously in a log that I maintain, which is how I remember the exact date and time.
- 37. This individual reported to officers that his roommate had threatened to cut him in his sleep. I learned of this report after the fact by writing notes with the individual the next day.
- 38. I observed the officers handcuff the individual who had made the report and place him face down outside my cell. The officers them left him unattended and went over to speak to the roommate.
- 39. Immediately after the officers left the man, another incarcerated person who is Latino ran up the stairs to the handcuffed man and began beating him. The officers waited until the beating had ended before they intervened.
- 40. I believe the officers did this on purpose because they were friends with the roommate he had reported, because they did not handcuff the roommate, and because leaving a handcuffed individual unattended violates policy.
- 41. All of the incarcerated people involved in these incidents were at the EOP level of care. I know this to be true because they all are housed in my building and the entire building houses only people at the EOP level of care.
- 42. In my opinion, the officers behave as though they are in a gang: the force they use is excessive and they seem to face no accountability for their actions. They seem to believe they are above the law.
- 43. Witnessing this conduct makes me feel scared. I have had multiple experiences where I believed other officers placed me in danger by spreading false

information about me. I have tried to report my concerns to a Captain Aukerman, who responded by threatening to put me in the "hole".

- 44. I still see the officers that were involved in the staff misconduct that I witnessed. For example, Officer Torronez still works in my building and I see her every day. The officer who fired the non-lethal ammunition still works in my building. Officer Rucker and Officer B have been moved to different positions on Facility A but they still visit my building frequently. I still see Officer Stone occasionally, as well.
- 45. In my time at RJD, there have been many times that I needed help but didn't ask for it because I was afraid of what would happen to me.
- 46. For example, approximately one week ago, I was feeling suicidal but I did not tell the officers because I was afraid how they would respond. Instead, I communicated with my roommate through gesture, and my roommate calmed me down.
- 47. On another occasion, one of my enemies confronted me in the dayroom. I felt very afraid because this individual had previously been part of a group assault on me that I experienced in a different institution. I was too afraid to report it to the officers due to my fears of retaliation and I reported it to my clinician instead.
- 48. I have seen these incidents happen many times over the many years of my incarceration. However, nobody does anything to help us. I have contacted 50 different attorneys asking for assistance after a time I was assaulted, and each attorney declined my case. I believe officers are aware that they will not be held accountable and this makes their behavior worse.
- 49. I have seen a significant amount of misconduct against people who are weak, especially people with mental illnesses and who have intellectual disabilities. For example, my roommate has an intellectual disability as well as being at the EOP level of care. He reported to me that he was violently assaulted after reporting suicidality. He told me that the assault caused multiple contusions to his ribs. He was transferred to a different institution after the assault and reported it to a Captain there. However, he was so frightened by the incident, he refused to allow the Captain to pursue the matter.

- 50. I have also seen retaliation against people who have tried to report incidents. The officers will move people to different rooms or otherwise affect their lives.
- 51. It's also my opinion that a lot of the staff misconduct is as a result of officers who are part of what people refer to as the _______ The ______ is the name for the officers' "gang." I believe they are part of the ______ because of how the officers behave as a group and join in on assaults instead of preventing them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 23nd day of July, 2020.

 \sqrt{S}

On July 22 and 23, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against declarants in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration verbatim, as translated into American Sign Language, to Mr. by video. verbally confirmed that the contents of the declaration were true and correct. also verbally granted me permission to affix his signature to the declaration and to file the declaration in this matter.

DATED: July 23, 2020

aroline E. Jackson

EXHIBIT O

DECLARATION OF

2 |

declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in the Administrative Segregation Unit ("ASU"), which is located on Facility B, in Building 6. The building is an EOP ASU. I am 53 years old.

3. I have been housed at RJD from mid-February 2020 to the present. During my time at RJD, I have been housed in Buildings 1 and 2 on Facility A, in Building 23 on Facility E, and in the Mental Health Crisis Bed ("MHCB") unit in the Correctional Treatment Center ("CTC").

4. I am an *Armstrong* class member. I am designated as DPM. I have trouble getting around because of my disability. I have neuropathy and back pain, and I use a cane and a walker to get around. As accommodations for my disability, I also have knee braces. I am also housed on the ground floor in a lower bunk because of my disability. I also experience incontinence related to my disability for which I am supposed to receive diapers on a monthly basis. RJD has not been providing me with the diapers and wipes that I need for when I have incontinence issues. I am also supposed to have orthotic shoes, a wedge pillow, and an egg crate mattress, but RJD has not been willing to give me these accommodations. I wear a vest to indicate that I have a mobility disability, and I must be housed on the ground floor in a lower bunk. I also require a lift-in order to get into vehicles, and I have a chrono that specifies that I have to be cuffed in the front of my body due to my disability.

5. I am a *Coleman* class member. I am at the EOP level of care. I am diagnosed with Depression. To manage my mental health symptoms, I take Effexor. I frequently feel suicidal, and I often cut myself. I meet with a mental health clinician about

[3586337.1]

once every week. Prior to the COVID-19 outbreak, I participated in mental health programs and groups. Since the COVID-19 outbreak, we have not been getting groups or private meetings with our clinicians. Since I have been in ASU, the mental health clinicians come to my cell front for clinical meetings. This is not safe because there are non-EOP gang members mixed in with the EOP patients in this EOP ASU unit. There is no privacy during these meetings, and it makes it hard to talk about my issues.

- 6. I am also a *Clark* class member. I am designated developmentally disabled level 1 (DD1). I need help with reading, writing, and understanding things. I have been trying to talk to the *Clark* counselor before going to committee, but my counselor has not been available to speak privately. She just comes to my door, but I do not want to talk about my business in front of other prisoners. I am in ASU for safety concerns, and I do not want to talk about those concerns in front of other prisoners in the ASU.
- 7. I have a number of serious medical conditions. I have thyroid problems, problems with my feet, back pain, neuropathy and a seizure disorder. I am designated as high risk medical.
 - 8. Recently, I have experienced staff misconduct at RJD two times.
- 9. The first incident was in April or May, 2020, I experienced staff misconduct on A-Yard, in Building 1. At the time, I had been returned from suicide watch on B-Yard to A-Yard, Building 1, which is an EOP unit. I was placed into a bare cell, Cell 101 around 10:30 a.m.. I did not have anything on but some pants and an undershirt, shoes and underwear. There was no mattress, no sheets, no blankets in the cell. Staff told me they would get these items. I kept on asking for these items all day long but no one came with these items. The cell was very cold at the time. I waited all day to get bedding and a blanket and some more clothing. Staff never got me these items. I was so upset that I cut my neck around 8:00 at night. I showed it to medical and custody staff but they did nothing for me. They never got help for me or called for a suicide evaluation. They just left me in the bare cell.

[3586337.1]

- 10. Next, around midnight, on first watch, I asked the officer for blankets and bedding. I was so cold I could not sleep. The first watch officer went by my cell several times doing his inspections, and he just ignored me every time and kept walking by me without acknowledging me. I was so upset that I broke the window in my cell.
- 11. The next morning the Lieutenant came, and saw that I did not have a blanket or mattress. He asked about where my mattress and blanket were. As I noted, I had cut my neck the evening before, and I showed it to him. I was taken to see a psychologist, who evaluated me. However, after talking to her, Sgt. Mitchell and other custody staff went to put me right back into that same cell with glass and the broken window and no property. The inmates around my cell were angry and calling out because of what was happening to me. At that time, Sgt. Mitchell took his baton out to threaten me, and threw me back into the cell. Next, I was locked up and put into Administrative Segregation. In the Rules Violation Report ("RVR") write up on the incident, staff indicated I was stressed about COVID-19, but that is not correct. In fact, I was stressed about what happened to me in the housing unit, and the fact that no one gave me bedding or warm clothing.
- 12. I received a disciplinary write up about the incident. Even though I was suicidal and struggling with my mental health issues at the time I broke the window, I was still found guilty of the RVR for destroying property. I was given a psychiatric assessment but the mental health clinician found that my mental health did not contribute to the incident.
- 13. I filed a 602 grievance about the incident. I was never interviewed about the 602 appeal. My 602 appeal was denied.
- 14. A second incident where I experienced staff misconduct took place on E-Yard in late May. At the time, I had been stressed out and was feeling depressed, in part because of the incident on A-Yard. I was also stressed out because several members of my family had died from COVID-19, and I had recently learned about it. One morning, I was feeling suicidal and depressed and I was talking to staff in the Program Office on E-Yard.

[3586337.1]

I had been on suicide watch over night on C-Yard, and I had just returned to E-Yard. In the Program Office, I was talking to two Sergeants. At the time, a third Sergeant, Sergeant came over to me and told me, in front of other Officers, "I don't want this motherfucker on my yard. Get this peace of shit off my yard. You bitch punk ass. They told me he goes suicidal all the time, and I don't want him here." I objected, and he said "Shut the fuck up, I just talked to the inmates, and I told them you are a snitch. I am going to have you raped and beaten up. I don't want you on the yard."

- 15. I responded by indicating that I was afraid for my life. I told them I wanted to press PREA charges because the officer had just told me I was going to be raped. The other Sergeants in the room refused to help me. I asked to be locked up, and told staff I was suicidal. I felt my life was in danger because of Sergeant and the fact that he had told other inmates on the yard that I was a "snitch."
 - 16. I was placed into ASU, where I have remained since that time.
- 17. I do not understand why Sergeant was so abusive towards me. I believe he did not want me on the yard because of my mental health issues and because of what had taken place on A-Yard. He said "they told us about you." I believe he had been called by custody staff on A-Yard, and that he was against me because what staff on A-Yard had told him about me.
 - 18. I filed a 602 about this issue. I have not heard back about it.
- 19. I went to committee last Thursday. I was told that there was an investigation into my allegations by ISU at RJD, and they told me my allegations were unfounded. I was told I am going to be transferred to another prison.
- 20. These incidents of staff misconduct have greatly worsened my mental health. Since these incidents, I have been very suicidal, and I have been struggling with my depression. I have had several serious suicide attempts since these incidents. My mental health treatment team has not been helping me. They have told me they think I am being

[3586337.1]

1

2

3

4

5

6

7

8

9

10

11

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

manipulative. I was in the MHCB about six weeks ago. My depression has been very severe. 21. At RJD, I have often experienced difficulty obtaining assistance for my disabilities. I have often been suicidal and struggled to get taken seriously and get the mental health care that I need. I also struggle to get the help and assistance I need to read and write and understand things as a DD1 *Clark* class member. My counselor always says she is too busy to help me. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 27th day of July 2020. 12 On July 27, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter. Quinas Noter DATED: July 27, 2020 Thomas Nolan

5 [3586337.1]

EXHIBIT P

DECLARATION OF

I, declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 13. I am 36 years old.
- 3. I have been housed at RJD from December 2018 to the present. During my time at RJD, I have been housed in the following housing units: B-10, A-5, B-6 (ASU), D-16, and C-13.
- 4. I am a *Coleman* class member. I am at the CCCMS level of care. I am diagnosed with Depression, Bipolar Disorder, and Schizoaffective Disorder. I experience paranoia, anxiety, and panic attacks on a regular basis. To manage my mental health symptoms, I take two mental health medications, Effexor and Seroquel. I meet with a mental health clinician about once a month.
 - 5. I was a victim of staff misconduct at RJD.
- 6. On July 4, 2020, at around 10:00 a.m., I was in the dayroom of Building 13 using the phone. As I was using the phone, all of a sudden, I was attacked by another incarcerated person. A short time earlier, I had been having an argument with this other individual, and this individual came at me while I was on the phone and attacked me, punching me. I dodged the punches, and I was able to knock the individual to the ground. I then placed my attacker in a restraint hold, awaiting the floor officers to come and take control of the situation. However, staff kept yelling "get down," and did not seem to be coming to take control. So I moved away from my attacker in a backwards motion. I was crawling backwards on the ground, trying to comply with the officers' orders.

28 ||

[3586369.1]

- 7. As I was moving away from the attacker, on the ground, not threatening anyone, I was shot in the leg by the tower officer, Officer Morales. He shot me once with the 37mm gun in the upper right thigh. He was about 30 feet away from me.
- 8. I believe that the 37mm gun uses rubber bullets. When the bullets hit my thigh, it was extraordinarily painful. It caused severe bruising, and I have bad pain to this day, approximately three weeks later.
- 9. I believe that there was no justification for Officer Morales to shoot me with the block gun because I was the one who was attacked in the first place. Also, at the time that I was shot, the assault on me had ended and we were both on the ground, away from each other, essentially compliant with the officers' orders.
- 10. After being shot, I was taken to the Facility C gym and placed in a cage. I was evaluated by a nurse. The nurse claimed I had no injuries and failed to document my injuries on the Form 7219.
- 11. While in the cage, I noticed Officer Morales enter the gym and approach the cage. He was laughing. He said to me, "I know I hit you," and asked me where I had been shot. I showed him the bruising on my leg and thigh, and then asked him why he had shot me while I was on the ground, not resisting, and compliant. In response, Officer Morales laughed and said that his friends, other custody staff officers, had been giving him a "hard time" about his aim after an incident that occurred at the beginning of July in Building 13. In that incident, Officer Morales used the block gun to break up a fight, firing three shots but missing every one. Officer Morales went on to tell me that his friends were "clowning" him and giving him a hard time about his poor aim. He then told me that he had shot me in order to win back his reputation among his friends.
- 12. The inmate who attacked me, inmate _____, was in the gym at the time and overheard this entire conversation with Officer Morales.
- 13. As a result of this incident, my mental health symptoms have become a lot more intense. I am more depressed and anxious than ever, and I am hearing voices

[3586369.1]

regularly. I am in disbelief that I was shot with the block gun for such a trivial reason. I am terrified that Officer Morales will again shoot me, or will shoot some other incarcerated person in the building, with no justification at all. I have shared these concerns with my mental health clinicians.

- 14. Although the nurse who initially evaluated me did not document my injuries, medical staff later documented them on July 8, 2020 during a face-to-face meeting with medical staff.
- 15. I filed a 602 about the incident a few days after it took place. The next day, I was given a videotaped interview about the use of force. The interview lasted about fifteen minutes. I mentioned that I hoped there would be no retaliation and the staff interviewing me said there would be no retaliation. I have not heard anything yet about the results of the interview or about the investigation.
- 16. In my time at RJD, there have been many times that I needed help but did not ask for it because I was afraid of what would happen to me. For example, in the past, I have had panic attacks, and when I asked staff for help, they refused to help me. They said "man up." I could have gone "man down" to be sure to get help with my anxiety attack, but I was afraid they would rip up my cell or otherwise retaliate against me, so I did not keep seeking the mental health attention I needed at the time. In my opinion this is dangerous because sometime people need to see a mental health clinician right away and can become suicidal. I am not generally suicidal, but this kind of attitude puts other mental health patients who are suicidal at risk.
- 17. Now, I have decided to speak up for what is right no matter the consequences.
- 18. I believe the reason there is so much staff misconduct at RJD is because there is an established pattern, because people get away with it, and because staff want to show their power over the inmates by beating people up. Staff here at RJD routinely retaliate against people who speak up. They will go into people cells and search them, and

[3586369.1]

destroy televisions and other property in retaliation for people speaking out or filing appeals. This has not happened to me but I have seen it happen to others. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California this 27th day of July 2020. On July 27, 2020, due to the closure of RJD in light of the COVID-19 pandemic and ongoing concerns that officers might retaliate against witnesses in support of Plaintiffs' Motion, including ongoing concerns about the confidentiality of the legal mail system at RJD, I read the contents of this declaration, verbatim, to telephone. Mr. orally confirmed that the contents of the declaration were true and correct. Mr. also orally granted me permission to affix his signature to the declaration and to file the declaration in this matter. aumas Noter DATED: July 27, 2020 Thomas Nolan

[3586369.1]

EXHIBIT Q

From: Gay C. Grunfeld

Sent: Friday, July 17, 2020 4:43 PM

To: Armstrong Team - RBG only; 0581 03 (0581.03.DMS@DMS.rbg-law.com); 0581.04

Workspace

Subject: FW: 581-3 - Note from Mr. [IWOV-DMS.FID3579]

Attachments: [Untitled].pdf

From: Davis, Tamiya@CDCR

Sent: Friday, July 17, 2020 4:43:06 PM (UTC-08:00) Pacific Time (US & Canada)

To: Michael Freedman

Cc: Joanna Hood; Ferguson, Patricia@CDCR; Gay C. Grunfeld; Penny Godbold; Jack Gleiberman

Subject: RE: 581-3 - Note from Mr. [IWOV-DMS.FID3579]

Good afternoon,

Thank you,

Tamiya Davis

Attorney III, Class Action Team

Office of Legal Affairs

California Department of Corrections and Rehabilitation

Phone: 916.341.6960 Cell: 916.247.5094

From: Michael Freedman < MFreedman@rbgg.com>

Sent: Friday, July 17, 2020 4:40 PM

To: Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>

Cc: Joanna Hood <Joanna.Hood@doj.ca.gov>; Ferguson, Patricia@CDCR <Patricia.Ferguson@cdcr.ca.gov>; Gay C. Grunfeld <GGrunfeld@rbgg.com>; Penny Godbold <PGodbold@rbgg.com>; Jack Gleiberman@rbgg.com>

Subject: RE: 581-3 - Note from Mr. [IWOV-DMS.FID3579]

CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All,

Can you provide us with an update regarding the status of obtaining the note, providing us with a scanned copy, and mailing it to us?

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) mfreedman@rbgg.com CONFIDENTIALITY NOTICE

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 156 of 858

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

From: Michael Freedman

Sent: Friday, July 17, 2020 3:05 PM

To: Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>

Cc: Joanna Hood <<u>Joanna.Hood@doj.ca.gov</u>>; Ferguson, Patricia@CDCR <<u>Patricia.Ferguson@cdcr.ca.gov</u>>; Gay C.

Grunfeld <<u>GGrunfeld@rbgg.com</u>>; Penny Godbold <<u>PGodbold@rbgg.com</u>>; 'Jack Gleiberman (<u>JGleiberman@rbgg.com</u>)'

<JGleiberman@rbgg.com>

Subject: RE: 581-3 - Note from Mr. [IWOV-DMS.FID3579]

All,

Penny has concluded the call. AW should proceed to obtain the note from Mr. pursuant to the protocols we describe below.

Best,

Michael Freedman



101 Mission Street, Sixth Floor

San Francisco, CA 94105

(415) 433-6830 (telephone)

(415) 433-7104 (fax)

mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

From: Michael Freedman

Sent: Friday, July 17, 2020 2:49 PM

To: Davis, Tamiya@CDCR < <u>Tamiya.Davis@cdcr.ca.gov</u>>

Cc: Joanna Hood <<u>Joanna.Hood@doj.ca.gov</u>>; Ferguson, Patricia@CDCR <<u>Patricia.Ferguson@cdcr.ca.gov</u>>; Gay C. Grunfeld <<u>GGrunfeld@rbgg.com</u>>; Penny Godbold <<u>PGodbold@rbgg.com</u>>; Jack Gleiberman@rbgg.com) <<u>JGleiberman@rbgg.com</u>>

Subject: 581-3 - Note from Mr. [IWOV-DMS.FID3579]

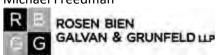
Importance: High

Penny is on the call with Mr. right now. We are informing him that AW will collect the note from him. We request that Defendants use the following procedures: 1. Have Mr. place the note in a sealable, clear, plastic bag. 2. Have make a color scan of the note that they send to you and then email to us. 3. Send the physical note to our office.

Please let me know if you have any questions.

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 157 of 858

mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

ď	3	33	ä
gg)	Ś		X
	Š		
	÷	Œ	e e
			Ü
	í		Ó
پ	Ċ,	_	Ġ
		Z	
×	۱	Γï	i
	à	٠,	ı
. 7	Ġ	α	ú
Ċ	ď	7	
43	ž,	۰	,
٠,	ij		Ÿ
. • •	7		١
		٠.	
ď	ì	٠.	
÷	ŝ.		
٠,	ý	[£	1
ö	Ŷ	$\overline{}$	
	Š.	ш	
ij,	Ċ	H	1
×	Ö	=	•
Ø	Ġ	Т	
- 0	ŝ	7.77	
	ï	-	
	ż	٠.	
ď			7
÷		¢.	١
	ż		
-3	Ź	Ľ	
Ú		100	Š
	Ć.	(i	١
ं	÷.	#	9
%	Ô	4	្
9			ŝ
	Ó	C	3
	÷	×	ŀ
	ſ	L	ĵ
	*		ŝ
		- 1	÷
	•	. 1	3
			ď
	ì	7	÷
1	٠	īī	ì
ø	3	¥	4
Z	Ö	a	3
٨	Ŷ	7	
	ſ	۷	1
×	ĕ		
1	Ċ,	~	١
- }	٥	~	٠
	Š,	_	
	Ċ		ŕ
٠,	Ć	ш	l
ij	ď	~	•
	ò	بليا	ŧ
N		ш	ŀ
13	ŝ	≂	
Ó			Ŷ.
3	Ċ,		Ġ
	í	_	ż
ď		_	ï
	្	-	
	J	L	J
. '			ŝ
	ò		÷
	á		١
.:		-	4
3		2	ď
٠.	· ·		7
, i	ű		١
d	j	×	ż
	í	C	ŧ
	ď		
S		1	3
Ċ,	Ġ	ា	Ġ
	Ó	Ů,	
Ŕ		2	ं
1	ď	ī.	ī
ď	d	4	Ł
Ó	ă	Ö.	9
	×	7	ŀ
	y	4	į
d	ď.	Ó	
	ì	_	١
, ŝ		_	
: /			
	21		
Ó			
		u	ı
		Ţ	l
		L L	l
		TOTAL TOTAL	1
		FRE	
新聞 1000できるながのでする			
		「山口山上 上」と 上 こって	
		思いないできるというでした。	

Ifem No	Offense		
Suspect V letim			
Date and Time of	Recovery 7	1/20 154	-
Recovered By <u>#</u>	149-1490		<u> </u>
Description and/a	or Location Countries of Se	Wes	
Ü72-11	arenteen teetin ook eta eskele talaan ja eela ka talaan ka talaan ja ka talaan ja ka talaan ja ka talaan ja ka Talaan ja ka talaan		
			7
C.	IAIN OF C	JSTODY	
FROM	TO	DATE	·
	AUG 1	1. 7/17/	7-1
			·· ·
TO USE:	•	garcia S. 1997 August 18	%// %/%
1) Remove Release 2) Fold Where Indice			
3)Tear Where Indica	ated and Retai	n Eyldence Receipt. LL DISTORT SEALED ARI	
			: A
CONDITION OF BAG	5 WHEN OPENE		

Fax: (919) 554-2266; (800) 899-8181 NO: JEB7500 www.sirchie.com

TO REMOVE CONTENTS — CUT ALONG BOTTOM

TO REMOVE CONTENTS **CUT ALONG BOTTOM** www.sirchie.com Phone: (919) 554-2244, (800) 356-7311 Fax: (919) 554-2266, (800) 899-8181 0027831 OM DO NOT CUT HERE TO OPEN — DO NOT CUT HERE TO OPEN — DO NOT CUT HERE TO OPEN DO NO LOT HEBE TO OPEN — DO NOT COT HEBE TO OPEN — DO NOT COT HEBE TO OPEN : b CA 3)Tŧ 5) E(ا) (ر 101 (/ CO/ DUBL Mister B0051933896 SEALED BY

Date:

EXHIBIT R

1	DONALD SPECTER – 083925					
2	RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583					
3	PRISON LAW OFFICE 1917 Fifth Street					
	Berkeley, California 94710-1916					
4	Telephone: (510) 280-2621 Facsimile: (510) 280-2704					
5	MICHAEL W. BIEN – 096891					
6	GAY C. GRUNFELD – 121944 PENNY GODBOLD – 226925					
7	MICHAEL FREEDMAN – 262850					
8						
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738					
0	Telephone: (415) 433-6830 Facsimile: (415) 433-7104					
11	LINDA D. KILB – 136101 DISABILITY RIGHTS EDUCATION &					
12	DEFENSE FUND, INC. 3075 Adeline Street, Suite 201					
13	Berkeley, California 94703					
ا4	Telephone: (510) 644-2555 Facsimile: (510) 841-8645					
15	Attorneys for Plaintiffs					
16	UNITED STATES	DISTRICT COURT				
17	NORTHERN DISTRI	CT OF CALIFORNIA				
18	OAKLAND	DIVISION				
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW				
20	Plaintiffs,	EXHIBIT R TO THE REPLY DECLARATION OF GAY				
21	V.	CROSTHWAIT GRUNFELD IN				
22	GAVIN NEWSOM, et al.,	SUPPORT OF PLAINTIFFS' MOTION TO STOP DEFENDANTS FROM				
23	Defendants.	ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.				
24		DONOVAN CORRECTIONAL				
25		FACILITY [UNDER SEAL]				
26		Judge: Hon. Claudia Wilken Date: August 11, 2020				
27		Time: 2:30 p.m. Crtrm.: TBD				
,,						

Case No. C94 2307 CW

Manual Filing Notification 1 2 Regarding: Exhibit R to the Reply Declaration of Gay Crosthwait Grunfeld This filing is in paper or physical form only, and is being maintained in the case file in the 3 Clerk's office. If you are a participant in this case, this filing will be served in hard-copy 4 5 shortly. For information on retrieving this filing directly from the court, please see the court's main web site at http://www.cand.uscourts.gov under Frequently Asked Questions 7 (FAQ). This filing was not e-filed for the following reason(s): 8 9 Unable to Scan Documents 10 Physical Object (please describe): 11 Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media 12 Item Under Seal in Criminal Case 13 Conformance with the Judicial Conference Privacy Policy (General Order 53) 14 Other (please describe): Exhibit R is also being submitted to the Court under 15 seal. 16 DATED: July 29, 2020 17 Respectfully submitted, 18 ROSEN BIEN GALVAN & GRUNFELD LLP 19 20 By: /s/ Gay Crosthwait Grunfeld Gay Crosthwait Grunfeld 21 Attorneys for Plaintiffs 22 23 24 25 26 27 28 Case No. C94 2307 CW

[3586067.1]

EXHIBIT S

STATE OF CALIFORNIASE 4:94-CV-02307-CW Document 3024-1 Filed 07/29/20 Page 1.65 of 65 Sections & REHABILITATION

EXHIBIT T

From: Sent: To: Cc: Subject: Attachments:	Penny Godbold Wednesday, July 22, 2020 3:30 PM Ferguson, Patricia@CDCR Davis, Tamiya@CDCR; Powell, Alexander@CDCR; 'joanna.hood@doj.ca.gov'; Trace Maiorino; Jeremy Duggan; Sean Lodholz; Damon McClain; Anthony Tartaglio; Armstrong Team - RBG only; Armstrong Team; Ed Swanson Request for Transfer of [IWOV-DMS.FID3579] [SIGNED] CONFIDENTIAL 2d Supplemental Declaration of RJD, 07-22-20.PDF
Privileged and Confidential	Subject to Protective Orders***
Dear Patricia,	
reports that he is in danger at RJD being retaliated against for his par Declaration of . Mr. and that CDCR take immediate action	d witness to the June 17, 2020 incident involving Mr. , , , , , , , , , , that he is being threatened by staff and other incarcerated people, and that he is rticipation in the Plaintiffs' motion. Please see attached Second Supplemental reports that he is already endorsed for transfer to But for COVID-19, he would be transferring out of RJD. We request to:
Have an Associate Warder conduct daily welfare che check occurred to Plaintiff	n, or someone with higher rank, conduct an immediate welfare check on Mr. and cks until he is transferred. Please produce a daily 128B confirming that the welfare fs' counsel, starting immediately. Ad Seg. As stated in his declaration, despite his serous safety concerns, he believes
Defendants do not agree, Plaintiff	ss Friday that Defendants agree to transfer Mr. to either or or . If s will seek a TRO to have Mr. transferred. Plaintiffs understand that a negative sary prior to any transfer. Please confirm that Mr. will be transferred as soon as
-	or COVID-19, and expedite his test result, in anticipation of transfer so that he can be e confirm, as soon as possible and before Friday, that he has been tested and that his
As with prior declarations, you ma without Plaintiffs' counsel present	ay not speak with Mr. about anything related to the contents of the declaration t. You may, however, conduct daily welfare checks.
I look forward to hearing back from	m you regarding this urgent matter.
Thanks,	
Penny Godbold	

1

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 168 of 858

RBGG has moved! 101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) pgodbold@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@arbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

EXHIBIT U

From: Ferguson, Patricia@CDCR <Patricia.Ferguson@cdcr.ca.gov>

Sent: Friday, July 24, 2020 8:19 PM

To: Penny Godbold

Cc: Davis, Tamiya@CDCR; 'joanna.hood@doj.ca.gov'; Trace Maiorino; Sean Lodholz;

Armstrong Team - RBG only; Armstrong Team; Ed Swanson; Vincent Cullen

Subject: RE: Request for Transfer of [IWOV-DMS.FID3579]

Penny,

Consistent with significant of the state of

Patricia Ferguson

Assistant Chief Counsel
Class Action Team
Office of Legal Affairs
California Department of Corrections
and Rehabilitation
Phone: (916) 324-7200

Fax: (916) 327-5306

patricia.ferguson@cdcr.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information including, but not limited to, the attorney/client privilege and/or the attorney work product doctrine. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of this communication.

From: Penny Godbold < PGodbold@rbgg.com>

Sent: Thursday, July 23, 2020 12:24 PM

To: Ferguson, Patricia@CDCR <Patricia.Ferguson@cdcr.ca.gov>

Cc: Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>; Powell, Alexander@CDCR <Alexander.Powell@cdcr.ca.gov>; 'joanna.hood@doj.ca.gov' <joanna.hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Jeremy Duggan

<Jeremy.Duggan@doj.ca.gov>; Sean Lodholz <Sean.Lodholz@doj.ca.gov>; Damon McClain

<Damon.McClain@doj.ca.gov>; Anthony Tartaglio <Anthony.Tartaglio@doj.ca.gov>; Armstrong Team - RBG only

<armstrongTeam@rbgg.com>; Armstrong Team <arm-plo@prisonlaw.com>; Ed Swanson <ed@smllp.law>; Cullen,

Vincent@CDCR < Vincent. Cullen@cdcr.ca.gov>

Subject: RE: Request for Transfer of [IWOV-DMS.FID3579]

CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Patricia,

Thank you for your response. I was informed last night that and are both currently closed to intake.
That does not change our request to begin preparations to transfer Mr. to one of those prisons and to immediately ensure his safety.
Does CDCR have a proposal for an alternative interim placement for Mr. , pending the opening of either one of thos prisons? We can discuss with him any proposal that does not include transferring him to Ad Seg, another facility at RJD or
I note that has only three active cases. We would like to discuss with the Receiver when he expects will reopen. We understand that it will take a few days to get Mr. 's COVID test results back. Is there a chance will be open by then? If not, we would also like to discuss whether Mr. could safely transfer to be placed in 14 day quarantine, and be retested prior to release from quarantine, given the low number of cases at that prison, and at RJD (only 1 case) at this time.
We renew our request that he be immediately tested for COVID-19 to begin the process of preparing for transfer.
We also renew our request for wellness checks and to receive the 128-B's.
Please note that I am copying Vince Cullen on this response.
Thank you for your response and prompt attention to this matter,
Penny
From: Ferguson, Patricia@CDCR < <u>Patricia.Ferguson@cdcr.ca.gov</u> > Sent: Thursday, July 23, 2020 10:50 AM To: Penny Godbold < <u>PGodbold@rbgg.com</u> > Cc: Davis, Tamiya@CDCR < <u>Tamiya.Davis@cdcr.ca.gov</u> >; Powell, Alexander@CDCR < <u>Alexander.Powell@cdcr.ca.gov</u> >; 'joanna.hood@doj.ca.gov' < <u>joanna.hood@doj.ca.gov</u> >; Trace Maiorino < <u>Trace.Maiorino@doj.ca.gov</u> >; Jeremy Duggan < <u>Jeremy.Duggan@doj.ca.gov</u> >; Sean Lodholz < <u>Sean.Lodholz@doj.ca.gov</u> >; Damon McClain < <u>Damon.McClain@doj.ca.gov</u> >; Anthony Tartaglio < <u>Anthony.Tartaglio@doj.ca.gov</u> >; Armstrong Team - RBG only < <u>ArmstrongTeam@rbgg.com</u> >; Armstrong Team < <u>arm-plo@prisonlaw.com</u> >; Ed Swanson < <u>ed@smllp.law</u> > Subject: RE: Request for Transfer of [IWOV-DMS.FID3579]
Sent: Thursday, July 23, 2020 10:50 AM To: Penny Godbold < <u>PGodbold@rbgg.com</u> > Cc: Davis, Tamiya@CDCR < <u>Tamiya.Davis@cdcr.ca.gov</u> >; Powell, Alexander@CDCR < <u>Alexander.Powell@cdcr.ca.gov</u> >; 'joanna.hood@doj.ca.gov' < <u>joanna.hood@doj.ca.gov</u> >; Trace Maiorino < <u>Trace.Maiorino@doj.ca.gov</u> >; Jeremy Duggan < <u>Jeremy.Duggan@doj.ca.gov</u> >; Sean Lodholz < <u>Sean.Lodholz@doj.ca.gov</u> >; Damon McClain < <u>Damon.McClain@doj.ca.gov</u> >; Anthony Tartaglio < <u>Anthony.Tartaglio@doj.ca.gov</u> >; Armstrong Team - RBG only < <u>ArmstrongTeam@rbgg.com</u> >; Armstrong Team < <u>arm-plo@prisonlaw.com</u> >; Ed Swanson < <u>ed@smllp.law</u> >
Sent: Thursday, July 23, 2020 10:50 AM To: Penny Godbold < PGodbold@rbgg.com > Cc: Davis, Tamiya@CDCR < Tamiya.Davis@cdcr.ca.gov >; Powell, Alexander@CDCR < Alexander.Powell@cdcr.ca.gov >; 'joanna.hood@doj.ca.gov' < joanna.hood@doj.ca.gov >; Trace Maiorino < Trace.Maiorino@doj.ca.gov >; Jeremy Duggan < Jeremy.Duggan@doj.ca.gov >; Sean Lodholz@doj.ca.gov >; Damon McClain < Damon.McClain@doj.ca.gov >; Anthony Tartaglio < Anthony.Tartaglio@doj.ca.gov >; Armstrong Team - RBG only < ArmstrongTeam@rbgg.com >; Armstrong Team < arm-plo@prisonlaw.com >; Ed Swanson < ed@smllp.law > Subject: RE: Request for Transfer of [IWOV-DMS.FID3579]

Fax: (916) 327-5306

Phone: (916) 324-7200

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 172 of 858

patricia.ferguson@cdcr.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information including, but not limited to, the attorney/client privilege and/or the attorney work product doctrine. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of this communication.

From: Penny Godbold < PGodbold@rbgg.com >					
Sent: Wednesday, July 22, 2020 3:30 PM					
To: Ferguson, Patricia@CDCR < Patricia. Ferguson@cdcr.ca.gov >					
Cc: Davis, Tamiya@CDCR < Tamiya.Davis@cdcr.ca.gov">Tamiya.Davis@cdcr.ca.gov ; Powell, Alexander@CDCR < Alexander.Powell@cdcr.ca.gov ; joanna.hood@doj.ca.gov; Trace Maiorino Trace.Maiorino@doj.ca.gov ; Jeremy Duggan					
</a<>					
Subject: Request for Transfer of [IWOV-DMS.FID3579]					
CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.					
School and know the content is saic.					
Privileged and ConfidentialSubject to Protective Orders***					
Dear Patricia,					
I write to inform you that our third witness to the June 17, 2020 incident involving Mr.					
reports that he is in danger at RJD, that he is being threatened by staff and other incarcerated people, and that he is					
being retaliated against for his participation in the Plaintiffs' motion. Please see attached Second Supplemental					
Declaration of . Mr. reports that he is already endorsed for transfer to					
and But for COVID-19, he would be transferring out of RJD. We request					
that CDCR take immediate action to:					
1. Transfer Mr. to or					
2. Have an Associate Warden, or someone with higher rank, conduct an immediate welfare check on Mr.					
conduct daily welfare checks until he is transferred. Please produce a daily 128B confirming that the welfare					
check occurred to Plaintiffs' counsel, starting immediately.					
3. Do not transfer Mr. to Ad Seg. As stated in his declaration, despite his serous safety concerns, he believes he will be worse off in Ad Seg.					
ne will be worse on in his seg.					
Please confirm by close of business Friday that Defendants agree to transfer Mr. to either or If					
Defendants do not agree, Plaintiffs will seek a TRO to have Mr. transferred. Plaintiffs understand that a negative					
COVID-19 test result will be necessary prior to any transfer. Please confirm that Mr. will be transferred as soon as					
his test result is available.					
Please immediately test Mr. for COVID-19, and expedite his test result, in anticipation of transfer so that he can be					
moved as soon as possible. Please confirm, as soon as possible and before Friday, that he has been tested and that his					
test has been expedited.					
test has been expedited.					
As with prior declarations, you may not speak with Mr. about anything related to the contents of the declaration					

without Plaintiffs' counsel present. You may, however, conduct daily welfare checks.

I look forward to hearing back from you regarding this urgent matter.

Thanks,

Penny Godbold



RBGG has moved! 101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) pgodbold@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

EXHIBIT V

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: July 9, 2020

To: CDCR_CCHCS Extended Executive Staff

Subject: POSITIVE PROGRAMMING CREDITS

As part of the California Department of Corrections and Rehabilitation's (CDCR) efforts to recognize the impact the COVID-19 pandemic has had on access to programs and credit earnings, CDCR will implement a one-time Positive Programming Credit (PPC) award for eligible inmates.

PPC will provide 12 weeks of credit to inmates eligible as of July 9, 2020. Those found guilty of a serious Rules Violation Report (RVR) between March 1, 2020, and July 5, 2020, are excluded from earning this credit. For those inmates with a pending serious RVR, PPC shall not be applied until the RVR is adjudicated and the inmate found not guilty. Those found not guilty shall have the PPC applied within seven days of the Chief Disciplinary Officer's review. Inmates serving life without the possibility of parole, as well as condemned inmates, are excluded from this credit.

These credits will be coded under the existing Extraordinary Conduct Credit (Title 15 Section 3042.6), which allows the Director of the Division of Adult Institutions to award credit to an inmate who has "provided exceptional assistance in maintaining the safety and security of a prison." By practicing positive behavior throughout this time of suspended visits, program modifications, staffing shortages, and service impacts, these inmates have played an important role in enabling staff to maintain institutional security and focus on providing care to those who are ill.

Headquarters Case Records Services staff will enter the credit into SOMS. Credits shall be applied by August 1, 2020. Institutions should follow normal release processes should these credits advance release dates making the inmate eligible for release per California Code of Regulations, Title 15, Section 3043(c).

RALPH M. DIAZ Secretary

OFFICE OF THE SECRETARY

PO Box 942883 Sacramento, CA 94283-0001

July 9, 2020

To all incarcerated people:



As we continue to fight the spread of COVID-19 in our prisons, I want to acknowledge the significant burden you and your families continue to bear as a result of the extraordinary changes we have made to our operations.

Since March, you have endured the suspension of visits, reduced phone call schedules due to physical distancing and cleaning requirements, schedule changes, housing changes, program suspensions and extremely limited movement. Some have been endorsed for other institutions or programs and have not been able to transfer. At institutions that experienced outbreaks, you've gone through even more. All this is coupled with the worry you have for your health and that of your peers and loved ones. California Department of Corrections and Rehabilitation (CDCR) has lost 32 people to this disease – I extend my sincerest condolences to their family, friends, co-workers, and communities.

To continue to effectively fight this virus, we must create more space in our prisons, both to expand physical distancing to slow COVID-19's spread and to ease some of the immense challenges staff face every day. To do this, CDCR is expediting some releases and exploring other options. As part of those efforts, and to recognize the impact on programs and credit earnings during the COVID-19 pandemic, I announced today the CDCR will implement Positive Programming Credits (PPC).

This credit will provide 12 weeks of credit to everyone in CDCR custody, except those found guilty of a serious rules violation between March 1, 2020, and July 5, 2020. PPC will be awarded under the existing "Extraordinary Conduct Credits" in Title 15, which authorizes the Director of the Division of Adult Institutions to award credit to an incarcerated person who has "provided exceptional assistance in maintaining the safety and security of a prison." As this authorization exists in state law and therefore does not require a regulation change, we must follow the exclusions outlined in the law, which means those serving life without the possibility of parole and people who are condemned are not eligible for credit-earning.

These credits are expected to be applied by August 1, 2020. For those whose Earliest Possible Release Date will be reached once the credit is applied, we expect releases to begin in August following normal processes outlined in Title 15.

While this will in no way make up for the multitude of changes and impacts to your lives this pandemic has necessitated, I hope it will play a part in recognizing your sacrifice and the role you continue to play in keeping the institutions safe and peaceful, which enables staff to focus on providing care to those who are ill. We cannot get through this without your understanding, patience, and support. Your efforts are appreciated.

With gratitude,

RALPH M. DIAZ Secretary

EXHIBIT W



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104

www.rbgg.com Penny Godbold

Email: pgodbold@rbgg.com

July 17, 2020

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Joanna B. Hood Supervising Deputy Attorney General California Department of Justice 1300 I Street Sacramento, CA 95814 Joanna.Hood@doj.ca.gov

Re: Armstrong v. Newsom: Request for Dismissal of Mr. "s RVRs"

Our File No. 0581-03

Dear Joanna:

We write to request that Defendants consider dismissing Mr. 2020 's two June 17, 2020 rule violation reports ("RVR") in the interest of justice.

Plaintiffs' counsel has presented significant evidence that calls the veracity of both RVRs in to question. We are prepared to gather further evidence and, as indicated at the hearing yesterday, are prepared to present this evidence to the court. Mr. is up for Elderly Parole consideration in January 2021, or sooner, and having two recent RVRs on his record will essentially extinguish any chance of a parole grant at that time. The RVRs also threaten Mr. is ability to apply for early release through the Governor's recently announced COVID-19 programs.

Mr. is also at significant risk for COVID-19 in prison. As you know, the Receiver uses a weighted scale to gauge the risk of dangerous COVID-19 complications. His score, an eight out of ten, is based on four points for his advanced age, one point for diabetes, two points for COPD, and one point for cardiovascular disease. Of the more than 110,000 people in the system, only 1,170 have a score as high as or higher than Mr. is of the essence for CDCR to take every possible step to ensure that

PRIVILEGED AND CONFIDENTIAL

Joanna Hood July 17, 2020 Page 2

Mr. ______'s sentence, for which he has already served 25 years, does not become a death sentence.

Please respond by July 23, 2020, and confirm whether the RVRs will be dismissed and, if so, confirm that all reference to the RVRs will be expunged from Mr. custody file. With Mr. series 's recent transfer to and his status as being confined to a Mental Health Crisis Bed, it will extraordinarily difficult for Mr. to challenge the RVR with witnesses and documentary evidence.

If Defendants do not dismiss the RVRs, pursuant to the stipulation and modified order for transfer of Mr. please produce all RVR-related documents to Plaintiffs' counsel, via electronic mail, within one business day of such documents being issued by R.J. Donovan Correctional Facility. Dkt. 2991 at 3. Also, pursuant to the transfer order, Mr. is supposed to receive all of his property, in accordance with policy, at Id. However, he reports that, during his property inventory upon arrival to it was discovered that his T.V. was broken and that his headphones were missing and had been replaced with earbuds. Mr. states that the inventory of his property was recorded by video. We request to receive a copy of the video inventory of Mr. reports that missing property. Please confirm whether his T.V. was broken and provide a list of all missing property from the inventory. Please also confirm that Mr. will be compensated for any damaged or missing property.

Thank you as always for your courtesy and cooperation in this matter.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold By: Of Counsel

PMG:JRG:cg

cc: Ed SwansonTamiya DavisNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainSean LodholzAnthony TartaglioTrace MaiorinoAlicia Bower

Bruce Beland Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT X



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Gay Crosthwait Grunfeld Email: ggrunfeld@rbgg.com

July 17, 2020

VIA ELECTRONIC MAIL ONLY

Sean Lodholz Office of the Attorney General 1300 I Street Sacramento, CA 95814 Sean.Lodholz@doj.ca.gov

Re: Armstrong v. Newsom: Litigation Hold

Our File No. 0581-03

Dear Sean:

We received information today that Defendants obtained a cellular telephone from a prisoner on Building 1, Facility A at R.J. Donovan Correctional Facility ("RJD") on or about July 16, 2020 that contains evidence material to the June 17, 2020 incident involving We demand that Defendants immediately place a litigation hold on that cell phone and its contents. A request to inspect the cellular telephone is being served later today.

This letter will also confirm our telephone conversation of July 10, 2020 in which you indicated that you were already in the process of placing a litigation hold on the personnel or disciplinary files of officers named in the class member declarations shared with Defendants and filed with the Court, as well as officers named in discovery documents related to misconduct against people with disabilities. You stated that it would be helpful if we provided the names of the officers to you.

Discovery is ongoing and we do not yet know the names of all officers whose conduct we believe justifies a litigation hold. However, at a minimum, we request that Defendants place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who were employed at RJD from January 1, 2017 through the present:

Sean Lodholz July 17, 2020 Page 2

Abdi, Allamby, Aranda, Araujo, Archuleta, Armstead, Asbury, Aviles, Ayala, Billingsley, Bohnstehn, Bradford, Buenrostro, Bustos, Byrd-Hunt, Camacho, Casas, Ceja, Cervantes, Chacon, Chalmers, Chat, Chavez, Clarion, Coleman, Colon, Corcoran, Correa, Cruz-Osorio, Cuevas, Daniels, Delgado, Diaz, Dobwell, Downs, Duarte, Duran, Eatmon, Escamilla, Eschoo, Eugenio, Falcon, Flores, Galbraith, Garcia, Garsilaso, Givens, Godinez, Gomez, Gonzales, Gonzalez, Gutierrez, Haley, Hampton, Hannon, Henry, Hernandez, Herrera, Hodge, Holland, Hubert, Hurm, Jackson, Jensen, Jimenez, Jones, Jorrin, Juarez, Kardone, Knight, Larios, LaRocco, Leon, Linkins, Lizarraga, Lopez, Martinez, Mesa, Miller, Montreiul, Murillo, Navarro, Nelson, Noriega, Ogle, Orozco, Owens, Parker, Parsons, Perez, Pulido, Rivera, Rocha, Rodriguez, Rodrin, Romero, Rucker, Ruelas, Salas, Salazar, Sanchez, Santana, Servantes, Sheppard, Sigala, Silva, Solis, Solomon, Strayhorn, Taylor, Terronez, Tibayan, Tooele, Torres, Trejo, Uhde, Valenzuela, Vensen, Walker, Wesberry, Whitfield, Wilborn, Zakaryan, Zambrano, Zavala, Zendejas.

We request that Defendants also place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who were employed at California State Prison – Lancaster from January 1, 2017 through the present:

Ademoya, Alamanza, Alvarado, Arreguin, Avalos, Aveto, Banks, Barbato, Blueford, Bolton, Bonilla-Miranda, Calderon, Carranza, Castellano, Castellanos, Castello, Chavarria, Chavez, Chavez-Vasquez, Chirinos, Christensen, Coleman, Dejaynes, Deleo, Diaz, Dottie, Drayton, Dunn, Eckler, Flores, Galaviz, Galvez, Garcia, Gessinger, Giordiano, Gollette, Gonzales, Gonzalez, Gray, Griffin, Hanks, Harris, Hernandez, Hodack, Hwang, Hyde, Jones, Jordan, Keeton, King, Kwang, Lee, Lewis, Lizama, Llamas, Lopez, Lugo, Plaza, Makarade, Martin, Martinez, Matthews, McNeal, Melendez, Melo, Mendioza, Mendoz, Mendoza, Misirian, Mobley, Moisa, Monteon, Montez, Montoya, Morales, Morris, Mosbey, Negron, Nichols, Ochoa, Oliver, Olmos, Panante, Payon, Perucho, Puentes, Ramsey, Richardson, Rios, Robles, Rodriguez, Romero, Romo, Romo-Munoz, Rosales, Rose, Rush, Sanchez, Sarmiento, Savage, Serrano, Serriano, Shamirian, Shardin, Smith, Spencer, Taylor, Thebault, Tillman, Torres, Villa, Villalobos, White, William, Williams, Winfield, Wingfield.

We request that Defendants also place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who Sean Lodholz July 17, 2020 Page 3

were employed at California Correctional Institution ("CCI") from January 1, 2017 through the present:

Barbosa, Bercena, Brown, Brown, Davis, Downey, Gentry, Hedley, Hernandez, Hernandez, Ibarra, Jester, Machado, Mayfield, Pantoja, Stevenson, Von Tour, Ybarra.

We request that Defendants also place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who were employed at California State Prison-Corcoran from January 1, 2017 through the present:

Adalco, Alcantar, Allison, Arden, Arranda, Balboa, Balon, Banks, Barona, Barreo, Barrett, Beltran, Benitez, Beralanga, Burden, Burnes, Burns, Butler, Cable, Cagle, Caldron, Campos, Case, Ceballos, Ceja, Cerda, Cervantes, Chacon, Cole, Contreras, Cortez, Cortez-Bedolla, Cruz, Daz, De La Torre, Delacruz, DeLaTorre, Diaz, Espinoza, Floodgate, Flores, Fugate, Gallagher, Gamboa, Garcia, Gaxiola, Godoy, Gonzalez, Green, Gregory, Gutierrez, Guzman, Hacksworth, Hamilton, Hernandez, Herrera, Holland, Hubbert, Hurlbrut, Hurlbut, Ibara, Ibarra, Kiaris, Kiesley, Lazo, Limon, Lor, Loza, Magana, Mammon, Mason, Mecum, Medina, Melendez, Mercado, Moreno, Munoz, Navarro, Neve, Nolan, Ochoa, Ortega, Pacheco, Parra, Perez, Pilkerton, Puga, Ramos, Randolph, Rendon, Riley, Rin, Rins, Rios, Rocha, Rodriguez, Rojas, Ross, Rugerro, Ruiz, Salinas, Sanders, Sarmiento, Shelton, Siefken, Silva, Torres, Trevino, Tugaue, Valladolis, Valladollid, Vasquez, Velasquez, Vera, Ward, Wilson, Winward, Wolfe, Wolff, Wooden.

We request that Defendants also place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who were employed at Kern Valley State Prison from January 1, 2017 through the present:

Alvarez, Arosco, Atkins, Campbell, Castellanos, Diaz, Espinoza, Fitzpatrick, Ga, Gonzalez, Hunt, Hunt, Johnson, Johnson, Lerma, Lerma, Martinez, Melendres, Melendrez, Olmeda, Orosco, Orozco, Rallo, Rodriguez, Sotelo.

We request that Defendants also place a litigation hold on any personnel or disciplinary files for the following non-managerial staff (i.e., below the rank of Captain, including correctional officers, correctional sergeants, and correctional lieutenants) who were employed at California Substance Abuse and Treatment Facility from January 1, 2017 through the present:

Sean Lodholz July 17, 2020 Page 4

Grinder, Sanchez.

We have also included multiple spellings of phonetically similar names to be as inclusive as possible. When running searches on personnel and disciplinary files, please construe the last names of officers presented in our requests as broadly as possible.

As always, we appreciate your ongoing courtesy and cooperation.

Very truly yours,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:cg

cc:Ed SwansonTamiya DavisNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainJoanna B. HoodAnthony TartaglioTrace MaiorinoAlicia Bower

Bruce Beland Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT Y

Karen Stilber

From: Michael Freedman

Sent: Friday, July 17, 2020 4:38 PM

To: Joanna Hood; Trace Maiorino; Davis, Tamiya@CDCR; Sean Lodholz

Cc: Gay C. Grunfeld; Penny Godbold; Jack Gleiberman; Karen Stilber; Ed Swanson **Subject:** Armstrong: Request for inspection and RFPD re: seized cell phone [IWOV-

DMS.FID3579]

Attachments: Pltfs Request for Inspection_ Request for Production of Docs, Set 3, 07-17-2020.PDF

All,

As Gay wrote in her letter to Sean, sent earlier today, "We received information today that Defendants obtained a cellular telephone from a prisoner on Building 1, Facility A at R.J. Donovan Correctional Facility ("RJD") on or about July 16, 2020 that contains evidence material to the June 17, 2020 incident involving Mr. We demand that Defendants immediately place a litigation hold on that cell phone and its contents. A request to inspect the cellular telephone is being served later today."

Attached is a request for inspection of the cellular phone and a request for production of documents related to the seizure of the cellular telephone, which we are serving by mail today. Pursuant to Federal Rules of Civil Procedure 34(b)(2)(A), we are hereby requesting that Defendants stipulate to permit the inspection and to produce responsive documents by July 24, 2020. If Defendants will not stipulate to permit the inspection and to produce responsive documents by July 24, 2020, Plaintiffs will move the Court to order inspection and production by that date. Accordingly, please let us know by no later 12:00 p.m. on July 20, 2020, if Defendants agree to July 24, 2020 as a deadline for inspection and production.

Of note, Plaintiffs have requested that the cellular telephone be produced for inspection at the California Attorney General's office in San Francisco, CA. Plaintiffs are open to discussing alternative locations for inspection if Defendants have other proposals.

Please do not hesitate to contact me to discuss this matter.

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 188 of 858

you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com. IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

EXHIBIT Z

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 190 of 858

best knowledge at this time, but it is subject to future correction for omissions, errors, or mistakes. Defendants reserve the right to produce evidence of any subsequently discovered facts or interpretations thereof, and to amend, modify, or otherwise change the responses, in accordance with applicable discovery rules.

REQUEST FOR INSPECTION NO. 1:

You are hereby notified that pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiffs by and through their counsel request that Defendants permit Plaintiffs' counsel to inspect, measure, photograph, test, and sample:

1. Any cellular telephones that were seized in Building 1 on Facility A at Richard J. Donovan Correctional Facility ("RJD"), 480 Alta Road, San Diego, California, 92154, on or around July 16, 2020.

Plaintiffs' counsel may be accompanied by an expert, a photographer, and a videographer for this inspection. Plaintiffs and these individuals who accompany them intend to take notes, photographs, and videos of the mobile application and portals, and to save digital copies to computer and/or portable drives.

The inspection shall take place at the offices of the California Attorney General, 455 Golden Gate Avenue, San Francisco, CA 94102 on August 16, 2020, at 9:30 a.m.

RESPONSE TO REQUEST FOR INSPECTION NO. 1:

Objection. Defendants object to this request because the terms "inspect," "measure," "test," and "sample," are vague and ambiguous. This request for inspection is overly broad because it goes beyond the scope of this lawsuit, is not reasonably calculated to lead to the discovery of admissible evidence, is not proportionate to the needs of this case, and solicits items, or documents, that are irrelevant to the claims and defenses at issue. This lawsuit concerns Defendants' compliance with the Americans with Disabilities Act (ADA) as to *Armstrong* class members and CDCR's obligations to reasonably accommodate class members in its programs, services, and activities. Defendants object to this request to the extent that it seeks items, or documents, concerning non-class members because it may violate their statutory or constitutional rights, including their right to privacy.

1 To the extent that a cellular telephone or wireless communication device, accessory, or 2 component was located on July 16, 2020, or thereabouts, such items are deemed contraband in 3 accordance with the California Code of Regulations, title 15, section 3006(c)(20) and require an 4 investigation in accordance with prison policy. To date, the investigation has not yet completed and any premature inspection by a third-party could potentially compromise the investigation and 5 6 potentially subject staff, inmates, or the public to safety and security risks or, even, third-party 7 liability. Defendants are obligated to preserve the integrity of a criminal investigation and chain 8 of custody, since possession of a cell phone in prison may in itself be a crime, and the information 9 on the cell phone may lead to the discovery and prosecution of further criminal activity. 10 Notwithstanding Defendants' objections, and in accordance with Federal Rule of Civil Procedure 11 34(b)(2), upon completion of the investigation, Defendants may decide to produce copies of 12 relevant electronic information, that is not otherwise protected from disclosure, instead of 13 permitting inspection.

Defendants further object to this request for inspection to the extent that it may violate the official-information privilege, the deliberative process privilege, or investigatory privilege claim. Plaintiffs' mail-served their requests, and provided a courtesy copy via email, on July 17, 2020, and Defendants' responses are due on, or before, August 19, 2020. To the extent that a declaration, or privilege log, is necessary one shall be provided before August 19, 2020. Defendants reserve their right to supplement, revise, correct, or amend their responses to these requests.

REQUEST FOR INSPECTION NO. 2:

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

You are hereby notified that pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiffs by and through their counsel request that Defendants permit Plaintiffs' counsel to inspect, measure, photograph, test, and sample:

2. Any cellular telephones that were seized by custody staff from cell in Building 1 on Facility A at RJD on or around July 16, 2020.

Plaintiffs' counsel may be accompanied by an expert, a photographer, and a videographer for this inspection. Plaintiffs and these individuals who accompany them intend to take notes,

photographs, and videos of the mobile application and portals, and to save digital copies to computer and/or portable drives.

The inspection shall take place at the offices of the California Attorney General, 455 Golden Gate Avenue, San Francisco, CA 94102 on August 16, 2020, at 9:30 a.m.

RESPONSE TO REQUEST FOR INSPECTION No. 2:

Objection. Defendants object to this request because the terms "inspect," "measure," "test," and "sample," are vague and ambiguous. This request for inspection is overly broad because it goes beyond the scope of this lawsuit, is not reasonably calculated to lead to the discovery of admissible evidence, is not proportionate to the needs of this case, and solicits items, or documents, that are irrelevant to the claims and defenses at issue. This lawsuit concerns Defendants' compliance with the ADA as to *Armstrong* class members and CDCR's obligations to reasonably accommodate class members in its programs, services, and activities. Defendants object to this request to the extent that it seeks items, or documents, concerning non-class members because it may violate their statutory or constitutional rights, including their right to privacy.

To the extent that a cellular telephone or wireless communication device, accessory, or component was located on July 16, 2020, or thereabouts, such items are deemed contraband in accordance with the California Code of Regulations, title 15, section 3006(c)(20) and require an investigation in accordance with prison policy. To date, the investigation has not yet completed and any premature inspection by a third-party could potentially compromise the investigation and potentially subject staff, inmates, or the public to safety and security risks or, even, third-party liability. Defendants are obligated preserve the integrity of a criminal investigation and chain of custody, since possession of a cell phone in prison may in itself be a crime, and the information on the cell phone may lead to the discovery and prosecution of further criminal activity.

Notwithstanding Defendants' objections, and in accordance with Federal Rule of Civil Procedure 34(b)(2), upon completion of the investigation, Defendants may decide to produce copies of relevant electronic information, that is not otherwise protected from disclosure, instead of permitting inspection.

Defendants further object to this request for inspection to the extent that it may violate the official-information privilege, the deliberative process privilege, or investigatory privilege claim. Plaintiffs' mail-served their requests, and provided a courtesy copy via email, on July 17, 2020, and Defendants' responses are due on, or before, August 19, 2020. To the extent that a declaration, or privilege log, is necessary one shall be provided before August 19, 2020. Defendants reserve their right to supplement, revise, correct, or amend their responses to this request.

RESPONSES TO REQUESTS FOR PRODUCTION, SET 3

REQUEST FOR PRODUCTION NO. 1:

ANY AND ALL DOCUMENTS RELATING TO the seizure of a cellular telephone in Building 1 on Facility A at R.J. Donovan Correctional Facility, 480 Alta Road, San Diego, CA, 92154 ("RJD") on or around July 16, 2020.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Objection. Defendants object to this request because the phrase "a cellular telephone" is vague and ambiguous because it assumes only one cellular telephone was confiscated and forces Defendants to speculate as to which cellular telephone Plaintiffs' request refers. This request is overly broad because it goes beyond the scope of this lawsuit, is not reasonably calculated to lead to the discovery of admissible evidence, is not proportionate to the needs of this case, and solicits items, or documents, that are irrelevant to the claims and defenses at issue. This lawsuit concerns Defendants' compliance with the ADA as to *Armstrong* class members and CDCR's obligations to reasonably accommodate class members in its programs, services, and activities. Defendants object to this request to the extent that it seeks documents concerning non-class members because it may violate their statutory or constitutional rights, including their right to privacy.

To the extent that a cellular telephone or wireless communication device, accessory, or component was located on July 16, 2020, or thereabouts, such items are deemed contraband in accordance with the California Code of Regulations, title 15, section 3006(c)(20) and require an investigation in accordance with prison policy. To date, the investigation has not yet completed and any premature disclosure of documents, or other information, to a third-party could

potentially compromise the investigation and potentially subject staff, inmates, or the public to safety and security risks or, even, third-party liability.

Defendants further object to this request to the extent that it may violate the attorney-client privilege, attorney-work product doctrine, official-information privilege, the deliberative process privilege, or investigatory privilege claim. Plaintiffs' mail-served their requests, and provided a courtesy copy via email, on July 17, 2020, and Defendants' responses are due on, or before, August 19, 2020. To the extent that a declaration, or privilege log, is necessary one shall be provided before August 19, 2020. Defendants reserve their right to supplement, revise, correct, or amend their responses to this request.

REQUEST FOR PRODUCTION NO. 2:

ANY AND ALL DOCUMENTS RELATING TO the seizure of a cellular telephone from an incarcerated person in Building 1 on Facility A at RJD on or around July 16, 2020.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Objection. Defendants object to this request because the phrase "a cellular telephone" is vague and ambiguous because it assumes only one cellular telephone was confiscated and forces Defendants to speculate as to which cellular telephone Plaintiffs' request refers. This request is overly broad because it goes beyond the scope of this lawsuit, is not reasonably calculated to lead to the discovery of admissible evidence, is not proportionate to the needs of this case, and solicits items, or documents, that are irrelevant to the claims and defenses at issue. This lawsuit concerns Defendants' compliance with the ADA as to *Armstrong* class members and CDCR's obligations to reasonably accommodate class members in its programs, services, and activities. Defendants object to this request to the extent that it seeks documents concerning non-class members because it may violate their statutory or constitutional rights, including their right to privacy.

To the extent that a cellular telephone or wireless communication device, accessory, or component was located on July 16, 2020, or thereabouts, such items are deemed contraband in accordance with the California Code of Regulations, title 15, section 3006(c)(20) and require an investigation in accordance with prison policy. To date, the investigation has not yet completed and any premature disclosure of documents, or other information, to a third-party could

potentially compromise the investigation and potentially subject staff, inmates, or the public to safety and security risks or, even, third-party liability.

Defendants further object to this request to the extent that it may violate the attorney-client privilege, attorney-work product doctrine, official-information privilege, the deliberative process privilege, or investigatory privilege claim. Plaintiffs' mail-served their requests, and provided a courtesy copy via email, on July 17, 2020, and Defendants' responses are due on, or before, August 19, 2020. To the extent that a declaration, or privilege log, is necessary one shall be provided before August 19, 2020. Defendants reserve their right to supplement, revise, correct, or amend their responses to this request.

REQUEST FOR PRODUCTION NO. 3:

ANY AND ALL DOCUMENTS RELATING TO the seizure of a cellular telephone from cell in Building 1 on Facility A at RJD on or around July 16, 2020.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Objection. Defendants object to this request because the phrase "a cellular telephone" is vague and ambiguous because it assumes only one cellular telephone was confiscated and forces Defendants to speculate as to which cellular telephone Plaintiffs' request refers. This request is overly broad because it goes beyond the scope of this lawsuit, is not reasonably calculated to lead to the discovery of admissible evidence, is not proportionate to the needs of this case, and solicits items, or documents, that are irrelevant to the claims and defenses at issue. This lawsuit concerns Defendants' compliance with the ADA as to *Armstrong* class members and CDCR's obligations to reasonably accommodate class members in its programs, services, and activities. Defendants object to this request to the extent that it seeks documents concerning non-class members because it may violate their statutory or constitutional rights, including their right to privacy.

To the extent that a cellular telephone or wireless communication device, accessory, or component was located on July 16, 2020, or thereabouts, such items are deemed contraband in accordance with the California Code of Regulations, title 15, section 3006(c)(20) and require an investigation in accordance with prison policy. To date, the investigation has not yet completed and any premature disclosure of documents, or other information, to a third-party could

1 potentially compromise the investigation and potentially subject staff, inmates, or the public to 2 safety and security risks or, even, third-party liability. 3 Defendants further object to this request to the extent that it may violate the attorney-4 client privilege, attorney-work product doctrine, official-information privilege, the deliberative 5 process privilege, or investigatory privilege claim. Plaintiffs' mail-served their requests, and 6 provided a courtesy copy via email, on July 17, 2020, and Defendants' responses are due on, or 7 before, August 19, 2020. To the extent that a declaration, or privilege log, is necessary one shall 8 be provided before August 19, 2020. Defendants reserve their right to supplement, revise, 9 correct, or amend their responses to this request. 10 Dated: July 20, 2020 Respectfully submitted, 11 XAVIER BECERRA 12 Attorney General of California JOANNA B. HOOD 13 Supervising Deputy Attorney General 14 15 /s/ Trace O. Maiorino TRACE O. MAIORINO 16 Deputy Attorney General Attorneys for Defendants 17 CF1997CS0005 18 final.Response.Inspection. RPD.Set.Three.docx 19 20 21 22 23 24 25 26 27 28

DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: John Armstrong, et al. v. Newsom, et al.

No.: **C 94-2307 CW**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On July 20, 2020, I served the attached:

DEFENDANTS' RESPONSES TO PLAINTIFFS' REQUEST FOR INSPECTION; PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS, SET THREE

by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Donald Specter
Prison Law Office
1917 Fifth Street
Berkeley, California 94710-1916
Email: dspecter@prisonlaw.com

Rita K. Lomio
Prison Law Office
1917 Fifth Street
Berkeley, California 94710-1916
Email: rlomio@prisonlaw.com

Margot Mendelson Prison Law Office 1917 Fifth Street Berkeley, California 94710-1916 Email: mmendelson@prisonlaw.com

Michael Freedman Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor San Francisco, California 94105-2235

Email: mfreedman@rbgg.com

Michael W. Bien Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor Email: mbien@rbgg.com

Gay C. Grunfeld Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor Email: ggrunfeld@rbgg.com

Thomas Nolan Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor Email: tnolan@rbgg.com

Penny Godbold Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor Email: pgodbold@rbgg.com

(Attorneys for Plaintiffs)

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 20, 2020, at San Francisco, California.

L. Santos	/s/ L. Santos
Declarant	Signature

CF1997CS0005 42275001.docx

EXHIBIT AA

From: Gay C. Grunfeld

Sent: Tuesday, July 21, 2020 5:47 PM

To: Armstrong Team - RBG only; 0581 03 (0581.03.DMS@DMS.rbg-law.com); 0581.04

Workspace

Subject: FW: cell phone status [IWOV-DMS.FID3579]

From: Trace Maiorino

Sent: Tuesday, July 21, 2020 5:46:31 PM (UTC-08:00) Pacific Time (US & Canada)

To: Michael Freedman

Cc: Joanna Hood; Gay C. Grunfeld; Penny Godbold; Jack Gleiberman; Jeremy Duggan; Sean Lodholz; Ferguson,

Patricia@CDCR; Davis, Tamiya@CDCR; Damon McClain **Subject:** RE: cell phone status [IWOV-DMS.FID3579]

Hello Mike,

We share your sentiments and hope to resolve this issue without judicial intervention. But ISU staff at R.J. Donovan did not believe that they could obtain the information on the cellular telephones without potentially compromising it. The agreed to process the cellular telephones and retrieve the information that each may

contain. Unfortunately, this may take several days and we do not have an estimate of when the complete this process. To the extent that we are able to, we will continue to provide you with any new updates that we receive. Thank you, Trace

Trace O. Maiorino

Deputy Attorney General Office of the Attorney General 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-7002 (415) 510-3594 (415) 703-5843 facsimile

trace.maiorino@doj.ca.gov

From: Michael Freedman < MFreedman@rbgg.com >

Sent: Tuesday, July 21, 2020 12:15 PM

To: Trace Maiorino < Trace. Maiorino @doj.ca.gov>

Cc: Joanna Hood <Joanna.Hood@doj.ca.gov>; Gay C. Grunfeld <GGrunfeld@rbgg.com>; Penny Godbold

<PGodbold@rbgg.com>; Jack Gleiberman <JGleiberman@rbgg.com>

Subject: RE: cell phone status [IWOV-DMS.FID3579]

Trace,

Thanks for the update. As we discussed on the phone yesterday morning, neither party wants to (1) involve the Court in this discovery issue or (2) require a full inspection to get the video. But Plaintiffs will seek the assistance of the Court if we cannot resolve this issue. We need to know very soon, likely by tomorrow, whether the video exists and, if yes, whether Defendants will provide it to Plaintiffs. Do you have any sense of when you'll have more information?

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@rbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

From: Trace Maiorino < Trace. Maiorino@doj.ca.gov >

Sent: Tuesday, July 21, 2020 12:09 PM

To: Michael Freedman < MFreedman@rbgg.com Cc: Joanna Hood < Joanna.Hood@doj.ca.gov

Subject: cell phone status

Hello Mike,

I just wanted to follow up with you and let you know that I have no new information concerning whether a video has been located on a cell phone that was confiscated on, or about, July 16, 2020. I understand that you have requested this information as soon as possible, so I will continue to work on this issue and follow up with our contacts until I can provide you with more information. Thank you for your patience. Trace

Trace O. Maiorino

Deputy Attorney General
Office of the Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7002
(415) 510-3594
(415) 703-5843 facsimile
trace.maiorino@doj.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 203 of 858

Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT BB

From: Riley, Katie@CDCR

To: <u>Gay C. Grunfeld</u>; <u>Jack Gleiberman</u>

Cc: CDCR OLA Armstrong CAT Mailbox; CDCR Data Requests; Langowski, Kyle@CDCR; Davis, Tamiya@CDCR;

Ferguson, Patricia@CDCR; Sean Lodholz; Salas, Kori@CDCR

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

Date: Tuesday, July 28, 2020 6:10:01 PM

Attachments: CSR2007-061.pdf

Dear Gay,

The Office of Research has been able to gather data in response to your request for all incidents (on staff or inmates) for the first six months of 2020 that is very similar to what was historically produced in COMPSTAT. As previously noted, beginning January 1, 2020, the relevant incident data is being entered into SOMS, as opposed to having previously been housed in a separate database. CDCR is still building the new reports in SOMS to enable easy review of the data.

In the meantime, the Office of Research has compiled the attached data responsive to your request. Notably, the data is a little different than what would historically be included in COMPSTAT. In this data, you will note some additional categories of incidents, including "Multi Extraction Situations Only" (page 24), "PREA" (page 32), "Assault on PO by Means Not Likely for GBI" (page 43), and "Battery with a Caustic Substance" (page 59). Conversely, the report doesn't include some of the prior COMPSTAT metrics such as certain types of drugs. This is not a one-for-one match with prior reports.

Thank you for your patience. Please let us know if you have any questions.

Katie Riley

Attorney IV

California Dept. of Corrections & Rehabilitation

Cell: 916-862-2485

From: Gay C. Grunfeld

Sent: Wednesday, July 8, 2020 1:47 PM

To: Jack Gleiberman < <u>JGleiberman@rbgg.com</u>>; 'Katie.Riley@cdcr.gov' < <u>Katie.Riley@cdcr.gov</u>>; 'CDCR OLA Armstrong CAT Mailbox' < <u>OLAArmstrongCAT@cdcr.ca.gov</u>>; 'CDCR Data Requests' < <u>Data.Requests@cdcr.ca.gov</u>>; 'Kyle.Langowski@cdcr.ca.gov' < <u>Kyle.Langowski@cdcr.ca.gov</u>>; 'Davis, Tamiya@CDCR' < <u>Tamiya.Davis@cdcr.ca.gov</u>>; 'Patricia.Ferguson@cdcr.ca.gov' < <u>Patricia.Ferguson@cdcr.ca.gov</u>>

Cc: Armstrong Team - RBG only < <u>ArmstrongTeam@rbgg.com</u>> **Subject:** RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

Dear Katie,

Thanks for speaking with me just now. As we discussed, and as requested below, we need the COMPSTAT data on Use of Force for 2020 in connection

with our reply brief that is due to the Armstrong Court on July 29, 2020. This data is also used by the Office of the Inspector General. Waiting several months as suggested below is not acceptable.

Thanks for anything you can do to expedite the production of the COMPSTAT data, Gay

Gay Crosthwait Grunfeld ROSEN BIEN GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 telephone (415) 433-7104 facsimile

From: Riley, Katie@CDCR < Katie@cdcr.ca.gov>

Sent: Tuesday, July 07, 2020 10:39 AM

To: Jack Gleiberman < <u>JGleiberman@rbgg.com</u>>

Cc: CDCR OLA Armstrong CAT Mailbox <<u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold <<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>; CDCR Data Requests <<u>Data.Requests@cdcr.ca.gov</u>>; Langowski, Kyle@CDCR <<u>Kyle.Langowski@cdcr.ca.gov</u>>; Davis, Tamiya@CDCR <<u>Tamiya.Davis@cdcr.ca.gov</u>>

Subject: FW: COMPSTAT Report Request [IWOV-DMS.FID3579]

Good morning,

This email is in response to your follow-up question of the Office of Research (OR) regarding COMPSTAT reporting. Effective January 1, 2020, CDCR incident data is now entered into a new system of record (SOMS). Analysis is still being conducted as to how to report this data for COMPSTAT purposes. The Office of Research should have information on how this data will be reported within the next few months. CDCR will keep you updated on the status.

Please let Tamiya Davis and me know if there are any follow-up questions, and we will work with the Office of Research to address them.

Thank you,

Katie Riley

Attorney IV California Dept. of Corrections & Rehabilitation Cell: 916-862-2485

From: CDCR Data Requests

Sent: Friday, July 3, 2020 4:07 PM

To: Jack Gleiberman < <u>JGleiberman@rbgg.com</u>>

Cc: CDCR OLA Armstrong CAT Mailbox <<u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold <<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>; CDCR Data Requests (<u>Data.Requests@cdcr.ca.gov</u>) <<u>Data.Requests@cdcr.ca.gov</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

Good afternoon.

We anticipate providing you with a response by COB Monday.

Respectfully,



Kyle Langowski
Information Technology Supervisor I
Data Concierge Service – Office of Research
Division of Correctional Policy Research and Internal Oversight
California Department of Corrections and Rehabilitation
(916) 955-8260 (Cell)
kyle.langowski@cdcr.ca.gov

From: Jack Gleiberman [mailto:JGleiberman@rbgg.com]

Sent: Wednesday, June 24, 2020 12:24 PM

To: CDCR Data Requests < <u>Data.Requests@cdcr.ca.gov</u>>

Cc: CDCR OLA Armstrong CAT Mailbox < OLAArmstrongCAT@cdcr.ca.gov >; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Nick,

Thank you very much. In reviewing the RC April 2019-2020 report, I noticed that there were 0 documented uses of force at each of the RC institutions from January through April 2020. Is that an error in the data?

If so, I would greatly appreciate an updated report with use of force data for the months of January through April 2020. If that is not an error, please confirm that the use of force data (and all other data) is accurate from January through April 2020 for the RC mission.

Thank you, Jack

From: CDCR Data Requests < <u>Data.Requests@cdcr.ca.gov</u>>

Sent: Wednesday, June 24, 2020 11:28 AM

To: Jack Gleiberman < JGleiberman@rbgg.com >; CDCR Data Requests < Data.Requests@cdcr.ca.gov >

Cc: CDCR OLA Armstrong CAT Mailbox <<u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

Good morning,

Please see in the attached Zip file the COMPSTAT Reports for the Reception Center and High Security Mission as well as the COMPSTAT counting rules for the requested timeframes. Please let us know if you have any questions. Thank you.



Nick Nguyen
Information Technology Associate
Data Concierge Service-Office of Research
Division of Correctional Policy Research and Internal Oversight
California Department of Corrections and Rehabilitation
(916) 255-0185

<u>Data.Requests@cdcr.ca.gov</u>

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, distribution or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Jack Gleiberman [mailto:JGleiberman@rbgg.com]

Sent: Tuesday, June 23, 2020 3:00 PM

To: CDCR Data Requests < <u>Data.Requests@cdcr.ca.gov</u>>

Cc: CDCR OLA Armstrong CAT Mailbox < <u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you

recognize the sender and know the content is safe.

Data through April is fine for now. Thank you very much for fulfilling this request.

I will follow up in about a month for the April data.

Jack

From: CDCR Data Requests < <u>Data.Requests@cdcr.ca.gov</u>>

Sent: Tuesday, June 23, 2020 2:55 PM

To: Jack Gleiberman < JGleiberman@rbgg.com>; CDCR Data Requests Data.Requests@cdcr.ca.gov>

Cc: CDCR OLA Armstrong CAT Mailbox <<u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

Good afternoon,

I apologize for the delay in getting back to you. Currently, we have responsive data up until the month of April 2020. Data for May should be available sometime in mid July. Please let us know how you would like to proceed.

Respectfully,



Kyle Langowski
Information Technology Supervisor I
Data Concierge Service – Office of Research
Division of Correctional Policy Research and Internal Oversight
California Department of Corrections and Rehabilitation
(916) 955-8260 (Cell)
kyle.langowski@cdcr.ca.gov

From: Jack Gleiberman [mailto:JGleiberman@rbgg.com]

Sent: Tuesday, June 23, 2020 2:06 PM

To: CDCR Data Requests < <u>Data.Requests@cdcr.ca.gov</u>>

Cc: CDCR OLA Armstrong CAT Mailbox <<u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

CAUTION: This email originated from outside of CDCR/CCHCS. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am following up on this request.

Thank you very much, Jack

From: Jack Gleiberman

Sent: Thursday, June 18, 2020 9:52 AM

To: 'Data.Requests@cdcr.ca.gov' < <u>Data.Requests@cdcr.ca.gov</u>>

Cc: CDCR OLA Armstrong CAT Mailbox < <u>OLAArmstrongCAT@cdcr.ca.gov</u>>; Penny Godbold

<<u>PGodbold@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>

Subject: COMPSTAT Report Request [IWOV-DMS.FID3579]

Hello,

I would like to request the Reception Center Mission COMPSTAT Report for May 2020 (spanning May 2019 through May 2020). I would also like to request the High Security Mission COMPSTAT Reports for May 2020 (spanning May 2019 through May 2020), April 2019 (spanning April 2018 through April 2019), February 2018 (spanning February 2017 through February 2018), and January 2018 (spanning January 2017 through January 2018).

Thank you very much,

Jack Rhein Gleiberman Paralegal

ROSEN BIEN GALVAN & GRUNFELD LLP

101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) igleiberman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbg@crbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month

	Incident Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
	N	N	N	N	N	N	N
Institution							
ASP	21	21	14	17	14	17	104
CAC	20	12	10	11	12	13	78
CAL	39	38	34	50	46	43	250
ccc	33	40	30	26	26	14	169
CCI	60	51	61	52	50	68	342
CCWF	39	53	36	50	55	50	283
CEN	35	45	38	25	25	18	186
CHCF	75	84	71	71	63	63	427
CIM	23	15	20	24	23	15	120
CIW	23	16	16	18	11	12	96
СМС	25	28	36	27	29	11	156
CMF	86	90	104	86	76	93	535
COR	76	69	61	70	69	52	397
CRC	28	49	55	58	63	39	292
CTF	15	23	14	8	14	12	86
CVSP	5	5	6	5	2	5	28
DVI	13	19	15	18	15	21	101
FOL	22	31	30	17	25	22	147
HDSP	68	73	68	59	58	62	388
ISP	45	48	21	16	28	22	180
KVSP	73	88	70	110	74	92	507
LAC	76	94	75	54	70	80	449
MCSP	41	33	42	32	37	33	218
NKSP	32	36	51	30	22	21	192
PBSP	38	47	30	26	22	25	188

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month

PVSP 33 31 20 13 15 RJD 43 48 35 42 44	17 62	129 274
RJD 43 48 35 42 44		274
	100	
SAC 131 136 143 126 142	129	807
SATF 40 48 48 55 36	50	277
SCC 27 26 20 19 20	26	138
SHS 1 0 0 0 0	2	3
SOL 54 31 43 39 41	26	234
SQ 51 38 22 32 37	18	198
SVSP 102 108 109 103 101	97	620
VSP 13 13 22 11 19	15	93
WSP 34 32 46 28 24	19	183
Total 1,540 1,619 1,516 1,428 1,408	1,364	8,875

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Use of Force

	Incident Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	15	10	8	8	5	3	49
CAC	6	5	5	4	7	8	35
CAL	12	15	11	4	9	6	57
CCC	11	9	10	9	7	4	50
CCI	41	35	40	35	38	53	242
CCWF	15	29	23	31	25	28	151
CEN	17	20	12	5	7	3	64
CHCF	25	31	37	24	23	18	158
CIM	5	3	7	7	5	5	32
CIW	2	8	3	8	5	6	32
CMC	8	9	16	12	12	6	63
CMF	33	27	29	15	11	16	131
COR	27	24	25	21	26	23	146
CRC	9	10	7	6	6	7	45
CTF	5	5	5	1	5	2	23
CVSP	2	2	2	3	0	0	9
DVI	6	8	6	8	6	6	40
FOL	5	14	5	7	3	9	43
HDSP	28	41	39	29	33	33	203
ISP	13	13	8	11	13	12	70
KVSP	37	57	46	66	33	40	279
LAC	42	38	41	25	35	23	204
MCSP	20	21	18	15	22	13	109
NKSP	15	17	30	21	14	10	107

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Use of Force

	Incident Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
PBSP	24	27	12	12	11	9	95
PVSP	21	16	10	6	11	9	73
RJD	14	20	11	15	9	20	89
SAC	56	62	68	48	77	54	365
SATF	21	21	22	25	14	25	128
SCC	17	9	11	5	10	14	66
SOL	22	15	17	8	15	7	84
SQ	15	13	5	10	8	5	56
SVSP	52	66	55	45	45	51	314
VSP	5	4	5	2	10	4	30
WSP	24	19	31	10	22	14	120
Total	670	723	680	561	582	546	3,762

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of OC

	Incident Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	14	9	7	7	4	2	43
CAC	5	5	2	4	6	7	29
CAL	11	10	6	3	6	4	40
ccc	9	5	7	5	4	4	34
CCI	29	22	26	22	30	34	163
CCWF	10	15	13	16	15	16	85
CEN	8	16	11	3	4	2	44
CHCF	12	10	12	13	5	5	57
CIM	4	2	4	5	3	3	21
CIW	0	1	2	1	2	3	9
СМС	5	7	13	6	5	4	40
CMF	8	9	16	7	5	7	52
COR	10	10	14	10	13	17	74
CRC	5	6	2	4	2	3	22
CTF	3	4	4	0	3	2	16
CVSP	1	2	1	3	0	0	7
DVI	2	3	4	6	1	3	19
FOL	5	8	4	3	3	8	31
HDSP	21	29	25	20	16	22	133
ISP	10	12	5	8	11	6	52
KVSP	22	30	17	44	23	23	159
LAC	29	25	25	13	24	16	132
MCSP	8	10	8	8	10	4	48
NKSP	11	8	19	10	8	7	63

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of OC

			Incider	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
PBSP	13	17	3	8	2	6	49
PVSP	15	11	7	4	5	7	49
RJD	6	11	7	6	4	11	45
SAC	20	23	28	20	35	24	150
SATF	14	9	9	17	8	14	71
SCC	10	4	10	4	6	11	45
SOL	17	11	11	7	11	4	61
SQ	8	5	2	6	6	2	29
SVSP	30	49	33	31	32	34	209
VSP	3	2	1	0	6	3	15
WSP	17	16	18	7	16	12	86
Total	395	416	376	331	334	330	2,182

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of Physical Strengths and Holds

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	1	1	1	0	1	1	5
CAC	1	0	3	1	1	0	6
CAL	0	2	1	0	5	2	10
ccc	2	3	2	4	2	1	14
CCI	7	5	8	8	8	3	39
CCWF	6	15	11	14	10	13	69
CEN	6	4	3	2	4	1	20
CHCF	15	23	28	15	19	16	116
CIM	1	1	2	0	3	2	9
CIW	2	7	2	7	4	3	25
CMC	4	6	6	7	7	2	32
CMF	29	19	14	9	6	12	89
COR	16	13	8	13	14	10	74
CRC	4	5	6	4	4	5	28
CTF	2	1	1	1	3	0	8
CVSP	1	0	0	1	0	0	2
DVI	1	4	2	2	4	3	16
FOL	0	5	1	3	1	1	11
HDSP	4	10	6	4	12	6	42
ISP	0	2	1	2	2	3	10
KVSP	5	5	14	16	8	7	55
LAC	10	11	16	12	8	8	65
MCSP	10	7	11	7	15	7	57
NKSP	4	7	4	6	0	2	23

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of Physical Strengths and Holds

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
PBSP	6	8	8	4	8	3	37
PVSP	4	2	0	1	3	0	10
RJD	10	10	5	8	4	11	48
SAC	30	35	40	26	36	28	195
SATF	3	11	5	8	6	13	46
SCC	5	5	1	1	3	3	18
SOL	3	4	8	1	2	3	21
SQ	3	2	1	3	3	2	14
SVSP	17	19	23	15	10	13	97
VSP	2	2	3	2	4	1	14
WSP	7	3	7	3	8	2	30
Total	221	257	252	210	228	187	1,355

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of Hand-held Baton

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	1	1	0	1	0	0	3
CAC	0	0	0	0	1	2	3
CAL	0	0	0	0	1	0	1
CCC	3	3	4	1	1	2	14
CCI	1	2	2	1	4	4	14
CCWF	0	2	1	2	2	0	7
CEN	3	5	2	0	2	1	13
CHCF	1	2	1	4	2	2	12
CIM	1	1	0	0	0	0	2
CIW	0	0	1	0	0	1	2
CMC	1	2	3	1	0	0	7
CMF	5	2	1	0	3	6	17
COR	3	3	3	1	3	4	17
CRC	1	1	0	1	1	0	4
CTF	0	1	0	0	0	0	1
CVSP	0	0	1	1	0	0	2
DVI	2	2	0	2	1	0	7
FOL	1	0	1	0	0	0	2
HDSP	3	2	2	2	4	3	16
ISP	4	4	1	6	3	1	19
KVSP	4	0	2	5	1	0	12
LAC	6	1	2	2	2	0	13
MCSP	1	1	2	3	3	0	10
NKSP	1	0	0	0	0	0	1

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of Hand-held Baton

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
PBSP	8	6	4	2	1	1	22
PVSP	0	1	1	0	0	0	2
RJD	0	2	2	1	1	2	8
SAC	2	1	6	2	0	2	13
SATF	2	0	3	1	0	0	6
SCC	3	0	1	1	2	2	9
SOL	2	3	1	0	1	0	7
SQ	4	2	3	4	1	4	18
SVSP	1	1	1	5	0	0	8
VSP	0	0	1	0	0	1	2
WSP	4	3	4	3	1	2	17
Total	68	54	56	52	41	40	311

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of CN

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CCC	0	1	0	0	0	0	1
CCI	0	1	0	0	0	0	1
CCWF	0	0	0	1	1	0	2
COR	0	0	1	0	0	2	3
HDSP	5	2	7	0	0	0	14
KVSP	7	8	3	5	2	5	30
LAC	4	1	2	1	0	0	8
NKSP	0	1	1	1	0	0	3
PBSP	3	4	0	1	0	2	10
SAC	1	1	0	0	0	0	2
SCC	0	0	4	0	2	4	10
SVSP	0	1	0	0	2	0	3
Total	20	20	18	9	7	13	87

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of 40mm

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CAL	2	7	7	2	3	1	22
ccc	0	1	0	1	1	0	3
CCI	14	14	17	15	15	25	100
CCWF	0	0	0	2	1	1	4
CEN	2	2	2	0	0	1	7
CIM	1	0	3	1	0	1	6
CMC	0	0	0	1	0	0	1
COR	3	3	2	1	1	2	12
DVI	1	1	0	1	0	1	4
FOL	2	1	2	2	0	0	7
HDSP	7	9	9	4	6	9	44
ISP	6	3	3	0	1	5	18
KVSP	16	18	18	16	6	5	79
LAC	12	11	10	5	8	5	51
MCSP	4	6	0	1	3	2	16
NKSP	1	4	8	9	5	2	29
PBSP	6	4	0	2	2	2	16
PVSP	4	4	4	2	2	1	17
RJD	0	2	3	1	1	1	8
SAC	9	5	4	4	13	10	45
SATF	6	4	7	6	0	3	26
scc	2	0	0	1	1	2	6
SOL	7	5	3	2	2	1	20
SQ	3	4	1	2	4	0	14

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 224 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of 40mm

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
SVSP	14	14	9	9	9	11	66
VSP	0	0	1	0	0	0	1
WSP	5	1	9	2	2	2	21
Total	127	123	122	92	86	93	643

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 225 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Incidents That Have Been Discovered
And Occurred Between January 1, 2020 and June 30, 2020
By Institution and Month
Type of Force Used of Warning

		Incide	nt Date		
	JAN20	AN20 MAR20 APR20		MAY20	TOTAL
	N	N	N	N	N
Institution					
HDSP	1	0	1	1	3
SAC	0	1	0	2	3
Total	1	1	1	3	6

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Type of Force Used of Non-Conventional

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CEN	0	0	0	0	1	0	1
CHCF	1	0	0	0	1	0	2
CIM	1	0	0	1	0	0	2
CIW	0	0	0	0	1	0	1
CMF	1	2	0	0	0	1	4
CTF	0	0	1	0	1	0	2
CVSP	0	0	0	1	0	0	1
DVI	0	0	0	2	0	0	2
FOL	0	1	0	0	0	0	1
NKSP	1	0	1	1	1	0	4
PBSP	0	0	1	0	0	0	1
RJD	1	1	0	1	0	1	4
SAC	1	1	0	1	0	1	4
SATF	0	0	1	0	0	0	1
SOL	0	0	1	0	0	0	1
SQ	0	2	0	0	0	1	3
VSP	0	0	0	0	2	0	2
Total	6	7	5	7	7	4	36

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Other Force Types Used

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	0	0	0	1	0	0	1
CAL	1	2	1	0	0	1	5
CCI	6	6	9	7	8	7	43
CCWF	0	0	0	0	1	0	1
CEN	2	1	1	0	0	0	4
CHCF	1	0	0	0	0	0	1
COR	0	0	3	1	0	2	6
DVI	1	1	0	0	0	0	2
FOL	1	1	1	0	0	1	4
HDSP	0	0	3	10	10	8	31
ISP	1	0	0	1	0	0	2
KVSP	13	19	8	16	9	9	74
LAC	1	2	2	1	2	1	9
NKSP	0	0	1	0	0	0	1
PBSP	1	3	1	0	1	0	6
PVSP	5	2	0	0	2	1	10
SAC	14	12	11	4	9	7	57
SATF	2	2	3	2	0	1	10
SCC	1	0	1	0	2	2	6
SOL	1	0	1	0	1	0	3
SVSP	7	5	4	4	7	3	30
WSP	1	0	1	0	1	0	3
Total	59	56	51	47	53	43	309

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Stimulants and Sedatives

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	2	7	0	6	5	7	27
CAC	6	4	3	4	3	4	24
CAL	15	8	11	36	23	31	124
ccc	7	10	7	4	9	3	40
CCI	3	2	0	2	3	2	12
CCWF	9	4	4	4	11	8	40
CEN	13	13	17	15	12	8	78
CHCF	1	1	0	0	0	1	3
CIM	6	5	5	7	2	0	25
CIW	4	0	0	1	2	0	7
СМС	4	6	5	2	9	2	28
CMF	7	15	14	12	9	16	73
COR	15	13	14	31	26	11	110
CRC	8	18	30	32	42	23	153
CTF	5	5	1	2	0	0	13
CVSP	2	1	1	0	0	2	6
DVI	3	5	4	7	3	8	30
FOL	9	16	11	3	15	6	60
HDSP	18	10	10	13	12	10	73
ISP	8	12	2	1	5	6	34
KVSP	9	7	7	17	15	36	91
LAC	14	27	9	13	10	19	92
MCSP	8	4	2	3	1	4	22

(Continued)

CSR #: 2007-061

Data Source: BI Publisher Incidents as of July 21, 2020. Current Existing Reports Do Not Identify the Type of Drug.

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Stimulants and Sedatives

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
NKSP	1	4	6	3	1	4	19
PBSP	1	4	1	0	0	2	8
PVSP	10	8	3	2	2	4	29
RJD	7	4	3	8	14	14	50
SAC	9	5	4	10	12	11	51
SATF	7	6	8	15	5	8	49
SCC	3	5	3	6	3	2	22
SOL	19	9	19	17	11	11	86
SQ	12	10	5	6	7	2	42
SVSP	12	10	14	16	9	16	77
VSP	0	2	6	1	2	4	15
WSP	2	2	1	10	0	0	15
Total	259	262	230	309	283	285	1,628

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Type of Possession of Drug Paraphernalia

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CAL	7	9	3	6	4	2	31
CCC	2	2	2	1	2	3	12
CCI	0	1	1	1	0	0	3
CEN	1	0	0	0	0	0	1
CHCF	3	0	0	0	1	0	4
CIM	2	2	3	1	0	0	8
CIW	2	0	1	0	0	0	3
CMC	2	2	3	1	2	0	10
CMF	2	3	3	3	4	8	23
CRC	1	3	3	4	2	0	13
FOL	2	4	6	2	2	2	18
HDSP	4	3	0	1	0	0	8
ISP	6	2	1	2	4	1	16
KVSP	0	2	0	0	0	0	2
LAC	2	3	7	0	4	13	29
MCSP	0	0	0	0	1	0	1
NKSP	1	0	0	0	0	0	1
PBSP	1	0	0	3	1	3	8
SATF	0	0	0	0	1	1	2
SCC	3	1	2	2	1	2	11
SOL	1	3	3	9	7	6	29
SQ	4	2	3	5	3	0	17
SVSP	4	0	0	3	2	0	9

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 231 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Type of Possession of Drug Paraphernalia

		Incident Date							
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL		
	N	N	N	N	N	N	N		
Institution									
VSP	2	0	1	0	1	0	4		
Total	52	42	42	44	42	41	263		

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Extraction Type of Controlled Extraction

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CHCF	0	0	4	1	0	0	5
СМС	0	1	1	1	0	0	3
CMF	0	0	0	0	1	0	1
COR	3	0	0	0	0	0	3
PBSP	0	0	0	0	1	1	2
RJD	0	0	0	0	1	2	3
SAC	3	2	0	3	1	2	11
SATF	1	0	1	0	0	0	2
SQ	0	0	0	0	0	1	1
SVSP	0	0	2	0	0	0	2
VSP	0	0	0	0	0	1	1
Total	7	3	8	5	4	7	34

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Extraction Type of Immediate Extraction

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CAC	0	0	1	0	1	0	2
CAL	0	0	0	0	3	2	5
CCC	1	0	0	0	1	0	2
CCI	0	0	0	0	0	2	2
CCWF	0	4	0	1	0	0	5
CEN	0	0	0	0	0	1	1
CHCF	1	1	0	1	1	2	6
CIM	0	0	0	1	0	0	1
CIW	0	1	0	0	1	0	2
СМС	0	0	0	1	0	0	1
CMF	7	1	3	0	1	5	17
COR	2	4	2	2	3	5	18
FOL	0	0	1	0	0	0	1
HDSP	1	4	2	2	0	0	9
ISP	1	0	0	0	0	0	1
KVSP	0	1	1	2	1	0	5
LAC	2	1	1	5	0	1	10
MCSP	1	0	5	0	1	1	8
NKSP	0	1	0	0	0	0	1
PBSP	1	0	0	1	1	0	3
RJD	0	0	0	1	0	0	1
SAC	0	5	4	1	1	1	12
SATF	0	0	0	0	0	3	3
SCC	0	0	0	0	1	1	2

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Extraction Type of Immediate Extraction

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
SOL	0	1	0	0	0	1	2
SQ	1	1	1	1	0	1	5
SVSP	3	2	0	3	1	2	11
VSP	0	1	0	0	0	0	1
WSP	0	0	0	0	0	1	1
Total	21	28	21	22	17	29	138

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 235 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Incidents That Have Been Discovered
And Occurred Between January 1, 2020 and June 30, 2020
By Institution and Month
Extraction Type of Controlled and Immediate (Multi Extraction Situations Only)

	Inci Da	dent te	
	FEB20	MAY20	TOTAL
	N	N	N
Institution			
KVSP	1	0	1
SQ	0	1	1
Total	1	1	2

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Escape

		Inc	cident D	ate		
	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N
Institution						
ccc	0	2	1	0	0	3
DVI	0	1	0	0	0	1
FOL	0	0	0	1	0	1
KVSP	0	0	0	1	0	1
RJD	1	0	0	0	0	1
SATF	0	0	0	1	0	1
SCC	1	0	0	0	0	1
SVSP	0	0	0	1	1	2
VSP	0	0	1	0	0	1
Total	2	3	2	4	1	12

CSR #: 2007-061

Number of Inmates Involved in Escapes for Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month

		Inc	ident D	ate		
	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N
Institution						
ccc	0	3	1	0	0	4
DVI	0	1	0	0	0	1
FOL	0	0	0	4	0	4
KVSP	0	0	0	1	0	1
RJD	1	0	0	0	0	1
SATF	0	0	0	1	0	1
SCC	1	0	0	0	0	1
SVSP	0	0	0	2	1	3
VSP	0	0	1	0	0	1
Total	2	4	2	8	1	17

CSR #: 2007-061

Number of Incidents That Have Been Discovered
And Occurred Between January 1, 2020 and June 30, 2020
By Institution and Month
Incident Category of Attempted Escape

	Inc	Incident Date					
	FEB20	APR20	MAY20	TOTAL			
	N	N	N	N			
Institution							
RJD	1	0	0	1			
SATF	0	0	1	1			
VSP	0	1	0	1			
Total	1	1	1	3			

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Riot

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CCI	1	0	0	1	0	0	2
CEN	0	0	2	0	0	0	2
CMC	0	0	0	0	0	1	1
CRC	1	1	0	0	0	1	3
HDSP	0	0	1	0	0	0	1
ISP	0	0	0	1	0	0	1
KVSP	3	1	1	4	1	2	12
MCSP	0	1	1	1	0	0	3
PBSP	0	1	1	0	0	0	2
PVSP	1	0	2	0	1	0	4
RJD	0	0	0	0	0	1	1
SAC	2	1	1	0	0	0	4
SATF	1	1	0	1	0	0	3
SCC	1	0	0	0	1	0	2
SOL	1	0	0	0	1	0	2
SVSP	2	1	2	0	0	1	6
VSP	0	0	0	0	3	0	3
WSP	2	0	1	0	1	0	4
Total	15	7	12	8	8	6	56

CSR #: 2007-061

Number of Inmates Involved in Riots for Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Number of Inmates Involved in Riots

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
CCI	55	0	0	14	0	0	69
CEN	0	0	78	0	0	0	78
CMC	0	0	0	0	0	9	9
CRC	37	7	0	0	0	12	56
HDSP	0	0	18	0	0	0	18
ISP	0	0	0	5	0	0	5
KVSP	80	16	24	70	15	19	224
MCSP	0	7	7	7	0	0	21
PBSP	0	41	12	0	0	0	53
PVSP	22	0	9	0	9	0	40
RJD	0	0	0	0	0	15	15
SAC	23	33	8	0	0	0	64
SATF	5	6	0	12	0	0	23
SCC	12	0	0	0	17	0	29
SOL	10	0	0	0	9	0	19
SVSP	15	15	14	0	0	10	54
VSP	0	0	0	0	41	0	41
WSP	40	0	15	0	15	0	70
Total	299	125	185	108	106	65	888

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Threat

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	0	1	0	0	0	0	1
CAC	0	0	2	0	0	0	2
CCC	1	0	0	0	0	0	1
CCI	4	0	1	3	0	2	10
CCWF	0	2	0	1	0	2	5
CEN	1	0	0	0	0	0	1
CHCF	7	3	3	3	8	2	26
CIM	3	0	1	2	0	0	6
CIW	0	0	0	0	0	1	1
СМС	1	4	1	1	2	1	10
CMF	0	1	9	3	3	2	18
COR	4	2	2	2	0	1	11
CRC	0	1	1	0	0	1	3
CTF	0	0	0	0	1	1	2
DVI	0	1	1	0	0	0	2
FOL	0	0	0	0	0	1	1
HDSP	1	1	1	0	0	0	3
ISP	0	0	1	1	0	0	2
KVSP	0	0	0	0	1	1	2
LAC	1	0	1	2	0	2	6
MCSP	1	2	1	0	0	1	5
NKSP	1	0	0	0	0	0	1
PBSP	0	2	1	2	1	2	8

(Continued)

CSR #: 2007-061

Data Source: BI Publisher Incidents as of July 21, 2020.

Note: Current Existing Reports Do Not Identify Whether the Threat was to a Peace Officer or Non-Prisoner.

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Category of Threat

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
RJD	4	0	1	1	3	0	9
SAC	0	2	0	3	1	0	6
SATF	1	2	2	2	2	1	10
SOL	0	0	0	0	0	1	1
SQ	1	0	1	0	1	0	3
SVSP	5	1	1	2	4	3	16
VSP	0	0	1	0	3	0	4
WSP	0	1	0	1	0	0	2
Total	36	26	32	29	30	25	178

CSR #: 2007-061

Data Source: BI Publisher Incidents as of July 21, 2020.

Note: Current Existing Reports Do Not Identify Whether the Threat was to a Peace Officer or Non-Prisoner.

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Categories of Indecent Exposure, PREA or Sexual Violence Allegation

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	0	1	0	0	0	0	1
CAC	0	1	0	0	0	0	1
CAL	0	0	3	1	1	0	5
ccc	0	1	0	1	0	0	2
CCI	4	1	1	1	1	0	8
CCWF	0	3	1	5	4	1	14
CEN	0	3	0	0	0	2	5
CHCF	13	19	12	30	13	17	104
CIM	3	1	2	2	2	0	10
CIW	1	2	2	1	2	1	9
CMC	4	2	3	2	0	0	11
CMF	21	16	14	24	27	27	129
COR	6	6	4	3	3	4	26
CRC	0	0	1	0	0	0	1
CTF	2	2	3	4	2	5	18
CVSP	0	0	1	0	0	0	1
DVI	0	2	0	0	1	0	3
FOL	0	0	0	1	0	0	1
HDSP	2	2	3	1	1	0	9
ISP	1	0	0	0	1	1	3
KVSP	4	4	2	5	4	4	23
LAC	5	5	5	5	8	10	38
MCSP	3	2	5	6	4	4	24
NKSP	2	2	0	0	2	0	6

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Incident Categories of Indecent Exposure, PREA or Sexual Violence Allegation

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
PBSP	2	3	2	1	0	0	8
PVSP	0	1	3	0	1	0	5
RJD	6	6	6	7	7	11	43
SAC	24	13	21	28	23	20	129
SATF	0	3	3	3	3	3	15
SCC	1	1	0	1	0	0	3
SOL	0	0	0	0	1	1	2
SQ	2	2	4	3	2	1	14
SVSP	11	9	14	9	20	14	77
VSP	0	0	3	1	0	1	5
WSP	1	2	3	1	0	1	8
Total	118	115	121	146	133	128	761

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Manner of Death of Suicide

		Inc	ident D	ate		
	JAN20	FEB20	MAR20	APR20	MAY20	TOTAL
	N	N	N	N	N	N
Institution						
CCI	1	0	0	0	1	2
CHCF	0	0	0	1	0	1
COR	1	0	0	0	1	2
CTF	1	0	0	0	0	1
KVSP	0	1	0	0	0	1
MCSP	0	0	1	0	0	1
WSP	0	1	1	0	0	2
Total	3	2	2	1	2	10

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Manner of Death of Homicide

		Inc	ident D	ate		
	JAN20	FEB20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N
Institution						
CAL	0	1	0	0	0	1
ccc	1	0	0	0	0	1
CHCF	0	0	0	1	0	1
COR	0	0	0	0	1	1
HDSP	1	0	1	1	0	3
KVSP	0	0	1	0	0	1
NKSP	1	0	0	0	0	1
RJD	0	1	0	0	0	1
SAC	0	1	1	0	0	2
SATF	1	0	0	0	1	2
SOL	1	0	0	0	0	1
SVSP	0	0	0	1	0	1
Total	5	3	3	3	2	16

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month All Other Manners of Death Aside From Suicide and Homicide

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	0	0	1	0	0	3	4
ccc	0	0	0	1	0	0	1
CCI	0	0	1	1	0	1	3
CCWF	0	0	1	0	1	1	3
CEN	1	0	2	0	1	0	4
CHCF	7	12	7	3	3	8	40
CIM	1	0	0	1	8	7	17
CIW	0	1	0	0	0	1	2
CMC	0	1	0	1	1	1	4
CMF	5	10	7	7	2	6	37
COR	1	3	1	0	1	1	7
CTF	0	0	1	0	1	0	2
CVSP	0	1	0	0	0	2	3
DVI	0	0	1	0	0	0	1
HDSP	1	1	1	0	0	0	3
ISP	2	0	1	0	0	1	4
KVSP	0	1	0	0	2	0	3
LAC	0	1	0	0	0	1	2
MCSP	0	0	0	0	1	0	1
NKSP	0	0	1	0	0	2	3
PBSP	0	0	0	0	1	0	1
PVSP	0	0	1	0	0	0	1
RJD	1	2	3	0	2	3	11
SAC	1	1	1	2	0	0	5

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month All Other Manners of Death Aside From Suicide and Homicide

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
SATF	0	0	1	0	1	1	3
SCC	0	0	1	0	1	0	2
SOL	0	0	0	0	1	0	1
SQ	1	2	2	0	0	1	6
SVSP	1	1	1	2	0	0	5
VSP	0	1	1	1	0	0	3
Total	22	38	36	19	27	40	182

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Non UOF Incidents Involving Mental Health Inmates

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	2	2	3	5	6	6	24
CAC	0	0	1	0	0	0	1
CAL	0	0	0	2	4	3	9
CCI	13	13	13	8	3	8	58
CCWF	15	20	9	15	22	13	94
CEN	0	1	0	1	0	1	3
CHCF	43	43	30	43	38	40	237
CIM	12	4	6	10	11	3	46
CIW	14	8	11	10	4	6	53
СМС	11	16	12	10	11	4	64
CMF	34	44	55	56	53	56	298
COR	28	26	21	10	15	14	114
CRC	9	11	13	19	16	11	79
CTF	2	7	4	4	3	10	30
DVI	2	6	4	2	4	5	23
FOL	4	2	2	1	6	2	17
HDSP	10	16	17	9	7	10	69
ISP	1	0	0	0	0	0	1
KVSP	16	17	9	22	22	20	106
LAC	22	20	22	16	20	33	133
MCSP	11	8	17	12	13	19	80
NKSP	7	8	8	1	4	0	28
PBSP	3	3	10	1	0	5	22
PVSP	1	3	3	0	0	0	7

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month Non UOF Incidents Involving Mental Health Inmates

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
RJD	19	24	15	20	23	29	130
SAC	64	67	67	68	54	70	390
SATF	13	16	15	16	12	15	87
SCC	2	3	2	6	0	5	18
SOL	8	4	6	2	4	3	27
SQ	16	6	12	10	12	7	63
SVSP	37	28	37	42	43	35	222
VSP	7	6	8	8	7	8	44
WSP	7	6	10	9	1	1	34
Total	433	438	442	438	418	442	2,611

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month UOF Incidents Involving Mental Health Inmates

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
ASP	9	8	4	8	5	3	37
CAL	0	0	0	0	2	2	4
CCI	34	29	32	27	30	45	197
CCWF	12	26	20	28	23	26	135
CHCF	24	29	37	23	22	17	152
CIM	3	0	4	4	5	3	19
CIW	1	5	3	8	5	6	28
СМС	6	5	10	10	7	6	44
CMF	28	23	25	12	9	14	111
COR	20	17	13	17	15	15	97
CRC	8	4	4	4	2	5	27
CTF	2	0	4	0	4	2	12
CVSP	1	0	0	0	0	0	1
DVI	3	5	2	5	3	2	20
FOL	3	7	3	4	1	1	19
HDSP	18	29	30	19	22	20	138
ISP	0	0	0	0	1	1	2
KVSP	26	34	35	51	24	29	199
LAC	39	33	29	22	30	20	173
MCSP	18	19	17	13	20	12	99
NKSP	8	7	15	16	7	5	58
PBSP	7	9	6	4	7	2	35
PVSP	5	5	2	3	2	4	21
RJD	12	18	11	15	8	19	83

(Continued)

CSR #: 2007-061

Number of Incidents That Have Been Discovered And Occurred Between January 1, 2020 and June 30, 2020 By Institution and Month UOF Incidents Involving Mental Health Inmates

			Incide	nt Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	TOTAL
	N	N	N	N	N	N	N
Institution							
SAC	50	57	63	44	73	51	338
SATF	19	17	19	20	13	20	108
SCC	5	1	2	2	3	2	15
SOL	10	9	3	4	7	1	34
SQ	11	7	1	6	5	3	33
SVSP	37	53	49	35	29	39	242
VSP	5	4	4	2	10	2	27
WSP	16	14	19	5	18	11	83
Total	440	474	466	411	412	388	2,591

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault on Non-Prisoner

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	0	1	0	0	0	0	1
CCWF	0	1	0	1	0	0	2
CEN	0	1	0	0	0	0	1
CHCF	2	0	1	0	1	0	4
CIW	1	0	0	0	0	0	1
СМС	1	0	0	0	0	1	2
CMF	1	2	2	1	1	0	7
COR	0	1	0	0	0	0	1
LAC	0	0	0	0	1	0	1
MCSP	1	0	0	0	0	0	1
RJD	0	0	0	0	1	0	1
SAC	0	2	0	1	0	1	4
SQ	1	0	0	0	0	0	1
SVSP	0	1	0	1	0	0	2
Total	7	9	3	4	4	2	29

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault on a Peace Officer by means not likely to cause GBI

Nule Violation				on Date	-		
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	0	0	1	0	0	0	1
CAL	0	0	2	0	0	0	2
ccc	0	0	0	1	0	0	1
CCI	2	6	1	4	5	2	20
CCWF	0	1	1	1	1	0	4
CEN	0	0	0	0	1	0	1
CHCF	1	1	1	1	1	0	5
CIM	0	0	0	0	1	0	1
CIW	1	2	1	0	0	1	5
СМС	1	2	2	1	1	0	7
CMF	1	1	1	1	2	0	6
COR	1	1	3	0	2	1	8
CRC	0	2	0	4	0	0	6
HDSP	0	2	0	0	4	0	6
KVSP	2	0	4	4	2	1	13
LAC	0	1	0	2	0	1	4
MCSP	1	1	1	2	3	2	10
NKSP	3	1	2	0	1	0	7
PBSP	1	1	1	0	2	0	5
PVSP	0	0	0	1	0	0	1
RJD	0	2	1	0	0	2	5
SAC	9	4	12	9	3	3	40
SATF	2	3	1	1	1	0	8
SOL	1	0	0	0	0	0	1
SQ	1	1	0	0	2	1	5

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 255 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault on a Peace Officer by means not likely to cause GBI

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
SVSP	3	2	2	2	0	1	10
WSP	0	0	3	2	2	0	7
Total	30	34	40	36	34	15	189

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault on a prisoner

Rule Violation:		оп ш р.		on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	4	2	0	0	0	0	6
CAL	1	3	1	1	2	0	8
ccc	6	1	1	0	0	3	11
CCI	2	0	1	0	0	0	3
CCWF	1	1	3	0	0	0	5
CEN	1	1	1	0	0	0	3
CHCF	1	0	1	3	0	2	7
CIM	1	0	0	0	0	0	1
СМС	0	0	0	0	0	1	1
CMF	0	0	0	1	0	0	1
COR	0	1	0	0	1	0	2
CRC	0	1	0	0	0	0	1
CTF	0	0	1	0	1	0	2
CVSP	0	1	2	0	0	0	3
DVI	0	0	0	0	0	2	2
HDSP	0	1	2	0	0	0	3
ISP	1	1	3	1	0	0	6
KVSP	0	0	0	0	0	1	1
LAC	0	0	0	0	0	1	1
MCSP	0	0	0	1	0	0	1
NKSP	1	0	0	0	0	0	1
PBSP	0	1	0	2	0	0	3
PUMCCF-Shafter	0	1	0	0	0	0	1
RJD	2	0	0	0	0	0	2
SAC	1	3	4	0	2	1	11

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 257 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault on a prisoner

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
SATF	0	1	0	0	0	0	1
scc	0	0	0	0	0	3	3
SQ	0	0	0	0	0	1	1
SVSP	0	1	0	0	0	0	1
WSP	0	2	0	0	0	0	2
Total	22	22	20	9	6	15	94

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Assault with a deadly weapon

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
CHCF	0	1	0	0	0	0	1
CMF	0	0	0	1	0	0	1
COR	0	1	0	1	0	0	2
HDSP	0	0	0	1	0	0	1
KVSP	0	0	1	0	0	0	1
RJD	0	0	0	0	0	1	1
SAC	0	0	3	0	0	1	4
SATF	1	0	1	0	0	0	2
SVSP	0	0	0	0	1	0	1
VSP	0	0	0	0	1	0	1
Total	1	2	5	3	2	2	15

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Attempted Murder

Rule Violation:				on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
CAL	0	8	0	0	2	2	12
CCI	7	8	0	0	1	0	16
CIM	2	0	0	0	0	0	2
СМС	0	2	0	0	1	0	3
COR	5	3	2	3	0	0	13
CVSP	0	0	9	0	0	0	9
DVI	2	0	2	2	0	3	9
HDSP	3	5	6	0	1	4	19
KVSP	2	2	3	5	0	0	12
LAC	0	0	4	0	0	0	4
MCSP	1	1	3	0	0	1	6
NKSP	0	0	3	0	0	0	3
PBSP	8	0	2	0	2	1	13
PUMCCF-Delano	0	0	0	0	0	3	3
PVSP	2	10	0	2	0	3	17
RJD	0	0	1	0	0	0	1
SAC	4	4	3	1	1	0	13
SATF	0	0	0	0	1	0	1
SOL	0	1	0	2	4	2	9
SVSP	3	0	0	1	0	1	5
VSP	0	2	0	0	0	0	2
WSP	0	2	2	3	0	0	7
Total	39	48	40	19	13	20	179

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery Causing Serious Injury

Rule Violation:	Buccery	Oddolii	Violati		<u>y</u>		
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	0	0	0	0	2	0	2
CAL	1	13	8	1	2	2	27
CCC	2	8	0	2	0	4	16
CCI	1	3	0	3	1	3	11
CCWF	0	0	1	2	2	2	7
CEN	4	2	2	1	0	0	9
CHCF	1	0	2	0	1	0	4
CIM	1	0	0	5	0	2	8
CIW	0	0	1	0	0	0	1
СМС	5	0	4	1	1	0	11
CMF	1	0	3	0	3	0	7
COR	6	3	0	2	1	2	14
CRC	0	0	0	0	1	0	1
CTF	4	4	0	0	1	2	11
CVSP	1	0	3	0	0	1	5
DVI	0	0	3	0	2	0	5
FCRF	0	0	0	0	0	1	1
FOL	2	0	0	2	1	4	9
HDSP	3	1	6	1	6	1	18
ISP	2	1	4	0	0	1	8
KVSP	2	2	10	3	1	0	18
LAC	1	2	5	1	2	1	12
MCSP	1	0	0	0	0	3	4
NKSP	1	5	8	1	5	3	23
PBSP	0	2	1	0	2	2	7

(Continued)

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery Causing Serious Injury

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
PUMCCF-Delano	0	0	3	0	0	2	5
PVSP	4	0	2	0	0	2	8
RJD	7	2	9	5	1	2	26
SAC	8	12	3	0	6	4	33
SATF	5	1	6	0	0	4	16
SCC	0	0	1	0	0	2	3
SOL	3	1	0	1	2	0	7
SQ	0	1	0	0	1	0	2
SVSP	8	15	8	8	1	7	47
VSP	2	3	2	1	4	1	13
WSP	0	1	3	0	0	0	4
Total	76	82	98	40	49	58	403

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on Non-Prisoner

Hule Violation: Batte				on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	1	0	0	0	0	0	1
CCI	2	0	1	0	0	1	4
CCWF	0	5	2	0	3	2	12
CHCF	7	10	4	5	8	13	47
CIM	0	0	0	1	0	1	2
CIW	6	0	2	3	2	0	13
CMC	0	0	0	1	1	0	2
CMF	3	6	8	7	5	5	34
COR	0	0	2	0	0	0	2
CRC	0	1	0	0	0	0	1
CTF	0	0	0	0	0	1	1
CVSP	1	0	0	0	0	0	1
ISP	0	1	0	0	0	0	1
KVSP	1	1	0	1	1	0	4
LAC	0	1	1	1	0	0	3
MCSP	1	1	0	0	0	2	4
NKSP	2	1	0	0	0	1	4
PBSP	0	0	3	0	0	0	3
PRMCCF-Golden State	1	0	0	0	0	0	1
RJD	0	1	0	1	0	2	4
SAC	4	3	4	4	7	3	25
SATF	1	3	0	1	0	0	5
SOL	1	0	1	0	0	0	2
SQ	0	1	0	1	0	1	3
SVSP	2	3	6	7	4	1	23

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 263 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on Non-Prisoner

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
VSP	0	1	1	1	0	0	3
WSP	2	0	1	0	0	0	3
Total	35	39	36	34	31	33	208

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 264 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports
With a Violation Date Between January 1, 2020 and June 30, 2020
By Institution and Month

Rule Violation: Battery on a Non-prisoner with a deadly weapon with SBI

	Violation Date	
	FEB20	Total
Institution		
HDSP	1	1
Total	1	1

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on a Peace Officer

nule violation. Battery on a re			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
CAC	1	0	1	1	0	0	3
CAL	0	0	1	0	0	0	1
CCC	3	3	2	3	1	1	13
CCI	7	3	4	4	3	3	24
CCWF	6	5	6	7	9	9	42
CEN	2	4	3	3	3	3	18
CHCF	6	10	17	4	8	9	54
CIM	2	1	0	0	2	1	6
CIM	0	1	0	2	4	3	10
СМС	0	3	1	7	5	3	19
CMF	15	11	17	10	10	12	75
COR	11	10	8	8	8	9	54
CRC	1	3	1	1	2	3	11
CTF	2	0	1	1	3	1	8
CVSP	0	0	0	1	0	0	1
DVI	1	2	0	3	1	1	8
FOL	0	1	0	0	0	0	1
HDSP	0	2	2	0	4	1	9
ISP	0	2	1	1	1	3	8
KVSP	2	3	6	10	6	4	31
LAC	8	6	9	8	7	8	46
MCSP	4	4	3	4	15	4	34
NKSP	2	2	3	0	0	0	7
PBSP	2	3	5	1	2	2	15
PVSP	1	0	0	0	2	0	3

(Continued)

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on a Peace Officer

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
RJD	5	7	3	5	1	6	27
SAC	42	36	41	29	32	33	213
SATF	1	5	3	2	5	10	26
SCC	0	0	0	1	1	0	2
SHS-Atascadero State Hospital	0	1	0	0	0	0	1
SHS-Coalinga State Hospital	1	0	0	0	0	0	1
SOL	0	2	1	1	0	0	4
SQ	2	1	1	2	0	0	6
SVSP	17	8	9	10	7	8	59
VSP	2	0	0	2	1	0	5
WSP	5	2	5	2	5	2	21
Total	151	141	154	133	148	139	866

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on a prisoner

Rule Violation: Battery on a	prisoner		Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	25	18	23	2	9	1	78
CAC	13	20	7	13	11	13	77
CAL	32	19	21	11	8	7	98
ccc	37	20	29	15	20	4	125
CCI	32	30	34	11	25	42	174
CCWF	27	26	17	15	11	15	111
CEN	28	28	20	3	12	3	94
CHCF	5	7	7	6	2	4	31
CIM	3	5	16	10	2	12	48
CIW	1	2	3	2	3	3	14
CMC	12	9	8	4	5	3	41
CMF	8	6	10	1	3	5	33
COR	14	8	35	5	17	10	89
СРМР	0	0	0	1	1	0	2
CRC	9	7	3	2	3	2	26
CTF	6	6	10	4	2	5	33
CVSP	3	0	3	4	1	1	12
DVI	29	32	13	21	11	10	116
FCRF	0	0	0	0	1	0	1
FOL	12	15	10	7	4	8	56
HDSP	45	60	61	42	29	52	289
ISP	11	15	6	12	3	4	51
KVSP	48	42	15	31	19	39	194
LAC	16	24	26	12	24	5	107
MCSP	12	14	11	10	8	10	65

(Continued)

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on a prisoner

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
NKSP	33	6	30	19	14	18	120
PBSP	32	35	9	16	6	9	107
PRMCCF-Desert View	2	0	0	0	0	0	2
PRMCCF-Golden State	1	0	0	0	0	0	1
PUMCCF-Delano	10	3	3	1	10	11	38
PUMCCF-Shafter	5	7	15	22	7	5	61
PUMCCF-Taft	0	1	0	0	0	0	1
PVSP	54	26	20	12	10	13	135
RJD	7	9	4	4	1	6	31
SAC	29	27	33	8	41	24	162
SACCO-CCTRP SAN DIEGO	0	0	0	0	0	1	1
SATF	14	10	27	18	11	13	93
SCC	25	9	28	5	22	40	129
SHS-Coalinga State Hospital	0	1	0	0	0	0	1
SOL	17	9	11	4	15	6	62
SQ	18	20	7	7	8	5	65
SVSP	19	31	16	14	17	20	117
VSP	9	4	6	2	8	6	35
WSP	43	43	49	21	37	14	207
Total	746	654	646	397	441	449	3,333

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery on a prisoner with a deadly weapon with SBI

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
CCC	1	0	0	0	0	0	1
CCI	0	0	1	0	0	0	1
CEN	0	0	1	0	0	0	1
CMF	0	0	0	0	1	0	1
COR	1	0	0	0	2	0	3
CTF	0	0	1	0	0	0	1
HDSP	0	0	0	2	0	0	2
KVSP	0	0	0	0	0	1	1
LAC	0	0	0	1	0	0	1
MCSP	0	1	0	0	0	0	1
RJD	0	0	1	1	0	0	2
SAC	4	0	0	0	0	5	9
SATF	0	0	0	2	0	0	2
SVSP	0	2	0	0	0	2	4
VSP	0	1	0	1	0	0	2
Total	6	4	4	7	3	8	32

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 270 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery with a caustic substance

		Violati	on Date		
	MAR20	Total			
Institution					
CAL	0	0	2	0	2
CCI	0	0	0	1	1
SVSP	1	3	0	0	4
Total	1	3	2	1	7

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery with a deadly weapon

Rule Violation				on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	0	0	0	0	2	0	2
ccc	0	0	5	1	0	0	6
CCI	2	1	2	0	0	1	6
CCWF	4	0	0	2	4	2	12
CEN	0	1	1	3	6	2	13
CHCF	0	2	2	5	1	1	11
CIM	0	0	0	0	1	0	1
CIW	1	0	0	0	0	0	1
СМС	0	5	2	0	0	0	7
CMF	3	0	1	0	0	0	4
COR	1	0	3	0	2	2	8
CTF	3	0	1	0	0	0	4
F0L	2	0	0	0	0	2	4
HDSP	1	2	1	2	1	1	8
ISP	0	2	0	0	0	0	2
KVSP	17	6	14	33	7	8	85
LAC	2	2	2	1	1	0	8
MCSP	4	0	4	2	0	1	11
NKSP	2	0	5	0	0	1	8
PBSP	3	2	1	1	0	0	7
PVSP	0	2	0	0	0	1	3
RJD	0	0	0	0	0	1	1
SAC	4	5	2	6	3	4	24
SATF	2	2	0	1	1	2	8
SCC	0	0	1	0	0	0	1

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 272 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Battery with a deadly weapon

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
SOL	1	0	5	1	0	0	7
SQ	0	0	0	1	0	0	1
SVSP	4	4	3	4	0	3	18
VSP	1	1	1	0	1	0	4
WSP	1	0	1	0	0	0	2
Total	58	37	57	63	30	32	277

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Fighting

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	24	21	20	25	13	25	128
CAC	8	4	4	8	10	4	38
CAL	36	35	18	10	10	5	114
CCC	12	15	6	1	6	9	49
CCI	46	56	50	75	69	72	368
CCWF	55	50	54	50	44	49	302
CEN	13	29	18	9	16	4	89
CHCF	23	22	13	7	15	6	86
CIM	15	2	12	8	9	2	48
CIW	3	10	14	11	4	7	49
CMC	10	12	17	18	1	8	66
CMF	20	17	16	10	13	12	88
COR	46	34	36	25	23	30	194
CRC	5	12	8	10	6	2	43
CTF	7	9	6	2	3	6	33
CVSP	7	6	13	15	8	0	49
DVI	14	10	7	5	3	8	47
FCRF	2	0	0	5	3	2	12
FOL	7	15	8	7	8	8	53
HDSP	46	41	27	28	29	35	206
ISP	31	57	11	14	33	26	172
KVSP	67	131	83	147	59	95	582
LAC	67	62	66	38	42	36	311
MCSP	35	64	23	30	31	42	225
NKSP	66	89	140	42	63	44	444

(Continued)

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Fighting

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
PBSP	18	8	5	9	6	4	50
PUMCCF-Delano	8	1	0	8	14	5	36
PUMCCF-Shafter	4	4	2	2	1	6	19
PUMCCF-Taft	6	2	2	0	2	0	12
PVSP	32	25	29	16	26	17	145
RJD	22	48	36	26	32	33	197
SAC	27	36	49	37	38	37	224
SATF	42	36	52	38	22	32	222
SCC	19	15	21	21	4	8	88
SOL	24	25	18	15	16	10	108
SQ	30	16	11	16	14	10	97
SVSP	57	92	58	57	63	60	387
VSP	8	3	9	5	4	15	44
WSP	40	31	58	32	19	34	214
Total	1,002	1,145	1,020	882	782	808	5,639

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Resisting Staff

		Violati	on Date			
JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
1	1	1	0	0	0	3
0	1	0	0	0	0	1
0	1	1	0	2	0	4
0	4	1	4	2	1	12
0	1	0	1	0	0	2
3	1	0	0	1	1	6
1	1	0	2	0	0	4
0	0	0	1	1	0	2
0	3	2	0	2	0	7
2	2	0	3	0	2	9
0	1	1	0	0	1	3
1	0	0	0	0	0	1
0	2	1	0	0	0	3
0	1	1	0	0	0	2
0	1	1	1	3	3	9
1	4	5	0	3	1	14
1	2	4	1	1	0	9
0	1	0	0	0	0	1
1	0	0	0	0	0	1
1	3	4	2	1	2	13
3	1	1	2	5	3	15
0	0	1	0	0	0	1
1	0	0	1	1	1	4
1	3	0	0	1	1	6
	1 0 0 0 0 3 1 0 0 0 0 1 1 0 0 1 1 3 0 0 1	JAN20 FEB20 1 1 1 0 1 1 0 4 4 0 1 1 1 1 1 0 0 1 1 1 1 0 0 0 0 3 3 2 2 2 0 1 1 1 0 0 1 1 0 1 1 1 0 2 0 1 1 1 0 1 1 1 4 1 1 2 1 1 1 1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	JAN20 FEB20 MAR20 1 1 1 0 1 0 0 1 1 0 4 1 0 4 1 0 1 0 1 1 0 0 0 0 0 3 2 2 2 0 0 1 1 1 0 0 0 2 1 0 1 1 0 1 1 0 1 1 1 4 5 1 2 4 0 1 0 1 0 0 1 0 0 1 0 0 1 0 0 1 0 0 1 0 0 1 0 <	JAN20 FEB20 MAR20 APR20 1 1 1 0 0 1 0 0 0 1 1 0 0 4 1 4 0 1 0 1 3 1 0 1 0 0 1 0 1 1 0 2 0 0 0 1 0 3 2 0 1 0 0 0 1 0 0 0 1 0 0 0 0 1 1 0 0 1 1 0 0 1 1 0 0 1 1 1 0 1 1 1 1 2 4 1 0 1 0 0 1	JAN20 FEB20 MAR20 APR20 MAY20 1 1 0 0 0 0 1 0 0 0 0 1 0 0 0 0 1 1 0 2 0 1 0 1 0 0 1 0 1 0 1 1 0 0 1 1 0 0 0 1 1 1 0 0 1 1 1 0 0 1 1 1 0 0 0 1 1 1 0	JAN20 FEB20 MAR20 APR20 MAY20 JUN20 1 1 1 0 0 0 0 1 0 0 0 0 0 1 0 0 0 0 0 1 1 0 2 0 0 1 1 0 2 1 0 1 0 1 1 0 3 1 0 0 1 1 1 1 1 0 2 0

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 276 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Resisting Staff

			Violati	on Date			
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
SQ	О	1	0	0	0	0	1
SVSP	0	3	4	3	6	4	20
VSP	0	1	1	0	2	0	4
WSP	0	0	0	1	0	0	1
Total	18	39	32	22	32	20	163

CSR #: 2007-061

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Willfully resisting a Peace Officer in the performance of duties

	Violation Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
ASP	1	0	0	0	0	0	1
CAC	2	0	1	0	0	0	3
ccc	1	0	0	1	0	0	2
CCI	0	2	1	2	2	1	8
CCWF	3	4	2	5	3	5	22
CEN	0	0	0	1	0	0	1
CHCF	4	7	3	4	4	3	25
CIM	0	0	1	0	0	0	1
CIW	0	1	0	0	1	0	2
СМС	1	0	3	0	2	0	6
CMF	2	3	3	0	0	2	10
COR	7	2	2	3	5	1	20
CRC	0	0	0	1	0	0	1
CTF	0	1	1	0	0	0	2
DVI	0	0	0	0	1	0	1
FOL	0	0	0	1	0	0	1
HDSP	3	4	2	4	3	4	20
KVSP	1	2	0	3	0	1	7
LAC	0	0	0	0	3	0	3
MCSP	4	0	2	1	1	2	10
NKSP	0	1	0	3	0	0	4
PBSP	0	2	3	2	0	1	8
PUMCCF-Shafter	1	0	0	0	0	0	1
PVSP	1	0	1	0	1	0	3
RJD	2	0	0	0	0	0	2

(Continued)

CSR #: 2007-061

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 278 of 858

California Department of Corrections and Rehabilitation Division of Correctional Policy Research and Internal Oversight Office of Research July 24, 2020

Number of Rule Violation Reports With a Violation Date Between January 1, 2020 and June 30, 2020 By Institution and Month

Rule Violation: Willfully resisting a Peace Officer in the performance of duties

	Violation Date						
	JAN20	FEB20	MAR20	APR20	MAY20	JUN20	Total
Institution							
SAC	4	18	14	11	11	11	69
SATF	0	0	1	0	0	0	1
scc	1	0	2	0	1	0	4
SOL	2	1	7	1	0	2	13
SQ	0	0	0	1	0	0	1
SVSP	1	4	2	0	0	2	9
VSP	1	0	1	0	0	0	2
Total	42	52	52	44	38	35	263

CSR #: 2007-061

EXHIBIT CC



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Gay Crosthwait Grunfeld Email: GGrunfeld@rbgg.com

July 10, 2020

FEDERAL EXPRESS

California Department of Corrections and Rehabilitation PRA Administrators P.O. Box: 942883

Sacramento, CA 94283-0001

VIA ELECTRONIC MAIL ONLY

Tamiya Davis
Kathryn Clark
CDCR Office of Legal Affairs
Tamiya.Davis@cdcr.ca.gov
Kathryn.Clark@cdcr.ca.gov

Sean Lodholz
Office of the Attorney General
Sean.Lodholz@cdcr.ca.gov

Re: California Public Records Act Request

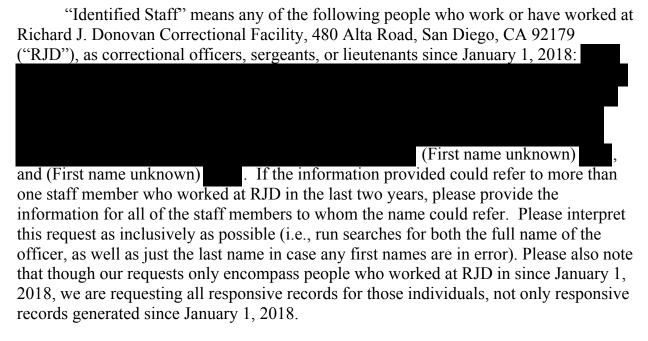
Armstrong v. Newsom Our File No. 0581-03

Dear All:

This is a request pursuant to the California Public Records Act (California Government Code §§ 6250, *et seq.*) for copies of public records in the possession of the California Department of Corrections and Rehabilitation ("CDCR").

As used in this request, the term "California Department of Corrections and Rehabilitation" or "CDCR" means the California Department of Corrections and Rehabilitation itself as well as any and all agencies, arms, branches, bureaus, offices, subdivisions, treatment facilities, hospitals, officers, directors, employees, independent contractors or agents of the CDCR.

"Relating to" means referring to, constituting, representing, defining, depicting, concerning, embodying, reflecting, identifying, stating, mentioning, governing, addressing, or pertaining to the subject matter of the request in whole or in part, directly or indirectly.



"Sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

"Member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency, as well as any person incarcerated by CDCR.

Our requests encompass any documents within the definition of the term "writing" as defined in Cal. Gov't Code § 6252(g).

Specifically, we request the documents and writings listed below:

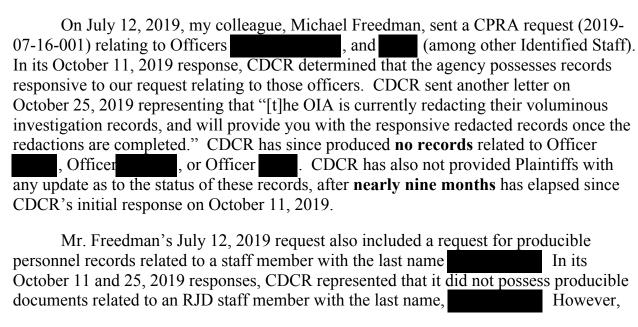
- **1.** Any records relating to the report, investigation, or findings of any of the following:
 - (a) An incident involving the discharge of a firearm at a person by Identified Staff.
 - (b) An incident in which the use of force by Identified Staff resulted in death, or in great bodily injury.

- 2. Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that Identified Staff engaged in sexual assault involving a member of the public.
- 3. Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by Identified Staff directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

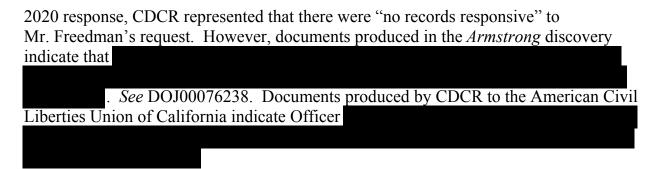
The California Public Records Act requires determination of whether these records may be disclosed, and specific reasons why any material requested, or portions thereof, are exempt from disclosure, within ten days of receipt of this request. It also requires that CDCR promptly notify us of this determination, and of the estimated date and time when the records will be produced. In accordance with Cal. Gov't Code § 6253(c), your response is due by **July 20, 2020.** We request production of these documents in electronic format whenever available, pursuant to Cal. Gov't Code § 6253.9.

Please also note that we have previously requested documents related to some of these Identified Staff. In your responses to our requests, CDCR has (a) failed to disclose responsive documents and (b) failed to identify its reasons for withholding such documents, thereby violating Government Code § 6253(c).

4. First CPRA Request, July 12, 2019 (2019-17-16-001)

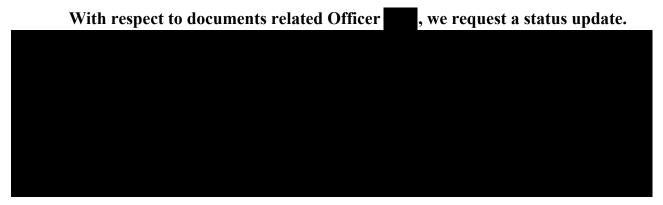


documents produced in discovery in the Armstrong litigation indicate that
See DOJ00090750. That Defendants failed to produce these documents in response to our CPRA Request is a violation of Government Code § 6253(c).
5. Second CPRA Request, October 4, 2019 (2019-10-08-001)
On October 4, 2019, my colleague, Michael Freedman, sent a CPRA request (2019-10-08-001) relating to Officer (among other Identified Staff). In its November 18, 2019 response, CDCR determined that it possessed records responsive to our request relating to Officer In a subsequent letter dated January 17, 2020 and a telephone call with Mr. Freedman on January 23, 2020, you represented that: (1) the Office of Legal Affairs ("OLA") had erred in indicating there were responsive document regarding one of the two officers for whom OLA initially indicated there were responsive documents and (2) OLA could not provide responsive documents for the second officer because
After Mr. Freedman sent a letter requesting CDCR's written basis for CDCR's withholding of responsive records, pursuant to
, CDCR sent a non-substantive response on April 13, 2020, noting only noting only that
CDCR has still produced no records related to Officer in response to our October 7, 2019 request. CDCR has also not provided Plaintiffs with confirmation that
, after nearly nine months have elapsed since Defendants' first response on November 18, 2019.
6. Third PRA Request, April 23, 2020 (2020-04-24-001)
On April 23, 2020, my colleague, Michael Freedman, sent a CPRA request (2020-04-24-001) relating to Officers and (among other officers). In its May 14,



CDCR's failure to disclose such documents and failure to identify its reasons for doing so are improper under Cal. Gov't Code § 6253(c).

With respect to Officers , (Sergeant), and , we demand the production as public records of producible documents within these officers' personnel files, which were either previously identified by CDCR as producible pursuant to Government Code § 6253 or identified as such in Plaintiffs' review of *Armstrong* discovery documents. We also request an explanation of CDCR's failure to produce these documents in response to our initial requests.



If CDCR determines that it possesses documents responsive to our request but contends that they are exempt from disclosure, you must notify us of the reasons for your determination that documents are exempt Government Code § 6253(c). Under the CPRA, any public record must be disclosed unless a specific statutory exemption applies. See, e.g., ACLU of Northern Cal. v. Super. Ct., 202 Cal. App. 4th 55, 66 (2011) (internal citations omitted) ("[a]ll public records are subject to disclosure unless the Public Records Act expressly provides otherwise.""); Marylander v. Super. Court, 81 Cal. App. 4th 1119, 1125 (2000) ("unless exempted, all public records may be examined by any member of the public"). The enactment of Senate Bill 1421 (2018) and the consequent amendments to Penal Code § 832.7 displaced previous exemptions under the CPRA or any other provision of law and limited bases for withholding records to those specified in Penal Code § 832.7(b)(7). See Penal Code § 832.7(b)(1) ("Notwithstanding

subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act").

Given CDCR's repeated failure to identify and produce documents responsive to our request, we are concerned that CDCR's recordkeeping practices and search systems for document retrieval are substantially deficient and undermine its ability to comply with the CPRA. Toward the end of better understanding CDCR's systems for complying with the requirements of the CPRA, we request a description of the search CDCR conducted for responsive documents in response to our three prior PRA requests, and whether there were any obstacles or impediments to searching for such. An agency's search also must be "reasonably calculated to locate responsive documents," *American Civil Liberties Union of Northern California v. Super. Ct.*, 202 Cal. App. 4th 55, 85 (2011), and an agency may be required to assist a requestor to formulate a request based on the agency's greater knowledge of its own recordkeeping system. Cal. Gov. Code § 6253.1(a)(1)-(3).

In light of the difficulties we have encountered in obtaining public documents from CDCR pursuant to the CPRA, we suggest that CDCR consider maintaining a publicly accessible database through which it could proactively disclose documents of public interest that are producible under the CPRA. Proactive disclosure is an efficient use of California and the public's resources. If CDCR were to proactively release records that are publicly producible under CPRA, it would reduce the burden on CDCR of responding to common public records act requests, as the public would be able to search for those records without filing a request. We look forward to working with you to improve transparency, accountability and public trust in CDCR through the proactive release of public records pursuant to the CPRA.

///
///
///
///
///

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 286 of 858

California Department of Corrections and Rehabilitation July 10, 2020 Page 7

Thank you in advance for your anticipated courtesy and prompt cooperation.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:JRG:cg

cc: Ed Swanson
Alexander Powell
Jeremy Duggan
Anthony Tartaglio
Nicholas Meyer

Patricia Ferguson Damon McClain Trace Maiorino Armstrongteam@rbg OLA Armstrong Joanna B. Hood Alicia Bower

thony Tartaglio Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT DD



101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 F: (415) 433-7104
www.rbgg.com

Gay Crosthwait Grunfeld Email: ggrunfeld@rbgg.com

June 25, 2020

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Sean Lodholz Office of the Attorney General 1300 I Street Sacramento, CA 95814 Sean.Lodholz@doj.ca.gov

Re: Armstrong v. Newsom; Response to Defendants' May 27, 2020 Letter;

Termination of Correctional Officers In Connection with Misconduct

Against People with Disabilities

Our File No. 0581-03

Dear Sean:

I write in response to certain issues discussed in your May 27, 2020 to my colleague Michael Freedman. In your letter, you represented with regard to Plaintiffs' Document Request 13 that "there were only 9 dismissals (including a resignation prior to adverse action) [related to sustained findings of misconduct against incarcerated people at RJD from January 1, 2017 to the present]." *See* Letter from S. Lodholz to M. Freedman, May 27, 2020, at 3. You also indicated that Defendants would be amending their interrogatory responses to reflect nine, rather than twelve, terminations. To date, Defendants have not amended the responses. Please serve amended responses as soon as possible.

Based on Plaintiffs' review of Defendants' production of documents, we believe that the nine "terminations" are reflected in the below table:

/// /// Sean Lodholz June 25, 2020 Page 2

Name of Terminated Officer	Date Hiring Authority Imposed Termination as Discipline	Bates No. of Termination Document (402/403 or NOAA)	Class Member Victim
	8/28/18 ¹	DOJ00016518	
	4/5/2019	DOJ00090756	
	6/18/2019	DOJ00011328	
	12/13/2019	DOJ00091593	
	12/13/2019	DOJ00076428	
	12/13/2019	DOJ00091180	
	1/24/2020	DOJ00077806	
	1/24/2020	DOJ00077283	
	1/27/2020	DOJ00076887	

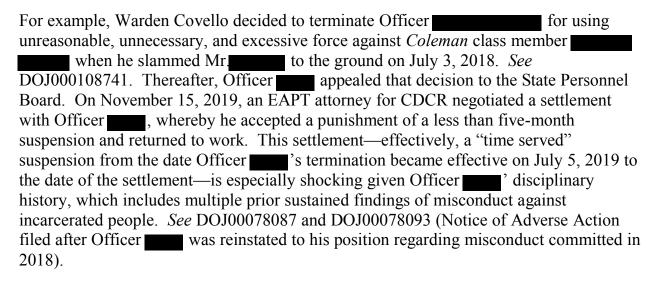
First, please let us know immediately if you disagree that the nine officers listed above correspond with the nine officers that Defendants are asserting have been terminated since January 1, 2017 for misconduct in which the victim was an incarcerated person.

Second, we do not agree that Mr. _______'s dismissal constitutes a termination because the Department permitted him to retire before any discipline was imposed on him. It is Plaintiffs' position that only eight officers have been terminated for misconduct involving incarcerated people at RJD. Please ensure that Defendants' amended responses to the interrogatories do not include Mr. _______'s retirement as a termination.

Third, we request additional information regarding the finality of the eight other potential terminations. As you know, just because a hiring authority imposes termination as discipline for misconduct does not mean that an officer will actually be terminated.

¹ Prior to the effective date of his termination, CDCR allowed Mr. to retire on July 31, 2018.

Sean Lodholz June 25, 2020 Page 3



Accordingly, for each of the eight potential terminations, please let us know whether the terminations are final (i.e., the officer has been terminated and is no longer working for CDCR or is instead challenging the decision in any forum). For each termination that is not final, please let us know (1) the current status of the proceedings (i.e., is the officer challenging the termination at a *Skelly* hearing, before the State Personnel Board, in court, or otherwise), (2) the current employment status of the officer (i.e., in what, if any, capacity is the officer currently working for CDCR), and (3) whether the officer is still being paid by CDCR. If you are unwilling to provide this information informally, we will notice a deposition of CDCR's Person Most Knowledgeable regarding these topics.

As always, we appreciate your courtesy and cooperation in this matter.

Very truly yours,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:cg

cc:Ed SwansonTamiya DavisNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainJoanna B. HoodAnthony TartaglioTrace MaiorinoAlicia Bower

Bruce Beland Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT EE



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Gay Crosthwait Grunfeld Email: ggrunfeld@rbgg.com

July 8, 2020

VIA ELECTRONIC MAIL ONLY

Sean Lodholz Office of the Attorney General 1300 I Street Sacramento, CA 95814 Sean.Lodholz@doj.ca.gov

Re: *Armstrong v. Newsom*: Meet and Confer Efforts

Our File No. 0581-03

Dear Sean:

This will confirm our telephone conversation of yesterday's date in which you informed me that you have no response to my letters of June 23 and 25, 2020 and you do not expect to provide a response until some unspecified date after the two class members who are the subject of the Court's July 2 Temporary Restraining Order are moved from RJD.

To date, Defendants have failed to provide information about their unauthorized production of documents marked Highly Confidential to the union that represents the correctional officers accused of misconduct. Defendants have not amended their inadequate responses to Plaintiff's Second Request to state whether or not they will produce any documents, and Defendants have produced no responsive documents—notwithstanding the fact that we served the Second Request on April 2, 2020. We raised both of those issues in my June 23, 2020 letter.

In our conversation yesterday, you agreed to prioritize the production of certain documents responsive to Plaintiffs' Second Request, but declined to specify a date on which Defendants would begin that production.

Defendants have also not informed us of the information requested in my June 25, 2020 letter about the finality of the eight possible terminations related to misconduct against incarcerated people at RJD or amended their interrogatory responses, which still

Sean Lodholz July 8, 2020 Page 2

erroneously represent that twelve officers have been terminated for misconduct against incarcerated people at RJD.

To date, Defendants have also failed to respond to my June 17, 2020 letter requesting the production of written documents and reports related to inquiries into allegations of *Armstrong* non-compliance. In that letter, Plaintiffs expressed a good faith disagreement with the results of the investigations into 31 allegations of *Armstrong* non-compliance. Pursuant to the Order Modifying the January 18, 2007 Injunction, "Defendants shall investigate all allegations of employee non-compliance, regardless of whether the allegation includes the name of the employee(s). [...] If Plaintiffs' counsel has a good faith disagreement with the result of a particular investigation, they may request a copy of the written report and it shall be produced. In such instances, Plaintiffs' counsel shall have the right to review all written documents utilized in making the determination set forth in the report." (See December 29, 2014, Order Modifying the January 18, 2007 Injunction, Doc. 2479, at 2.). In their failure to respond to my letter, let alone produce the requested documents, Defendants have again violated the Court's Accountability Order.

Defendants have also failed to respond to my question as to whether they have produced all documents in response to my January 3, 2020 letter expressing Plaintiffs' good faith disagreement with the outcome of investigations into allegations of non-compliance at RJD. Defendants did not produce any stand-alone documents in response to my January 3, 2020 letter.

In light of all of these issues, we will request a final meet and confer call with the Court's expert to occur this week. If that call is unsuccessful, we will provide you with a joint letter brief requesting that the Court order Defendants to amend their inadequate responses, produce responsive documents, and stop violating the parties' protective order.

As discussed in my letter of June 25, we are today serving a deposition notice for a PMK for July 21 to obtain information about the terminations. We are also serving a deposition notice for Defendants' expert for July 20. If those dates do not work, we can attempt to accommodate your schedule, bearing in mind that our reply brief is due July 29, 2020.

/// /// Sean Lodholz July 8, 2020 Page 3

As always, we appreciate your ongoing courtesy and cooperation.

Very truly yours,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:cg

cc:Ed SwansonTamiya DavisNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainJoanna B. HoodAnthony TartaglioTrace MaiorinoAlicia Bower

Bruce Beland Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT FF

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 296 of 858

discovered facts or interpretations thereof, and to amend, modify, or otherwise change the responses, in accordance with applicable discovery rules. Defendants make this amended response to Plaintiffs' interrogatories in accordance with Federal Rule of Civil Procedure 33.

Following the responses served on March 13, 2020, Defendants became aware of a discrepancy in previously provided information. Two additional cases, one from 2017 and one from 2018, concerning on-duty incidents involving an inmate, were identified. One case was not previously identified because the subject of the investigation retired before notice of disciplinary action was served, and the other was not identified on the list of matters referred to the Office of Internal Affairs by the Investigative Services Unit. Defendants' April 30, 2020 responses reflected the additional information regarding those two additional matters.

Following the responses served on April 30, 2020, Defendants became aware of additional discrepancies in previously provided information. Three cases, from 2017, 2018, and 2019, were incorrectly included among dismissal figures. In the 2017 and 2019 cases, the penalty was incorrectly logged as a dismissal. And in the 2018 case, the staff member was not dismissed for misconduct against an inmate. Additionally, one dismissal from 2019 was inadvertently not included within the previous interrogatory responses. The below responses reflect the additional information regarding these four cases.

INTERROGATORY REQUEST NO. 5:

If the answer to Interrogatory 4 is yes, for each month from January 1, 2017 to the present, indicate the number of STAFF MISCONDUCT allegations in which an incarcerated person at RJD was an alleged victim of the STAFF MISCONDUCT where the RJD hiring authority (a) sustained or (b) did not sustain in which an incarcerated person at RJD was an alleged victim of the STAFF MISCONDUCT.

RESPONSE TO INTERROGATORY REQUEST NO. 5:

The request to provide information regarding all sustained and not sustained allegations of staff misconduct is burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Ar

mstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log. The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. Once that determination is made, the Department can identify which allegations were referred to the Office of Internal Affairs and were sustained or not sustained.

The information regarding sustained allegations is limited to those cases that were referred to the Office of Internal Affair and subsequently sustained by the hiring authority and resulted in either adverse action or corrective action. The information regarding unsustained allegations is limited to those that were reviewed by the Office of Internal Affairs and were not sustained by the hiring authority. However, corrective action may be imposed without an investigation by the Office of Internal Affairs. For each year summarized below, cases that were rejected by the Office of Internal Affairs are considered unsustained. Information regarding sustained allegations does not include allegations that were rejected by the Office of Internal Affairs and returned to the hiring authority, who then chose to impart corrective action rather than adverse action. The number of incidents and allegations include custody, non-custody, and medical staff. This information is limited to on-duty incidents involving an inmate.

In 2017 there were twenty-seven (27) incidents of staff misconduct involving an inmate that were referred to the Office of Internal Affairs. Within the twenty-seven incidents, there were seventy-five (75) allegations. Out of the seventy-five (75) allegations, twenty-five (25) were sustained and fifty (50) were not sustained.

2017 Incidents Involving Inmates	2017 Allegations Involving Inmates
27	75
2017 Sustained Allegations	2017 Unsustained Allegations

In 2018, there were twenty-eight (28) incidents of staff misconduct involving an inmate that were referred to the Office of Internal Affairs. Within the twenty-eight (28) incidents, there were sixty (60) allegations. Out of the sixty (60) allegations, nineteen (19) were sustained and thirty-nine (39) were not sustained. As of March 3, 2020, two (2) of the allegations made in 2018 remain open.

2018 Incidents Involving Inmates	2018 Allegations Involving Inmates
28	60

2018 Sustained Allegations	2018 Unsustained Allegations	2018 Allegations Open
19	39	2

In 2019, there were thirty-five (35) incidents of staff misconduct that involved an inmate and that were referred to the Office of Internal Affairs. Within the thirty-five (35) incidents, there were ninety-two (92) allegations. Out of the ninety-two (92) allegations, fifteen (15) of the allegations were sustained and forty (40) were not sustained. As of March 3, 2020, thirty-seven (37) of the allegations made in 2019 remain open.

2019 Incidents Involving Inmates	2019 Allegations Involving Inmates
35	92

2019 Sustained Allegations	2019 Unsustained Allegations	2019 Allegations Open
15	40	37

AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 5:

The request to provide information regarding all sustained and not sustained allegations of staff misconduct is burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log. The Department tracks allegations of staff misconduct by the subject of the allegations, not the

reporting individual or alleged victim. Each file must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate.

Once that determination is made, the Department can identify which allegations were referred to the Office of Internal Affairs and were sustained or not sustained.

The information regarding sustained allegations is limited to those cases that were referred to the Office of Internal Affairs and subsequently sustained by the hiring authority and resulted in either adverse action or corrective action. The information regarding unsustained allegations is limited to those that were reviewed by the Office of Internal Affairs and were not sustained by the hiring authority. However, corrective action may be imposed without an investigation by the Office of Internal Affairs. For each year summarized below, cases that were rejected by the Office of Internal Affairs are considered unsustained. Information regarding sustained allegations does not include allegations that were rejected by the Office of Internal Affairs and returned to the hiring authority, who then chose to impart corrective action rather than adverse action. The number of incidents and allegations include custody, non-custody, and medical staff. This information is limited to on-duty incidents involving an inmate.

In 2017 there were twenty-seven (27) incidents of staff misconduct involving an inmate that were referred to the Office of Internal Affairs. Within the twenty-seven incidents, there were seventy-five (75) allegations. Out of the seventy-five (75) allegations, twenty-six (26) were sustained and forty-nine (49) were not sustained.

2017 Incidents Involving Inmates	2017 Allegations Involving Inmates
27	75
2017 Sustained Allegations	2017 Unsustained Allegations

In 2018, there were twenty-nine (29) incidents of staff misconduct involving an inmate that were referred to the Office of Internal Affairs. Within the twenty-nine (29) incidents, there were sixty-two (62) allegations. Out of the sixty-two (62) allegations, twenty-one (21) were sustained and thirty-nine (39) were not sustained. As of March 3, 2020, two (2) of the allegations made in 2018 remain open.

1	
_	

2018 Incidents Involving Inmates	2018 Allegations Involving Inmates
29	62

2018 Sustained Allegations	2018 Unsustained Allegations	2018 Allegations Open
21	39	2

In 2019, there were thirty-five (35) incidents of staff misconduct that involved an inmate and that were referred to the Office of Internal Affairs. Within the thirty-five (35) incidents, there were ninety-two (92) allegations. Out of the ninety-two (92) allegations, fifteen (15) of the allegations were sustained and forty (40) were not sustained. As of March 3, 2020, thirty-seven (37) of the allegations made in 2019 remain open.

2019 Incidents Involving Inmates	2019 Allegations Involving Inmates
35	92

2019 Sustained Allegations	2019 Unsustained Allegations	2019 Allegations Open
15	40	37

SECOND AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 5:

The request to provide information regarding all sustained and not sustained allegations of staff misconduct is burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log. The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. Once that determination is made, the Department can identify which allegations were referred to the Office of Internal Affairs and were sustained or not sustained.

The information regarding sustained allegations is limited to those cases that were referred to the Office of Internal Affairs and subsequently sustained by the hiring authority and resulted in either adverse action or corrective action. The information regarding unsustained allegations is limited to those that were reviewed by the Office of Internal Affairs and were not sustained by the hiring authority. However, corrective action may be imposed without an investigation by the Office of Internal Affairs. For each year summarized below, cases that were rejected by the Office of Internal Affairs are considered unsustained. Information regarding sustained allegations does not include allegations that were rejected by the Office of Internal Affairs and returned to the hiring authority, who then chose to impart corrective action rather than adverse action. The number of incidents and allegations include custody, non-custody, and medical staff. This information is limited to on-duty incidents involving an inmate.

At Richard J. Donovan Correctional Facility (RJD) in 2017, there were twenty-seven (27) incidents of staff misconduct that involved an incarcerated person and were referred to the Office of Internal Affairs. Within the twenty-seven (27) incidents, there were ninety-two (92) allegations. Out of the ninety-two (92) allegations, twenty-six (26) were sustained and sixty-six (66) were not sustained. Cases rejected by the Office of Internal Affairs' central intake were counted as not sustained. The number of incidents and allegations include custody, non-custody and medical staff.

19	
20	

27	92	
2017 Sustained Allegations	2017 Non Sustained Allegations	

2017 Allegations Involving Inmates

2017 Incidents Involving Inmates

At RJD in 2018, there were twenty-seven (27) incidents of staff misconduct that involved an incarcerated person and referred to the Office of Internal Affairs. Within the twenty-seven (27) incidents, there were sixty-four (64) allegations. Out of the sixty-four (64) allegations, twenty-five (25) were sustained and thirty-seven (37) were not sustained. As of March 3, 2020, two (2) of the allegations made in 2018 remain open. Cases rejected by the Office of Internal

include custody, non-custody and medical staff.

4	

2018 Incidents Involving Inmates 2018 Allegations Involving Inmates 64

Affairs central intake were counted as not sustained. The number of incidents and allegations

2018 Sustained Allegations	2018 Non Sustained Allegations	2018 Allegations Open
25	37	2

At RJD in 2019, there were thirty-five (35) incidents of staff misconduct that involved an incarcerated person and referred to the Office of Internal Affairs. Within the thirty-five (35) incidents, there were ninety-five (95) allegations. Out of the ninety-five (95) allegations fifteen (15) of the allegations were sustained and forty-two (42) were not sustained. As of March 3, 2020, thirty-eight (38) of the allegations made in 2019 remain open.

2019 Incidents Involving Inmates	2019 Allegations Involving Inmates
35	95

2019 Sustained Allegations	2019 Non Sustained Allegations	2019 Allegations Open
15	42	38

INTERROGATORY REQUEST NO. 6:

If the answer to Interrogatory 4 is yes, for each month from January 1, 2017 to the present, indicate the number of STAFF MISCONDUCT allegations in which an incarcerated person at RJD was an alleged victim of the STAFF MISCONDUCT where the RJD hiring authority sustained and imposed (a) corrective action or (b) disciplinary action.

RESPONSE TO INTERROGATORY REQUEST NO. 6:

The request to provide information regarding all instances in which the hiring authority imposed corrective action or disciplinary action is unduly burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g.

Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action.

Regarding corrective action, each individual subject's personnel file must be pulled to identify what allegation prompted the corrective action to determine if the incident involved an inmate. The official personnel and supervisory files must be reviewed to determine what corrective action may have been taken. This requires review of physical files and countless hours for review of all personnel files for all types of corrective action. Further, review of the official personnel files may not be able to provide the requested information because an employee may request to remove the letter of instruction within a year of its placement in their personnel file. Without the letter of instruction, the Department cannot readily determine the basis of the letter of instruction to evaluate whether it was issued because of an incident involving an inmate.

Notwithstanding the above explanation and per the parties' agreement limiting the current response to information regarding adverse actions, the Defendants respond as follows:

In 2017, RJD had twenty-five (25) sustained allegations of staff misconduct involving an inmate. Of the twenty-five (25) sustained allegations, adverse action was imposed on twenty (20) and corrective action was imposed on five (5). Although corrective action was not readily available, corrective action was found for these five particular allegations because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective action rather than adverse action. The number of incidents and allegations include custody, noncustody and medical staff. This information is limited to on-duty incidents involving an inmate.

	1
	2
	3
	4
	5
	6
	7
	8
	9
1	0
1	1
1	2
1	3
1	4
1	5
1	6
1	7
1	8
1	9
2	0
2	1
2	2
2	3
2	4

26

27

28

2017 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
25	20	5

In 2018 RJD had nineteen (19) sustained allegations of staff misconduct that involved an inmate. Of the nineteen (19) sustained allegations, adverse action was imposed on thirteen (13) and corrective action was imposed on six (6). As noted for 2017, corrective action was found for these six particular allegations because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective action rather than adverse action. As of March 3, 2020, two (2) of the allegations made in 2018 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to onduty incidents involving an inmate.

2018 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
19	13	6

In 2019, RJD had fifteen (15) sustained allegations of staff misconduct that involved an inmate. Of the fifteen (15) sustained allegations, adverse action was imposed on fourteen (14) and corrective action was imposed on one (1). Corrective action was found for this one particular case because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective action rather than adverse action. As of March 3, 2020, thirty-seven (37) of the allegations made in 2019 remain open. The number of incidents and allegations include custody, non-custody and medical staff.

2019 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
15	14	1

AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 6:

The request to provide information regarding all instances in which the hiring authority imposed corrective action or disciplinary action is unduly burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the

CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action.

Regarding corrective action, each individual subject's personnel file must be pulled to identify what allegation prompted the corrective action to determine if the incident involved an inmate. The official personnel and supervisory files must be reviewed to determine what corrective action may have been taken. This requires review of physical files and countless hours for review of all personnel files for all types of corrective action. Further, review of the official personnel files may not be able to provide the requested information because an employee may request to remove the letter of instruction within a year of its placement in their personnel file. Without the letter of instruction, the Department cannot readily determine the basis of the letter of instruction to evaluate whether it was issued because of an incident involving an inmate.

Notwithstanding the above explanation and per the parties' agreement limiting the current response to information regarding adverse actions, the Defendants respond as follows:

In 2017, RJD had twenty-six (26) sustained allegations of staff misconduct involving an inmate. Of the twenty-six (26) sustained allegations, adverse action was imposed on twenty-one (21) and corrective action was imposed on five (5). Although corrective action was not readily available, corrective action was found for these five particular allegations because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective

action rather than adverse action. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate.

2017 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
26	21	5

In 2018 RJD had twenty-one (21) sustained allegations of staff misconduct that involved an inmate. Of the twenty-one (21) sustained allegations, adverse action was imposed on fifteen (15) and corrective action was imposed on six (6). As noted for 2017, corrective action was found for these six particular allegations because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective action rather than adverse action. As of March 3, 2020, two (2) of the allegations made in 2018 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to onduty incidents involving an inmate.

2018 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
21	15	6

In 2019, RJD had fifteen (15) sustained allegations of staff misconduct that involved an inmate. Of the fifteen (15) sustained allegations, adverse action was imposed on fourteen (14) and corrective action was imposed on one (1). Corrective action was found for this one particular case because the allegations were initially reviewed by the Office of Internal Affairs. Following investigation by the Office of Internal Affairs, the Hiring Authority determined that the staff misconduct warranted corrective action rather than adverse action. As of March 3, 2020, thirty-seven (37) of the allegations made in 2019 remain open. The number of incidents and allegations include custody, non-custody and medical staff.

2019 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
15	14	1

SECOND AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 6:

The request to provide information regarding all instances in which the hiring authority imposed corrective action or disciplinary action is unduly burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action.

Regarding corrective action, each individual subject's personnel file must be pulled to identify what allegation prompted the corrective action to determine if the incident involved an inmate. The official personnel and supervisory files must be reviewed to determine what corrective action may have been taken. This requires review of physical files and countless hours for review of all personnel files for all types of corrective action. Further, review of the official personnel files may not be able to provide the requested information because an employee may request to remove the letter of instruction within a year of its placement in their personnel file. Without the letter of instruction, the Department cannot readily determine the basis of the letter of instruction to evaluate whether it was issued because of an incident involving an inmate.

Notwithstanding the above explanation and per the parties' agreement limiting the current response to information regarding adverse actions, the Defendants respond as follows:

In 2017, RJD had twenty-six (26) sustained allegations of staff misconduct that involved an incarcerated person. Of the twenty-six (26) sustained allegations, adverse action was imposed on

twenty-one (21) and corrective action was imposed on five (5). The reason corrective action was discovered for these five (5) allegations is because the allegations were initially referred to the Office of Internal Affairs for adverse action. After the Office of Internal Affairs investigation, the Hiring Authority deemed the staff misconduct warranted corrective action instead of adverse action. The number of incidents and allegations include custody, non-custody and medical staff.

2017 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
26	21	5

In 2018 RJD had twenty-five (25) sustained allegations of staff misconduct that involved an incarcerated person. Of the twenty-five (25) sustained allegations, adverse action was imposed on nineteen (19) and corrective action was imposed on six (6). The reason corrective action was discovered for the six (6) allegations is because the allegation was initially referred to the Office of Internal Affairs for adverse action. After the Office of Internal Affairs investigation, the Hiring Authority deemed the staff misconduct warranted corrective action instead of adverse action. As of March 3, 2020, two (2) of the allegations made in 2018 remain open. The

2018 Sustained Allegations Involving Inmates	Adverse Action Imposed	Corrective Action imposed
25	19	6

number of incidents and allegations include custody, non-custody and medical staff.

In 2019, RJD had fifteen (15) sustained allegations of staff misconduct that involved an incarcerated person. Of the fifteen (15) sustained allegations, adverse action was imposed on fourteen (14) and corrective action was imposed on one (1). The reason corrective action was discovered for the one (1) allegation is because the allegation was initially referred to the Office of Internal Affairs for adverse action. After the Office of Internal Affairs investigation, the Hiring Authority deemed the staff misconduct warranted corrective action instead of adverse action. As of March 3, 2020, thirty-eight (38) of the allegations made in 2019 remain open. The number of incidents and allegations include custody, non-custody and medical staff.

	1
	2
	3
	4
	5
	6
	7
	8
	9
	0
	1
l	2
l	3
l	4
l	5
1	6
	7
	8
	9
	0
	1
	2
	3
	4
2	5
	_

27

28

Involving Inmates		
15	14	1

INTERROGATORY REQUEST NO. 7:

If the answer to Interrogatory 4 is yes, for each month from January 1, 2017 to the present, please indicate the number of STAFF MISCONDUCT allegations in which an incarcerated person at RJD was an alleged victim of the STAFF MISCONDUCT where the RJD hiring authority sustained and issued (a) a Level 1 penalty (official reprimand), (b) a Level 2 penalty (1-2 day suspension without pay), (c) a Level 3, 4, 5, 6, or 7 penalty (salary reduction or suspension without pay), (d) a Level 8 penalty (demotion), or (e) a Level 9 penalty (dismissal), as those levels are defined in the Employee Disciplinary Matrix, Department of Operations Manual, § 33030.16.

RESPONSE TO INTERROGATORY REQUEST NO. 7:

Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action. A further level of review is then required to determine and verify the type of discipline issued.

Notwithstanding the above explanation, adverse action penalty Levels 1 through 9, per year, from 2017 to present are as follows:

In 2017, RJD had twenty (20) sustained allegations of staff misconduct involving an inmate in which adverse action was imposed. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2017.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	2
2	0
3	8
4	2
5	3
6	3
7	1
8	0
9	1

In 2018 RJD had thirteen (13) allegations of staff misconduct involving an inmate in which adverse action was imposed. As of March 2, 2020, two (2) of the allegations made in 2018 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2018.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	2
2	0
3	6
4	2
5	0
6	1
7	0
8	0
9	2

In 2019, RJD had fourteen (14) allegations of staff misconduct involving an inmate in which adverse action was imposed. As of March 3, 2020, thirty-seven (37) of the allegations

made in 2019 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2019.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	6
2	0
3	1
4	0
5	0
6	0
7	0
8	0
9	7

AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 7:

The request is unduly burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action. A further level of review is then required to determine and verify the type of discipline issued.

Notwithstanding the above explanation, adverse action penalty Levels 1 through 9, per year, from 2017 to present are as follows:

In 2017, RJD had twenty-one (21) sustained allegations of staff misconduct involving an inmate in which adverse action was imposed. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Notably, in one incident, CDCR had decided to terminate an individual, but the subject of the investigation retired before the notice of termination was served. This particular case is included as one of the two terminated individual because CDCR had decided, and prepared, to terminate this individual.

Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2017.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	2
2	0
3	8
4	2
5	3
6	3
7	1
8	0
9	2

In 2018 RJD had fifteen (15) allegations of staff misconduct involving and inmate in which adverse action was imposed. As of March 2, 2020, two (2) of the allegations made in 2018 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2018.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	2

	2	0
	3	7
	4	2
,	5	0
'	6	1
	7	0
Ī	8	0
,	9	3

In 2019, RJD had fourteen (14) allegations of staff misconduct involving an inmate in which adverse action was imposed. As of March 3, 2020, thirty-seven (37) of the allegations made in 2019 remain open. The number of incidents and allegations include custody, non-custody and medical staff. This information is limited to on-duty incidents involving an inmate. Below is a list of the Employee Disciplinary Matrix from the California Department of Corrections and Rehabilitation's Department Operations Manual followed by how many times the penalty was imposed on sustained allegations for 2019.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	6
2	0
3	1
4	0
5	0
6	0
7	0
8	0
9	7

SECOND AMENDED RESPONSE TO INTERROGATORY REQUEST NO. 7:

The request is unduly burdensome. Allegations of staff misconduct come to the attention of the Hiring Authority in a variety of ways, not limited to the CDCR Inmate Appeal Form 602s, CDCR Form 1824s, use of force incident reports, advocacy from outside of the institution, and the Armstrong Non-Compliance Log. The allegations and corresponding responses and outcomes are maintained by different sections of the prison (e.g. Inmate Appeals Office, Investigative Services Unit, and Employee Relations Office) or by the Office of Internal Affairs. The purpose of each log is unique to the particular functions of the respective section maintaining the log.

The Department tracks allegations of staff misconduct by the subject of the allegations, not the reporting individual or alleged victim. Each investigation must be pulled and reviewed in order to determine whether the incident central to an allegation of staff misconduct involved an inmate. The same must be done to determine whether the allegation was sustained or not sustained and whether there was resulting corrective action or adverse action. A further level of review is then required to determine and verify the type of discipline issued.

Notwithstanding the above explanation, below is a list of the Employee Disciplinary Matrix (EDM) from the California Department of Corrections and Rehabilitation's (CDCR) Department Operations Manual (DOM) followed by how many times the RJD hiring authority sustained and issued each penalty from 2017 to present.

2017 sustained and issued penalties by the hiring authority:

In 2017, RJD had twenty-one (21) allegations of staff misconduct that involved an incarcerated person in which the RJD hiring authority sustained and issued adverse action.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	2
2	0
3	9
4	2
5	3
6	3
7	1
8	0
9	1

S-RJD-358-17-A was the level 9 penalty in 2017. In that case, the hiring authority sustained the allegation of misconduct and issued a dismissal, but the employee resigned before their termination was final. In response, CDCR issued a letter informing this former employee that their retirement was under "unfavorable circumstances."

24 ///

25 ///

26 ///

2018 sustained and issued penalties by the hiring authority:

In 2018 RJD had nineteen (19) allegations of staff misconduct that involved an incarcerated person in which the RJD hiring authority sustained and issued adverse action.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	1
2	0
3	7
4	7
5	0
6	1
7	0
8	0
9	3

The three level 9 penalties were for case numbers S-RJD-198-18-A, S-RJD-435-18-A, and S-RJD-144-18-A.

In S-RJD-435-18-A, the hiring authority sustained the misconduct and issued a dismissal, but the staff member was reinstated subject to a five month suspension as the result of a settlement agreement while the case was on appeal to the State Personnel Board.

The dismissals in S-RJD-144-18-A and S-RJD-198-18-A are final.

2019 sustained and issued penalties by the hiring authority:

In 2019, RJD had fourteen (14) allegations of staff misconduct that involved an incarcerated person which adverse action was imposed.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	6
2	0
3	1
4	0
5	0
6	1
7	0
8	0
9	6

The six level 9 penalties were for case numbers S-RJD-026-19-A and S-RJD-086-19-A. These cases are pending evidentiary hearings before the State Personnel Board. The six dismissed employees are not working for or being paid by CDCR during the pendency of their State Personnel Board proceedings.

Dated: July 17, 2020 Respectfully submitted, XAVIER BECERRA Attorney General of California DAMON G. MCCLAIN Supervising Deputy Attorney General SEAN W. LODHOLZ Deputy Attorney General Attorneys for Defendants CF1997CS0005 34107264.docx

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 317 of 858

VERIFICATION OF KIMBERLY SEIBEL

TO PLAINTIFFS' SPECIAL INTERROGATORIES (SET 1)

John Armstrong, et al. v. Gavin Newsom, et al.

USDC, Northern District, Case No. C 94-2307 CW

I, Kimberly Seibel, declare under penalty of perjury that I have read and reviewed the above second amended responses to Plaintiffs' Special Interrogatories and that the response is true and correct based on my own knowledge, or based on information that is available to me.

Executed this 17 day of July, 2020, in Sacramento, California.

Kimberly Seibel

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: John Armstrong, et al. v. Newsom, et al.

No.: **C 94-2307 CW**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On July 17, 2020, I served the attached

DEFENDANTS' SECOND AMENDED RESPONSE TO PLAINTIFFS' SPECIAL INTERROGATORIES

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Gay Crosthwait Grunfeld Michael Freedman Rosen Bien Galvan & Grunfeld LLP 101 Mission Street, Sixth Floor San Francisco, CA 94105-1738 Prison Law Office Attn: Armstrong Counsel 1917 Fifth Street Berkeley, CA 94710-1916

Tamiya Davis
Office of Legal Affairs
California Department of Corrections and Rehabilitation
1515 "S" Street, Suite314S
Sacramento, CA 95811

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on <u>July 17</u>, <u>2020</u>, at Sacramento, California.

N. Copus	/s/ N. Copus
Declarant	Signature

CF1997CS0005

EXHIBIT GG

- 1		
1	DONALD SPECTER – 083925	
2	RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583	
3	PRISON LAW OFFICE 1917 Fifth Street	
4	Berkeley, California 94710-1916 Telephone: (510) 280-2621	
5	Facsimile: (510) 280-2704	
6	MICHAEL W. BIEN – 096891 GAY C. GRUNFELD – 121944	
7	PENNY GODBOLD – 226925 MICHAEL FREEDMAN – 262850	
8	ROSEN BIEN GALVAN & GRUNFELD LLP	
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738	
10	Telephone: (415) 433-6830 Facsimile: (415) 433-7104	
11	LINDA D. KILB – 136101	
12	DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.	
13	3075 Adeline Street, Suite 201 Berkeley, California 94703	
14	Telephone: (510) 644-2555 Facsimile: (510) 841-8645	
15	Attorneys for Plaintiffs	
16	UNITED STATES	DISTRICT COURT
17	NORTHERN DISTRI	ICT OF CALIFORNIA
18	OAKLANI	DIVISION
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW
20	Plaintiffs,	EXHIBIT GG TO THE REPLY DECLARATION OF GAY
21	v.	CROSTHWAIT GRUNFELD IN
22	GAVIN NEWSOM, et al.,	SUPPORT OF PLAINTIFFS' MOTION TO STOP DEFENDANTS FROM
23	Defendants.	ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.
24		DONOVAN CORRECTIONAL
25		FACILITY [UNDER SEAL] Judge: Hon. Claudia Wilken
26		Date: August 11, 2020
27		Time: 2:30 p.m. Crtrm.: TBD
28		

Case No. C94 2307 CW

Manual Filing Notification 1 2 Regarding: Exhibit GG to the Reply Declaration of Gay Crosthwait Grunfeld This filing is in paper or physical form only, and is being maintained in the case file in the 3 Clerk's office. If you are a participant in this case, this filing will be served in hard-copy 4 5 shortly. For information on retrieving this filing directly from the court, please see the court's main web site at http://www.cand.uscourts.gov under Frequently Asked Questions 7 (FAQ). This filing was not e-filed for the following reason(s): 8 9 Unable to Scan Documents 10 Physical Object (please describe): 11 Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media 12 Item Under Seal in Criminal Case 13 Conformance with the Judicial Conference Privacy Policy (General Order 53) 14 Other (please describe): Exhibit GG is also being submitted to the Court under seal. 15 16 DATED: July 29, 2020 17 Respectfully submitted, 18 ROSEN BIEN GALVAN & GRUNFELD LLP 19 20 By: /s/ Gay Crosthwait Grunfeld Gay Crosthwait Grunfeld 21 Attorneys for Plaintiffs 22 23 24 25 26 27 28

Case No. C94 2307 CW

[3586067.1]

EXHIBIT HH

1	DONALD SPECTER – 083925	
$\begin{bmatrix} 1 \\ 2 \end{bmatrix}$	RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583	
3	PRISON LAW OFFICE 1917 Fifth Street	
	Berkeley, California 94710-1916	
4	Telephone: (510) 280-2621 Facsimile: (510) 280-2704	
5	MICHAEL W. BIEN – 096891	
6	GAY C. GRUNFELD – 121944 PENNY GODBOLD – 226925	
7	MICHAEL FREEDMAN – 262850 ROSEN BIEN	
8	GALVAN & GRUNFELD LLP	
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738	
0	Telephone: (415) 433-6830 Facsimile: (415) 433-7104	
11	LINDA D. KILB – 136101	
12	DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.	
3	3075 Adeline Street, Suite 201 Berkeley, California 94703	
	Telephone: (510) 644-2555	
4	Facsimile: (510) 841-8645	
15	Attorneys for Plaintiffs	
16	UNITED STATES	DISTRICT COURT
17	NORTHERN DISTRI	CT OF CALIFORNIA
18	OAKLAND	DIVISION
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW
20	Plaintiffs,	EXHIBIT HH TO THE REPLY DECLARATION OF GAY
21	V.	CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION
22	GAVIN NEWSOM, et al.,	TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND
23	Defendants.	RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.
24		DONOVAN CORRECTIONAL FACILITY [UNDER SEAL]
25		-
26		Judge: Hon. Claudia Wilken Date: August 11, 2020
27		Time: 2:30 p.m. Crtrm.: TBD
,,		

Case No. C94 2307 CW

Manual Filing Notification 1 2 Regarding: Exhibit HH to the Reply Declaration of Gay Crosthwait Grunfeld This filing is in paper or physical form only, and is being maintained in the case file in the 3 Clerk's office. If you are a participant in this case, this filing will be served in hard-copy 4 5 shortly. For information on retrieving this filing directly from the court, please see the court's main web site at http://www.cand.uscourts.gov under Frequently Asked Questions 7 (FAQ). This filing was not e-filed for the following reason(s): 8 9 Unable to Scan Documents 10 Physical Object (please describe): 11 Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media 12 Item Under Seal in Criminal Case 13 Conformance with the Judicial Conference Privacy Policy (General Order 53) 14 Other (please describe): Exhibit HH is also being submitted to the Court under seal. 15 16 DATED: July 29, 2020 17 Respectfully submitted, 18 ROSEN BIEN GALVAN & GRUNFELD LLP 19 20 By: /s/ Gay Crosthwait Grunfeld Gay Crosthwait Grunfeld 21 Attorneys for Plaintiffs 22 23 24 25 26 27 28

Case No. C94 2307 CW

EXHIBIT II

1	DONALD SPECTER – 083925 RITA K. LOMIO – 254501									
2	MARGOT MENDELSON – 268583 PRISON LAW OFFICE									
3	1917 Fifth Street Berkeley, California 94710-1916									
4	Telephone: (510) 280-2621 Facsimile: (510) 280-2704									
5	MICHAEL W. BIEN – 096891									
6	GAY C. GRUNFELD – 121944 PENNY GODBOLD – 226925									
7	MICHAEL FREEDMAN – 262850 ROSEN BIEN									
8	GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor									
9	San Francisco, California 94105-1738 Telephone: (415) 433-6830									
10	Facsimile: (415) 433-7104									
11	LINDA D. KILB – 136101 DISABILITY RIGHTS EDUCATION &									
12	DEFENSE FUND, INC. 3075 Adeline Street, Suite 201									
13	Berkeley, California 94703 Telephone: (510) 644-2555									
14	Facsimile: (510) 841-8645									
15	Attorneys for Plaintiffs									
16	UNITED STATES	DISTRICT COURT								
17	NORTHERN DISTRI	ICT OF CALIFORNIA								
18	OAKLANI	DIVISION								
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW								
20	Plaintiffs,	EXHIBIT II TO THE REPLY DECLARATION OF GAY								
21	V.	CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION								
22	GAVIN NEWSOM, et al.,	TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND								
23	Defendants.	RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.								
24		DONOVAN CORRECTIONAL FACILITY [UNDER SEAL]								
25		Judge: Hon. Claudia Wilken								
26 ₂₇		Date: August 11, 2020 Time: 2:30 p.m. Crtrm.: TBD								
$\begin{bmatrix} 27 \\ 28 \end{bmatrix}$		Ciuiii 1DD								
ا ۵ے										

Case No. C94 2307 CW

Manual Filing Notification 1 2 Regarding: Exhibit II to the Reply Declaration of Gay Crosthwait Grunfeld This filing is in paper or physical form only, and is being maintained in the case file in the 3 Clerk's office. If you are a participant in this case, this filing will be served in hard-copy 4 5 shortly. For information on retrieving this filing directly from the court, please see the court's main web site at http://www.cand.uscourts.gov under Frequently Asked Questions 7 (FAQ). 8 This filing was not e-filed for the following reason(s): 9 Unable to Scan Documents 10 Physical Object (please describe): 11 Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media 12 Item Under Seal in Criminal Case 13 Conformance with the Judicial Conference Privacy Policy (General Order 53) 14 Other (please describe): Exhibit II is also being submitted to the Court under 15 seal. 16 DATED: July 29, 2020 17 Respectfully submitted, 18 ROSEN BIEN GALVAN & GRUNFELD LLP 19 20 By: /s/ Gay Crosthwait Grunfeld Gay Crosthwait Grunfeld 21 Attorneys for Plaintiffs 22 23 24 25 26 27 28

EXHIBIT JJ

1	DONALD SPECTER – 083925									
2	RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583									
3	PRISON LAW OFFICE 1917 Fifth Street									
4	Berkeley, California 94710-1916 Telephone: (510) 280-2621									
5	Facsimile: (510) 280-2704									
6	MICHAEL W. BIEN – 096891 GAY C. GRUNFELD – 121944									
7	PENNY GODBOLD – 226925 MICHAEL FREEDMAN – 262850									
8	ROSEN BIEN GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor									
9	101 Mission Street, Sixth Floor San Francisco, California 94105-1738									
10	Telephone: (415) 433-6830 Facsimile: (415) 433-7104									
11	LINDA D. KILB – 136101									
12	DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.									
13	3075 Adeline Street, Suite 201 Berkeley, California 94703									
14	Telephone: (510) 644-2555 Facsimile: (510) 841-8645									
15	Attorneys for Plaintiffs									
16	UNITED STATES	DISTRICT COURT								
17	NORTHERN DISTRI	CT OF CALIFORNIA								
18	OAKLANI	DIVISION								
19	JOHN ARMSTRONG, et al.,	Case No. C94 2307 CW								
20	Plaintiffs,	EXHIBIT JJ TO THE REPLY DECLARATION OF GAY								
21	V.	CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION								
22	GAVIN NEWSOM, et al.,	TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND								
23	Defendants.	RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.								
24		DONOVAN CORRECTIONAL FACILITY [UNDER SEAL]								
25		Judge: Hon. Claudia Wilken								
26		Date: August 11, 2020								
27		Time: 2:30 p.m. Crtrm.: TBD								
28										

Case No. C94 2307 CW

Manual Filing Notification 1 2 Regarding: Exhibit JJ to the Reply Declaration of Gay Crosthwait Grunfeld This filing is in paper or physical form only, and is being maintained in the case file in the 3 Clerk's office. If you are a participant in this case, this filing will be served in hard-copy 4 5 shortly. For information on retrieving this filing directly from the court, please see the court's main web site at http://www.cand.uscourts.gov under Frequently Asked Questions 7 (FAQ). This filing was not e-filed for the following reason(s): 8 9 Unable to Scan Documents 10 Physical Object (please describe): 11 Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media 12 Item Under Seal in Criminal Case 13 Conformance with the Judicial Conference Privacy Policy (General Order 53) 14 Other (please describe): Exhibit JJ is also being submitted to the Court under 15 seal. 16 DATED: July 29, 2020 17 Respectfully submitted, 18 ROSEN BIEN GALVAN & GRUNFELD LLP 19 20 By: /s/ Gay Crosthwait Grunfeld Gay Crosthwait Grunfeld 21 Attorneys for Plaintiffs 22 23 24 25 26 27 28

[3586067.1]

EXHIBIT KK

From: <u>Trace Maiorino</u>

To: <u>Michael Freedman; Joanna Hood; Sean Lodholz; Davis, Tamiya@CDCR</u>

Cc: Gay C. Grunfeld; Penny Godbold; Jack Gleiberman; Alicia Bower; Sean Lodholz; Anthony Tartaglio; Jeremy

<u>Duggan</u>

Subject: RE: Armstrong: Clarification of Miller Declaration [IWOV-DMS.FID3579]

Date: Friday, July 24, 2020 3:10:05 PM

Hello Mike,

As a sign of good will and collaborative efforts, we wanted to provide an informal response to your inquiry as you prepare your reply to Defendants' opposition to Plaintiffs' motion concerning R.J. Donovan. But please note, we have not yet made contact with Director Miller or Chief Ramos, before responding to your inquiry. We think that Director Miller's testimony is clear within the context of her declaration. But for further clarification, we invite you to review the transcript from your deposition of Chief Ramos. In response to your detailed and comprehensive questions, she provided an extensive discussion of the investigatory process and the referrals to third-parties for criminal prosecution. Thank you, Trace

Trace O. Maiorino

Deputy Attorney General Office of the Attorney General 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-7002

(415) 510-3594

(415) 703-5843 facsimile trace.maiorino@doj.ca.gov

From: Michael Freedman < MFreedman@rbgg.com>

Sent: Wednesday, July 22, 2020 8:36 PM

To: Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Sean Lodholz <Sean.Lodholz@doj.ca.gov>; Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>

Cc: Gay C. Grunfeld <GGrunfeld@rbgg.com>; Penny Godbold <PGodbold@rbgg.com>; Jack

Gleiberman < JGleiberman@rbgg.com>

Subject: Armstrong: Clarification of Miller Declaration [IWOV-DMS.FID3579]

All,

In Amy Miller's declaration, \P 34, she writes: "It is noteworthy that in 2017, there were no criminal prosecution referrals. In contrast, in 2018, there was one referral for criminal prosecution. And in 2019, there were three referrals for criminal prosecution."

Can you clarify for us whether Ms. Miller is stating (a) that in 2018 there was one criminal investigation opened by OIA from RJD or (2) that in 2018, OIA, after completing a criminal investigation at RJD, referred one case to a prosecuting agency? Similarly, can you clarify whether

Ms. Miller is stating (a) that in 2019 there were three criminal investigation opened by OIA from RJD or (2) that in 2019, OIA, after completing three criminal investigations at RJD, referred three cases to a prosecuting agency?

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@crbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT LL

From: Sean Lodholz

To: Michael Freedman

Cc: Joanna Hood; Trace Maiorino; Davis, Tamiya@CDCR; Gay C. Grunfeld; Penny Godbold; Jack Gleiberman

Subject: RE: Armstrong: S-RJD-287-19-A and S-RJD-334-19-A [IWOV-DMS.FID3579]

Date: Wednesday, July 08, 2020 4:45:28 PM

Mike,

I confirmed with OIA that these case remain open. I also wanted to note that S-RJD-287-19 is now a criminal investigation.

Thank you,

Sean W. Lodholz | Deputy Attorney General | California Department of Justice

Correctional Law Section | 1300 I Street | Sacramento, CA 95814 *t* (916) 210-7369 | *f* (916) 324-5205 | *e* sean.lodholz@doj.ca.gov

From: Michael Freedman < MFreedman@rbgg.com>

Sent: Wednesday, July 8, 2020 10:54 AM

To: Sean Lodholz <Sean.Lodholz@doj.ca.gov>

Cc: Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Davis, Tamiya@CDCR <Tamiya.Davis@cdcr.ca.gov>; Gay C. Grunfeld <GGrunfeld@rbgg.com>; Penny Godbold <PGodbold@rbgg.com>; Jack Gleiberman <JGleiberman@rbgg.com>

Subject: Armstrong: S-RJD-287-19-A and S-RJD-334-19-A [IWOV-DMS.FID3579]

Sean,

Pursuant to the stipulated protective order, CDCR has agreed to produce documents related to OIA investigations into officers accused of misconduct against incarcerated people at RJD within 35 days after the 402/403 decision. Dkt. 2919. OIA cases S-RJD-287-19-A and S-RJD-334-19-A have dates of discovery that well exceed the one-year statute of limitations for administrative investigations. See D0J00068849 (April 25, 2019), D0J00080823 (May 31, 2019).

Are the documents associated with S-RJD-287-19-A and S-RJD-334-19-A now ready for production? If yes, please ensure that they are included in next week's production. If no, please provide an explanation.

Best,

Michael Freedman



101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830 (telephone) (415) 433-7104 (fax) mfreedman@rbgg.com

CONFIDENTIALITY NOTICE

The information contained in this e-mail message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at rbgg@crbgg.com.

IRS CIRCULAR 230 NOTICE: As required by United States Treasury Regulations, you should be aware that this communication is not intended by the sender to be used, and it cannot be used, for the purpose of avoiding penalties under United States federal tax laws.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT MM



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Michael Freedman

Email: mfreedman@rbgg.com

July 20, 2020

VIA ELECTRONIC MAIL ONLY

Sean Lodholz Deputy Attorney General California Department of Justice 1300 I Street Sacramento, CA 95814 Sean.Lodholz@doj.ca.gov

Re: Armstrong v. Newsom: Request for Audio-Video Surveillance System

Contract

Our File No. 0581-03

Dear Sean:

In Secretary Diaz's declaration in support of Defendants' response to Plaintiffs' motion regarding staff misconduct against people with disabilities at R.J. Donovan Correctional Facility, he states "CDCR has a contract in place with a third-party vendor to install [surveillance video systems] at its institutions through June 2023 for video surveillance equipement and installation services." Dkt. 2006-4, at ¶ 42; *see also* Decl. of Jeff Macomber, Dkt. 3006-5, ¶ 12. We request that Defendants produce the contract between CDCR and the third-party vendor, which is responsive to prior document requests.

We also request that Defendants produce all contracts (current and terminated) between CDCR and vendors regarding AVSS at any of its institutions, physical infrastructure-related to AVSS, software related to AVSS, training or consulting services related to AVSS, or data storage related to AVSS.

Lastly, we request that Defendants produce all bids from vendors seeking to contract with CDCR to provide AVSS at any of its institutions, physical infrastructure-related to AVSS, software related to AVSS, training or consulting services related to AVSS, or data storage related to AVSS.

Please produce the requested documents as soon as possible and no later than July 27, 2020 so that we may review them before our reply pleadings are due.

PRIVILEGED AND CONFIDENTIAL

Sean Lodholz July 20, 2020 Page 2

Thank you as always for your courtesy and cooperation in this matter.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman By: Senior Counsel

MLF:JRG:cg

cc:Ed SwansonTamiya DavisNicholas MeyerAlexander PowellPatricia FergusonOLA ArmstrongJeremy DugganDamon McClainJoanna HoodAnthony TartaglioTrace MaiorinoAlicia Bower

Bruce Beland Armstrongteam@rbgg.com arm-plo@prisonlaw.com

EXHIBIT NN

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 342 of 858

			RAL SERVICES PR			ER			T REGISTRATION NUMBER AGENCY ORDER 56000 The numbers identified above shown on Invoice & Packing Slip.					AMENDMENT NO.
(PAM Versio	(REV. 07/20	103)									DATE	6/30/2	017	PAGE OF PAGE 1 1
			ections and R			B I L		ent of Correction		habilita	tion	AGENO	CY BILLING COD	E 5879
19	nterprise I 40 Birkm ancho Coi	ont Driv		Aeroje	et	ī T	Attn: Con P.O. Box	tracts Payable 187018				PURCH	ASING AUTHOR CDCF	RITY NUMBER R - 5225
0	_					Ö	Sacramer	nto, CA 95818-7	018	LEVERAGED PROCUREMENT 7-15-99-24.0 INFORMATION TECHNOLOGY PROJECT IDECTIFICAT				99-24.03
TO SUPPLIE ADDRES					gent Secu	rity So	olutions,	Inc.	AGENCY OR BUYER					NG/REQUISTION NUMBER
(Type or Print	10 10 10 10 10 10 10 10 10 10 10 10 10 1		Attn: Stev 14670 Cur Noblesvill	nberl	and Road		AGENCY NAME CDCR-EIS CONTACT E-MAIL ADDRE				CONTAC	T NAME Mona Stolz		
Legibly)	£							2000			ACT PHONE	NUMBE	stolz@cdcr.c	Ca.gov ACT FAX NUMBER
							UPPLIER PHO	NE NUMBER	SUPPLI	ER FAX N	(916) 358 UMBER	1	PLIER E-MAIL A	
Steve Baker PAYMENT TERMS CERTIFICATION NUMBER CERTIFIED							(317) CERTIFIED	703-1165	EXPIRATION	ON DATE	CEPT	TIFIED		er@sbdinc.com
Monthly in Arrears					MICROBUSI				□ DVBE		EXPIRATION DATE			
REQUIRED DELIVERY DATE Upon Approval SHIPPING INSTRUCTIONS FRT PPD						on FRT. PPD/ADD d cost stated on P.O.	☐ F.O.B. C	RIGIN	CITY OF C	RIGIN	STATE	ZIP CODE		
ITEM NUMBER QUANTITY UNIT COMMODITY CODE or PRODUCT CODE or SERVICES ID NUMBER RECYCLED PRODUCT							PRODUCT OR SERV	ODUCT OR SERVICES DESCRIPTION				UNIT PRICE	EXTENSION TOTAL	
					CDCR needs an industry expert in video surveillance, infrastructure connectivity, and commercial-off-the-shelf intelligent video analytics software to design and install						FY 15/16	\$905,997.75		
						an enterprise solution for Statewide Correctional Video Surveillance.					FY 16/17	\$224,116.00		
				Amendment 1: Hardware, software, and labor for High Desert State Priss (HDSP) and Duel Vocational Institution (DVI) are being added at a total \$1,068,053.75. In addition, eighteen (18) institutions (locations to be determined.)							tal of	FY 17/18	\$5,559,295.45	
				based on urgency and/or need of an estimated \$2,500,000.00 pe						or need of surveillance requirements) are being added at 000.00 per location for a total of \$45,000,000.00.				\$26,066,747.53
						The following Exhibits have been replaced in their entirety as part of Amendment 1: Exhibit A – Statement of Work Exhibit B 1 - Cost Workhood						FY 19/20	\$29,967,700.11	
												FY 20/21	\$33,918,237.19	
													FY 21/22	\$37,873,385.52
						Amendment 2: Deploy SCVS solution to all CDCR prisons, adding \$130,330,493.75 for a total of \$176,460,607.50, and extending term to June 30, 2023. The following Exhibits have been replaced in their entirety as part of Amendment 2: Exhibit A – Statement of Work Exhibit B-1 – Cost Worksheet						FY 22/23	\$41,945,127.95	
											rt of			
1	A-1 ⊠	General Pr	ovisions are incorpo	orated he	rein by reference		er terms and co	onditions of the origina	al Agreement	remain the	same.			
		☐ Form	GSPD-401 Non-IT CHED OR	Commod	dities (revised da ublished at websi	te	dgs.ca.gov/pd	☑ Form GSPD-401I7					TAXABLE SUBTOTAL	
TERMS AND	D	forth in tha		umber re				Procurement Agreem rocurement Agreemer		orporated	nerein by		TAX RATE SALES TAX	
			ecial Provisions are ttachments, such as				ork, or Informati	ion Technology Model		charges for Shipping of		le	*INSTALLATION	
PROCUR			odules, are identified					continuation pages.	0		axable stail per line ter total here.		*SHIPPING/ FREIGHT	
PROCUREMENT METHOD ☐ COMPETITIVE: Solicitation Number (if ☐ LEVERAGED - NASPO ☐ DVBE/SMALL BUSINESS [GC 14838.5(a						i(a)]	□ NON	-COMPETITIVELY BI	D _	□ E>	EMPT		*OTHER NON- TAXABLE	
PROGRAM/CATEGORY (Code and Title) 99 Clearing Account FUND TITLE General VERIFIED NO STATE SI Verified No STATE SI							PLUS AVAILABLE	PAID BY CAL-CAR					GRAND TOTAL	\$176,460,607.50
5225-001-00001 (5226) 10 2015 5225-001-00001 (5226) 23 2016						16	/16 C	OBJECT OF EXPENDITURE (Code And Title) CC: 9340000000 / FA: 2550 / GL9032943500 CC: 9340000000 / FA: 2550 / GL9032943500 CC: 0656204653 / FA: 10100080000025 / GL9032940950						0.E. EQ.
			VAL OF EXECU		FFICER			UNENCUMBER POSTING THIS	ED REMAINE	ER AFTE	2			
issued in ac	cordance with	the proce	nowledge, that this d dure prescribed by l legal requirements	aw gove	rning the purchas	se of such		EXPENDITUE L ADJUSTMENT INCREASING E	EDGE		•			
AUTHORIZI	ING NAME (F	rint or Type	e) TITLE		****			ADJUSTMENT DECREASING B	ENCLIMERAN					
	cole Isaac				DPM II			CERTIFIED CO						
// \ .	UTIO RIZINO FIGNATURE													

Agreement Number 5600006183 Exhibit A Amendment 2

A. PURPOSE

This Statement of Work (SOW) defines the activities and tasks requested from an industry expert in video surveillance, infrastructure connectivity, and commercial-off-the-shelf (COTS) intelligent video analytics (IVA) software to design and install an enterprise Statewide Correctional Video Surveillance (SCVS) solution for a for the California Department of Corrections and Rehabilitation (CDCR).

For the purpose of this Agreement, High Desert State Prison (HDSP), located in Susanville, California, will be used as the model for all prisons statewide. Initially, the Contractor shall design and pilot the SCVS solution in a partial deployment at HDSP. Following successful completion of the pilot, the Contractor shall follow the model deployed at HDSP and implement the solution at the rest of HDSP as well as all other CDCR prisons.

B. BACKGROUND

The introduction of contraband and illicit behavior presents a serious threat to the safety and security of prisons. The importation on contraband threatens both the work and program environments for staff and inmates alike. It causes many problems in a prison setting, including an increase in assaults, power struggles within the inmate population, establishment of an underground economy, staff corruption and an inability for inmates to benefit from treatment programming. If prisons are to have safe, humane and productive environments, CDCR must take aggressive and positive steps against contraband and illicit behavior. The only possible stance is one of "zero tolerance." This "zero tolerance" policy requires a multifaceted approach to the problem. In other words: detect, interdict and intervene.

One facet in this approach is the deployment of video surveillance. Video surveillance within each prison and around its security perimeter will allow for comprehensive monitoring of inmate activity, improved visual coverage, and visual evidence. This will assist CDCR in effectively maintaining the safety and security of staff and inmates by reducing inmate violence, reducing drugs and other contraband currently entering the prisons, and providing evidence for incidents and crimes. Creating a drug free environment is a necessary step toward facilitating treatment and reducing recidivism.

C. PROJECT OBJECTIVES

The overall objective of this Agreement is to design and implement a video surveillance solution to improve the safety and wellbeing of all CDCR staff, visitors, and inmates in its prisons across the state. CDCR expects the Contractor to be fully available and able to work within an accelerated time schedule.

This Agreement will provide a scalable design for a SCVS solution for all CDCR prisons statewide, which will identify emerging technology in video surveillance and provide requirements to allow monitoring of most, if not all, prisons by their respective master control station and/or remote location(s); generate alarms for areas that are not monitored on a live feed; integrate audio and video feeds; provide IVA for raw qualitative data analysis and

¹ The term 'prisons' encompasses adult institutions and juvenile facilities.

Agreement Number 5600006183 Exhibit A Amendment 2

reporting; and provide evidentiary support for internal investigations or external law enforcement agencies.

CDCR expects that all tasks will be completed in an accelerated fashion, as this is a high priority to the Department. Deliverables must be well-researched, well-written, and completed in an accurate, comprehensive, and consistent manner throughout, requiring minimum editing by CDCR staff.

If the scheduled deadlines cannot be met, CDCR must be informed, in writing, as soon as it is known by the Contractor so that feasible alternatives can be discussed and implemented as appropriate.

D. CURRENT CDCR NETWORK TOPOLOGY

CDCR's data communications Local Area Network (LAN) is composed of a pair of Hewlett-Packard (HP) 5412zl switches located in the sites' main distribution frame (MDF). These switches function as the LAN's 'core.'

All LAN-connected buildings have at least one (1) intermediate distribution frame (IDF) with an HP switch (typically a 2610-24 or 2610-48, non-Power Over Ethernet) which is connected back to each of the core 5400s by single mode (SM) fiber (active/passive via spanning tree). All fiber is 'home-run' from the IDF to the MDF, with no intermediate IDFs.

This LAN supports user connectivity to local file/print services, as well as WAN access to remote services (e.g., e-mail, enterprise applications, Internet). Prisons are connected to CDCR's WAN via an optical carrier (OC) 3 network line. See Exhibit A-4, Typical CDCR Prison Network Topology, for a visual representation.

E. MINIMUM QUALIFICATIONS

1. Contractor Mandatory Qualifications

- Minimum of ten (10) years' experience providing video surveillance technical consulting, design, and installation services for organizations with projects of similar size, scope, and complexity as CDCR.
- Minimum of five (5) years' experience evaluating existing and emerging video surveillance hardware and video analytics software capabilities. Experience must be within the last seven (7) years.
- Minimum of five (5) years' experience evaluating existing and emerging infrastructure requirements and optimization as it relates to video surveillance and video analytics. Experience must be within the last seven (7) years.
- Minimum five (5) years' experience utilizing relevant network and building design drawings such as MS Visio and/or AutoCAD.

2. Contractor Desirable Qualifications

- Experience implementing video and audio surveillance for an agency and/or department within the State of California.
- Experience consulting and/or implementing video and audio analytics for an agency and/or department within the State of California.

Agreement Number 5600006183 Exhibit A Amendment 2

- Experience working with federal, state and/or local correctional facilities, similar in size and complexity to that of CDCR.
- Experience working with an agency and/or department within the State of California.

F. PROJECT TASKS

1. Meetings and Prison Site Surveys (40 Estimated Hours)

The Contractor shall, in coordination with the CDCR Project Manager, attend formal and informal meetings with key CDCR staff and/or other State Agency personnel, in addition to conducting a walkthrough of HDSP to determine scope of the video surveillance solution design.

The initial Meetings and Prison Site Survey task and its estimated hours shall be for the HDSP pilot only.

2. Statewide Correctional Video Surveillance Solution Consultation and Design (240 Estimated Hours)

The Contractor shall consult with CDCR staff and develop and deliver a SCVS solution using HDSP as the statewide model.

The SCVS solution design shall, at a minimum, contain:

- Open, flexible and scalable solution with varying options and/or alternatives, including, but not limited to scalability based on priority, coverage area, number of cameras, networked infrastructure, camera performance, varied hardware and/or software manufacturers, features and functionality, storage, and a single prison or all prisons statewide.
- Bandwidth, storage and network augmentation requirements.
- Complete list and budgetary cost estimates of hardware and software requirements for proposed solution/design, including any varying options and/or alternatives.
- Project implementation timeline for solution/design, including implementation of any options and/or alternatives (e.g., wiring and hardware installation timeframes, infrastructure implementation timeframes, data analytics configuration timeframes).
- Identification of any constraints or risks that CDCR may experience during an implementation.
- List of available interoperable hardware and software manufacturers to allow for full functionality of hardware regardless of manufacturer.

The SCVS Solution Design shall incorporate IVA as an option to CDCR. CDCR understands that IVA modalities may not be available under the California Participating Addendum; however, the Contractor shall design the SCVS solution to be compatible with various IVA modalities, should CDCR wish to expand the solution at a later date. IVA may include, but not be limited to, the following modalities:

- Facial Recognition Used to recognize and/or identify individuals.
- Perimeter and/or Motion Detection Used to identify an unknown object or person crossing a predetermined perimeter.

Agreement Number 5600006183 Exhibit A Amendment 2

- Object Detection Used to determine the placement or removal of an object within an area.
- Radio-Frequency Identification (RFID) Tracking Used to track identification cards equipped with chips within the area of a video signal.
- People Counting/Tracking Used to count and track the number of individuals entering and exiting an area and their location within the area.
- Tamper Detection Used to determine if a camera is being or has been tampered with.
- Audio Capture Used in conjunction with video to record all aspects of an incident.

The initial SCVS Solution Consultation and Design task and its estimated hours shall be for the HDSP pilot only.

3. Reports and Miscellaneous (60 Estimated Hours)

Contractor shall provide the following throughout this engagement:

- Weekly status reports of work completed for each location.
- Additional support, as required.

The initial reports and miscellaneous task and its estimated hours shall be for the HDSP pilot only.

4. Statewide Correctional Video Surveillance Procurement Assistance (20 Estimated Hours)

Contractor shall work with CDCR staff to develop a complete listing of the hardware, software, and services required for the HDSP pilot implementation only.

5. Statewide Correctional Video Surveillance Solution Implementation (500 Estimated Hours)

Implementation shall include, but not be limited to, the following:

- Installation of all hardware and software.
- Cabling and wiring with computer-aided design (CAD) drawings and final as-built drawings (optional to CDCR).
- System configuration.
- · Solution testing.
- Training for end users and administrators.
- SCVS documentation.
 - o Complete SCVS solution.
 - Training documentation
 - o All hardware and software user information guides

The initial SCVS Solution Implementation and its estimated hours shall be for the HDSP pilot only.

Agreement Number 5600006183 Exhibit A Amendment 2

Amendment 1:

The Contractor shall install the SCVS solution to designated areas specified by CDCR for the HDSP pilot only. In addition, the Contractor shall install a stand-alone silo system at the Deuel Vocational Institution (DVI).

Amendment 2:

Following the model developed during the HDSP pilot, the Contractor shall deploy the SCVS solution throughout the state, as follows:

- Complete Installation Pilot deploy the solution throughout the remainder of HDSP and at the Central California Women's Facility (CCWF).
- After Complete Installation Pilot deploy the solution to 7 or 8 prisons per year until all prisons are completed. Locations to be determined by CDCR based on urgency and/or need of surveillance requirements.
- 6. Ongoing Maintenance and Support (One to Three Years)

One (1) to three (3) years of ongoing maintenance and support of the SCVS shall include, but not be limited to, the following:

- Onsite and remote support.
- Hardware and software maintenance.

Maintenance and support shall start at each prison the day after full system acceptance by CDCR.

G. ACCEPTANCE CRITERIA

The CDCR Project Manager, or a delegated representative, will retain sole authority to evaluate and determine the acceptability of all deliverables and tasks submitted or performed by the Contractor. Acceptance Criteria shall consist of the following:

- All deliverables must be in a format which will be specified by CDCR Project Manager, or a delegated representative, and in such a manner as to enable CDCR Project Manager, or a delegated representative, to determine that the work has been completed to CDCR Project Manager's, or a delegated representative's, satisfaction.
- 2. All tasks must be performed in a professional manner to CDCR Project Manager's, or a delegated representative's, satisfaction.
- 3. All deliverables will be submitted in accordance with the project schedules and as approved by the CDCR Project Manager, or a delegated representative.
- 4. The CDCR will return any unacceptable deliverables within five (5) business days and request further changes or corrections. Deliverables that are not accepted must be corrected and re-submitted within five (5) business days to the CDCR Project Manager, or a delegated representative.

Agreement Number 5600006183 Exhibit A Amendment 2

5. Payment for work performed will be withheld pending resolution of contested deliverables.

H. AGREEMENT COMPLETION CRITERIA

Status monitoring and acceptance of detailed activities and tasks as outlined above in Section G will be carried out by the CDCR Project Manager, or a delegated representative, and assisted by the selected Contractor. Following a verification that all deliverables listed in Section F, Project Tasks, have been completed and approved, the CDCR Project Manager, or a delegated representative, will inform the Contractor by both mail and e-mail when the Consultant's services are completed. Following this notification, the Consultant shall complete and submit a handover report to the Contractor's Project Manager and the CDCR Project Manager, or a delegated representative, confirming the completed tasks and the current status of related work at the time the services were rendered complete.

I. EVALUATION OF CONTRACTOR

The CDCR Project Manager, or a delegated representative, will complete a written evaluation of the Contractor's performance under this Agreement within sixty (60) business days following the term end date. The evaluation shall be prepared on the Contract/Contractor Evaluation Form (STD 4), and maintained in the Agreement file for three (3) years. If the Contractor's performance was unsatisfactory, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, within five (5) business days, and to the Contractor within fifteen (15) business days, following the completion of the evaluation.

J. CDCR ROLES AND RESPONSIBILITIES

- CDCR will provide Contractor with copies of the Tuberculosis (TB) Infectious Free Staff Certification form, Application for Identification Card, and Emergency Notification form for Contractor staff who will be working at any CDCR facility for more than seven (7) days.
- 2. CDCR may provide cubicle accommodations at one (1) of the four buildings at its Aerojet complex, located in Rancho Cordova, California, and basic computer hardware and software necessary to complete deliverables. Contractor's staff may be required to share cubicle space with other Consultants working on different engagements for CDCR.
- 3. CDCR will not provide clerical support for telephone or document preparation to Contractor's staff.
- 4. CDCR will provide a building access card to Contractor's staff, as necessary, which allows access to Aerojet facilities during normal business hours.
- 5. CDCR will provide access to stakeholders and staff, as well as information or documents regarding the institutional telephone system and infrastructure at CDCR.

Agreement Number 5600006183 Exhibit A Amendment 2

K. CONTRACTOR AND CONSULTANT ROLES AND RESPONSIBILITIES

- 1. Contractor shall act as the Prime Contractor under this Agreement and identify their Sub-Contractor affiliation(s), as applicable.
- 2. Contractor shall assume responsibility for all functions identified in Exhibit A, Statement of Work.
- 3. Contractor shall provide experienced staff with skills, knowledge and appropriate certifications (if applicable) to carry out the services for this engagement.
- 4. Contractor shall monitor the performance of its staff and adjust staffing levels appropriately to ensure completion of tasks listed in Section F, Project Tasks, within the stated Period of Performance (Section N).
- 5. Contractor shall certify that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
- 6. Contractor shall guarantee that it has, or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, any governmental entity.
- 7. Contractor shall abide by the CDCR Special Provisions which identifies certain conditions that affect anyone working at a prison, which will be appended to this Agreement as Exhibit D.
- 8. Comply with all applicable CDCR and EIS policies and procedures including, but not limited to, the EIS Portfolio and Project Management Office guidelines.
- 9. Contractor's staff (who will work with CDCR staff and/or around inmates for more than seven (7) days) must obtain a current TB test and submit a copy of their certificate showing they tested negative, prior to the commencement of any work.
- 10. Contractor shall provide dedicated personnel to manage this engagement and work as the single point of contact for the CDCR Project Manager, or a delegated representative, and must be available for on-site management of this Agreement at CDCR's request.
- 11. Contractor shall provide assistance to the CDCR Project Manager, or a delegated representative, in planning, monitoring, and controlling activities and tasks to be carried out by its staff.
- 12. Contractor shall prepare a weekly written status report regarding the engagement and shall meet with the CDCR Project Manager, or a delegated representative, as necessary, to discuss the status. The report shall include the work performed during the prior week, work planned for the following week, an updated project schedule showing deliverables in progress and deliverables completed, project progress and summary of overall project status, and any significant project risks or issues.

Agreement Number 5600006183 Exhibit A Amendment 2

- 13. CDCR and the Contractor are mutually obligated to keep open and regular channels of communication in order to ensure the successful execution of this Agreement. All parties are responsible for communicating any potential problem or issue to the CDCR Project Manager, or a delegated representative, and the Contractor, respectively, within forty eight (48) hours of becoming aware of said problem or issue.
- 14. Contractor's personnel substitutions of dedicated project staff must be approved by the CDCR Project Manager, or a delegated representative, prior to commencement of work by the substitution. Contractor must submit a resume for review and approval for all personnel substitutions fifteen (15) days in advance of said substitution.

L. ASSUMPTIONS AND CONSTRAINTS

- 1. Contractor's work hours shall be coordinated with the project team's hours. Normal hours of operation are 8:00 a.m. to 5:00 p.m., Pacific Standard Time, Monday through Friday, with the exception of State holidays.
- 2. Contractor shall be given access to CDCR staff, meetings, and information necessary to perform their duties. If the Contractor is denied access to any of these, the Contractor shall notify the CDCR Project Manager, or a delegated representative, for resolution.
- 3. The primary on-site work location will be at Enterprise Information Services' (EIS) Birkmont Drive location in Rancho Cordova. In addition, meetings and/or work may be required with specific CDCR groups at other locations. Travel to all CDCR prisons will be required as necessary for the Contractor to gather information necessary for the design. Travel arrangements will be made by the CDCR Project Manager, or a delegated representative, in advance of such site visit. The CDCR Project Manager, or a delegated representative, will accompany the Contractor to the prisons and other locations. Should additional travel be required, it will be reimbursed at the current State rates for travel.

Travel will not be reimbursed to areas located in the county where Contractor's satellite location(s) exist. Travel to other locations will be calculated from the Contractor's nearest satellite location. If satellite location(s) do not exist, travel will be calculated from EIS' Birkmont Drive location.

Reimbursement will be for travel within the State of California only. All travel requests by Contractor staff must be reviewed and approved by the CDCR Project Manager, or a delegated representative, prior to travel occurring. Travel reimbursement requests must be accompanied by receipts.

4. CDCR reserves the right to reevaluate and/or negotiate deliverables and/or tasks as part of this Agreement at any time. CDCR reserves the right to amend this Agreement for unanticipated changes in project schedule or tasks for additional services, hardware, software, and/or locations deemed necessary to meet the needs of the Project according to State priorities. CDCR and Contractor shall mutually agree to all changes. Any and all changes will be at the rates identified in the original Agreement and will be executed through a formal, written Amendment to this Agreement signed by both parties. No verbal changes to this Agreement shall be binding upon the State and/or Contractor, unless completed through a formal, written Amendment to this Agreement.

Agreement Number 5600006183 Exhibit A Amendment 2

- 5. CDCR reserves the right to substitute comparable deliverables upon mutual agreement of the Contractor and CDCR.
- 6. CDCR will retain the rights to all project-related working papers and other working documents, reports, and deliverables created and/or held by the Contractor. Contractor shall provide all project-related working papers and other working documents, reports, and deliverables created and/or held by Contractor to the CDCR Project Manager, or a delegated representative, upon request.

M. ENTERPRISE ARCHITECUTRE

The Contractor shall be responsible for understanding and following all related CDCR Enterprise Architecture principles, standards, and processes, as required.

N. PERIOD OF PERFORMANCE

The Period of Performance for Tasks 1, 2 and 3 is February 29, 2016, or upon final execution of the Agreement by all parties, whichever is later, through December 31, 2016.

The Period of Performance for Tasks 4 and 5 (HDSP pilot and DVI silo implementations only) is June 13, 2016, through February 28, 2018.

The Period of Performance for Task 5 (SCVS Solution Implementation) is July 1, 2017 through June 30, 2023.

The Period of Performance for Task 6 shall commence the day after full system acceptance by CDCR at each location and will continue for one (1) year. If deemed in the best interest of the State, CDCR may execute two (2) optional one (1) year extensions for maintenance and support.

If it is deemed in the best interest of the State, CDCR reserves the right to amend this Agreement for time; quality and/or quantity of hardware; and/or to add additional SCVS solution implementation locations (such as fire camps, Parole Offices, etc).

O. AGREEMENT AMENDMENTS AND APPENDICES

If it is determined to be in the best interest of the State, and as funding becomes available, additional locations may be appended to this Agreement. Contractor shall work with the CDCR Project Manager, or designated representative, to meet and conduct site surveys for each additional location; determine the appropriate SCVS Solution for each additional location; provide reports and miscellaneous services for each additional location; select a SCVS Solution Design; develop a hardware, software, and services budgetary estimate; and establish a Project implementation schedule for each additional location.

All negotiated hardware, software, and/or services for additional implementations shall be appended to this Agreement by the execution of individual Purchase Orders (PO) per location. POs shall include a Bill of Materials for each location.

Agreement Number 5600006183 Exhibit A Amendment 2

A PO must be issued to the Contractor prior to the Contractor placing an order and delivering any hardware and/or software or performing any implementation tasks for each additional location.

Amendments:

- Amendment 1: Adds hardware, software, and labor for completing the initial pilot at HDSP and hardware, software, and labor for a stand-alone solution at DVI. In addition, added implementation at eighteen (18) prisons.
- Amendment 2: Adds time and costs to complete implementation at the rest of HDSP and to install the SCVS solution at all remaining prisons. See Exhibit B-1, Cost Worksheet, for cost breakdown.
- CDCR reserves the right to increase and/or decrease the estimated amount of each location based on design requirements. If the overall total cost of the Agreement increases beyond the estimated projections identified in Amendment 2, or additional locations need to be added, CDCR may further amend this Agreement.

P. AGREEMENT TERMINATION

Either party may terminate this Agreement, without cause, upon sixty (60) days written notice.

Q. CONTACTS

- 1. CDCR Contacts
 - a. Project Manager

Mikel Chick, Data Processing Manager II

Phone: (916) 358-1679

Email: Mikel.Chick@cdcr.ca.gov

b. IT Contract Administrator

Mona Stolz

Phone: (916) 358-2004

Email: Mona.Stolz@cdcr.ca.gov

2. Contractor Contacts

Steve Baker

Phone: (317) 703-1165

Email: Steve.Baker@sbdinc.com

Agreement Number 5600006183 Amendment 2 Exhibit B-1

		ORGINALAGI	ORGINAL AGREEMENT (HDSP)	SP)	en de la companya de			
Task	Task Description	Staff Classification(s)	Number of Staff	Estimated Hours or Term	NASPO Published Hourly or Monthly Rate	Proposed Hourly or Monthly Rate	Total	
٦	Meetings and Institution Site Survey	Project Manager		10	\$ 139.00	\$ 139.00	\$ 1,390.00	
-	Meetings and Institution Site Survey	Senior Engineer	1	10	\$ 163.00	\$ 163.00	\$ 1,630.00	اه
-	Meetings and Institution Site Survey	Engineering Tech	1	20	\$ 154.00	\$ 154.00	\$ 3,080.00	اه
2	Statewide Correctional Video Surveillance	Senior Engineer	1	120	\$ 163.00	\$ 163.00	\$ 19,560.00	0
	Solution Consultation and Design							
2	Statewide Correctional Video Surveillance	Systems Design Engineer	1	120	\$ 134.00 \$	\$ 134.00	\$ 16,080.00	0
	Solution Consultation and Design							
က	Reports and Miscellaneous	Project Manager	1	09	\$ 139.00 \$	\$ 139.00	\$ 8,340.00	ਗ
4	Statewide Correctional Video Surveillance	Project Manager	1	20	\$ 139.00 \$	\$ 139.00	\$ 2,780.00	0
	Solution Procurement Assistance							
	Estimated Travel (for initial HDSP location only)						\$ 9,200.00	ा
				0	Original Agreement - Grand Total: \$	t - Grand Total	\$ 62,060.00	0

List Cost as Percentage (%) Discount off MSRP	NASPO	Proposed
(If Cost + % is indicated, please indicate what "Cost" is - Provide cost catalogues)	Published	Percentage
Cameras	Cost + 23%	15.00%
Video Management System (VMS)	Cost + 23%	20.00%
Storage	Cost + 23%	20.00%
Network	Cost + 23%	20.00%
Microllaneous **Cost is defined as invoiced cost	Cost + 23%	Cost + 23%

anley Convergent Security Solutions, Inc.	California Department of Correctoinal and Rehabilitation
Stanley Converg	California Depai

2 4				Total
<i>ي</i>	Cameras		\$	260,716.63
า	VMS		\$	61,791.00
5	HP Network		\$	259,475.58
5	Servers and Storage		\$	204,897.58
2	License Plate Recognition		\$	11,518.42
5	Miscellaneous		\$	3,788.40
5	Labor		\$	224,116.00
		HDSP Implementation (Amendment 1) Total:	t 1) Total: \$	1,026,303.61
	DVI IMPLEMENTATION (AMENDMENT 1)	NDMENT 1)		
Task#	Description			Total
5	Cameras		\$	14,978.26
5	VMS		\$	3,372.18
5	HP Network		\$	762.10
5	Servers and Storage		\$	3,133.48
5	Miscellaneous		\$	460.12
5	Labor		\$	19,044.00
		DVI Implementation (Amendment 1) Total:	t 1) Total: \$	41,750.14
	ADDITIONAL INSTITUTION IMPLEMENTATIONS (AMENDMENT 1)	rions (amendment 1)		
Task#	Description	Estimated Amount per Location Insti	Number of Institutions	Total
5	Additional Institution Implementations	\$ 2,500,000.00	18 \$	45,000,000.00
		Additional Institution Implementations (Amendment 1) Total:	t 1) Total: \$	45,000,000.00
	AGREEMENT TOTAL - AMENDMENT 1			
		Original Agreement Total (Completed):	mpleted): \$	62,060.00
	HDSDH	HDSP Implementation (Amendment 1) Total (Completed): \$	mpleted): \$	1,026,303.61
	IVO	DVI Implementation (Amendment 1) Total (Completed):	mpleted): \$	41,750.14
	Additional Institution	Additional Institution Implementations Total (Transfer to Amendment 2)	ndment 2) \$	45,000,000.00
			7	11 677 007 07

Page 3 of 3

Agreement Number 5600006183 Amendment 2 Exhibit B-1

Stanley Convergent Security Solutions, Inc. California Department of Correctoinal and Rehabilitation

	ADDITIONAL INSTITUTION IMPLEMENTATIONS (AMENDMENT 2)	NDMENT 2)		
Task #	Description		Number of	Total
	- 19 시간		Institutions	
5	HDSP - Deployment to rest of institution (FY 2017/18)		Н	\$ 2,943,788.89
5	CCWF - Complete Deployment (FY 2017/18)		Н	\$ 2,615,506.56
2	nstitutions 3 through 9 - Complete Deployment (FY 2018/19)		7	\$ 24,932,067.55
2	nstitutions 10 through 16 - Complete Deployment (FY 2019/20)		7	\$ 24,911,995.05
5	Institutions 17 through 23 - Complete Deployment (FY 2020/21)		7	\$ 24,911,995.05
2	nstitutions 24 through 30 - Complete Deployment (FY 2021/22)		7	\$ 24,911,995.05
2	Institutions 31 through 37 - Complete Deployment (FY 2022/23)		7	\$ 24,911,995.05
9	Ongoing Support - FY 2018/19		2	\$ 1,134,679.98
9	Ongoing Support - FY 2019/20		6	\$ 5,055,705.06
9	Ongoing Support - FY 2020/21		16	\$ 9,006,242.14
9	Ongoing Support - FY 2021/22		23	\$ 12,961,390.47
9	Ongoing Support - FY 2022/23		30	\$ 17,033,132.90
	Minus amount transfer from Amendment 1			\$ (45,000,000.00)
Includ	ncludes all activities identified in Tasks 1 through 4 plus travel for each location			
	Addition to the control of the contr	Additional Institution Implementations Total: \$	ntations Total:	\$ 130,330,493.75

EXHIBIT 00

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 357 of 858

Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate	Allegation	Identified via	Status	Outcome
RJD-C-19-028			Fac C		Original allegation: States his cellmate was sprayed and kicked in the face after being handcuffed. Additional allegation: The allegations made that his cellmate was pepper sprayed and kicked in the face by Correctional Staff after being placed in restraints.	3000	Completed/Closed	Confidential Memo dated 3/18/2020 authored by Findings were unfounded. (Closed)
RJD-C-19-009		unknown	Fac C		Alleges Officer took a transgender inmates wig, sprayed it with pepper spray and threw it onto the barbed wire fence line. Also, alleges that Officer allowed their porters to take inmate was assaulted on the yard.		Completed/Closed 2/27/20	Refer to Confidential Memorandum dated 2/24/2020, authored by . (Closed)
RJD-C-19-040			Fac C		Original allegation: Claims his cellmate was beaten. Recommend interview of cellmate. Also recommends specific inmate for interview (inmate was on interview list, and provided substantial information). Additional allegation: The allegations made are being a witness to Inmate allegations.	Bishop 2018	Completed	989?
RJD-C-19-016			Fac C		Observed several incidents, involving Officers and beating up inmates or failing to intervene in assaults. Inmate alleges Officers use inmates to beat up other inmates and pay them by dropping RVR's. reported he witnessed Officer send 2-5 inmates to beat up the description of th	Bishop 2018	Completed/Closed 3/11/2020	Allegation was rejected by OIA 2019. Confidential Memorandum dated 03/09/2020, authored by was completed. Findings were unfounded. (Closed)
RJD-C-19-038			Fac C		Original allegation: Inmate went off interview script and provided meaningful information. Recommend full review of audio recording. All documentation was reviewed and seemed consistent. Additional allegation: Inmate stated he was beat up by Officer , and Officer stated Inmate assaulted him and wrote him an RVR.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo authored by was found to be unfounded. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 358 of 858

		Data of	Facility/		Allegation	Identified via	Status	Outcome
Tracking Number	Assigned to	Date of Event	Location	Inmate				
RJD-C-19-037	Sgt.		Fac C		Original allegation: States he observed named inmate assaulted 2 months ago in rotunda by specific named staff. States another case of staff abuse of authority on Thanksgiving, which was allegedly video and audio recorded. Specific knowledge of named staff allowing inmates into another inmate's cell to steal property. Additional allegation: The allegations being made by Inmate are that he was beat up by several staff members. Inmate claims one of the Officers pulled out an inmate manufactured weapon and held it to his throat. Inmate also claims he witnessed staff beat up a inmate in a wheel chair in the dining hall.	Bishop 2018	Completed/Closed 4/13/20	Confidential Memo authored by Sgt. was reviewed by Lieutenant and deemed it thorough and complete. The allegation was unfounded. (Closed)
RJD-C-19-010	Lt.	1/26/2018	Fac C		Inmate alleges an Officer assaulted an inmate on or about Jan 26, 2018, by jumping on back. claims he observed this first hand.	Bishop 2018	Completed/Closed 2/21/20	Confidential Memo dated 2/14/2020 authored by Lt. Findings were unfounded. (Closed)
RJD-C-19-013	Lt.	unknown	Fac C	(MCSP	States 2 weeks ago he observed a DPW inmate subject to UOF, resulting in a broken neck. Also claims he reported staff unnecessary UOF 2 days prior, which resulted in a recorded interview with the ISU Sgt.	Bishop 2018	Completed/Closed 2/27/20	Confidential Memo dated 2/24/2020 authored by Lt Findings were unfounded. (Closed)
RJD-C-19-005	Lt.	12/7/2018	Fac C	(CMC	Names numerous specific staff involved in misconduct, including excessive force against a named DDP inmate. Also, states he observed an inmate dragged from one cell into another by specific named staff, after claiming safety concerns. States his cellmate observed misconduct and wrote the state bar.	Bishop 2018	Completed/Closed 2/27/20	Confidential Memo dated 2/4/2020 authored by Lt. Findings were unfounded. (Closed)
RJD-C-19-008	Lt.	1/21/2019	Fac C	(LAC	Provided 3 years of documented daily observations, including numerous accounts of staff misconduct. Recommended thourough review of this record and follow-up interview. Alleges on 1/21/19, Officer put in the Lower B shower and threatened to write him up for "Threatening Staff" for filing "paperwork" against him. Inmate stated	Bishop 2018	Memo sent to HA on 3/4/20	Confidential Memo dated 2/4/2020 authored by Lt. Findings were unfounded. (Closed)
RJD-C-19-022	Lt.	6/2/2017	Fac C		Original allegation: Claims his cousin Inmate was getting beaten by custody, he jumped up to stop it and was taken to ASU. Additional allegation: Inmate alleges Officers and and utilized excessive use of force, on his cousin inside C14 dayroom.	Bishop 2018	Completed/Closed 2/10/20	Confidential Memo dated 2/4/2020 authored by Lt. Findings were unfounded. (CLOSED)
RJD-C-19-023	Lt.	12/3/2018	Fac C	(COF	Personal knowledge of specific named staff having inmates beat another inamte up for disrespect. Claims knowledge of staff bringing in contraband for inmates. Also, claims to have knowledge of custody staff having inmates assaulted by other inmates	Bishop 2018	Completed/Closed 2/10/20	Confidential Memo dated 2/4/2020 authored by Lt. Findings were unfounded. (CLOSED)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 359 of 858

Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate	Allegation	Identified via	Status	Outcome
RJD-C-19-031	Lt.		Fac C)	Original allegation: States 1 month ago an inmate walked away from staff and was beat up in the "tunnel" (building sallyport). States he observed 2 officers stomping on one inmate by the handball court. Additional allegation: Inmate is claiming he observed an inmate walk away from Custody Staff and was subsequently assaulted in the building sally port. He is also claiming he observed an inmate get assaulted by two Officers on the handball court.	Bishop 2018	Completed/Closed 3/6/20	Confidential Memo dated 3/6/2020 authored by Lt. Findings were unfounded. (CLOSED)
RJD-C-19-030	Sgt.		Fac C	/	Original allegation: States the night before the interview, an inmate in the cell next to him was assaulted by custody staff and dragged down the stairs. Additional allegation: Alleges there ar certain yard Officers that wear tactical vests that are far more aggressive than others. Alleges these officers respond to alarms and hit and kick inmates for no reason while stopping the incident. Identified yard officer as the ring leader. Observed punch an Inmate while forcing him back into his cell. Also observed and other officers slam an inmate on the tier in front of cell while handcuffed and sprayed him Inthe mouth with OC. Corroborated by Incident# RJD·C12.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 6/13/2019 authored by Sgt. Findings were unfounded. Referred to OIA via IERC
RJD-C-19-029	Lt.	unknown	Fac C		Observed named inmate arguing with staff in chow hall. After the inmate and staff went into the chow hall, an ambulance arrived.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/5/2019 authored by Lt. Findings were unfounded. (Closed)
RJD-C-19-032	Lt.	Oct-18	Fac C		Claims 1.5 months ago, a native American inmate was taken out during first watch for suicide attempt. Walked out that night, but later died.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/5/2019 authored by Lt. Findings were unfounded. (Closed)
RJD-C-19-042	Sgt.	9/24/2018	Fac C		Original allegation: Witnessed specific officers assault named inmate and break his jaw. Additional allegation: Inmate is claiming to have knowledge of Correctional Officers assaulting an inmate and breaking his jaw.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated July 9, 2019 authored by Sgt. was found to be unfounded. (Closed)
RJD-C-19-056	Lt.	11/1/2018	Fac C		Staff inappropriately housed him in C14. Alleges Officer used physical force to get him in the housing unit. Alleges another officer sexually harrassed him.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo 9 authored by Lt. unfounded. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 360 of 858

Tracking Number	Assigned to	Date of	Facility/	Inmate	Allegation	Identified via	Status	Outcome
	r ioo igirou to	Event	Location	23				
RJD-C-19-017	Sgt.		Fac C	(CHCF)	claims he was assaulted by other inmates as instructed by staff while staff watched. Also, has specific knowledge of an inmate whose property was taken due to filing 602's. alleges Officer assaulted him while Officer watched. Filed 602 and was threatened by inmates that Officer sent after him in retaliation. A videotape interview was conducted and recanted. And visible injuries to the bridge of his nose. These injuries were never addressed on camera. Inmate alleges he was beat up by two inmates who were sent on behalf of Officer Inmate alleges he witnessed the assault.	Bishop 2018	Completed/Closed	Confidential Memo dated authored 1/26/19 by Sgt. possible misconduct refer 989. OIA rejected 4/14/19 #S-RJD-141-19-R (Closed)
RJD-C-19-058	Lt.	10/18/2018	Fac C		Inmate is alleging Officer made threats on his life, brother and sister. He is also alleging he made racial slurs.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 6/6/2019 authored by Lt. unfounded. (Closed)
RJD-C-19-054	Lt.	Nov-18	Fac C		States yesterday he observed staff bully an old black inmate, kicking him and throwing his property away. Knows of an inmate who was assaulted by staff, ducked staff's punch resulting in the officer hitting another officer, and then got beaten worse.	Bishop 2018	Completed/Closed rejected OIA 4/14/19 #S-RJD-135-19-R	Confidential Memo dated 7/1/2019 authored by Lt. possible merit refer 989.
RJD-C-19-051	Lt.	Dec-18	Fac C		States May 2018 an inmate was beaten by custody staff for requesting a cell move due to incompatibility with cellmate.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/2/2019 authored by Lt. was found to be unfounded. (Closed)
RJD-C-19-046	Lt.	unknown	Fac C		States he was assaulted by named officer a year ago in a building sallyport. States officer stomped on his head. Also states officers are having inmates remove shoes for escorts, walking them through the gravel barefoot.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/5/2019 authored by Lt. was found to be unfounded. (Closed)
RJD-C-19-044	Lt.	11/6/2018	Fac C		States on November 6th he requested to go to ASU, and was beaten up by staff who took him out to the hospital. States staff beat up his named cellmate because he was a child molester, and charged him with staff assault.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/8/2019 authored by Lt. was found to be unfounded. (Closed)
RJD-C-19-052	Lt.	May-19	Fac C		Personal knowledge of specific staff using unnecessary force, assaulting DPW inmate. Has knowledge of staff planting a weapon in an inmate cell following the inmate testifying on behalf of another inmate. States an officer placed a strangle hold on an inmate 1-1.5 years ago over some tobacco, the inmate died. States 2 months ago an inmate was beaten so bad by cops, yelling stop resisting, they broke his back and the inmate died.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/8/2019 authored by Lt. was found to be unfounded. (Closed)
RJD-C-19-061	Lt.	N/A			No allegation made against staff	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 7/9/2019 authored by Lt. unfounded. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 361 of 858

		Date of	Facility/		Allegation	Identified via	Status	Outcome
Tracking Number	Assigned to	Event	Location	Inmate				
RJD-C-19-043	Lt.	9/9/2017	Fac C		Original allegation: Names staff who challenged an inmate to fight, then smashed the inmate's TV. States 7-8 months ago a northern inmate said something to an officer, and they sent STGs to beat him up, for being disrespectful. Names specific staff. Additional allegation: Inmate alleges he saw Officer beat up an inmate, described as a "Northerner, 5'5", brown skin, ex northern rider who lived in limitate alleges on 9/9/17, Officer attempted to fight him in the rotunda of building C12.	Bishop 2018	Completed/Closed 9/4/2019	Confidential Memo dated 8/13/2019 authored by Lt. was found to be unfounded. (Closed)
RJD-C-19-060	Lt.	unknown	Fac C		Inmate stated he recalled an incident where custody staff used force on an inmate in front of the dining hall on Facility C. Inmate did recall an incident involving his personal property being taken by custody staff and given to other inmtes while he was out to court.	Bishop 2018	Completed/Closed 2/19/20	Confidential Memo dated 8/7/2019 authored by Lt. unfounded. (Closed)
RJD-C-19-035	Lt.	4/5/2018	Fac C	4	Names specific staff beating up named inmates without cause. Personal observations of named staff using excessive force, causing SBI. States he observed a sergeant watching, not intervening.	Bishop 2018	Completed/Closed rejected OIA 4/14/19 #S-RJD-143-19-R	Confidential Memo dated 8/7/2019 authored by Lt. possible merit refer 989.
RJD-C-19-059	Lt.	unknown	Fac C		stated that while they were in the chow hall, all of the COs ran out of the chow hall so he went to the window with the other inmates and observed all the COs on top of and CO had and in a choke hold on the ground. In a named COs and and several other Officers punching him and telling him to stop resisting. It was hitting on his ankle with his baton while Sgt. It is stood there and watched.	Bishop 2018	Completed/Closed rejected by OIA 4/14/19 #S-RJD-142- 19-R	Confidential Memo dated 8/9/2019 authored by Lt. referred to OIA unfounded. (Closed)
RJD-C-19-021	Lt.	Jul-18	Fac C	(RJD)	States he observed staff beat an inmate in July 2018, knocking the inmates teeth out. could not identify any of the involved parties.	Bishop 2018	Completed/Closed 2/10/20	Confidential Memo dated January 29, 2020 authored by Lt. was found to be withoug merit. (Closed)
RJD-C-19-024	Lt.	unknown	Fac C	(LAC	Alleges Facility C staff are allowing inmates to fight with out sounding the alarm and will not issue RVR's for fighting. Also alleges staff are sending inmates to assault other inmates due to them having an "R" suffix.	Bishop 2018	Completed/Closed 2/10/20	Confidential Memo dated January 29, 2020 authored by Lt. was found to be without merit. (Closed)
RJD-C-19-025	Sgt.		Fac C		Original allegation: States the night before the interview an inmate was "taken out" by staff for filing a citizens complaint. Has information of specific staff using excessive force on an inmate, planting a weapon on the inmate, and a specific officer tried to stop it. Additional allegation: Inmate is alleging staff are placing inmates in restraints in the dayroom. He also is alleging staff are kicking inmates due to them being involved in an incident and making staff respond.	Bishop 2018	Completed/Closed 3/3/20	Confidential Memo dated March 3, 2020 authored by Sgt. was found to be without merit. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 362 of 858

Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate	Allegation	Identified via	Status	Outcome
RJD-C-19-048	Lt.		Fac C		Original allegation: States her boyfriend got stabbed and kicked in the face by a named officer. Additional allegation: Inmate is alleging that an inmate was kicked in the face by custody staff while being in restraints.	Bishop 2018	Completed/Closed 3/05/2020	Confidential Memorandum authored by Sgt. dated 6/06/2019. Also, Supplemental Confidential Memorandum dated 3/05/2020 authored by Lt. This case was deemed unfounded. (Closed)
RJD-C-19-027	Lt.		Fac C		Personally witnessed named staff beating up inmates frequently. One occurred in the shower, the inmate never returned.	Bishop 2018	Completed/Closed 3/11/2020	Confidential Memorandum dated 3/09/2020, authored by Lt. found the allegation to be without merit.
RJD-C-19-036	Lt.		Fac C		Original allegation: States a named inmate got beaten up with a brick by staff 2 months ago, and was left on the yard 30 minutes. Additional allegation: Inmate alleged an inmate got hit by a brick and was left out on the yard.	Bishop 2018	Being reviewed by the HA. 4/7/2020.	Lt. completed a Confidential Closure Memo dated April 7, 2020. The allegation were found deemed to be unfounded. (Closed)
RJD-C-19-039	Lt.		Fac C		Original allegation: States he observed staff "stomp" a DPW inmate in Building 13, cell or . States he knows names of staff involved. Additional allegation: Inmate alleges his housing unit Officers pay inmates (STGII) to take care of problems for them. Inmates are paid with property from other inmates and allowed to fight while they look the other way.	Bishop 2018	Completed/Closed	Lt. completed a Confidential Closure Memo dated March 26, 2020. The allegation was unfounded. (Closed)
RJD-C-19-047	Lt.	11/10/2018	Fac C		Original allegation: States the inmate who was killed 2 weeks ago had his property stolen right before he was killed. Also claims he heard an inmate was raped, claims staff were aware and it was not reported. Identifies an inmate with the moniker of always filing paperwork and getting his property stolen. Additional allegation: Inmate alleges an inmate was killed inside C15 on 11/10/18.	Bishop 2018	Completed/Closed 3/23/2020	Lt. completed a Confidential Closure Memo dated March 18, 2020. The allegation were found to be without merit and unfounded. (Closed)
RJD-C-19-001	Lt.	10/14/2018	Fac C		On October 14, 2018, Inmate was involved in a riot on Facility C. was stabbed multiple times as a result of his participation. alleged the attack was a racially motivated act of gang violence by CDCR. reported the attack occurred in response to him being called out by ISU staff on September 19, 2018, for an interview regarding staff misconduct.	Bishop 2018	Completed/Closed 1/27/20	ISU Officer authored Confidential Memo completed 11/6/2018. Chrono generated explaining. (Closed)

		Data of	Facility/		Allegation	Identified via	Status	Outcome
Tracking Number	Assigned to	Date of Event	Location	Inmate				
RJD-C-19-002	Lt.	Sept Dec./2018	Fac C	(HDSP	Original allegation: Claims specific knowledge of staff allowing STG inmates into another inmates cell as retaliation. Additional allegtion: Also has specific knoweledge of named custody officer refusing to summon medical assistance for inmate in distress. Additional allegation: States 5 months ago, he observed officer stomping an inmate in the chow hall.	Bishop 2018	Completed/Closed 2/18/20	Lt. completed a Confidential Closure Memo dated February 11, 2020. The allegation were found to be without merit. (Closed)
RJD-C-19-014	Lt.	2017	Fac C	(RJD	stated that there is a lot of staff misconduct. He went on to name the following staff do misconduct on a regular basis: Officers and identified them as officer that have been moved. Alleged Officer broke his glasses and called him a child molester on the yard in front of everyone. He filed a 602 on and he retaliated by sending inmates to assault him. After the assault they were taken to the gym where paid the other inmate with personal property right in front of him. Claims he was falsly charged with "Battery on Inmate" and locked up in ASU.	Bishop 2018	Completed/Closed 2/18/20	Lt. completed a Confidential Closure Memo dated February 11, 2020. The allegation were found to be without merit. (Closed)
RJD-C-19-003	Lt.	11/10/2018	Fac C	(ASP)	Original allegation: Inmate states he is willing to identify specific staff in creating "fight alley." Additional allegation: Also, states a specific inmate 4 weeks ago tried to get sicidehelp, and cut himself too deeply and ended up dying. Additional allegation: Has	Bishop 2018	Completed/Closed 2/18/20	Lt. completed a Confidential Closure Memo dated February 12, 2020. The allegation were found to be without unfounded. (Closed)
RJD-C-19-004	Lt.	Sept/Oct 2018 9/24/2018 8/16/2018	Fac C	(SVSP)	Original allegation: Alleged officers had an inmate assaulted by another inmate. Additional allegation: 60-90- days ago observed 5 officers striking an older inmate for disrespect. Additional allegation: A couple of day ago, states he observed named officer jump on an EOP inmate in a wheelchair.	Bishop 2018	Completed 3/3/20	Lt. completed a Confidential Closure Memo dated March 03, 2020. Allegation 1&3 unfounded recommend 989
RJD-C-19-007	Lt.	3/7/18, 4/5/18	Fac C	(KVSP	Original allegation: alleged he observed an incident on March 7, 2018 involving an inmate fight which staff did not respond to; and staff strking an inmate with a mop bucket. Additional allegation: alleged he observed an incident on April 5, 2018, in which he observed 4-5 officers utilizing excessive force on an inmate outside the dining hall. Additional allegation: alleged he had specific knowledge of staff providing tobacco to inmates to remove an inmate from the facility.	Bishop 2018	Completed/Closed 3/05/2020	Lt. completed a Confidential Memorandum dated March 5, 2020. Allegation #2 was referred to the Hiring Authority for possible violation of policy and procedure.
RJD-C-19-012	Lt.	11/27/2019	Fac C	(CHCF)	Inmate reported he observed staff "Dump" from his wheelchair on the yard in front of the EOP building sometime in November of 2018. Records show I/R Log #RJD-CYD-18-11-0679 indicates UOF (Physical) was utilized or on Nov 27, 2018. made allegations of excessive force the following day, but declined to participate in the video interview.	Bishop 2018	Completed/Closed OIA rejected 4/14/19 #S-RJD-135-19-R	Lt. authored Confidential Memo completed 7/01/2019. Was referred to OIA and was deemed No Staff Misconduct. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 364 of 858

Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate	Allegation	Identified via	Status	Outcome
RJD-C-19-011	Lt.	Jan-19	Fac C	(LAC); , (RJD	Observed incident of excessive UOF by named officer and a supervisor 6 months ago. Inmate did not receive medical attention afterward. Observed an officer remove appeals from the drop box. Inmate reported an inmate picked on by officer and ended up running out of the chow hall. Said the inmate took off running because he knew he was going to take an "Ass kicking." reported, "They brought him back, beat the shit out of him, broke his glasses and busted his head open."	Bishop 2018	Completed/Closed 2/10/20	Lt. completed a Confidential Closure Memo dated February7, 2020. Referred to Log numbers RJD-C-19-020 and RJD-C19-015 for closure to the allegations. (Closed)
RJD-C-19-015	Lt.	10/24/2018	Fac C	ICUCE)	Observed an beaten up by a Officer while 2 other officer watched. Has knowledge of named staff beating an inmate and then saying the inmate tried to hit them. (Interviewer recommended reviewing the audio recordings to gain further understanding).	Bishop 2018	Completed/Closed 3/3/20 Also referred to OIA rejected 4/14/2019 #S-RJD- 138-19-R	Lt. completed a Confidential Closure Memo dated February7, 2020. Referred to Log numbers RJD-C-19-020 and RJD-C19-015 for closure to the allegations. (Closed)
RJD-C-19-041	Lt.		Fac C		Claims officer told him he could get a job with officers for beating up other inmates.	Bishop 2018	Completed/Closed 3/23/2020	Inmate has since deceased and the allegation could not be queried any further. Confidential Memo dated March 18, 2020, authored by Lt.
RJD-C-19-057			Fac C		No allegation made against staff	Bishop 2018	Closed	No inquiry needed no allegation made
RJD-C-19-006		2/22/2018	Fac C	(Unidentifiable)	Claims to have knowledge of an officer who brings in cell phones and drugs.	Bishop 2018	Completed/Closed sustained 11/1/2019	Referred to OIA by Facility staff
RJD-C-19-049	Lt.	May-18	Fac C		Has knowledge of named staff using force against an inmate in a specific location 2 months ago, and then 4 officers beat the inmate, took him to the gym, and beat him again. Has knowledge of a named inmate beaten, spit mask placed on him, shot and beaten again, in May 2018.	Bishop 2018	Completed	Third Party allegation addressed on Confidential Memorandum dated 3/05/2020, authored by Lt. (Log # RJD-C-19-007). This allegation was unfounded. (Closed)
RJD-C-19-018	Lt.	10/24/2018	Fac C	(RJD	He observed Officer kick an inmate 4 or 5 times after he was down. Reported a Sergeant tried to stop it and ordered staff to stop using excessive force. Also, alleges he saw a black inmate get beat up in the chow hall by Officer for no reason.	Bishop 2018	Completed/Closed 2/10/20	This allegation has a nexus to Log number RJD-C-19-015 and will be addressed on the aforementioned log number. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 365 of 858

			/		Allegation	Identified via	Status	Outcome
Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate				
RJD-C-19-019	Lt.	1/22/2019	Fac C	(CMF)	Alleges Officer pulled an inmate out of his wheelchair. The inmate withdrew his staff complaint. There was no videotape interview. Also, stated he has knowledge of inmates stopping using the appeals process; now gathering personal info on staff members for unknown purpose. alleges he was pepper sprayed and pulled out of his wheelchair and roughed up by Officer.	Bishop 2018	Completed/Closed 2/10/20 Also referred to OIA rejected 4/14/2019 #S-RJD-19-R	This allegation was addressed in the Appeal Process. Also, an I/R package was completed. Reviewed and cleared by IERC. Confidential Memo completed by Lt. dated 2/4/2020 . (CLOSED)
RJD-C-19-020	Lt.		Fac C	(RJD), FJD and , (Paroled, Chula Vista)	States he observed Officers and kick an inmate 4 or 5 times after he was down. A Sergeant tried to stop it an oredered staff to stop using excessive force. and reported they both seen get slammed to the ground by Officer in front of the Chow Hall.	Bishop 2018	Completed/Closed sustained	This allegation was referred to OIA. (Closed)
RJD-C-19-026	Lt.		Fac C		Observed named staff remove an inmate's dreadlocks and spray them with OC pepper spray. States he has information of an inmate who witnessed a gay inmate subject to excessive force by named officers, and had a weapon planted on him by staff, for filing appeals.	Bishop 2018	Completed/Closed 3/23/2020	Confidential Memo dated March 19, 2020, authored by Lt. Allegation #1 was referred to the Hiring Authority for a possible policy and procedure violation. Allegtion #2 was found to be without merit.
RJD-C-19-033	Lt.	Jul-18	Fac C		States he observed an inmate beaten with baton, and left on EOP yard knocked out, by third watch officers. States he has been given specific "rules" by custody staff that go against the use of force policy, and other policy requirements. Mentions recent incident of this in July 2018 with a sergeant.	Bishop 2018	Completed/Closed 3/23/2020	
RJD-C-19-034	Lt		Fac C		Original allegation: Has a book with specific dates of incidents, not brought to the interview. Has specific information of staff unnecessary force, unreported. Has names, custody and non-custody "brown card holder.	Bishop 2018	Completed/Closed 3/23/2020	
RJD-C-19-045	Lt.	Mar-18	Fac C		States he observed a named officer threaten to hit him during chow, but was stopped by a named lieutenant. Observed other similar incidents involving staff he can name, 3 months ago	Bishop 2018	Completed/Closed 4/14/2020	Confidential Memo dated April 13, 2020, authored by Lt. Allegations were unfounded and without merit. (Closed)
RJD-C-19-050	Lt.	Jul-18	Fac C		Claims an incident of excessive force in July 2018, involving an inmate assaulting him, and the inmate got beat up by officers.	Bishop 2018	Completed/Closed 4/14/2020	Confidential Memo dated April 13, 2020, authored by Lt Allegations were unfounded. (Closed)

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 366 of 858

Tracking Number	Assigned to	Date of Event	Facility/ Location	Inmate	Allegation	Identified via	Status	Outcome
RJD-C-19-053	Lt.		Fac C		States a DPW inmate was OC sprayed for a piece of cake.	•	Completed/Closed 4/14/2020	Confidential Memo dated April 13, 2020, authored by Lt. s Allegations were unsubstantiated. (Closed)
RJD-C-19-055	Lt.		Fac C		Alleges staff falsified documents with regards to an RVR he received for possession of a weapon	•	4/14/2020	Confidential Memo dated April 8, 2020, authored by Lt. A. The allegation was shown to be without merit. (Closed)

EXHIBIT PP

From: Sean Lodholz <Sean.Lodholz@doj.ca.gov>

Sent: Friday, July 24, 2020 4:21 PM

To: Gay C. Grunfeld; Michael Freedman; Penny Godbold; Karen Stilber

Cc: joanna.hood@doj.ca.gov; trace.maiorino@doj.ca.gov; anthony.tartaglio@doj.ca.gov;

jeremy.duggan@doj.ca.gov; tamiya.davis@cdcr.ca.gov

Subject: ARMSTRONG - Memos from RJD Master Allegation Tracking Log

Good afternoon,

Below are instructions for downloading the memos referenced in the RJD Master Allegation Tracking Log. These documents are being produced informally because there is not sufficient time to produce them formally in Monday's production. We will produce them formally as part of the following production (August 3). These documents are confidential under the Court's protective orders.

If you have any questions or issues with downloading these documents, please let me know.

I am still waiting for RJD to provide the four April 2020 memos referenced at #59-62. I anticipate producing them no later than Monday, July 27.

Thank you,

Sean W. Lodholz | Deputy Attorney General | California Department of Justice Correctional Law Section | 1300 | Street | Sacramento, CA 95814 t (916) 210-7369 | f (916) 324-5205 | e sean.lodholz@doj.ca.gov

The following files have been sent using FileXchange and can be downloaded by using the link below:

Filename	Size	Checksum (SHA256)
Memos from RJD Master Allegation Tracking Log (1).pdf	13.2 MB	f3e2f50bf621bd3213ba30c7be095fdf23cc5301f9296606e6bc38478e876e47

Please click on the following link to download the attachments:

This email or download link can not be forwarded to anyone else.

The attachments are available until: **Wednesday**, **5 August**.

Message ID: YeXohCT9uloP6cAS02MDaS

Download Files



https://FX.doj.ca.gov

EXHIBIT QQ

Sean Lodholz

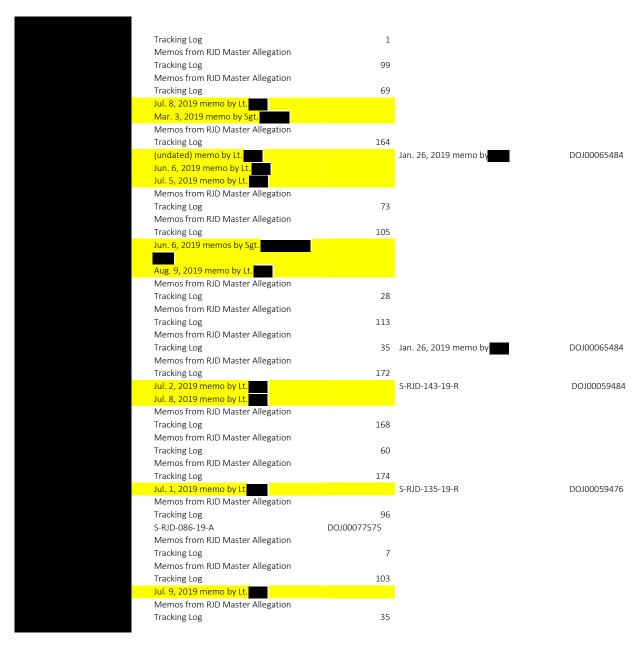
From: To: Gay C. Grunfeld; Michael Freedman; Penny Godbold; Karen Stilber; Jack Gleiberman Joanna Hood: Trace Majorino: Anthony Tartaglio: Jeremy Duggan: Iamiya.davis@cdr.ca.gov RE: ARMSTRONG - Memos from RJD Master Allegation Tracking Log [IWOV-DMS.FID3579] Cc: Subject: Date: Sunday, July 26, 2020 2:16:59 PM

Gay,

These memos are being produced informally because there was not sufficient time to include them in Monday's production, but as noted in my prior e-mail, they are confidential. Therefore, please redact identifying information for both staff and inmates.

I have requested any missing memos, and they will be provided tomorrow (Monday, July 27, 2020). Based on my review, the memos identified in the tracker that are missing originated from either Lt. or Sgt. (with one supplemental memo from Lt.), and are highlighted below:

RID Allegation Tracker DOX/00110804		RECORD	PAGE	ADDITIONAL RECORD	PAGE
Tracking Log Memos from RID Master Allegation Tracking Log Jul. 3, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 3, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 mem by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking L		RJD Allegation tracker	DOJ00110804		
Tracking Log Memos from RID Master Allegation Tracking Log Jul. 3, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 3, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 mem by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking L		Memos from RJD Master Allegation			
Tracking Log Memons from RID Master Allegation Tracking Log Nemons from	1		115		
Tracking Log Memons from RID Master Allegation Tracking Log Nemons from		Memos from RJD Master Allegation			
Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking L	1		176		
Tracking Log Memos from RID Master Allegation Tracking Log Jun 13, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 13, 2019 memo by St Memos from RID Master Allegation Tracking Log Jun 13, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 15, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 15, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 18, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 18, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 18, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 18, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun 18, 2019 memo by Lt Memos from RID Master Allegation Tracking Log					
Memos from RID Master Allegation Tracking Log Jur. 13, 2019 memo by St. Memos from RID Master Allegation Tracking Log Jur. 13, 2019 memo by St. Memos from RID Master Allegation Tracking Log Nemos from RID M	1		126		
Tracking Log Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Sgt. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jun. 15, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Sell-141-19-R Sell-141-19-R Memos from RID Master Allegation Tracking Log Sell-141-19-R Memos from RID Master Allegation Tracking Log Sell-141-19-R Memos from RID Master Allegation Tracking Log Sell-141-141-141-141 Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Me			120		
Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by tt Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by set. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by set. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by tt Memos from RID Master Allegation Tracking Log Alemos from RID Master Allegation Alemos from RID Master Allegation	1		120		
Tracking Log Jul. 5, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Set. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Set. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log No DOLO00059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL000059077 Memos from RID Master Allegation Tracking Log No DOL00059077 Memos from RID Master Allegation Tracking Log No DOL00059077 Memos from RID Master Allegation Tracking Log No DOL00059079 NO DOL000590			120		
Incl. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Set. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log No memo S-RID-141-19-R Memos from RID Master Allegation Tracking Log No memo S-RID-141-19-R Memos from RID Master Allegation Tracking Log No memo S-RID-141-19-R Memos from RID Master Allegation Tracking Log No Memos from RID Master Allegation No Memos from RID M	1		71		
Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Set. Memos from RID Master Allegation Tracking Log Jun. 13, 2019 memo by Set. Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by It Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos authored by Lt. Memos from RID Master Allegation Tracking Log Nemos from RID Master Allegation Nemos from RID Master Allegation Tracking Log Nemos from RID Master Allegation Nemos from RID Maste			/1		
Tracking Log Memos from RJD Master Allegation Tracking Log Jun. 13, 2019 memo by Sgt. Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Memo	<u> </u>				
Memos from RJD Master Allegation Tracking Log Jun. 13, 2019 memo by Sgt. Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Lt. SRID-086-19, S-RID-142-19-R, & S-RID- D0J0005575, D0J0005575, D0J00059494, D0J00077575 SRID-086-19, S-RID-142-19-R, & S-RID- D0J00077575 Memo authored by Lt. Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Jan. 18, 2019 memo by Lt. SRID-086-19, S-RID-142-19-R, & S-RID- D0J00077575 SRID-086-19, S-RID-142-19-R, & S-RID- D0J0005575, D0J000			4.5		
Tracking Log Jun. 13, 2019 memo by Sgt. Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log Nemos from RID Master Allegation Nemos from RID Master A			15		
Jun. 13, 2019 memo by Sgt. Memos from RID Master Allegation Tracking Log Amens from RID Master Allegation Tracking Log Amens from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log SRID-141-19-R DOJ00079077 Memos from RID Master Allegation Tracking Log Mag. 7, 2019 memo by Lt. Mag. 13, 2019 memo by Lt. SRID-135-19-R DOJ00065484 Memos from RID Master Allegation Tracking Log Indicate witness was discharged) DOC0000002893 Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Logolouse State Allegation DOJ00065484 Memos from RID Master Allegation Tracking Log Logolouse State Allegation Tracking Log Logolouse State Allegation DOJ00065484					
Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log S-RJD-141-19-R Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Memos fr			89		
Tracking Log Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt Memo authored by Lt Memo authored by Lt Memos from RJD Master Allegation Tracking Log SRID-141-19-R Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. No memo SRID-141-19-R Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. SRID-135-19-R DOJ00059470 Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Aug. 12, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Aug. 140 DOJ00059470 DOJ00059470 Jul. 1, 2019 memo by Lt. Aug. 140 DOJ00059470 Jul. 140 Jul. Jul. 140		1 2			
Memos from RJD Master Allegation Tracking Log Jul. 5, 2019 memo by Lt Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt Memo authored by Lt Memos from RJD Master Allegation Tracking Log S-RJD-141-19-R Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. No memo Jul. 9, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jul. 1, 2019 memo by Lt. Jul. 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 2019 memo by Lt. Jul. 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 2019 memo by Lt. Ju	I				
Tracking Log Jul. 5, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt Memo authored by Lt Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Jul. 2019 memo by Lt Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Jul. 2, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Jul. 2, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 2, 2019 memo by Lt Jul. 2, 2019	I		135		
Jul. 5, 2019 memo by Lt Memos from RID Master Allegation Tracking Log S-RID-141-19-R DOJ00079077 Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt No memo Jul. 9, 2019 memo by Lt Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Memos from RID Master Allegation Tracking Log Jul. 1, 2019 memo by Lt Jul. 2019 memo by Lt Jul	I				
Memos from RJD Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos authored by Lt. Memos from RJD Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Lo			53		
Tracking Log Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log Notes to Bishop report indicate witness was discharged) DOCO000002893 Jul. 1, 2019 memo by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master		•		Jan. 18, 2019 memo by	DOJ00065382
Memos from RID Master Allegation Tracking Log Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Master Al	I	Memos from RJD Master Allegation			
Tracking Log Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log In memo S-RID-141-19-R DOJ00079077 Memos from RID Master Allegation Tracking Log Inces to Bishop report indicate witness was discharged) DOC0000002893 Jul. 1, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Jul. 2019 memo by Lt. Ju	I	8 8	138		
Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Memos	I	Memos from RJD Master Allegation			
Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log Memos from RID Maste			140		
Aug. 7, 2019 memo by Lt. Memo authored by Lt. Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracking Log S-RID-141-19-R Memos from RID Master Allegation Tracking Log Memos from RID Master Allegation Tracki					DOJ00056575,
Memos from RJD Master Allegation Tracking Log 2 Memos from RJD Master Allegation Tracking Log 145 Memos from RJD Master Allegation Tracking Log 145 Memos from RJD Master Allegation Tracking Log 81 Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 100 Jul. 9, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110				S-RJD-086-19, S-RJD-142-19-R, & S-RJD-	DOJ00059494,
Memos from RJD Master Allegation Tracking Log Tracking Log Memos from RJD Master Allegation Tracking Log Memos fro		Aug. 7, 2019 memo by Lt.		143-19-R	DOJ00077575
Memos from RJD Master Allegation Tracking Log S-RJD-141-19-R Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log S-RJD-141-19-R Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Track		Memo authored by Lt.			
Tracking Log 2 Memos from RJD Master Allegation Tracking Log 145 Memos from RJD Master Allegation Tracking Log 81 Memos from RJD Master Allegation Tracking Log 81 Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) Jul. 9, 2019 memo by Sgt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 1, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 1, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 1, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893					
Tracking Log Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Nemos - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log Memos from RJD Master Allegation Tracking Log Tracking Log Nemos From RJD Master Allegation Tracking Log No memo No Memos From RJD Master Allegation No Memos From RJD Master Allegati	I		2		
Tracking Log 145 Memos from RJD Master Allegation Tracking Log 81 Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. S-RJD-135-19-R DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I				
Memos from RJD Master Allegation Tracking Log 81 Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. In on memo Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log 162 Aug. 3, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log 162 S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log 110	I		145		
Tracking Log 81 Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt (notes to Bishop report indicate witness was discharged) DOC000002893 Jul. 9, 2019 memo by Lt S-RJD-135-19-R DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I				
Memos from RJD Master Allegation Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Jul. 11, 2019 memo by Lt. Jul. 12, 2019 memo by Lt. Jul. 13, 2019 memo by Lt. Jul. 14, 2019 memo by Lt. Jul. 155-19-R DOJ00065484 Memos from RJD Master Allegation Tracking Log 110			81		
Tracking Log 148 no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00065484 Memos from RJD Master Allegation Tracking Log 101 Memos from RJD Master Allegation Tracking Log 110	ľ				
no memo - "No inquiry needed no allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I		148		
allegation made" Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110					
Memos from RJD Master Allegation Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110					
Tracking Log 61 Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110		-			
Memos from RJD Master Allegation Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by . DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I	_	61		
Tracking Log 156 no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I				
no memo S-RJD-141-19-R DOJ00079077 Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. In omemo Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log 110 DOJ00065484 Notes to Bishop report indicate witness was discharged) DOC0000002893 S-RJD-135-19-R DOJ00059470 Jan. 26, 2019 memo by DOJ00065484	I	_	156		
S-RJD-141-19-R Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. In o memo Jul. 9, 2019 memo by Lt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log 110 Jan. 26, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) S-RJD-135-19-R Journal Double Sequence of Double Sequ			130		
Memos from RJD Master Allegation Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110			DOJ00079077	Jan. 26. 2019 memo by	DOJ00065484
Tracking Log 162 Aug. 7, 2019 memo by Lt. (notes to Bishop report indicate witness was discharged) DOC0000002893 Jul. 9, 2019 memo by Sgt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110	I			, -,	
Aug. 7, 2019 memo by Lt. In o memo Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log In otes to Bishop report indicate witness was discharged) DOC0000002893 S-RJD-135-19-R DOJ00059470 Jan. 26, 2019 memo by DOJ00065484	I		162		
no memo Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log (notes to Bishop report indicate witness was discharged) DOC0000002893 S-RJD-135-19-R DOJ00059470 Jan. 26, 2019 memo by DOJ00065484			102		
no memo Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Was discharged) S-RJD-135-19-R Jan. 26, 2019 memo by DOJ00065484		Aug. 7, 2015 memo by Et.		(notes to Rishon report indicate witness	
Jul. 9, 2019 memo by Sgt. Jul. 1, 2019 memo by Lt. Aug. 13, 2019 memo by Lt. Memos from RJD Master Allegation Tracking Log Jul. 1, 2019 memo by Lt. S-RJD-135-19-R Jan. 26, 2019 memo by DOJ00065484		no memo		1 1	DUCUUUUU0803
Jul. 1, 2019 memo by Lt. S-RJD-135-19-R DOJ00059470 Aug. 13, 2019 memo by Lt. Jan. 26, 2019 memo by DOJ00065484 Memos from RJD Master Allegation Tracking Log 110				was alsolial god/	2000000002033
Aug. 13, 2019 memo by Lt. DOJ00065484 Memos from RJD Master Allegation Tracking Log 110				C DID 12E 10 D	DO1000E0470
Memos from RJD Master Allegation Tracking Log 110					
Tracking Log 110				Jan. 26, 2019 memo by	שטוטטט65484
	I	_	440		
Wernos from Kid Master Allegation	I		110		
	•	iviernos from หมบ iviaster Allegation			



Thank you,

$Sean\ W.\ Lodholz\ |\ Deputy\ Attorney\ General\ |\ California\ Department\ of\ Justice$

Correctional Law Section | 1300 I Street | Sacramento, CA 95814 t (916) 210-7369 | f (916) 324-5205 | e sean.lodholz@doj.ca.gov

From: Gay C. Grunfeld <GGrunfeld@rbgg.com>

Sent: Saturday, July 25, 2020 5:40 PM

To: Sean Lodholz <Sean.Lodholz@doj.ca.gov>; Michael Freedman <MFreedman@rbgg.com>; Penny Godbold <PGodbold@rbgg.com>; Karen Stilber <KStilber@rbgg.com>; Jack Gleiberman <JGleiberman@rbgg.com>

Cc: Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Anthony Tartaglio <Anthony.Tartaglio@doj.ca.gov>; Jeremy Duggan <Jeremy.Duggan@doj.ca.gov>; tamiya.davis@cdcr.ca.gov

 $\textbf{Subject:} \ \mathsf{RE:ARMSTRONG-Memos} \ \mathsf{from} \ \mathsf{RJD} \ \mathsf{MasterAllegation} \ \mathsf{Tracking} \ \mathsf{Log} \ [\mathsf{IWOV-DMS.FID3579}]$

Importance: High

Dear Sean,

We have reviewed these memoranda and the Excel Spreadsheet you call the RJD Allegation tracker. The Excel spreadsheet has 61 lines of data, each corresponding to separate inquiries with distinct log numbers. According to our count, you have only produced 36 memos, meaning that 25 memoranda are missing. Please advise when those will be produced.

Also, we would like clarification on how to treat the officer names listed in the memoranda – sealed or not sealed?

Thanks, Gay

Gay Crosthwait Grunfeld ROSEN BIEN GALVAN & GRUNFELD 101 Mission Street, Sixth Floor San Francisco, CA 94105 (415) 433-6830

From: Sean Lodholz < Sean.Lodholz@doj.ca.gov >

Sent: Friday, July 24, 2020 4:21 PM

To: Gay C. Grunfeld <<u>GGrunfeld@rbgg.com</u>>; Michael Freedman <<u>MFreedman@rbgg.com</u>>; Penny Godbold <<u>PGodbold@rbgg.com</u>>; Karen Stilber <<u>KStilber@rbgg.com</u>>

Cc: joanna.hood@doj.ca.gov; trace.majorino@doj.ca.gov; anthonv.tartagljo@doj.ca.gov; jeremv.duggan@doj.ca.gov; tamiya.davis@cdcr.ca.gov

Subject: ARMSTRONG - Memos from RJD Master Allegation Tracking Log

Good afternoon,

Below are instructions for downloading the memos referenced in the RJD Master Allegation Tracking Log. These documents are being produced informally because there is not sufficient time to produce them formally in Monday's production. We will produce them formally as part of the following production (August 3). These documents are confidential under the Court's protective orders.

If you have any questions or issues with downloading these documents, please let me know.

I am still waiting for RJD to provide the four April 2020 memos referenced at #59-62. I anticipate producing them no later than Monday, July 27.

Thank you,

Sean W. Lodholz | Deputy Attorney General | California Department of Justice

Correctional Law Section | 1300 | Street | Sacramento, CA 95814 t (916) 210-7369| f (916) 324-5205 | e sean.lodholz@doj.ca.gov

The following files have been sent using FileXchange and can be downloaded by using the link below:

Filename	Size	Checksum (SHA256)
Memos from RJD Master Allegation Tracking Log (1).pdf	13.2 MB	f3e2f50bf621bd3213ba30c7be095fdf23cc5301f9296606e6bc38478e876e47
Please click on the following link to download the attachm	ents:	

This email or download link can not be forwarded to anyone else.

The attachments are available until: Wednesday, 5 August.

Message ID: YeXohCT9uloP6cAS02MDaS



CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Exhibit RR

PRODUCED INFORMALLY JULY 24, 2020

MEMORANDUM

CONFIDENTIAL

Date: January 23, 2020

To: M. Pollard

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY RESULTING FROM ARMSTRONG AUDIT TOUR - JUNE/JULY

2019 (EVENT RJD-C-19-001)

SUMMARY:

On January 8, 2019, the Rosen Bien Galvan & Grunfeld Law Firm (RBG&G) requested for a fact finding inquiry which was the result of an interview conducted with Inmate during an Armstrong Audit tour that occurred August 27th and 28th, 2018. Specifically, on October 14, 2018, was involved in a riot on Facility C. was stabbed multiple times as a result of his participation in the riot. alleged the attack and riot was a racially motivated act of gang violence caused by CDCR. reported the attack occurred in response to him being called out and interviewed by ISU staff on September 19, 2018. The interview was regarding staff misconduct.

FACT FINDING INQUIRY:

This inquiry was assigned event # RJD-C-19-001 and this document will deal solely with the allegation made by _______.

DOCUMENT REVIEW & ANALYSIS:

A review was conducted into this matter and it was discovered an investigation was completed regarding the aforementioned incident involving . A Confidential Memorandum dated November 6, 2018, authored by Investigative Service Unit (ISU) Officer was generated, which thoroughly documented the origin and events that transpired on October 14, 2019, which lead to the riot were was stabbed.

CONCLUSION:

A thorough investigation was conducted in regard to this allegation. It is determined there is no evidence to support the claim provided by the Armstrong Audit Team. Interviews were conducted with the involved inmates and the information that was derived from the interviews showed corroboration and confirmed the allegation made by are without merit.

Based on this information, Richard J. Donovan has no further interest in this matter and considers this case closed. This information is provided for your review and disposition. Should you have any

questions. I can be reached at extension

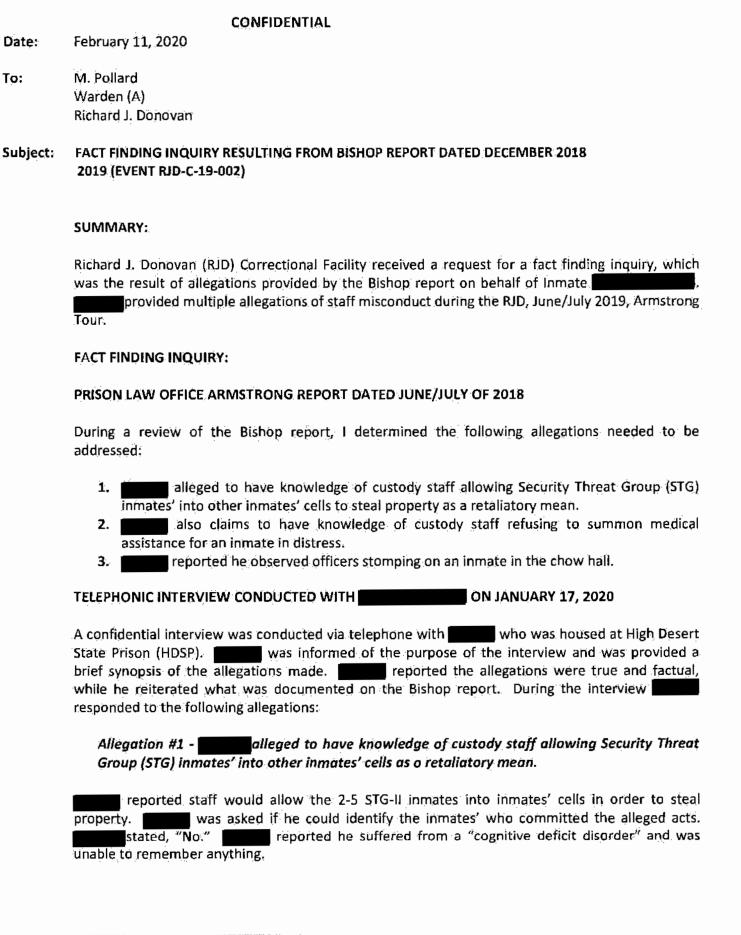
Correctional Lieutenant

Richard J. Donovan Correctional Facility

NOTTO. WAVEW (A) 1/27/2020

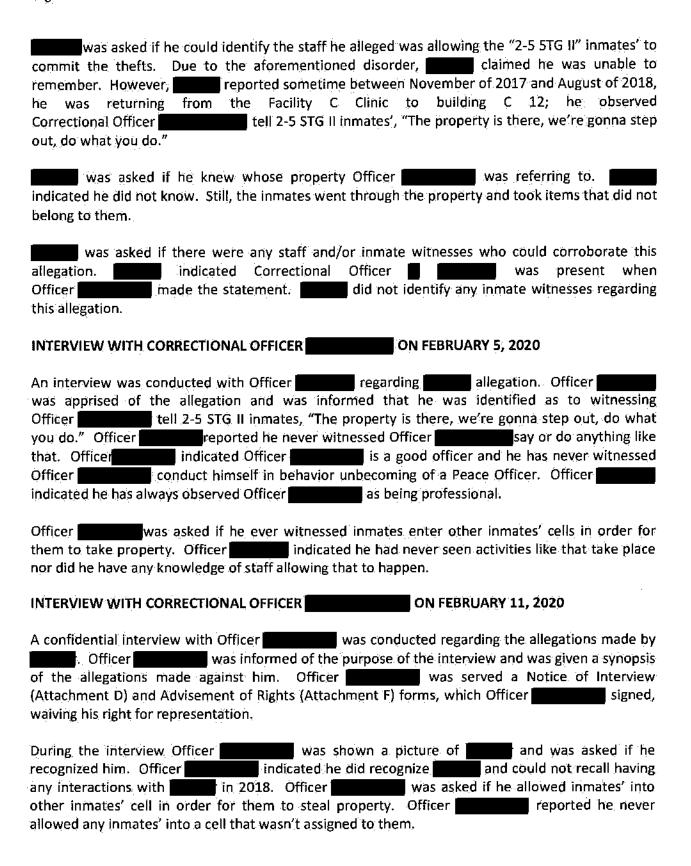
MEMORANDUM

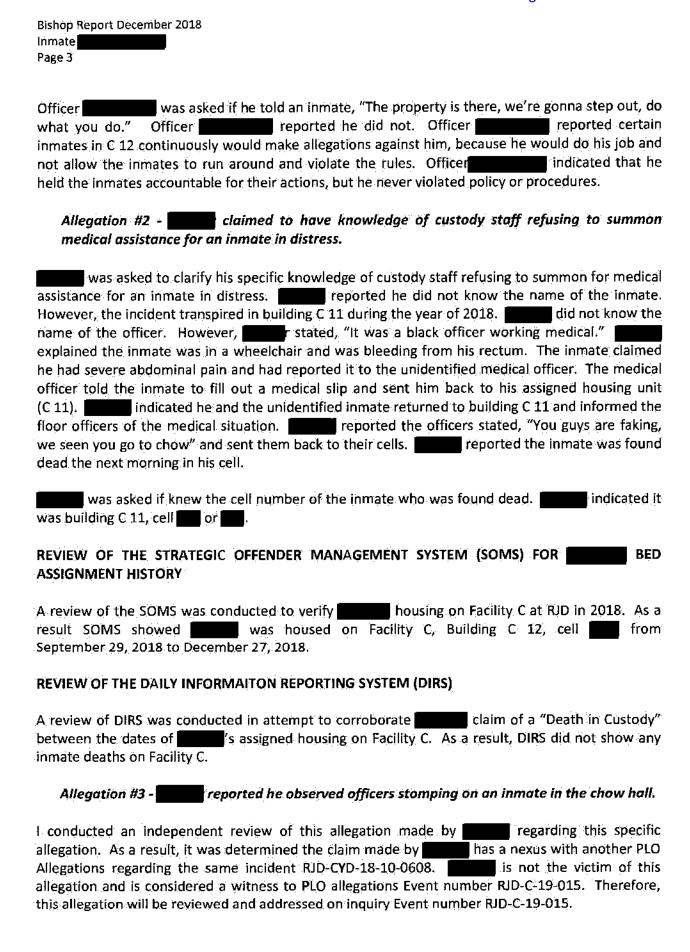
To:



Bishop Report December 2018

Page 2





Bishop Report December 2018 Page 4.
INTERVIEWS WITH RANDOM INMATES HOUSED IN BUILDING € 12 ON JANUARY 30, 2020
Interviews were conducted with randomly selected inmates who were housed in building C 12 between the months of November 2017 through August 2018; during the time was housed January 29, 2018, and are still currently housed in building C 12. These interviews are being conducted in attempt to discover if allegations have merit. The following inmates were interviewed:
 Inmate Inmate Inmate
The aforementioned inmates were asked the following set of questions:
 Do you have any knowledge of staff allowing inmates into other inmates' cells in order to steal their property? Do you have any knowledge of an inmate dying in cell as a result of staff refusing him medical treatment? How is Correctional Officer swork ethic?
As a result of the questions asked, all of the inmates refuted, disproved and/or did not provide any information to corroborate the allegations made by
CONCLUSION
Londucted an independent reviews of the allegations made by through the PLO and determined the following:
alleged to have knowledge of custody staff allowing Security Threat Group (STG) inmates' into other inmates' cells to steal property as a retaliatory mean. During my review, I determined the allegation is unfounded. This was determined by the interviews conducted with random inmates housed in C 12 during the time claimed the incident transpired. None of the inmates corroborated is allegation. Furthermore, the interviews conducted with the abovementioned staff also did not support is allegation. As a result no evidence was discovered to substantiate is claim.
2. Solution is claim to have knowledge of custody staff refusing to summon for medical assistance for an inmate in distress, which resulted with the inmate being found dead the next morning is without merit. During my review, I determined there was no discoverable evidence which supports for a claim.

was there any evidence discovered via reports to corroborate stations of an inmate dying on Facility C during time frame was housed at RJD. In addition, none

of the inmates interviewed regarding this allegation recalled an inmate death in cell.

Bishop Report December 2018

Page 5

Additionally, it was discovered that was not housed in Building C 11 during the time of this allegation. SOMS showed was not housed in Building C 12. This makes allegation appear questionable regarding the details he provided.

3. If you is a claim will be addressed during the review of Event number RJD-C-19-015.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant Richard J. Donovan Correctional Facility

ar. 12 sova & State Prongen (4)

MEMORANDUM

CONFIDENTIAL

Date:

February 12, 2020

To:

M. Pollard Warden (A)

Richard J. Donovan

Subject:

FACT FINDING INQUIRY RESULTING FROM BISHOP REPORT DATED DECEMBER 2018

2019 (EVENT RJD-C-19-003)

SUMMARY:

Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop report on behalf of Inmate provided multiple allegations of staff misconduct during the Bishop report dated December 2018.

FACT FINDING INQUIRY:

PRISON LAW OFFICE ARMSTRONG REPORT DATED JUNE/JULY OF 2018

During the interview responded to the following allegations:

During a review of the Bishop report, I determined the following allegations needed to be addressed:

- 1. alleged to have knowledge of specific custody staff in creating "Fight Alley."
- 2. Claimed to have information regarding an inmate who tried to get help for suicidal ideations. The inmate cut himself to deep and ended up dying.
- 3. reported he observed specific staff to allow other inmates to go into inmates cells to assault them.

A confidential interview was conducted via telephone with who was housed at the California Men's Colony (CMC). was informed of the purpose of the interview and was provided a brief synopsis of the allegations made. reported the allegations he made were true and factual and that he was interviewed by an unidentified party regarding these same allegations during the year of 2018. During our interview, indicated he was shown pictures of the custody staff members whom he had identified as subjects concerning these allegations. However, later in our interview, changed his story and reported he was not shown pictures; rather if he was shown pictures of the staff members he would be able to identify which staff members participated in these allegations. As a result, indicated he was unable to recall any specifics details regarding the allegations, because the incidents took place too long ago.

Bishop Report December 2018

Inmate

Page 2 alleged to have knowledge of specific custody staff creating "Fight Allegation #1 Alley." was asked about his knowledge of specific custody staff creating "Fight Alley." Specifically, was asked what Fight Alley was. explained Fight Alley was the area where inmates were allowed to fight. reported Fight Alley was located between alleged custody staff instigated and allowed the fights to take place. was asked if he had any proof or evidence that custody staff instigated and allowed the did not provide stated, "I witnessed it on a constant basis." fights to take place. any further proof. was asked if he knew of any inmates and/or staff witnesses who would be able to substantiate this allegation. reported he could not identify any inmates or staff witnesses, because he had moved on and the memories had left his mind. reported if pictures were put in front of him he would be able to identify staff members, but other than that he would not be able to provide any staff or inmate names: Allegation #2 - claimed to have information regarding an inmate who tried to get help for suicidal ideations and that the inmate had cut himself too deep and ended up dying. was asked about the information regarding an inmate who tried to get help for suicidal ideations, which resulted in the inmate cutting himself too deep causing his death. reported the inmate was housed in C 15 and the inmate had asked staff for help. asked to provide any details regarding the aforementioned inmate. The reported he could not remember any details regarding the inmate. stated, "It's not fresh anymore. That's stuff has gone out of my head." was asked if he could recall the inmates name and/or provide any characteristic details in order to locate the incident date and time. I could not provide any details regarding this allegation. was asked how the inmate attempted to seek help for suicidal ideations. indicated he could not remember, because it was too long ago. A REVIEW OF INCIDENT REPORT LOG NUMBER RJD-CEN-18-11-0636 As a result of the interview with the lit was discovered Inmate the inmate who committed suicide in building C.15 on November 10, 2018, at 0305 hours. A review of the Crime/Incident Report (CDCR-837) Log number RJD-CEN-18-11-0636, indicated severely cut himself, which in fact resulted in his demise.

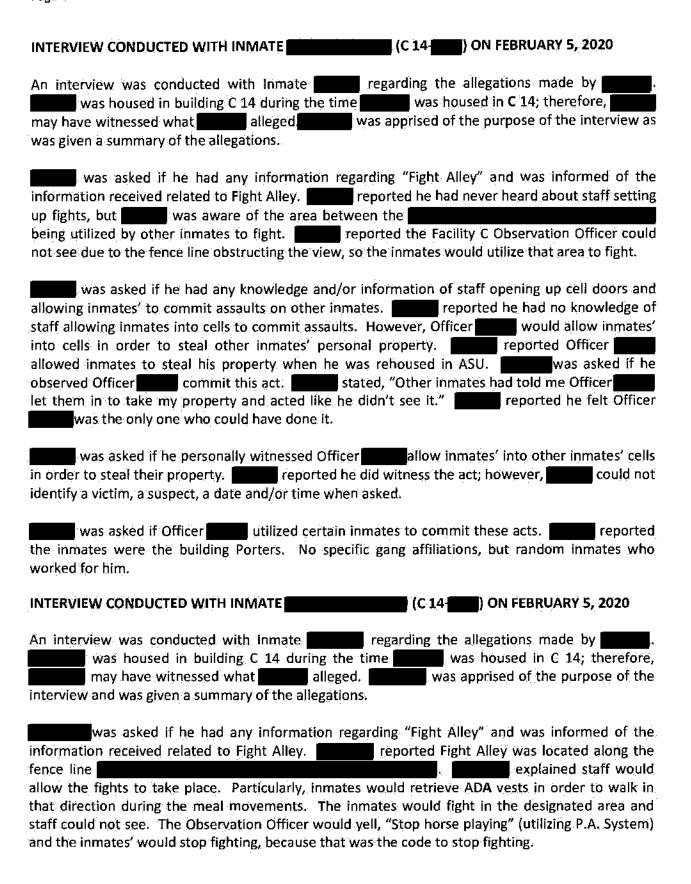
Bishop Report December 2018

knowledge regarding this allegation.

Inmate ___

Page 3 A REVIEW OF THE STRATEGIC OFFENDER MANAGEMENT SYSTEM (SOMS) A review of seed assignment history was conducted to determine his housing during the time of this allegation. It was discovered was assigned to building C 11-day during the time committed suicide in building C 15. Allegation #3 - reported he observed specific staff allowing other inmates to go into inmates cells to assault them. was asked about his observation regarding specific staff members allowing other inmates to go into other inmates' cell to assault them. the officer who allowed this to happen. Specifically, and indicated Officer willingly let the assaults happen. was asked how Officer would allow the assaults to happen. stated, "I guess you can say he was the head shot caller on the situation and he gave the orders for that to happen and he would sit back and watch." indicated Officer was the leader of the inmate "gang" in building C 14. was asked if he could identify any of the inmates who were either victims and/or suspects indicated he did not know any names, dates or times regarding this in the alleged assaults. allegation, because it was over a year ago and all of those memories had left his mind. was asked if there were any other staff members who were allowing inmates to go into other inmates' cell's to be assaulted. did not identify any other staff members committing this act. INTERVIEW CONDUCTED WITH INMATE (C 14-14-14) ON FEBRUARY S, 2020 An interview was conducted with Inmate regarding the allegations made by was housed in building C 14 during the time was housed in C 14; therefore, may have witnessed what alleged. was apprised of the purpose of the interview as was given a summary of the allegations. was asked if he had any information regarding "Fight Alley" and was informed of the information received related to Fight Alley. reported he had no knowledge of Fight Alley or what Fight Alley was. Additionally, had no information regarding staff orchestrating or allowing fights to take place. was asked if he had any knowledge and/or information of staff opening up cell doors and allowing inmates' to go in and commit assaults. The reported he had not observed any staff members conduct themselves in that manner. Furthermore, indicated he had no

Sishop Report December 2018 Inmate Page 4



Bishop Report December 2018

Inmate

Page 5 was asked to identify the staff members who allowed this to take place. However, refused to provide any names of the staff members or inmates. was asked if he had any knowledge and/or information of staff opening up cell doors and allowing inmates' to commit assaults on other inmates. The reported Officer these acts to happen. explained when an inmates moved into the building Officer would show him the inmates' conviction records and pictures via SOMS and he along with other unidentified inmates would assault them in their cells or in the dayroom. would personally allow them into the cells to conduct the assaults. Additionally, reported Officer tried to have inmates assaulted for filing grievances and lawsuits against staff. was asked if he had any knowledge and/or information of staff opening up cell doors and allowing inmates' to go in to steal other inmates' personal property. The reported Officer personally allowed him into cells to steal property and that he did it often. was asked to identify the inmates who participated in the assaults and thefts. would not convey any of the inmates' names, nor would be provide any specific details to corroborate his allegations. was asked if Officer was utilizing certain inmates to commit these acts. reported the inmates utilized were in accordance to their race. No specific gang affiliations, but depending on the race of the victim, determined who would commit the assault. was asked if there were any other staff members who had knowledge of these allegations. stated, "Officer was Was Officer and ' partner and they both were in it together." INTERVIEW CONDUCTED WITH INMATE (C 14-000) ON FEBRUARY 5, 2020 An interview was conducted with Inmate regarding the allegations made by was housed in building C 14 during the time was housed in C 14; therefore, may have witnessed what alleged. was apprised of the purpose of the interview and was given a summary of the allegations. was asked if he had any information regarding "Fight Alley" and was informed of the information received related to Fight Alley. what Fight Alley consisted of and where it was located. However, still had no knowledge pertaining to Fight Alley. was asked if he had any knowledge and/or information of staff opening up cell doors and

allowing inmates' to commit assaults on other inmates. I reported he had no knowledge of

staff allowing inmates into cells to commit assaults.

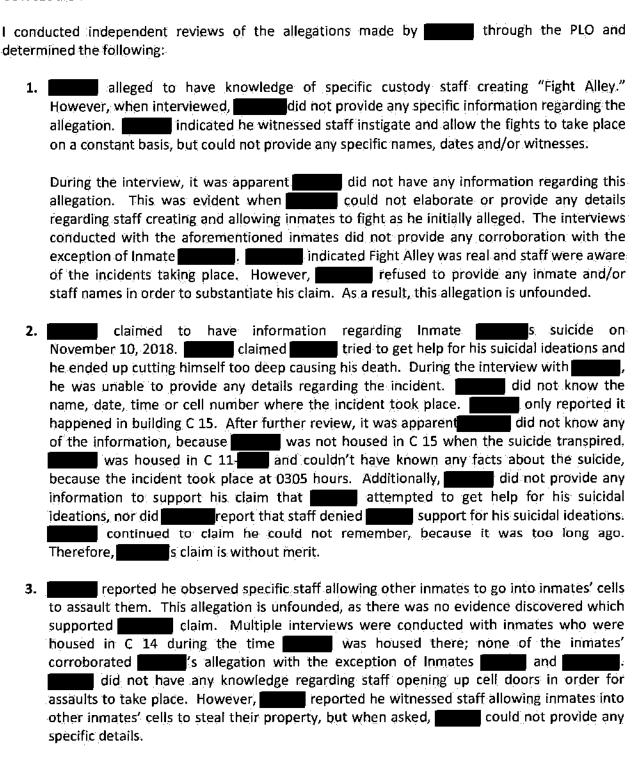
Bishop Report December 2018

Inmate

Page 6 was asked if he had any knowledge and/or information of staff opening up cell doors and allowing inmates' to go in and steal other inmates' personal property. never observed staff open up cell doors in order for assaults to take place. was asked if he had any knowledge of Officers or permitting inmates to be assaulted. The reported he knew nothing about that. Additionally, the explained he had been in building C 14 for years and indicated Officers and and have been professional and conduct themselves in a professional manner. INTERVIEW WITH CORRECTIONAL OFFICER DATED FEBRUARY 11, 2020 A confidential interview with Officer was conducted regarding the allegations made by . Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation. During the interview Officer was shown a picture of and was asked if he recognized him. Officer indicated he did not recognize and had no recollection of any encounters with him. Officer was asked if he was familiar with "Fight Alley." Officer reported he had never heard of it. I explained what Fight Alley was and gave the area where Fight Alley was allegedly located, but Officer indicated he had no knowledge of Fight Alley. Officer was asked if he had any knowledge regarding an inmate who had asked for help for suicidal ideations and was refused by staff. That same inmate allegedly cut himself and committed suicide. Officer reported he had no knowledge of the incident. was asked if he allowed or witnessed other officers allowing inmates' into the cells of other inmates in order for them to commit assaults. Officer reported he never participated in any such behavior nor did he witness any such behavior take place. was asked if he showed inmates' other inmates' commitment offenses via SOMS, which resulted in assaults being conducted. Officer stated, "No." was asked if he witnessed Officer showing inmates' other inmates' commitment offense via SOMS. Officer stated, "No." INTERVIEW WITH CORRECTIONAL OFFICER TO DATED FEBRUARY 12, 2020 An interview with Officer was attempted regarding these allegations. However, upon making contact with Officer he informed me he had knee surgery the day prior and will be immobile for lengthy period of time. Officer was uncertain when and if he will be able to report to the RJD in order for the interview to commence. Therefore, this inquiry will be completed with the information gathered.

Bishop Report December 2018 Inmate Page 7

CONCLUSION



Bishop	Report December	2018
Inmate		
Page 8		

reported he had firsthand knowledge of staff allowing inmates' into other inmates' cells to commit assaults and theft. Indicated he took part in this behavior at the direction of Officer and and However, refused to provide any specific details of incidents that transpired. As a result the allegation could not be corroborated and is unfounded.

V. 12-10 Lever Brigar Cay

Richard J. Donovan has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

Richard J. Donovan Correctional Facility

CONFIDENTIAL

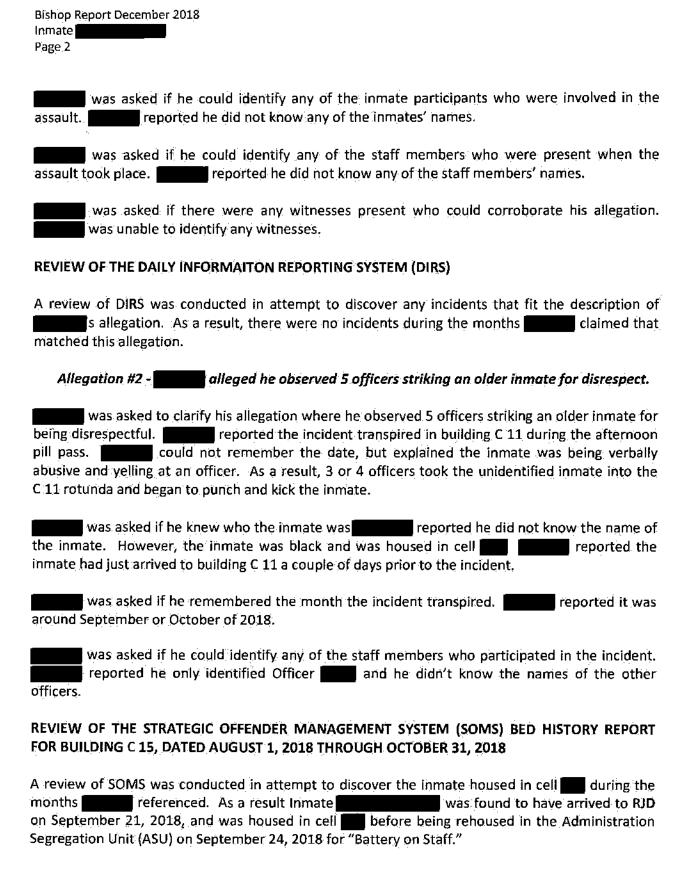
MEMORANDUM

Date:

Subject:

To:

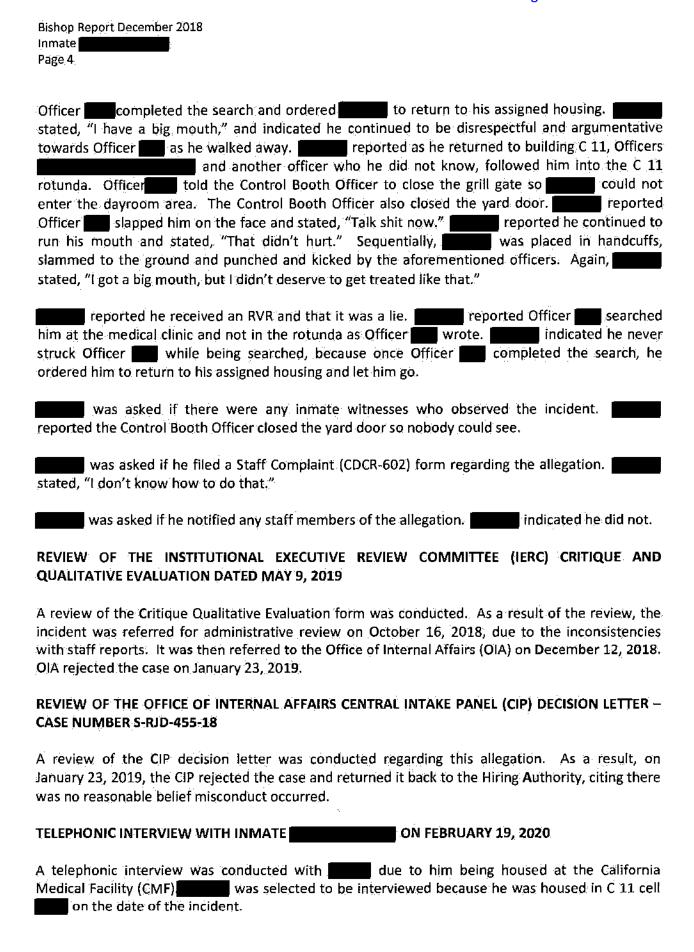
March 3, 2020
M. Pollard Warden (A) Richard J. Donovan
FACT FINDING INQUIRY RESULTING FROM BISHOP REPORT DATED DECEMBER 2018 2019 (EVENT RJD-C-19-004)
SUMMARY:
Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop report on behalf of Inmate provided multiple allegations of staff misconduct during the RJD, June/July 2019, Armstrong Tour.
FACT FINDING INQUIRY:
PRISON LAW OFFICE ARMSTRONG REPORT DATED JUNE/JULY OF 2018
During a review of the Bishop report, I determined the following allegations needed to be addressed:
 alleged he observed officers have an inmate assaulted by other inmates'. alleged he observed 5 officers striking an older inmate for disrespect. alleged he observed an officer jump on an Enhanced Outpatient Program (EOP) inmate in a wheelchair.
TELEPHONIC INTERVIEW CONDUCTED WITH ON FEBRUARY 10, 2020
A confidential interview was conducted via telephone with who was housed at Salinas Valley State Prison (SVSP). was informed of the purpose of the interview and was provided a brief synopsis of the allegations made. reported the allegations were true and factual, while he reiterated what was documented on the Bishop report. During the interview responded to the following allegations:
Allegation #1 - alleged officers had an inmate assaulted by another inmate.
was asked to clarify his allegation that officers had an inmate assaulted by another inmate, explained the incident happened during "pill call" at 2000 hours. could not remember the date it transpired, but recalled it was in September or October of 2018. Specifically, he observed five (5) white inmates batter one (1) white inmate between the gym and the urinals on the Facility C Yard. reported the officers failed to act and allowed the assault to take place, indicated the victim of the assault ended up running into building C 11 as staff watched. Staff never acted on the incident and the incident went unreported.

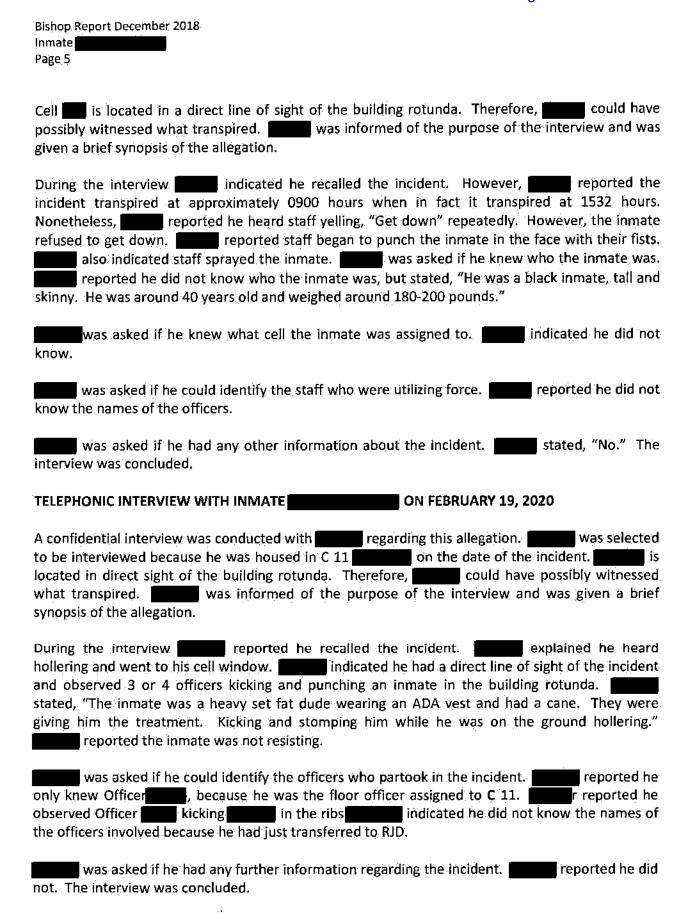


Bishop Report December 2018 Inmate Page 3

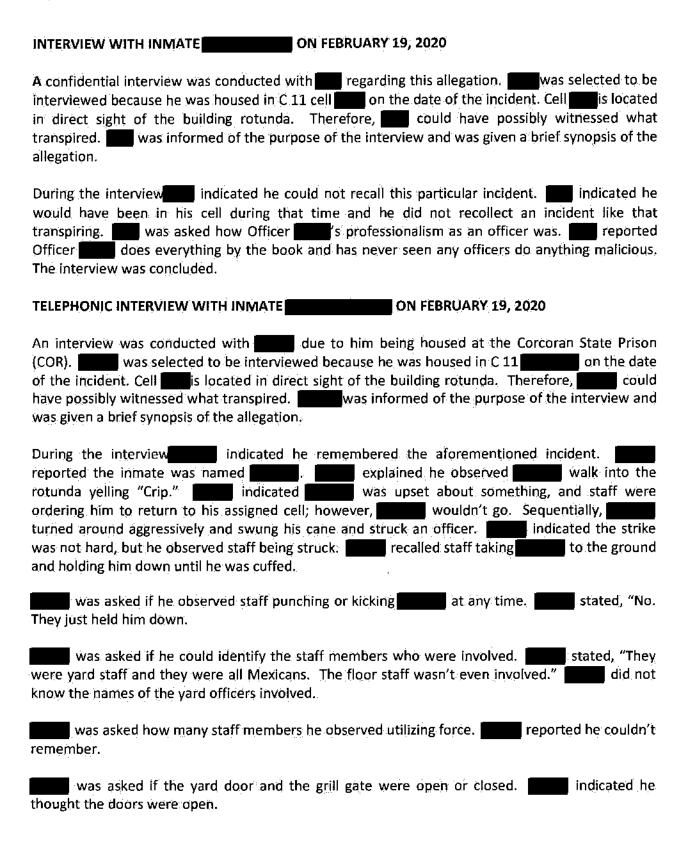
REVIEW OF THE DIRS DATED SEPTEMBER 21, 2018

A review of DIRS was conducted in attempt to corroborate stranspiring during the months he referenced. As a result, an Incident Report (CDCR-837) Log number RJD-C11-18-09-05651 was discovered that replicated the allegation made by This incident involved committing the specific act of "Battery on a Peace Officer." The location of the incident was in building C 11 rotunda. The incident report 837—A1 reads as follows in part:
"On Monday, September 24, 2018, at approximately 1532 hours, Facility C Yard #2, Correctiona Officer was conducting PM medication release in front of Housing Unit 11. Officer approached Inmate became disrespectful by yelling obscenities. Second with negative results as Inmate became disrespectful by yelling obscenities. Second became erratic and his behavior intensified. Officer ordered to a clothed body search, complied. During the course of the clothed body search, began to tense up and utilized his elbow to strike Officer on his upper left rib cage area. Officer backed up and gave a direct order to get down with negative results as continued to walk towards him. Officer un-holstered and utilized his MK-9 OC Pepper Spray by spraying a 2 second burst from approximately 6 feet away, aiming for and striking in the face with negative results. Officer immediately announced via his institutional radio, "Code 1, housing unit 11, inmate resisting staff". In reached for his cane and gripped the lower portion of it like a baseball bat. Officer gave another direct order to get down with negative results as began to raise his cane off the ground. Fearing for his life, Officer utilized physical force to bring to the ground and placed him in handcuffs"
REVIEW OF STATE 'S DISCIPLINARY HISTORY VIA SOMS
A review of state of disciplinary history was conducted in attempt to discover documentation of the "Battery on a Peace Officer." As a result, a Rules Violation Report (RVR) was submitted on September 24, 2018, for the aforementioned charge (RVR Log number 05774444). On November 30, 2018, Senior Hearing Officer, Lieutenant found "Guilty" of the charge.
INTERVIEW WITH INMATE (C 11 ON) ON FEBRUARY 13, 2020
A confidential interview was conducted with regarding the incident in C 11 on September 24, 2018. It is a DD2 inmate and required me to speak slowly and utilize simple English. Additionally, I had describe in his own words when responding to my questions, was informed of the purpose of the interview and was given a brief synopsis of the allegation made.
reported he remembered the incident that happened in the C 11 rotunda. explained he had a verbal altercation with Officer in front of the medical clinic. As a result, Officer ordered to submit to a clothed body search, which complied.





Bishop Report December 2018
Inmate Page 6

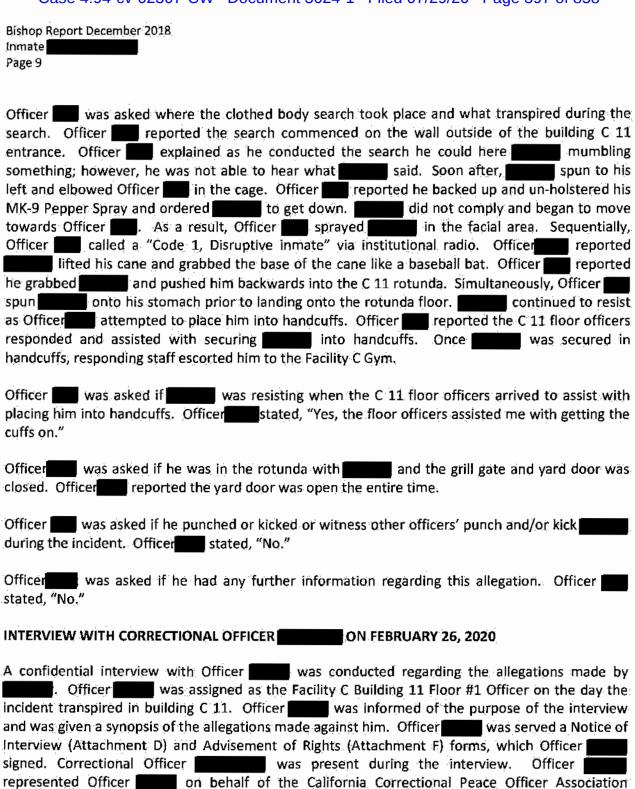


Bishop Report December 2018

Inmate Page 7 was asked if he could remember anything else regarding the incident. remember on the ground yelling for no reason. Staff wasn't even doing anything to him." The interview was concluded. INTERVIEW WITH CORRECTIONAL OFFICER ON FEBRUARY 25, 2020 A confidential interview with Officer was seen was conducted regarding the allegations made . Officer was the C 11 Control Booth Officer on the day the incident transpired in building C 11. Officer was used was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation. During the interview, Officer indicated he recalled the day of the incident and explained the inmates were returning from the afternoon "pill call." Officer states, along with the building floor officers were also conducting dayroom recall. Utilizing the hanging mirror outside of the yard window, Officer reported he observed and two (2) officers in front of the building. was talking loud towards the officers as he walked into the observed the officers walk away as walked into the rotunda. building. Officer Officer reported he began to close the grill gate to signal to to hurry up. was inside of the dayroom, Officer continued with dayroom recall. Assuming reported heard a "Code 1 in C 11" announced via institutional radio. Officer Officer activated his Personal Alarm Device (PAD) and closed the yard door in order to keep the inmates on the yard out. Officer reported he ordered the inmates in the dayroom to get down onto the ground. Officer reported he looked down through the floor glass window and observed 2 officers in the rotunda with second. Sequentially, responding staff arrived outside of the building, at which time Officer indicated he opened the grill gate and the yard door simultaneously. Officer process reported he could not see what transpired in the rotunda, because of the location of the officers and transpired. Officer indicated he did not see any force utilized nor did he see batter staff. Officer reported he continued to monitor the dayroom. was asked where the building officers' location was. Officer reported the officers' were on the tier assisting with dayroom recall. Officer was asked how long the grill gate and the yard door was closed. Officer stated, "Not even a minute." was asked if he observed being searched by Officer prior to the incident taking place. Officer states stated, "No."

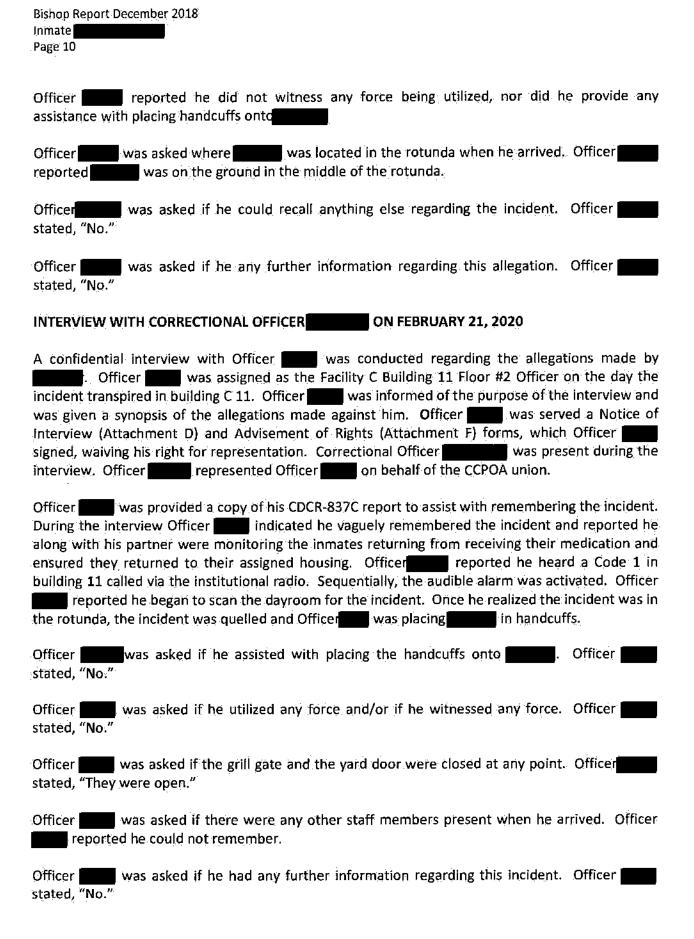
Bishop Report December 2018 Inmate Page 8 INTERVIEW WITH CORRECTIONAL OFFICER ON FEBRUARY 25, 2020 A confidential interview with Officer was conducted regarding the allegations made by . Officer was assigned as the Facility C Security Patio #2 Officer on the day the incident transpired in building C 11. Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for union representation. During the interview Officer reported he remembered the incident and explained he was located in the Plaza in front of Central Control when he heard the Code 1 in building C 11. Officer responded to building C 11 from the Plaza and when he arrived, the incident was quelled. Officer reported was on the ground in the rotunda near the yard door secured in handcuffs. Officer reported he assisted to his feet and escorted him to the Facility C indicated he had no other involvement with the incident and did not provide Gym. Officer any further information. The interview was concluded. INTERVIEW WITH CORRECTIONAL OFFICER ON FEBRUARY 25, 2020 A confidential interview with Officer was conducted regarding the allegations made by Officer was assigned as the Facility C Yard #2 Officer on the day the incident transpired in building C 11. Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for union representation. During the interview Officer reported he remembered the incident and explained getting in and out of the pill line in front of the Medical Clinic and wondering back and forth between building C 11 and the clinic. Officer reported he approached at the table in front of building C 11 and asked him if he had received his medication. Officer did not remember what said, but remembered being very disrespectful. Officer to, "Take it home." started walking towards the building and turned around and began to walk back towards him. Officer approached and ordered him to complied and Officer turn around and put his hands on the wall in ordered to be searched. conducted a clothed body search. Officer was asked why he did not utilize his radio and call a "Code 1." Officer indicated he didn't feel it was serious and did not feel threatened. was asked why he did not secure into handcuffs. Officer reported he did not think to do that, because he did not feel a threat. was compliant and receptive. Officer was asked if he knew was a DD2 inmate. Officer stated, "No, I never had

any dealings with prior."



Officer was provided a copy of his CDCR-837C report to assist with remembering the incident. During the interview Officer indicated he recalled the incident and explained he along with Officer partner were located in the C 11 dayroom when he heard "Code 1 in C 11." Officer couldn't remember where he was located when the alarm was activated, but he remembered scanning the dayroom looking for the incident. Officer reported once he located the incident in the rotunda, Officer had restrained in handcuffs.

(CCPOA) union.

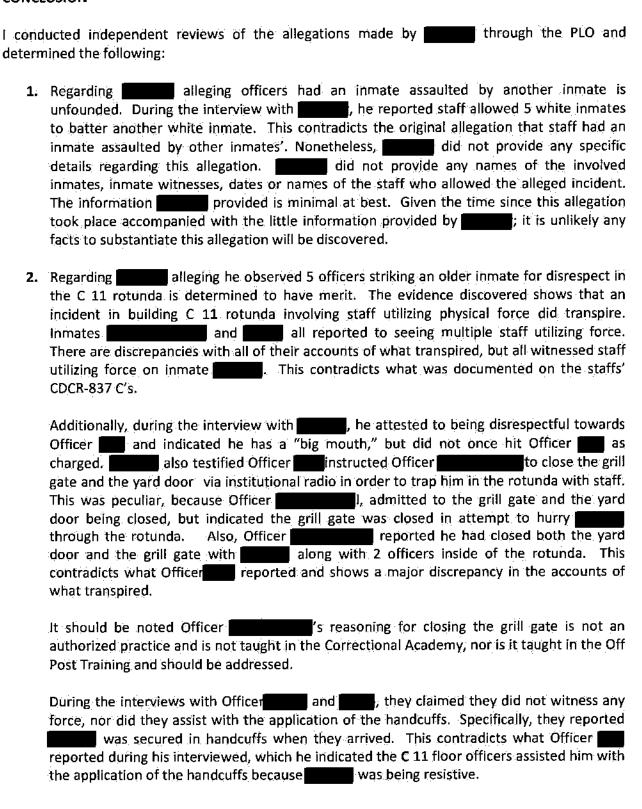


Bishop Report December 2018

Inmate ____

Page 11
Note: An interview with regarding this allegation was not conducted; due to the fact that is no longer employed with the California Department of Corrections and Rehabilitation. Additionally, after reviewing the Third Watch Sign-In Sheet on the day of the incident, was not an duty.
Allegation #3 - alleged he observed an officer jump on an EOP inmate in a wheelchair.
was asked to clarify his allegation regarding an officer jumping on an EOP inmate in a wheelchair. Stated, "The incident happened during the 2000 hour pill line. Specifically, identified Inmate as the inmate who was assaulted by an officer stated," was talking shit to the officers and the officers got pissed at him. They dumped him out of his wheelchair onto the ground."
was asked where he was located when this incident took place. reported he was in the pill line.
was asked if there were any witnesses who would corroborate his allegation. reported he could not remember because it was so long ago.
was asked if he could identify the staff who committed the act. I indicated he did not know the name of the officers.
was asked if he knew the date when the incident transpired. Could not remember:
TELEPHONIC INTERVIEW WITH INMATE OF THE ON FEBRUARY 18, 2020
A telephonic interview with was attempted on February 18, 2020. was housed at the California Health Care Facility (CHCF). Contact with building D1, Correctional Officer was made to assist with coordinating the interview. I was informed by Officer that was informed of the interview. However, refused to exit his cell and indicated he did not wish to participate with the interview.
REVIEW OF INMATE/PAROLEE APPEALS TRACKING SYSTEM (IATS) FOR INMATE
A review of IATS for was conducted. It was discovered submitted a Staff Complaint (Log number RJD-C-18-05272) dated August 16, 2018, regarding this allegation. The appeal indicated on August 16, 2018, he was assaulted by custody staff while in his wheelchair. A Confidential Supplement to Appeal (Attachment C) response was completed on March 15, 2019, by Correctional Sergeant The Attachment C indicated refused to cooperate with the interview and would not answer any of the questions. The Attachment C also notated a videotape interview was conducted. Again, refused to cooperate with the line of questions during the videotaped interview. Therefore, the allegation was found to be without merit. The document also indicated the allegation was reviewed by the IERC on February 20, 2019. IERC also found the allegation to be without merit.

CONCLUSION



Additionally, Officer reported was located in the middle of the rotunda when he arrived to the incident. This also contradicts what Officer reported that was located near the building entrance door.

3. Regarding alleging he observed an officer jump on Inmate in a wheelchair is unfounded. This was determined by multiple interview attempts with resulting with not cooperating. Additionally, the Attachment C and the IERC review indicated the allegation was deemed unfounded. Lastly, did not provide any names of inmate witnesses who observed the unnecessary use of force, nor did he identify the staff who utilized the unnecessary use of force. Therefore, there was no evidence discovered indicating this allegation to be true.

After a thorough review of all the evidence it is believed that allegation #2 has merit and should be forwarded to the Hiring Authority for review for possible misconduct and policy violations. Allegations #1 and #3 were unfounded, due no discoverable evidence.

Correctional Lieutenant

Recommendation For 181
Recommendation For 181
Refural, of Mandon.
Lowed All other Alligations
Closed, of 2/3/2/20

Memorandum

CONFIDENTIAL

Date: February 20, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-005

5UMMARY:

FACT FINDING INQUIRY:

Inmate Date: February 20, 2020 Page 2
was asked if he was the victim of the allegation, he had made in his previous interview regarding witnessing staff using excessive force against a DDP inmate. Stated he was the victim of his allegation, and the incident with Officer is the incident he was describing in his previous interview. Was asked if he was the inmate that was dragged from the cell, as previously reported in his previous interview. Stated he was the victim and it was also the same incident with when he was removed from his cell and dragged down the stairs. Was asked if there were any witnesses to this incident, claimed only the two Officers he previously identified were present at the time he was dragged down the stairs, Officer and was asked if all his previous allegations were tied to this single incident. Was asked if he ever made a formal allegation of excessive force regarding him being dragged down the stairs. He claimed he believed his cellmate had made the claim for him. Stated, at the time of the incident, he was not video recorded, or interviewed regarding excessive force.
During the interview made a second claim that Officer was associated with the STG group 25ers. was asked how he know this, he stated one of the porters in C11 at the time was a 25er. was asked what facts does he have to substantiate his claim, that was associated with 25ers. could not give any specific details, just that he knew it was true. It was reiterated to that specific details would be needed to look into his allegation. Again failed to give any specific inmate names or actually incidents that correspond with his claim.
IDENTIFYING POSSIBLE INMATE WITNESSES SOMS BED HISTORY REPORT
A Strategic Offender Management System (SOMS) Bed History report was utilized to identify possible inmate witnesses due to their housing at the time of the Incident. The indicated inmates on this report were housed at RJDCF in building C11, in cells and at the time of the incident. If in there cells at the time of the incident it is reasonable to believe they would have witnessed so claim that excessive force was used on him.
The following inmates were indicated on the SOMS Bed History Report, and identified as possible witnesses:
INTERVIEW WITH INMATE ON FEBRUARY 18, 2020
On February 18, 2020, a confidential interview was conducted with Inmate

Inmate

Page 3

Date: February 20, 2020

previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
Inmate stated he remembered an incident with a black guy somewhere around December of 2018. He stated a Black inmate in cell was threatening the Officer explained while this unidentified black inmate was in his cell with the door closed he was threatening staff. It claims that staff removed this inmate and searched him in the shower. It stated once the inmate was searched he was escorted out of the building, and he did not witness any forced used on this inmate.
Inmate stated sometime later that night, the floor Officers approached cell and he heard the other inmate cell yell at the cops threatening them as well. It claims the Officers put the second inmate in handcuffs and walked him downstairs. Explained as he was being escorted the inmate started turning and yelling obscenities at the Officers. Once at the bottom of the stairs the Officers pulled him to the ground and put the building down.
explained he was in his cell at the door looking out the window the entire time of the incident. Stated he did not see the Officers use excessive force, that both inmates were very loud and disrespectful. Claimed that the second inmate was taken down due to his resistance, by trying to turn towards the Officers, while yelling. Stated he did not remember the exact threats but he remembers the inmates were definitely threatening the Officers.
INTERVIEW WITH INMATE CONTRACTOR ON FEBRUARY 18, 2020
On February 18, 2020, a confidential interview was conducted with Inmate . This interview was conducted behind closed doors, in C facility Program services at RIDCF. During the interview it was explained to that this interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
Inmate stated he did not recall anything happening around December of 2018. He stated he doesn't remember any incident involving excessive force in his building. Stated he could not recall the names or identities of the inmates housed in cell state. Inmate had no relevant information regarding this allegation, therefore, the interview was concluded.
INTERVIEW WITH INMATE ON FEBRUARY 18, 2020
On February 18, 2020, a confidential interview was conducted with Inmate . This interview was conducted behind closed doors, in C facility Program services at RJDCF. During the interview it was explained to that this interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.

stated he did not recall, and had not witnessed any staff misconduct.

worked split shift in the kitchen during the time of the incident, and was probably at work.

Inmate Date: February 20, 2020 Page 4

INTERVIEW WITH INMATE	ON FEBRUARY 18, 2020

On February 18, 2020, a confidential interview was conducted with Inmate This interview was conducted behind closed doors, in A facility Program services at RJDCF. During the interview, it was explained to the interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
Inmate was at his cell door yelling at the Officers assigned to his building. It claimed the could not hear what was being said but he knew was saying something about writing up the Officers. It claimed the Officers escorted was turning towards the Officers saying something to them. He claimed as they got to the dayroom floor the Officers picked up and put him on the ground. It claimed the Officers held was stated he had witnessed this from his assigned cell front, looking through the window in the door. It claimed he did not actually see we resist but was not sure if the did resist prior to being taken down.
REVIEW OF INCIDENT REPORT RID-C11-18-12-0697
It was determined through interviews regarding the allegation, that the incident was referring to in his allegation is incident report RJD-C11-18-12-0697. A review of this incident report was conducted and the following was discovered.
Officer 837C states in part; On December 7, 2018 at approximately 1848 hours, he was assigned to housing unit 11 floor Officer 1. and his partner, Officer approached cell 1, which was solely occupied at the time by, inmate 2 and his partner, Officer approached approached an order to exit the cell, so his cellmates property could be inventoried. The replied by stating, "Fuck you I'm not leaving this cell." Was placed in handcuffs, and escorted downstairs towards lower B-side shower. As the escort approached lower B-side shower began thrusting both his shoulders in a jerking twisting motion. Fearing for his and his partner in the back area placing him on the ground, in the prone position. The requested for assistance, utilizing his radio calling for a code-1 resistive inmate. Responding staff escorted 2 out of the housing unknit with no further incident reported.
Officer 837C states in part; On December 7, 2018 at approximately 1848 hours, he was assigned to housing unit 11 floor Officer 2. Officer and his partner, Officer approached cell 40, which was solely occupied at the time by, inmate 40. Officer instructed 41 to exit his cell. 42 became agitated and stated, "Fuck you I'm not leaving this cell." After multiple attempts, orders were given to 40 to exit, with negative results, requiring Officer 42 to place handcuffs or 42 to exit, with negative down B section stairs. Once on the dayroom floor 42 began to resist by thrusting his body in a twisting motion in an attempt to break free of Officer 43 control. He observed

Inmate

Date: February 20, 2020 Page:5
place both hands on inmate state of s back area and placed him a prone position on the floor. Officer state called for responding staff and state was escorted from the building with no further incident.
Officer services is 837C states in part; On December 7, 2018 at approximately 1848 hours, he was assigned to housing unit 11 Control booth. He was maintain a constant visual of floor Officers and stand in front of cell services. Inmate was placed in handcuffs and escorted down 8 section stairs by Officer services. Once the escort was downstairs began to move his body with his elbows extended left to right. Was guided to the floor by utilizing physical strengths and holds. Officer summands for assistance calling a code 1. Sectionated his personal alarm device. Once staff arrived was escorted from the building.
A review of the Incident Commanders Use of Force Review for this incident was conducted. It should be noted that the Incident Commander found the staffs use of force during this incident to be in compliance with the departments use of force policy. No allegation of inappropriate or excessive Use of Force resulted from this incident.
A review of the Managers Use of Force Review for this incident was conducted. It should be noted that the Manager found the staffs use of force during this incident to be in compliance with the departments use of force policy.
It should be noted the Institutional Executive Review Committee at RJDCF, cleared this incident, determining all involved staff utilized force in compliance with the departments Use of Force Policy
REVIEW OF CDCR 7219 MEDICAL EVALUATION REPORTS RELATED TO INCIDENT REPORT RID- C12-18-01-0044
A CDCR 7219 was completed on Inmate processes, December 7, 2018 at 1904 hours. This report indicated, no other injuries were noted.
A CDCR 7219 was completed on Officer , December 7, 2018 at 2054 hours. This report indicated, no other injuries were noted.
REVIEW OF RULES VIOLATION REPORT RELATED TO THIS INQUIRY
A review of the SOMS disciplinary section for inmate was completed. This section indicated he had a rules violation report for 3005(a) Resisting Staff RVR log# 6170201.
During the Disciplinary hearing, plead not guilty, and made the statement, "I did not resist. Officer told me to turn around and cuff up. I did and was being escorted. When we got by the podium, he jerked me to the ground and put his knee on my back. He told me to stop resisting." was found Guilty as charged based on a preponderance of evidence.

Inmate Date: February 20, 2020 Page 6

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with related documents, and evidence. As a result, staff is allegations indicating he was a victim of staff misconduct, while housed at RJDCF, has proven to be without merit.
The specific allegation involving incident RJD-C11-18-12-0697 of excessive force by Officer. No evidence was discovered, or evidence provided by indicating staff violated the use of force policy. Multiple sources of evidence including eyewitness accounts fail to substantiate staff sclaim. During staff violated staff while being escorted by Officer staff, and slammed on the dayroom floor. Yet in his statement during his Rules Violation hearing, he made no mention of being dragged down the stairs. Inmate made no former allegation of excessive force at the time of the incident.
Several inmates housed in C11 during the time of the incident, in cells with direct eyesight, of the stairs, and dayroom where claimed he was assaulted, were interviewed. None of the information gathered during these interviews substantiated states as claim.
During Inmate sinterview, he claimed the Officers put the second inmate in handcuffs and walked him downstairs. As he was being escorted, the inmate started turning and yelling obscenities at the Officers. Once at the bottom of the stairs the Officers pulled him to the ground and put the building down. Inmate claimed the inmate was taken down due to his resistance, by trying to turn towards the Officers, while yelling. Even though does not identify as a the inmate being escorted, it is reasonable to believe he is referring to due to similar circumstances with the incident report. Inmate account of the incident refutes saccount that he was dragged down the stairs. However, as account substantiates the involved Officers 837C reports. It should be noted Inmate was assigned to cell C11 at the time of the incident, and stated he watched the incident from inside his cell at the window. Cell has a clear unobstructed view of B section stairs; therefor is account would be possible.
During something to them. He claimed as they got to the dayroom floor the Officers picked up and put him on the ground claimed the Officers held down until staff responded and he was escorted out of the building. Inmate account of the incident refutes account that he was dragged down the stairs. However, his account substantiates the involved Officers 837C reports. It should be noted Inmate was assigned to cell C11 at the time of the incident, and stated he watched the incident from inside his cell at the window. Cell has a clear unobstructed view of B section stairs; therefor his account would be possible.
A completed incident packet was generated RID-C11-18-12-0697, related to this allegation. This incident was reviewed, and no evidence was found to support services is claim. Involved Officers

Inmate Date: February 20, 2020

Page 7

clearly articulated their involvement in this incident with 837C's. A review of these reports showed clear articulation of the uses of force, as well as the imminent threat. This incident packet was cleared by all levels of formal review regarding the use of force policy, and no evidence was found to substantiate any allegation of staff misconduct.

The 7219 completed or indicated he sustained no injuries. It is reasonable to believe if you were assaulted as claimed, and dragged down metal stairs, while handcuffed, then slammed on the floor, you would sustain some type of injuries. The 7219 completed on do not substantiate his claim. However, the 7219 is consistent with Officers account of what happened. That he placed on the dayroom floor and waited for responding staff.

The specific allegation that Officer was associated with the STG group 25ers.

could not give any specific details, just that he knew it was true. It was reiterated to specific details would be needed, in order to look into his allegation. Again failed to give any specific inmate names or actually incidents that correspond with his claim. Due to the aforementioned, so claim that Officer is associated with STG group 25ers, is to be found without merit.

Based on this information, I do believe Inmate state 's claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

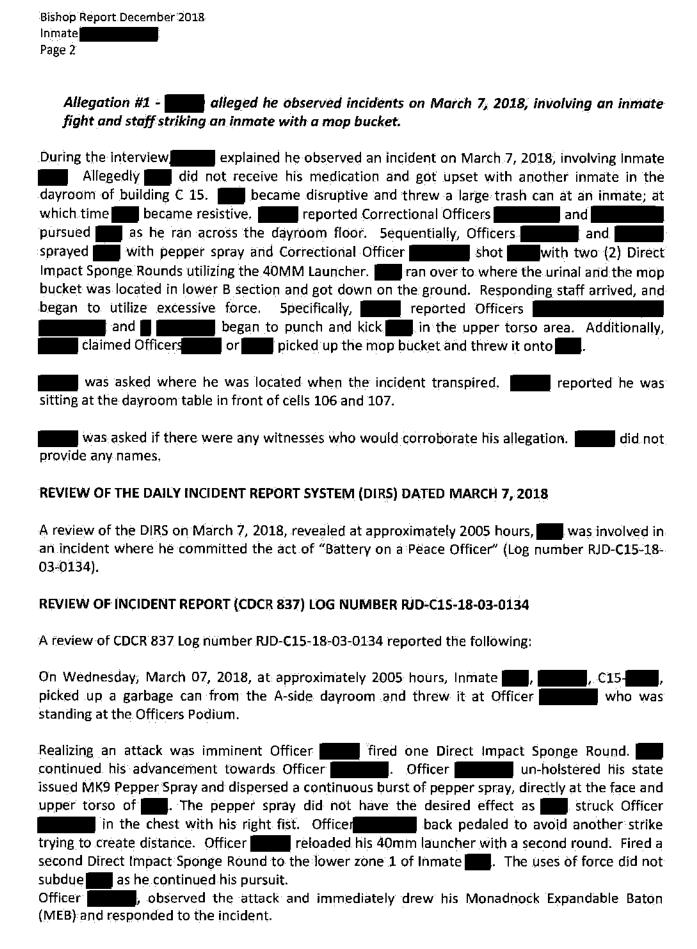
Sprisson Stores

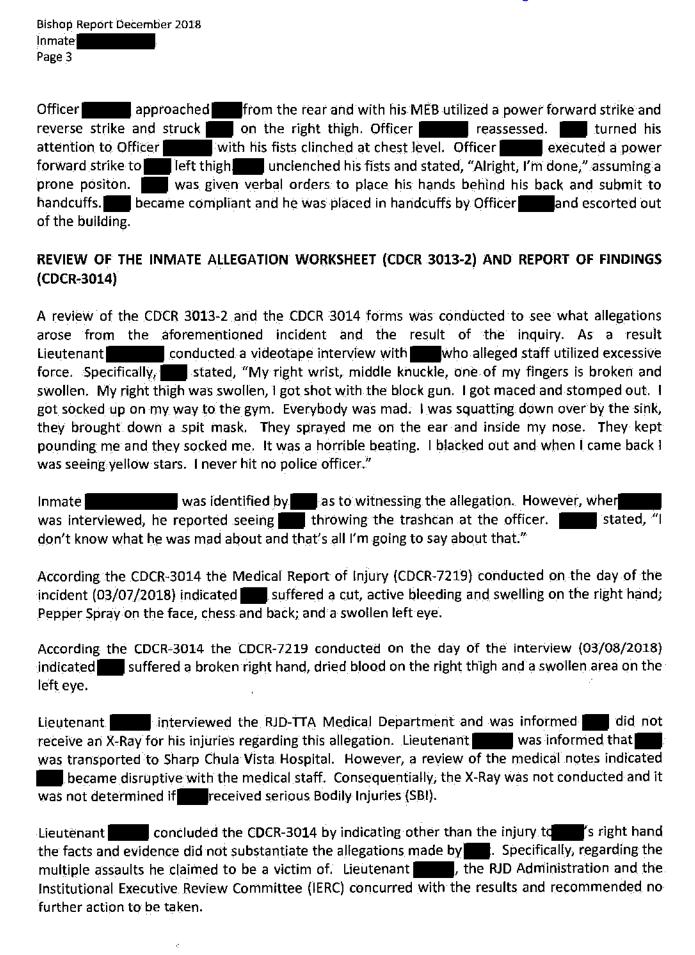
Date:

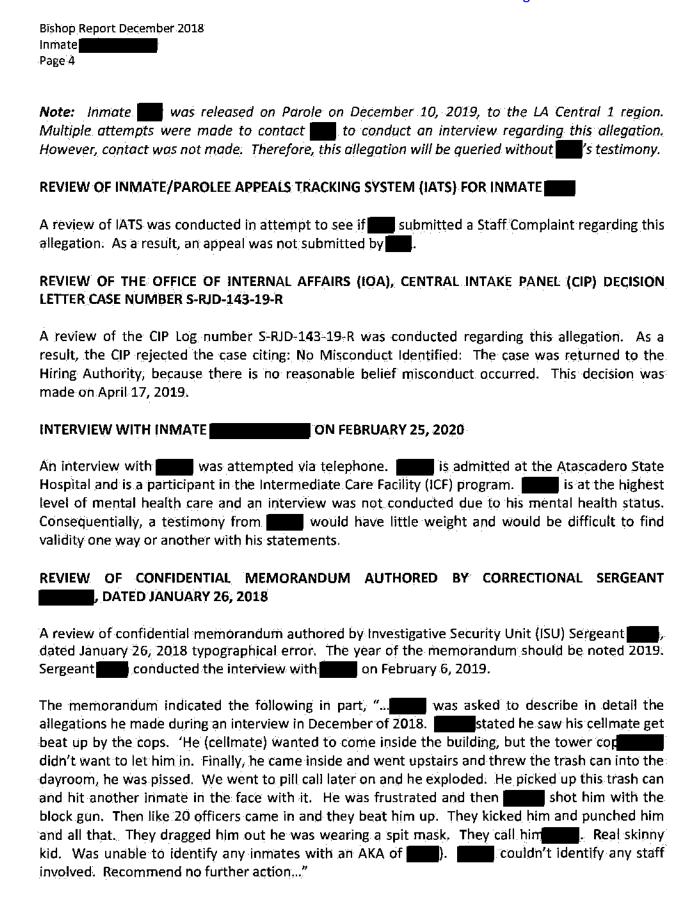
Subject:

To:

CONFIDENTIAL
March 5, 2020
M. Pollard Warden (A) Richard J. Donovan
FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT IN DECEMBER 2018 (EVENT RJD-C-19-007)
SUMMARY:
Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop Report from December 2018, on behalf of Inmate provided multiple allegations of staff misconduct during the Bishop Report.
FACT FINDING INQUIRY:
Bishop Report Allegations
During a review of the Bishop report, I determined the following allegations needed to be addressed:
 alleged he observed an incident on March 7, 2018, involving an inmate fight, which staff did not respond to; and staff striking an inmate with a mop bucket. alleged he observed an incident on April 5, 2018, which he observed 4 to 5 officers utilizing excessive force on an inmate outside of the dining hall. alleged he had specific knowledge of staff providing tobacco to inmates to "remove" an inmate from the facility.
TELEPHONIC INTERVIEW CONDUCTED WITH ON FEBRUARY 18, 2020
A confidential interview was conducted via telephone with who was housed at Kern Valley State Prison (KVSP). was informed of the purpose of the interview and was provided a brief synopsis of the allegations made. reported the allegations were true and factual, while he reiterated what was documented in the Bishop report. During the interview reported the March 7, 2018, incident involved Inmate throwing a large trash can. The incident resulted with utilizing excessive force and staff striking with a mop bucket. The incident on April 5, 2018, involved Inmate getting into a verbal altercation with Correctional Officer The incident resulted in 4 to 5 officers utilizing unnecessary force. As a result, these allegations will be bifurcated and answered separately.







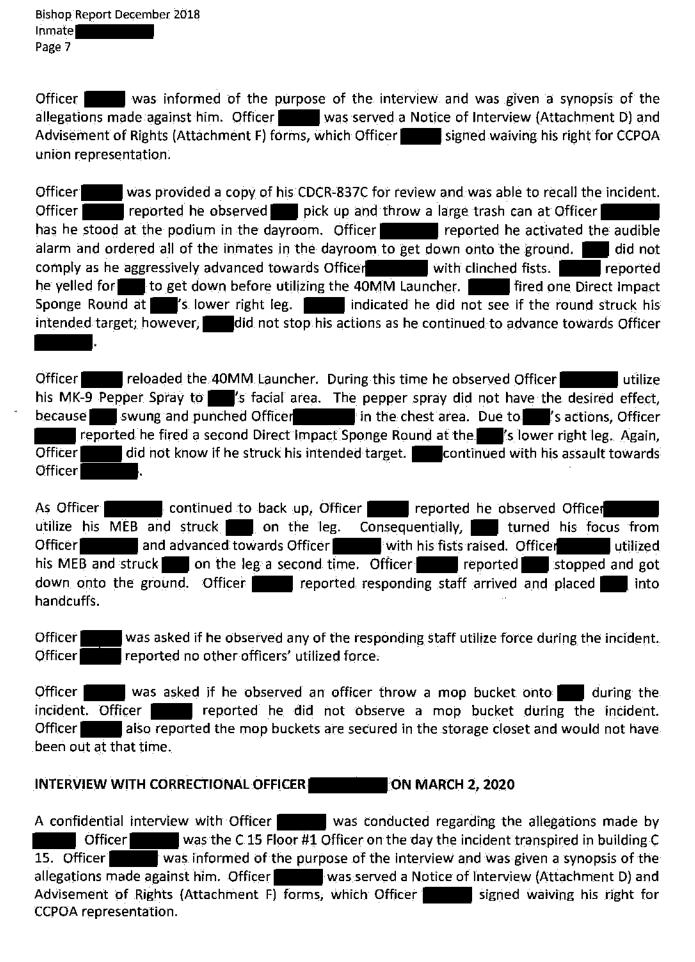
INTERVIEW WITH INMATE ON FEBRUARY 26, 2020
A confidential interview was conducted with regarding this allegation, was selected to be interviewed because he was housed in C 15 cell on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation. Indicated he had heard about the incident, but did not observe it firsthand and could not provide any information.
INTERVIEW WITH INMATE ON FEBRUARY 26, 2020
A confidential interview was conducted with regarding this allegation. was selected to be interviewed because he was housed in C 15 cells on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation. reported he did not recall an incident regarding this allegation and could not provide any information.
INTERVIEW WITH INMATE OF THE ON FEBRUARY 26, 2020
A confidential interview was conducted with regarding this allegation. was selected to be interviewed because he was housed in C 15 cells on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation.
During the interview, reported he recalled the incident and explained he was sitting at the dayroom table in A Section, when he observed from mouthing off" to the floor staff and threw a large trash can towards the officers. reported the floor staff dragged over to the B Section urinal and began to beat him up by punching and kicking him.
was asked if he could identify the floor staff who committed the act. reported he did not know their names because they were not the regular officers who worked in the building.
was asked if he observed the officer throw a mop bucket onto during the incident. reported he did not see a mop bucket utilized during the incident.
was asked if he could identify any witnesses who could corroborate his testimony indicated all the inmates who were housed in C 15 are no longer at RJD. Additionally, could not remember any of their names.
INTERVIEW WITH INMATE OF THE OWNER ON FEBRUARY 26, 2020
A confidential interview was conducted with regarding this allegation. was selected to be interviewed because he was housed in C 15 cell on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation. reported he did not recall an incident regarding this allegation and could not provide any information.

Bishop Report December 2018

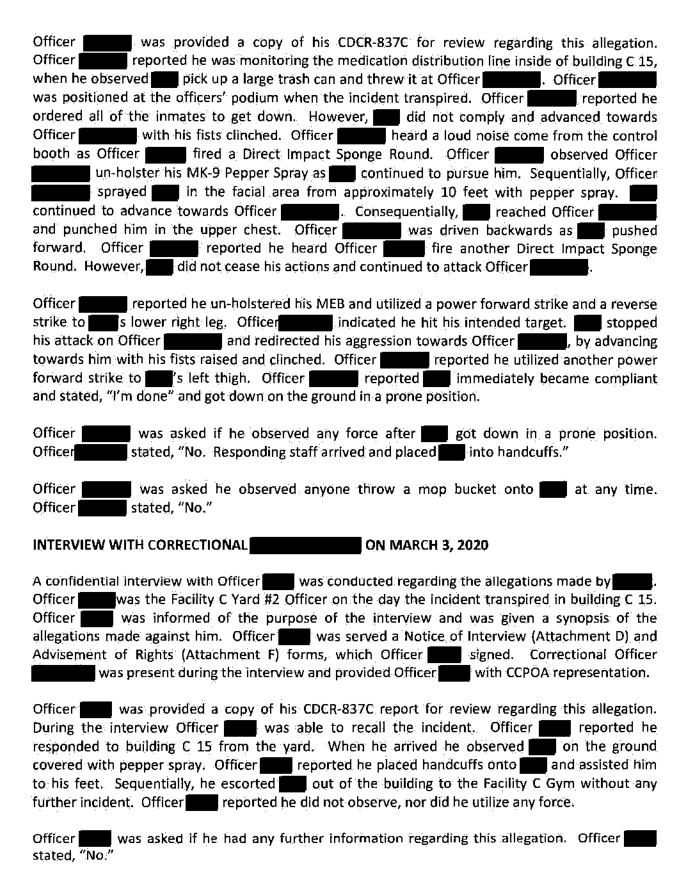
Inmate

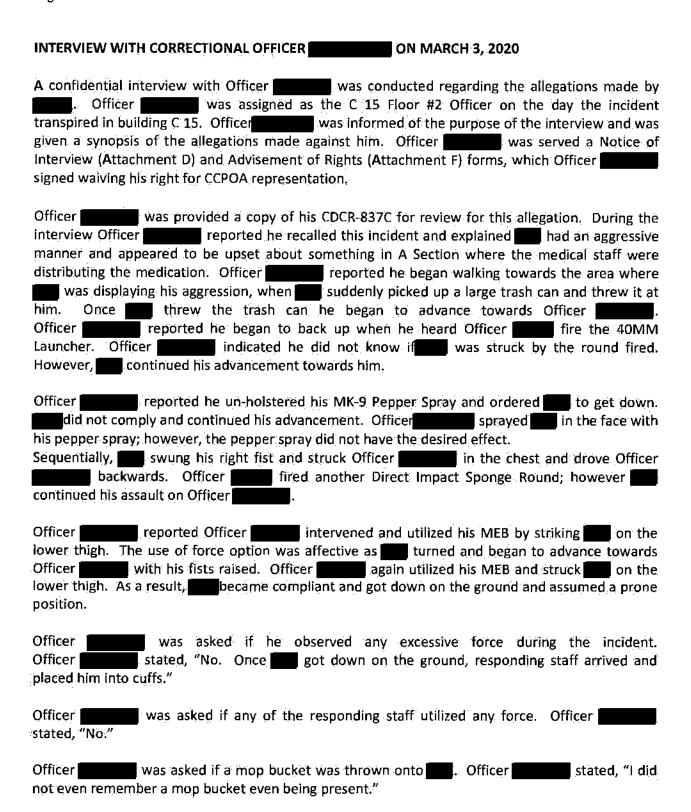
building C 15.

Page 6 INTERVIEW WITH INMATE ON FEBRUARY 26, 2020 A confidential interview was conducted with regarding this allegation. was selected to be interviewed because he was housed in C 15 cell on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation. I reported he did not recall an incident regarding this allegation and could not provide any information. TELEPHONIC INTERVIEW WITH INMATE ON FEBRUARY 27, 2020 A telephonic interview was conducted with regarding this allegation. was housed at Salinas Valley State Prison (SVSP) during the time of this interview. was selected to be interviewed because he was housed in C 15 cell on the date of the incident and may have witnessed the incident leading to this allegation. was informed of the purpose of the interview and was given a brief synopsis of the allegation. recall an incident regarding this allegation and could not provide any information. INTERVIEW WITH CORRECTIONAL OFFICER ON FEBRUARY 25, 2020 A confidential interview with Officer was conducted regarding the allegations made by . Officer was the Facility C Yard #3 Officer on the day the incident transpired in building C 15. Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed waiving his right for California Correctional Peace Officers Association (CCPOA) union representation. was provided a copy of his CDCR-837C for review and was able to vaguely recall the day of the incident. Officer explained he and Officer responded to building C 15 from the recreational yard. When he arrived into the building he observed we on the ground in handcuffs. Officer remembered that was covered with pepper spray. Officer reported he did not witness any force being utilized, nor did he utilize force. Officer reported his role during the incident was conducting the escort of the incident to the Facility C Gym and completing the decontamination process. Officer reported there was no further incidents. was asked if he remembered anything else about the incident that pertained to the allegation. Officer stated, "No." INTERVIEW WITH CORRECTIONAL OFFICER ON MARCH 2, 2020 A confidential interview with Officer was conducted regarding the allegations made by was the C 15 Control Booth Officer on the day the incident transpired in . Officer









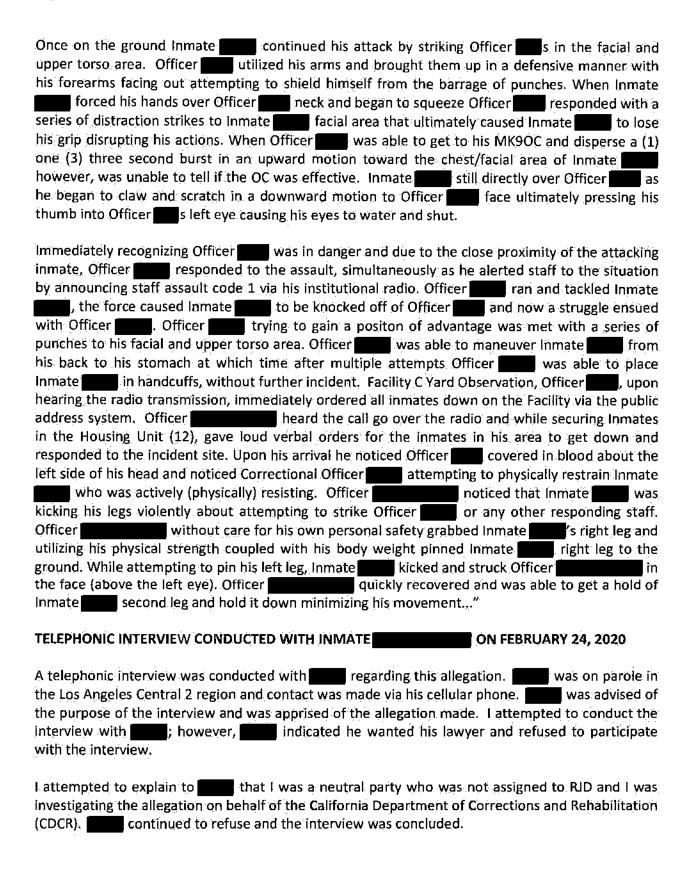
Bishop Report December 2018

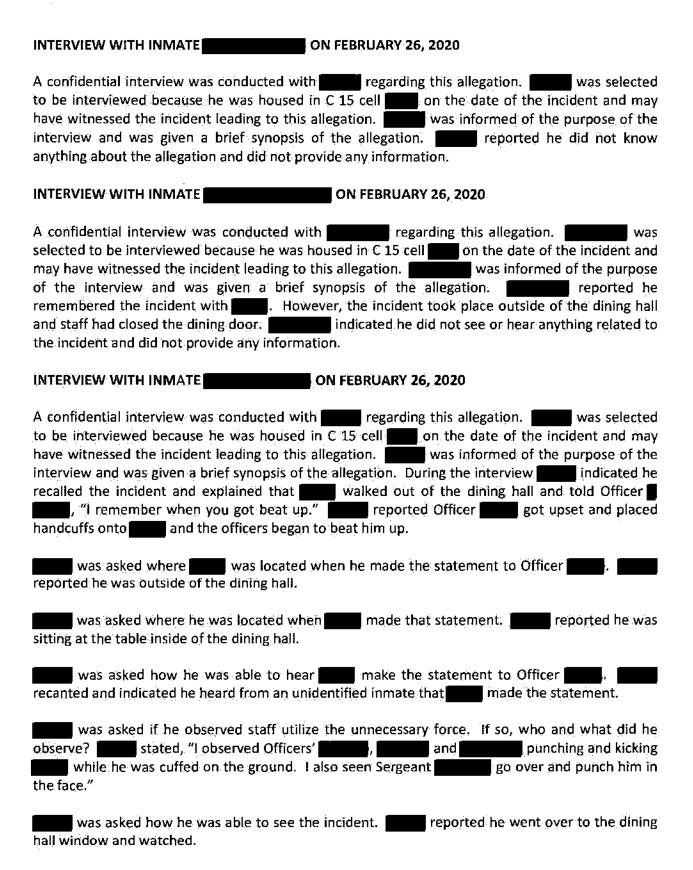
Inmate

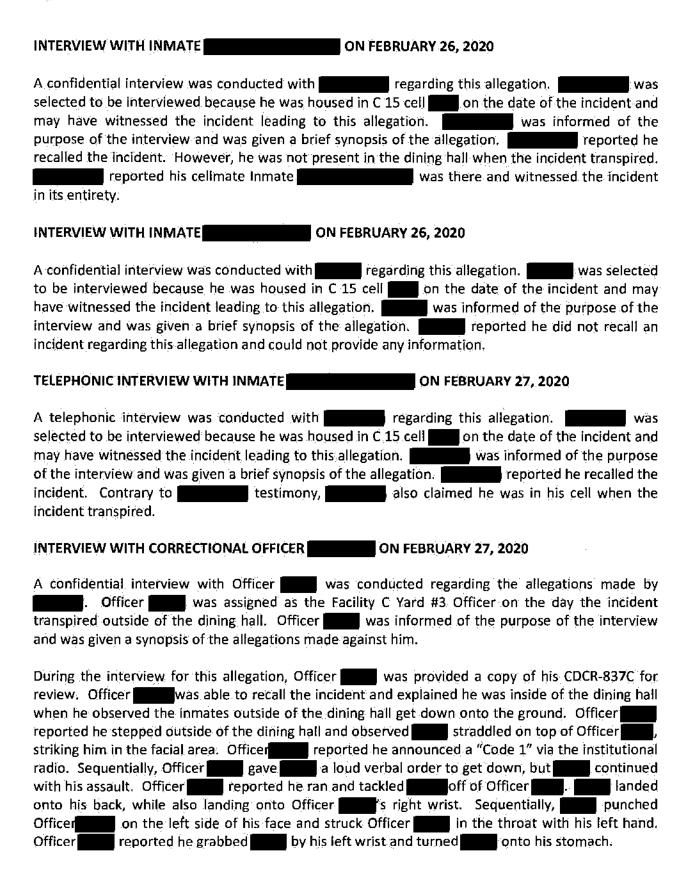
Inmate Page 10 Allegation #2 - alleged he observed 4 to 5 officers striking an inmate outside of the dining hall on April 5, 2018. was asked to clarify his allegation where he observed 4 to 5 officers striking an inmate outside of the Facility C Dining Hall on April 5, 2018. explained Inmate into a verbal altercation with Officer in the dining hall and was sent back to his assigned building for being disruptive. I indicated something happened outside, because staff ran out of the dining hall. reported he was seated at one of the tables inside of the dining hall and he ran to the dining hall window and observed 4 to 5 officers beating on least near the fence line. was asked if he could identify the staff members involved in the use of force. reported Officers' and and were the officers he could identify and he did not know the names of the other officers. Additionally, indicated Correctional Sergeant stood by and watch as staff utilized excessive force. was asked what type of force he witnessed being utilized on aforementioned staff punched and kicked to where his face was beyond recognition. was asked if he could identify any witnesses who would corroborate his allegation. did not provide any witnesses to this allegation. REVIEW OF THE DAILY INCIDENT REPORT SYSTEM (DIRS) DATED APRIL 5, 2018 A review of the DIR5 on April 5, 2018, revealed at approximately 1815 hours, involved in an incident where he committed the act of "Battery on a Peace Officer-Attempted Murder" (Log number RJD-C15-18-04-0207). REVIEW OF INCIDENT REPORT (CDCR 837) LOG NUMBER RJD-C15-18-04-0207 A review of CDCR 837 Log number RJD-C15-18-04-0207 indicated the following in part: "On Thursday, April 5, 2018, at approximately 1815 hours, Inmate , C15exiting the dining hall after the completion of the evening meal inmate began to yell obscenities' followed by verbal threats indicating that he was going to assault someone. Gaining the attention of staff as they monitored the behavior, Officer summoned Inmate location. Realizing that Inmate was already in a hostile state, Officer attempted deescalation techniques believing that Inmate behavior and remarks could lead to violence. By removing inmate from what he believed was a hostile situation towards inmates or staff. ordered Inmate to stop walking and submit to handcuffs with negative results. Officer

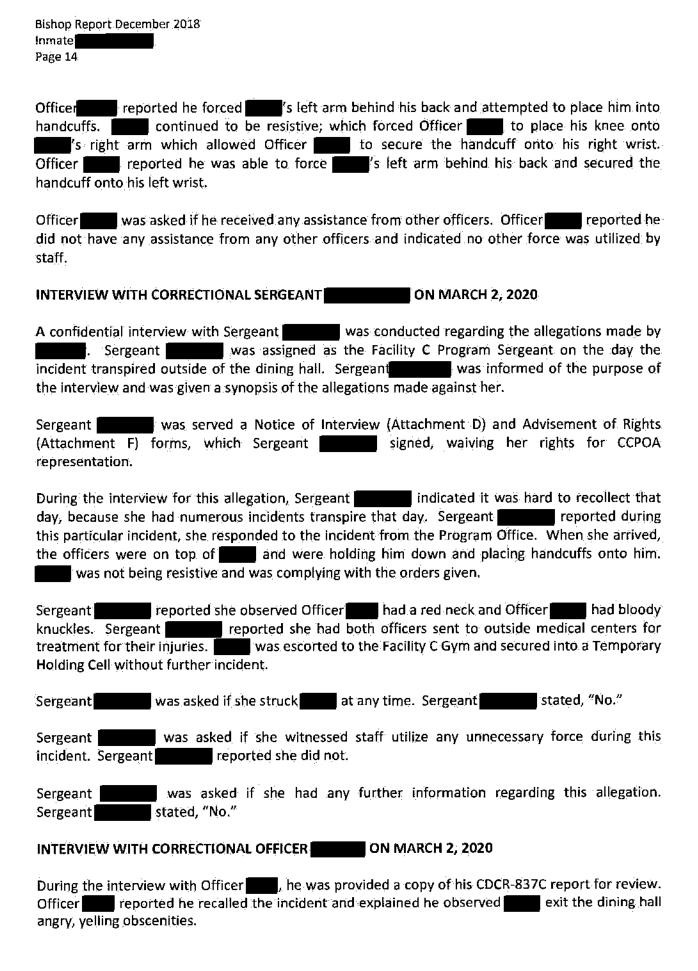
then loomed toward Officer and without provocation ran toward Officer

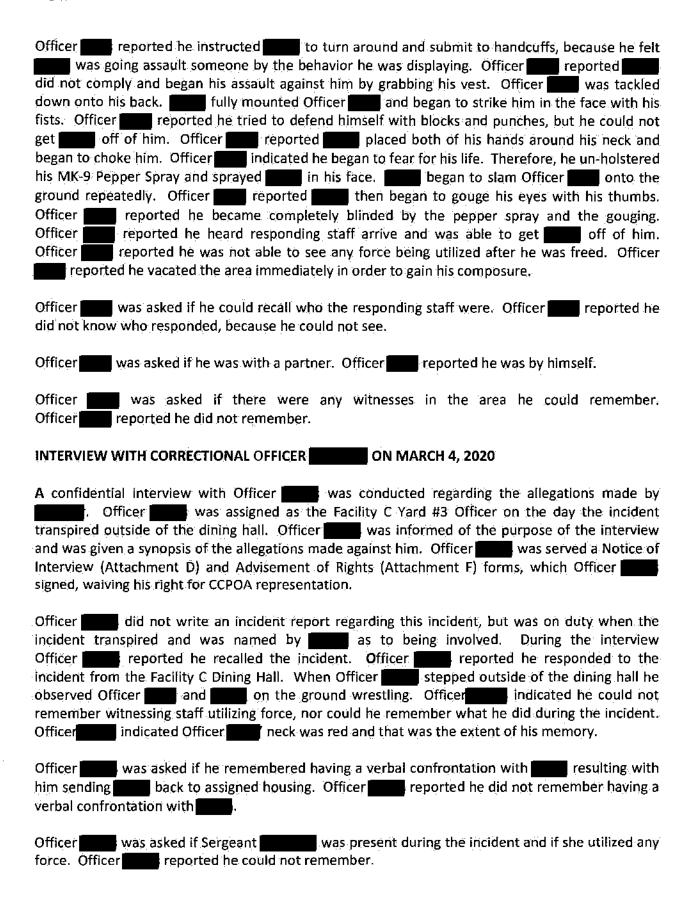
a hostile and violent manner as he grabbed Officer by the vest and threw him to the ground.

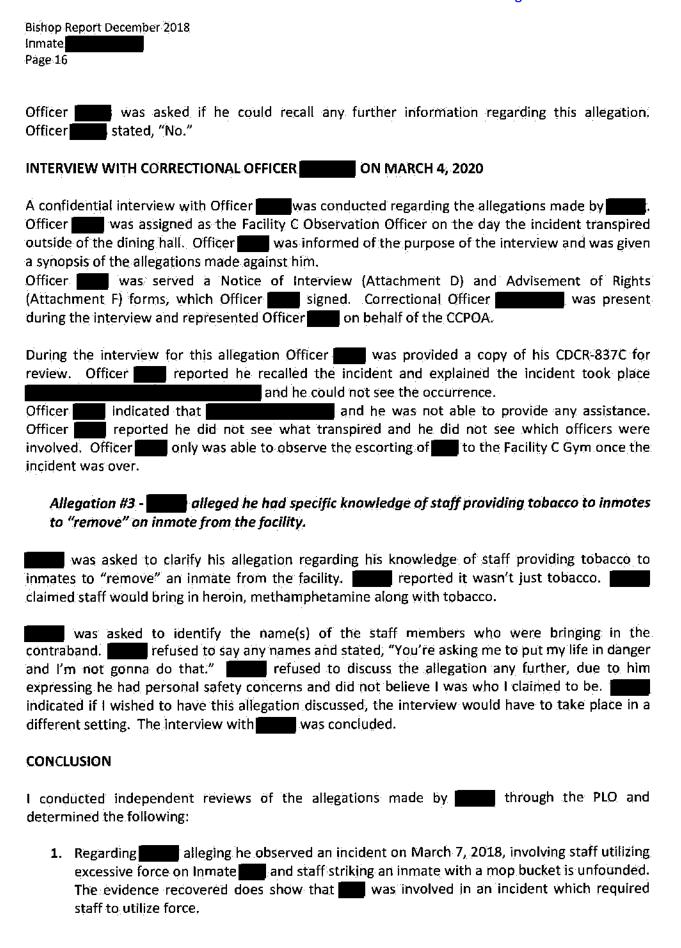


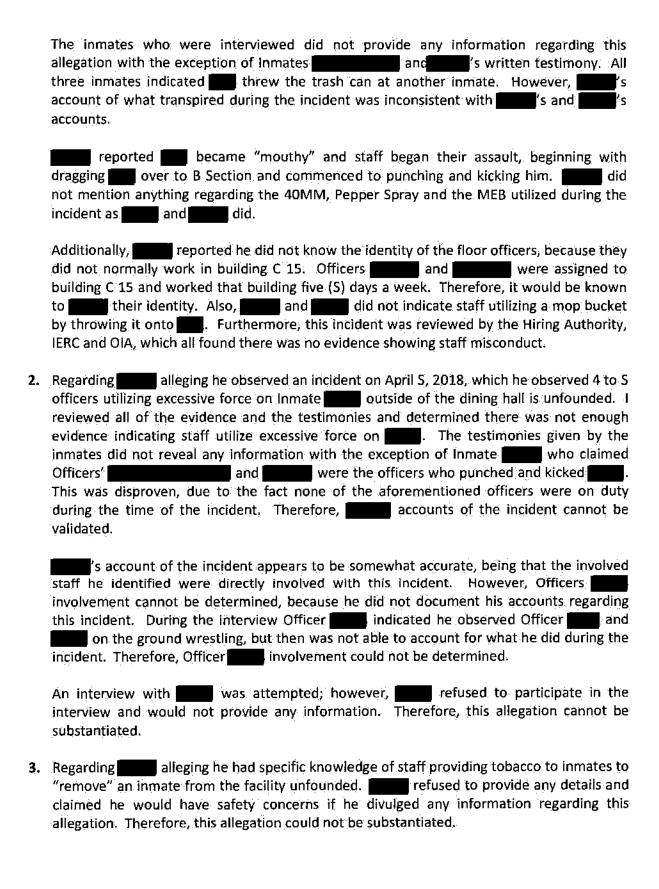












After a thorough review of all the evidence during this inquiry; it was discovered Officer reported he observed force during an incident and did not report it on a CDCR-837C. Therefore, it is determined allegation #2 should be forwarded to the Hiring Authority for review for possible

policy violations.

Correctional Lieutenant Salinas Valley State Prison 3/6/2020: I CONCUL WITH

The Findings. 2 TO ISU

Alle SATIONITE 2 TO ISU

FOR 989 Processing.

FOR 189 Processing.

Lowsiden # 1 3,213

Llosed. P/3/6/2020

Memorandum

Loncon W/ Recommendation

Loncon W/ Recommendation

Loncon W/ Recommendation

Chis case is considered

Close. M. Manden

Close. M. Manden

Close. M. July oro CONFIDENTIAL March 11, 2020 Date: MARCUS POLLARD To: Warden (A) Richard J. Donovan Correctional Facility Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-008 **SUMMARY:** On February 21, 2020, a fact finding inquiry was initiated as a result of allegations made by Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of allegations made on the Bishop memo, dated, December 2018. During a previous interview, claimed he had knowledge of staff misconduct. He claimed Officer placed him in the B side lower shower in building C12. He claimed while he was in the shower Officer threatened him for filling appeals. **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON FEBRUARY 21, 2020 A confidential interview with was conducted telephonically, due to his current housing assignment at Lancaster State Prison. The interview was conducted based on the information received from previous interviews. was informed of the reason for the interview and was provided a brief synopsis of the allegations made. claimed on January 21, 2019 he returned to his assigned housing unit C12 from work in the culinary. claimed he was getting ready to shower when he Officer approached his cell. stated told him to go downstairs and wait while his cell was searched. stated he went to the dayroom floor and waited for his cell to be searched. claimed after Officer was done searching his cell he was ordered to lock it back up.

stated he complied and went back to his assigned cell. He stated Officer had trashed his cell throwing his food on the floor. claimed he was bathing himself in his cell when Officer came back and opened the door. stated stated grabbed him by the arm and said, now were going to have some fun. claimed another male Officer was present at the time, but he could not recall his name. Claimed the other Officer told to stop, and let go of his arm. stated the two Officers removed him from his cell and locked him in the B-side lower shower. claimed while locked in the shower Officer threatened him by saying; I am going to fuck you up for dropping paperwork on staff.

Inmate

Page 2

Date: March 4, 2020

complied in order to conduct a cell search, during the cell search I confiscated excess of cardboard boxes, state issued peanut butter, jelly, almond cookies, pancokes, syrup, apples and an Inmate

Inmate

no further incident.

Date: March 4, 2020 Page 3	
manufactured cloth bag. Due to Inmote hearing impairment effective common was achieved by using a loud tone of voice, slow talking and simple English. As I was a simple immate about the items confiscated he became irate and he started to it following statement: "you are a fucking racist because I'm black. You watch mother for gonna file paper work on your fucking paisa ass for harassing me plus you know what fur work well on the yard better start watching your back fucker, watch it." After his start concluded my counseling and ordered Inmate to enter his assigned cell which hesitant for approximately 30 seconds by standing at the threshold of the cell door moving. I gave Inmate onather direct order to enter to his assigned cell which complied while he kept yelling abscenities toward my person.	ounseling make the fucker I'm cker kites atement I h he was r ond nat
INTERVIEW WITH CORRECTIONAL SERGEANT ON FEBRUARY 21, 2020	
After review of RVR log#6375747 it was determined Sergeant was assigned hearing Officer, which was adjudicated on March 1, 2019. During the Disciplinary plead guilty, and made the statement, "Yeah, I'm Guilty, I apologize, it won't again Sarge.	hearing,
On February 21, 2020, Sergeant was interviewed regarding the hearing disponent of the state of t	atement, his on his had no
INTERVIEW WITH OFFICER ON February 21, 2020	
A confidential interview with Officer was conducted regarding the allegations. Officer was informed of the purpose of the interview and was given a sy the allegations made against him. Officer was served a Notice of Interview (Attacand an Advisement of Rights (Attachment F) forms, which Officer signed, waiving for representation.	nopsis of hment D)
stuff on the tier, which caught stated on the stated not knowing what he decided to attempt to find out. It claimed he conducted a clothed body search with negative results for contraband. Once the search was complete in	d passing was doing of inmate onducted was do started s cell and

Inmate Date: March 4, 2020 Page 4

was asked if he ever approached the cell after it was secured, see Stated, "after he locked up I didn't deal with him again" was asked if he ever grabbed see 's arm while he was in the cell, he stated, "No." was asked if he locked in the Shower at any time, stated, "No, after was done showering he never returned to a shower. was asked if he locks inmates in showers for any reason, he states, "No."
INTERVIEW WITH OFFICER COMMENT ON February 27, 2020
While conducting the interview with the subject it was determined a staff witness, may have observed the incident in question. FLSA sign in/out sheets were utilized to identify the Officer assigned to C12 Control booth, second watch January 21, 2019. Review of the FLSA sign in/out sheets identified Officer as a possible witness.
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
Officer stated he recalled the incident on January 21, 2019 with inmate claimed after returning from work in the culinary, allowed his worker shower. It is claimed once was done showering he started walking the tier, going from door to door attempting to pass items through the cell door. It is stated this was a common practice of stated in the was out in the dayroom. It is stated he has verbally counseled on multiple occasions regarding this same issue. It is could not recall if it was the day in question, or another day, when he witnessed Officer conduct a cell search of social claimed he witnessed conduct a search and remove cardboard boxes and excessive state food from stated in the shower. It is claimed after the cell search was completed he recalled being secured in his assigned cell without incident.
Officer was secured. Stated he did not see Officer or his partner go back to the cell front after was secured in his cell after his shower, he had not opened so so door for either of the assigned floor Officers. Stated if Officer would have went into so so cell, he would have remembered opening the door. It claimed he had never witnessed inmates being placed in showers for retaliatory reasons. Officer stated he had not witnessed Officer threaten or assault inmate officer had no further pertinent information, and the interview was reportuded.

Date: March 4, 2020 Page 5
While conducting the interview with the subject it was determined a staff witness, may have observed the incident in question. FLSA sign in/out sheets were utilized to identify the Officer assigned to C12 Floor #1, second watch January 21, 2019. Review of the FLSA sign in/out sheets identified Officer as a possible witness.
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
During the interview, was asked if he remembered the day in question, he stated he could not recall the incident explained to him. explained he has been out of work on stress and has been taking medication that affects his memory. Was given a copy of the RVR authored by Office in an attempt to help recall the day in question. This RVR is an account of details from Officers is perspective of what occurred that day still claimed he was unable to recall the events. Was asked if he remembered Inmate in the claimed he did not recall in a stated that was shown a picture of Inmate in the still did not recall the incident.
Officer was asked if he has ever placed an inmate in a shower as punishment or retaliation, he stated, "No." Officer swas asked if he witnessed Officer threaten inmate stated, "No."
CONCLUSION:
I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with related documents, and evidence. As a result, staff misconduct, while housed at RJDCF, has proven to be without merit.
The subject of this inquiry Officer was interviewed on February 21, 2020, during that interview he identified two possible witnesses, Officer and Officer Both Officer and were interviewed regarding the allegations made by Inmate It was determined that the information they provided, did not constitute a second interview with the subject, therefore was not interviewed a second time.
No evidence was discovered, or evidence provided by the provided policy. Multiple sources of evidence including eyewitness accounts fail to substantiate to su

Date: March 4, 2020
Page 6

During stated in the RVR was all lies, that Officer had documented false allegations. Stated that during the hearing he did not plead guilty as the hearing stated. However Sergeant claimed at the RVR hearing Inmate plead guilty and made the statement, "Yeah, I'm Guilty, I apologize, it won't happen again Sarge. Sergeant also claimed made no objections to the RVR finding of guilt.

Based on this information, I do believe Inmate statement in the statement in the recommend no further inquiry into these claims of staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this

case closed. This information is provided for your review and disposition.

Correctional Lieutenant Richard J. Donovan Correctional Facility

Memorandum

	_	-		-	-	-		I A I	
1			N	-			u .	A	
١	•	_	w		_	_			_

February 24, 2020 Date:

MARCUS POLLARD To:

Warden (A)

Richard J. Donovan Correctional Facility

oj	ect: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-009
	SUMMARY: On February 24, 2020, a fact finding inquiry was initiated as a result of allegations made by an unidentified inmate with the, "AKA" during a previous inquiry interview. Specifically, the claim was made that the unidentified inmate witnessed Officer spray a Transgender inmates wig with pepper spray. Also, alleges Officer and Officer allowed to take inmate property after was assaulted on the yard.
	CONCLUSION: I conducted an independent review of the allegations made by the unidentified inmate "AKA" regarding staff misconduct at RJDCF, which derived from a review of related documents and evidence. As a result, it was determined that the claims made had had no merit.
	The unidentified inmate is not the victim of the allegations, and is considered a witness to PLO allegations. Due to not having the adequate amount of information necessary to identify inmate "AKA" and interview could not be conducted.
	Due to not having the adequate amount of information necessary to identify the transgender inmate. No interviews could be conducted regarding this allegation. No other evidence was discovered to support this claim, therefor it is deemed unsubstantiated.
	A review of the strategic Management System (SOMS) was conducted to identify inmate and his current housing. This review discovered inmate status to be Inactive. Therefore, Inmate was not interviewed regarding this allegation. No other evidence was discovered to support this claim, therefor it is deemed unsubstantiated.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.



Correctional Lieutenant

State of California

Memorandum

CONFIDENTIAL

	CONFIDENTIAL
Date:	February 14, 2020
То:	MARCUS POLLARD Warden (A) Richard J. Donovan Correctional Facility
Subject:	FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-010
su	MMARY:
a fa pre Off jun	February 6, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for act finding inquiry, which was the result of the Bishop memo, dated, December 2018. During this evious interview, claimed he had knowledge of staff misconduct. He claimed he witnessed ficer assault Inmate on on or about January 26, 2018. He claims Officer ped on back and assaulted him.
FA	CT FINDING INQUIRY:
IN.	TERVIEW WITH INMATE ON FEBRUARY 6, 2020
ass rec	confidential interview with was conducted telephonically, due to his current housing signment at Lancaster state prison. The interview was conducted based on the information seived from the Bishop memo, dated, December 2018. was informed of the reason for interview and was provided a brief synopsis of the allegations made.
cel late wa sto hea Off	claimed on January 27, 2018 he was exiting his cell for morning chow. He claims that Officer instructed him to lock up. He claims he attempted to explain to Officer that he had yet to evive his breakfast. Explained that Officer again told him to return to his assigned level stated that he decided to follow the order to return to his cell, and address the issue er, as he believed Officer was agitated. Claims that as he turned his back to and liked towards his cell, without warning jumped on his back causing him to fall onto his mach. Stated as he was on the ground, started punching him on the back of the ed, holding him face down on the ground. Claimed that while he was being assaulted ficer told him, he had better tell responding staff he was resisting. Claimed was conly Officer present on the floor when he was attacked. He stated that responding staff arrived

claimed that he did not see the control Officer during this incident; he said his back was turned, and could not see the control Officer. stated he could not recall any specific inmates

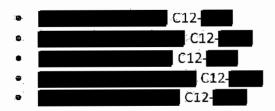
and he was handcuffed and escorted out of the building.

Inmate

Date: Fébruary 14, 2020 Page 2
claimed that he did not see the control Officer during this incident; he said his back was turned, and could not see the control Officer. stated he could not recall any specific inmates that witnessed the attack, however, he claimed inmates in cells to would have possible witnessed it. was asked if he could give any specific details on any witnesses. He claimed he was unable to at the time as it had been a few years since the incident.
NTERVIEW WITH INMATE CONTROL ON FEBRUARY 6, 2020
On February 6, 2020 at approximately 1030 hours a confidential interview with was conducted telephonically, due to his current housing assignment at LAC. The interview was conducted based on the information received from the PLO Armstrong V. Brown: CCWF Report. More specifically on the report, it states alleged he witnessed Officer assault Inmate on or about January 26, 2018.
During the interview it was explained to that this interview was due to an allegation, he had made during a previous interview. Stated he recalled the interview as well as the allegation he had made regarding Officer
declined to make any further statements in regards to his previous allegation. He stated, he was previously interviewed regarding this allegation, and declined to make any further statement. It was explained to that this was an independent confidential inquiry and his cooperation would be appreciated. Stated he would like to talk to his lawyer prior to making any statement.
After having given time to contact his lawyer a second attempt was made to conduct the inquiry interview regarding his original claim. This interview took place on February 6, 2020, and was conducted telephonically.
stated at this time he declined to make any further statements regarding this incident, as his awyer had advised him otherwise.
DENTIFYING POSSIBLE INMATE WITNESSES SOMS BED HISTORY REPORT

A Strategic Offender Management System (SOMS) Bed History report was utilized to identify possible inmate witnesses due to their housing at the time of the Incident. The indicated inmates on this report were housed at RJDCF in building C12, in cells at the time of the incident.

The following inmates were indicated on the SOMS Bed History Report, and identified as possible witnesses:



Inmate Date: February 14, 2020 Page 3

INTERVIEW WITH INMATE CONTROL ON FEBRUARY 7, 2020
On February 7, 2020, a confidential interview was conducted with Inmate This interview was conducted behind closed doors, in C facility Program services at RJDCF. During the interview it was explained to that this interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
Inmate stated he remembered inmate but not the specific incident that had taken place on January 27, 2018. He could not recall any specific details from that incident, stating it had been too long. Claimed he did remember other incidents involving inmate due to drug habit. And no other specific information regarding this allegation and the interview was concluded.
INTERVIEW WITH INMATE CONTRACTOR ON FEBRUARY 7, 2020
On February 7, 2020, a confidential interview was conducted with Inmate This interview was conducted behind closed doors, in C facility Program services at RIDCF. During the interview it was explained to that this interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
further statement. It was explained to say regarding the allegation, and declined to make any helpful. Once again declined to speak on the allegation. In this inquiry would be very information regarding this allegation and the interview was concluded.
INTERVIEW WITH INMATE ON FEBRUARY 10, 2020
On February 10, 2020, a confidential interview was conducted with Inmate This interview with was conducted telephonically, due to his current housing assignment at Kern Valley State Prison. During the interview it was explained to that this interview was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident.
Inmate stated he did not recall any specific incidents, that he had witnessed multiple incidents on a daily basis. Stated he recalled something happening to his neighbor at the time, but was not a direct eyewitness. Stated that he wished, he could be of help, but is unable to give any other information. Had no other specific information regarding this allegation and his interview was concluded.
INTERVIEW WITH INMATE COME ON FEBRUARY 10, 2020
On February 10, 2020, a confidential interview was conducted with Inmate

Date: February 14, 2020

Page 4 was due to an allegation, made during a previous interview. It was explained that he could possibly have been a witnessed to staff misconduct, due to his housing assignment at the time of the incident. stated he did not recall any incident on January 27, 2018. He stated he might have been asleep or was not in his cell. stated he remembered Inmate as his neighbor, but no incidents involving him. which had no other specific information regarding this allegation and his interview was concluded. ON FEBRUARY 11, 2020 INTERVIEW WITH INMATE On February 11, 2020, an attempt was made to conduct a confidential interview with Inmate was contacted telephonically, due to current housing . Sergeant assignment at California Medical Facility. Sergeant was informed that Inmate has been identified as a possible witness to an allegation of staff misconduct that occurred at RJDCF. attempted to arrange the interview with However, stated he did not wish informed that his participation would be to participate in any interviews. appreciated, once again, declined, by stating, "I didn't see anything down there." REVIEW OF INCIDENT REPORT RID-C12-18-01-0044 It was determined through interviews regarding the allegation, that the incident was referring to in his allegation is incident report RJD-18-01-0044. A review of this incident report was conducted and the following was discovered. Officer 837C states in part; On January 27, 2018 at approximately 0732 hours, Inmate walked out of cell . called for to which he complied and started towards stopped approximately five feet from Officer and started to yell at the Officer. Officer report states walked at a fast pace towards his direction, causing to fear he could sustain physical injury. To persevere his own personal safety grabbed and used physical strengths and holds to cause him to lose his balance and as a result, both and fell to the ground. Using his body weight held on the ground and activated his personal alarm device. After giving several more orders, was able to put into handcuffs and wait for responding staff to arrive. Officer arrived on scene and relinquished custody of inmate to Officer 837C states in part On January 27, 2018 at approximately 0732 hours, while performing his duties as Housing unit #12 Control Booth Officer. Officer was in the process of securing inmates on the C section of the dayroom in housing unit #12. His reports states that he heard an activation of a personal alarm. He turned his attention to A section of the dayroom, and observed Officer on the ground in front of cell with an unidentified inmate. report states that due to positioning on the floor of the tier back was to him, and he was unable to observe any specific actions. report states he order all inmates down and provided coverage of the dayroom until was escorted from the building.

A review of the incident Commanders Use of Force Review for this incident was conducted. It should be noted that the incident Commander found the staffs use of force during this incident to be in

Inmate Date: February 14, 2020

Page 5

representation.

compliance with the departments use of force policy. No allegation of inappropriate or excessive Use of Force resulted from this incident.

A review of the Managers Use of Force Review for this incident was conducted. It should be noted that the Manager found the staffs use of force during this incident to be in compliance with the departments use of force policy.

It should be noted the Institutional Executive Review Committee at RJDCF, cleared this incident, determining all involved staff utilized force in compliance with the departments Use of Force Policy

REVIEW OF CDCR 7219 MEDICAL EVALUATION REPORTS RELATED TO INCIDENT REPORT RJD-C12-18-01-0044

C12-16-01-0044
A CDCR 7219 was completed on Inmate January 27, 2018 at 0900 hours. This report indicated sustained bruise/discolored area on his right hip area, and pain in his right lower back. No other injuries were noted.
A CDCR 7219 was completed on Officer January 27, 2018 at 0945 hours. This report indicated Officer had sustained pain and reddened area on his left knee. It also indicated he sustained pain, reddened area and swollen left hand.
INTERVIEW WITH OFFICER ON FEBRUARY 10, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
During the interview, Correctional Officer was first asked, if he recalled the events that occurred on January 27, 2018. Officer asked if he could review incident to refresh his memory. More details regarding the incident were provided to until he stated he remembered the incident in question. It is stated he was only responsible for escorting inmate. He claims he responded to the incident after the alarm had been activated, and by the time he arrived at the incident site, was already in handcuffs. He stated his report accurately reflects his involvement in the incident. Stated he did not witness any use of force during the incident in question. The had no further information regarding this allegation, and his interview was concluded.
INTERVIEW WITH OFFICER . ON FEBRUARY 12, 2020
A confidential interview with Officer was conducted regarding the allegations made by

Officer was informed of the purpose of the interview and was given a synopsis of

the allegations made against him. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for

Inmate Common Co

Page 6
Officer explained that on the day in question he was assigned as the control booth Officer. He claimed he was observing the unit lock up after morning meal, when he heard a radio transmission requesting assistance, followed by a personal alarm activation. Explained after hearing the alarm he scanned the dayroom looking for the incident. He directed his attention to the dayroom floor where he saw an inmate faced down on the ground, with an Officer holding him down with his body weight. He claimed he scanned the dayroom again to ensure all uninvolved inmates were down and then provided coverage until responding staff arrived.
Officer was asked if he saw any punches thrown, he stated, "No." was asked if the inmate was resisting, he replied, "I could not tell from where I was positioned." was asked if he recalled anything else about that day, he replied, "No." Officer had no further information to provide.
INTERVIEW WITH OFFICER . ON February 14, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made against him. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
Officer stated he was assigned as the floor Officer in building C12, on the day in question. He claimed he was monitoring inmates returning from morning chow, when inmate walked out of his cell. Claimed chow release for building C12 had taken place approximately 20 minutes prior. He claimed he attempted to explain to was very agitated and started yelling obscenities at him. Stated he attempted to deescalate the situation by offering a few sack lunch's instead. Claimed was unreceptive to his offer, as he started to advance towards explained as advanced towards him, he started advancing at a faster pace, with his hands clenched into fists. Stated fearing for his safety he instinctively grabbed and used his body weight to take him to the floor. Claimed that was trying to get up, so used his body weight to hold him down. Stated while holding down he was able to activate his alarm and summands for assistance. Stated he placed in handcuffs and responding staff escorted him out of the building.
was asked if at any time during the aforementioned incident, did he punch or strike inmate in any way. Stated he only used physical strengths and holds to take down and hold him until he could be restrained. Stated he did not use any other type of force during the incident. Was asked if he grabbed from behind as he was walking away. Explained that stated he grabbed from the front, to prevent what he perceived to be an attack on his person.
CONCLUSION:
I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with a review of related documents, and evidence. As a result, allegation indicating he was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit.

Inmate

Date: February 14, 2020

Page 7
The specific allegation involving incident RJD-18-01-0044 of excessive force by Officer. No evidence was discovered, or evidence provided by indicating staff violated the use of force policy. Multiple sources of evidence including eyewitness accounts fail to substantiate claim. During interview, he claimed the inmates housed in C12 cells witnessed the incident. A SOMS report was reviewed identifying inmates housed in those cells at the time of the incident. None of the interviews with the aforementioned inmates produced any evidence to substantiate claim.
A completed incident packet was generated for this incident. This incident was reviewed and no evidence was found to support claim. Involved Officers clearly articulated their involvement in this incident with 837C's. A review of these reports showed clear articulation of the uses of force, as well as the imminent threat. This incident packet was cleared by all levels of review regarding the use of force policy, and no evidence was found to substantiate any allegation of staff misconduct.
The 7219 completed on indicated he sustained bruise/discolored area on his right hip area, and pain in his right lower back. There were no injuries noted to support claim of being punched in the head, as he claimed. However, the injuries he sustained are consistent with Officers account of what happened. That he fell to the ground and Officer used his body weight to hold down.
Based on this information, I do believe inmate claims to be unsubstantiated, and recommend no further inquiry into this claim of staff misconduct.
Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.
Correctional Lieutenant Richard J. Donovan Correctional Facility Way Add Add Way Control of the

Attachment D Department of Corrections and Rehabilitation

State of California

Memorandum

Date. February 14, 2020 Тο Correctional Officer Subject: NOTICE OF INTERVIEW RE: COMPLAINT AGAINST STAFF You are instructed to report for an Official Inquiry. This interview will be conducted by Correctional Lieutenant. You are the subject of a complaint by and this interview is being conducted regarding inmate/parolee allegations of Unethical and unprofessional behavior. Inmate is alleging on January 27, 2018 he was attacked, by staff, during morning meal in the dayroom of C12. The interview is scheduled as follows Date:2/14/2020 Time:0830 Location: RJDCF administrative building You may bring a representative, if you so desire. The representative cannot be a person involved in this matter. You may record any portion of this interview. If you wish to bring a recording device, check box and initial here. You will be notified in advance if any further proceedings are contemplated and prior to any subsequent interview. You are being provided at least 24-hours notice prior to the interview being conducted. If you wish to waive the 24-hour notice requirement, check | box and interview, please contact the undersigned staff interviewer at (619) 661 8620 This is an ongoing appeal inquiry. Therefore, you are admonished not to discuss this inquiry with anyone other than the assigned interviewer and your representative should you choose to have one. Please print and sign below: Staff Interviewer Employee

Server

Memorandum

CONFIDENTIAL

Date: February 7, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-011

SUMMARY: On February 5, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate , during a previous inquiry interview. Specifically, and claimed he had knowledge of staff misconduct at Richard J. Donovan Correctional Facility (RJDCF). He claimed he witnessed an inmate being picked on by Officers in the chow hall. Stated the Officers broke the inmate's glasses and busted his head open. **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON FEBRUARY S, 2020 A confidential interview with was conducted behind closed doors in D facility Program Services. The interview was conducted based on the information had provided during a previous interview. was informed of the purpose for the interview, and was asked for the specifics regarding his allegations against staff at RJDCF. was asked if he recalled the events of his allegation. claimed he was in the chow hall on C Facility when he heard some yelling. He turned and looked to see an inmate yelling at an Officer. He stated the inmate threw his tray against the wall and said I don't need this shit, and ran out of the chow hall. Officer took off running, following the inmate outside of the chow hall. as the inmate ran outside other responding Officers tackled him and while he was on the ground, the Officers dropped knees on him as well as punched him. claims that while the Officers were beating on the inmate a Sergeant watched and did not stop it. He described the Sergeant as a female with light colored eyes that still works at RJDCF. was asked if he could identify the inmate by name, he claimed it had been too long, and he could not remember any names of involved staff, or inmates. was asked how he was able to see this

happening outside if he was inside the chow hall, he claims that he along with other inmates watched through windows in the front of the chow hall. was asked if he could give, any identifying information on the other inmates that witnesses this incident, he stated he could not remember names, however building C15 was in the chow hall and inmates housed in that

Inmate Date: February 5, 2020

Page 2

building at the time could have witnessed what he had. stated once the inmate was restrained he was taken to the gym.

REVIEW OF INCIDENT REPORT RJD-CYD-18-10-0608

A review of incident report RJD-CYD-18-10-0608 was completed. Upon review, it was determined
was referring to this incident during his interview. RJD-CYD-18-10-0608 states that or
Wednesday October 24, 2018 at approximately 1725 hours inmate to became
agitated in in the chow hall. was confronted by Officer and subsequently threw his
tray against the wall. Officer attempted to place handcuffs on and he resisted by
running out of the chow hall. Officer chased out of the chow hall. fell as he
was running, and Officer gave gave orders to got to put his hands behind his back and
submit to handcuffs. began resisting Officer as he was attempting to place him in
handcuffs, by thrashing his body from side to side. Other responding staff assisted and and
was restrained. Officer helped to his feet and escorted him to the C gym.

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview with a review of related documents and evidence. As a result, it was determined that the claim made had a nexus with other PLO Allegations regarding the same incident RJD-CYD-18-10-0608.

RJD-C-19-020 and RJD-C-19-015. Based on the aforementioned; claim will be addressed during the review of the aforementioned PLO allegations; therefore, it is my recommendation to close RJD-C-19-011.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

MoTed & Concur MoTed & Concur 2/7/2070

Memorandum

CONFIDENTIAL

Date: February 24, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-013

SUMMARY:

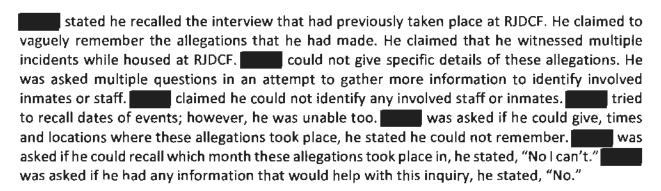
On February 24, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. During a previous interview, claimed he had knowledge of staff misconduct. He claimed to have witnessed a DPW inmate subjected to use of Force, resulting in a broken neck.

also claimed to have witnessed unnecessary force 2 days prior to his original interview, resulting in a recorded interview with the ISU Sergeant.

FACT FINDING INQUIRY:

INTERVIEW WITH INMATE ON FEBRUARY 24, 2020

A confidential interview with was conducted telephonically, due to his current housing assignment at Mule Creek State Prison. The interview was conducted based on the information received from the Bishop memo, dated, December 2018. was informed of the reason for the interview and was provided a brief synopsis of the allegations made.



Inmate Date: February 24, 2020

Page 2

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with a review of related documents, and evidence. As a result, allegations indicating he witnessed staff misconduct, while housed at RJDCF, has proven to be without merit.

No evidence was discovered, or evidence provided by indicating staff violated the use of force policy. During the confidential interview, inmate was unable to give identifying information of his allegations to assist in this inquiry. Based on his inability to provide antiquate information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

Or respectfylling ton

CONFIDENTIAL

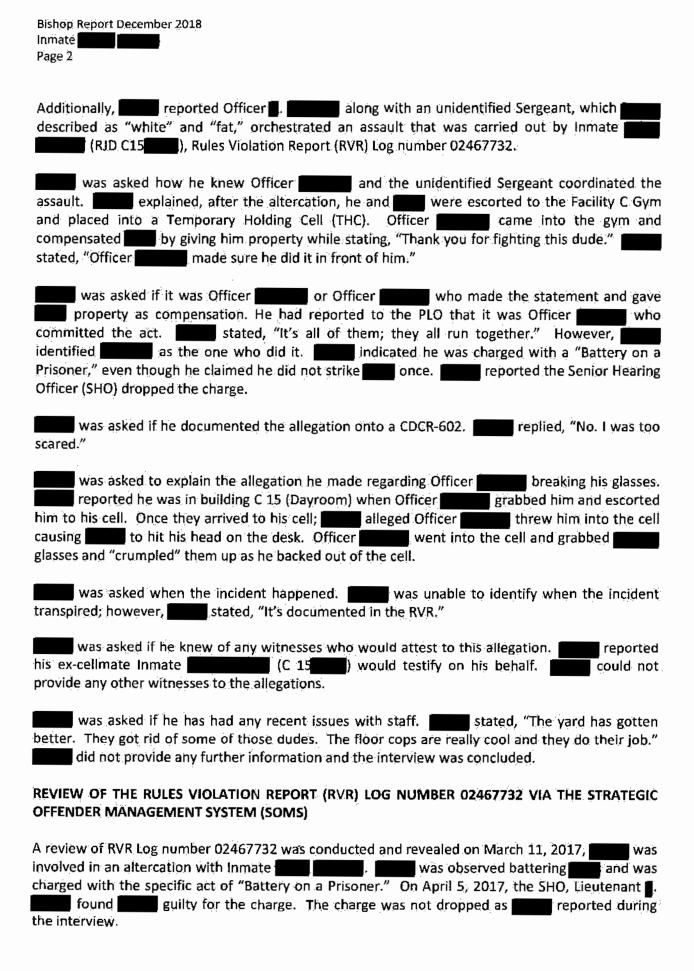
MEMORANDUM

Date:

Subject:

To:

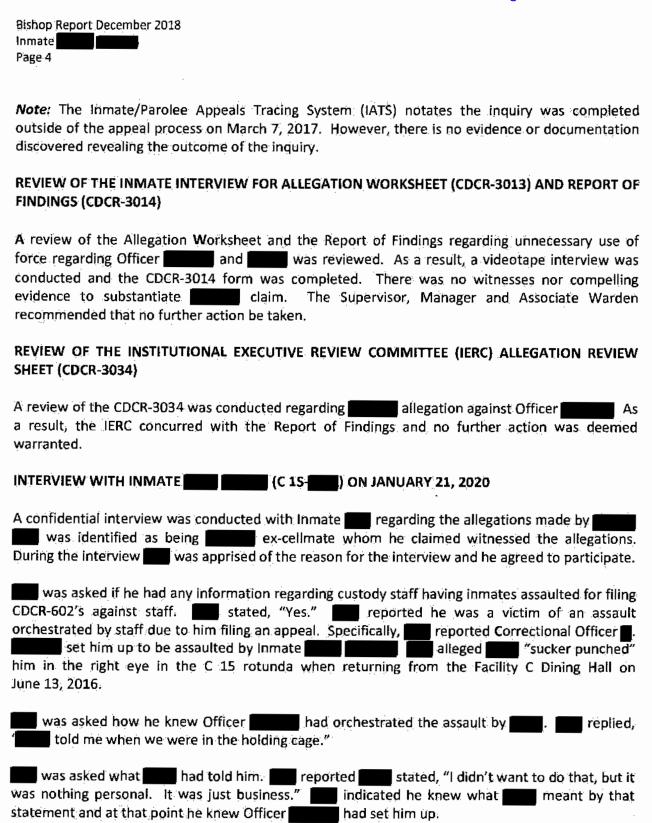
February 11, 2020
M. Pollard Warden (A) Richard J. Donovan Correctional Facility
FACT FINDING INQUIRY RESULTING FROM BISHOP REPORT DATED DECEMBER 2018 2019 (EVENT RJD-C-19-014)
SUMMARY:
Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations received during the Bishop report. Specifically, Bishop reported Inmate (C15-C1) alleged Correctional Officer reported he his glasses and called him a child molester on the yard in front of everyone. Proported he filed a CDCR-602 on regarding this act and as a result, he was retaliated against by Officer who sent another inmate to assault him. After the assault, reported they were taken to the gym, where Officer gave the assailant personal property right in front of him for conducting the assault. Claims he was falsely charged with a "Battery on Inmate" and rehoused in the Administrative Segregation Unit (ASU).
FACT FINDING INQUIRY:
INTERVIEW CONDUCTED WITH OF THE ON JANUARY 16, 2020
A confidential interview was conducted with in the Treatment Triage Area (TTA) office. The interview was conducted behind a closed door with no interruptions by inmates or staff. was informed of the reason for the interview and was provided a brief synopsis of the allegations made.
During the interview, reported the allegations made were true and factual and reiterated what was documented on the Bishop report. Specifically, reported in 2017 he was located in the "pill line" on the Facility C Patio along with other unidentified inmates. Officers and approached them and stated, "You aint nothing but child molesters." indicated the statement was made towards the group and offended him.
was asked to identify any of the inmates who were present when the statement was made, reported he did not know any of the inmates' names.
was asked to recall the approximate date or month of the aforementioned allegation. was unable to recall a date or approximate time and stated, "It was a couple of years ago." Due to the aforementioned statement, reported he submitted an Inmate/Parolee Appeal (CDCR-602) form regarding the allegation. As a result, alleged the CDCR-602 disappeared and he did not receive a response.



Bishop Report December 2018

inmate

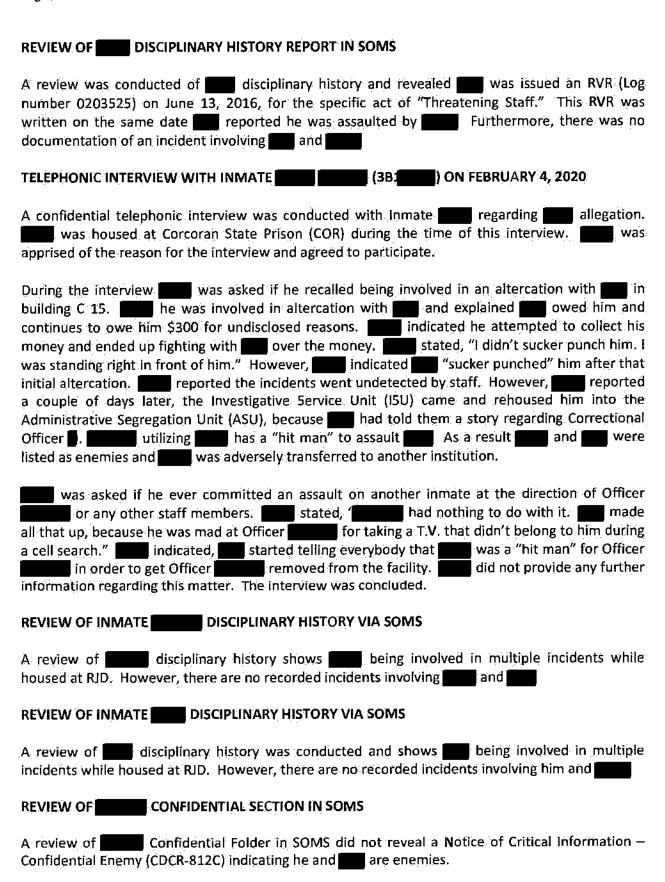
Page.3 A review of disciplinary history via the SOMS revealed there were no RVR's indicating that an incident transpired in building C 15, involving Officer to corroborate the date and time that Officer broke his glasses. REVIEW OF INMATE MEDICAL REPORT OF INJURY (CDCR-7219) DATED MARCH 11, 2017 A review of a CDCR-7219 dated March 11, 2017, was conducted on The CDCR-7219 documented that sustained Abrasions/Scratches on his right eye. No other injuries were captured on the report. REVIEW OF CDCR-7219 OF INMATE DATED MARCH 11, 2017 A review of a CDCR-7219 dated March 11, 2017, was conducted on The CDCR-7219 documented that did not sustain any injuries from the incident. INTERVIEW WITH INMATE (C 15-10) ON JANUARY 21, 2020 A confidential interview was conducted with regarding the allegations made by was identified as the inmate whom was charged with battering. was apprised of the in 2017. reason for the interview and was asked if he recalled the incident with able to recall the incident and explained the altercation was over the usage of the state phone. reported that was upset when the utilized the phone when it wasn't his turn. exchanged words and it escalated to a fight. Specifically, indicated and tried to strike him. Indicated he defended himself and the fight commenced. reported the fight was a disagreement and he held no ill will towards was asked if custody staff instructed him to assault reported he was not instructed or asked by staff to assault stated, "Nah, I don't do nothing for the staff. I'm not that type of person." indicated initiated the incident by swinging at him. was asked if he received property items by Officer and/or Officer and and said "Thank you for fighting this dude." stated, "No. That's bullshit." was asked if he had witnessed any staff misconduct. Stated, "No. 1 just try to stay out of the way." REVIEW OF INMATE/PAROLEE APPEALS TRACKING SYSTEM (IATS) A review of IATS was conducted to review the appeals submitted regarding the Officer utilizing unnecessary force. As a result, Appeal Log number RJD-C-17-0140. However, the appeal was cancelled pursuant to the California Code of Regulations, Title 15, Section (CCR) 3084.6(c)(4). Time limits for submitting the appeal were exceeded. Nonetheless, the appeal was assigned for review outside of the appeals process via an inquiry or investigation.

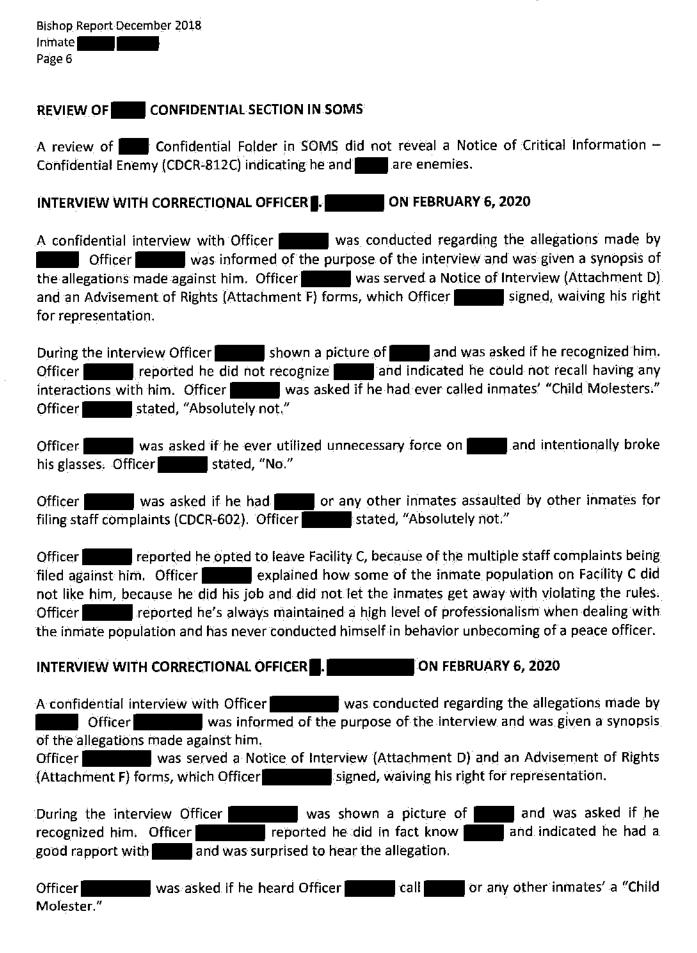


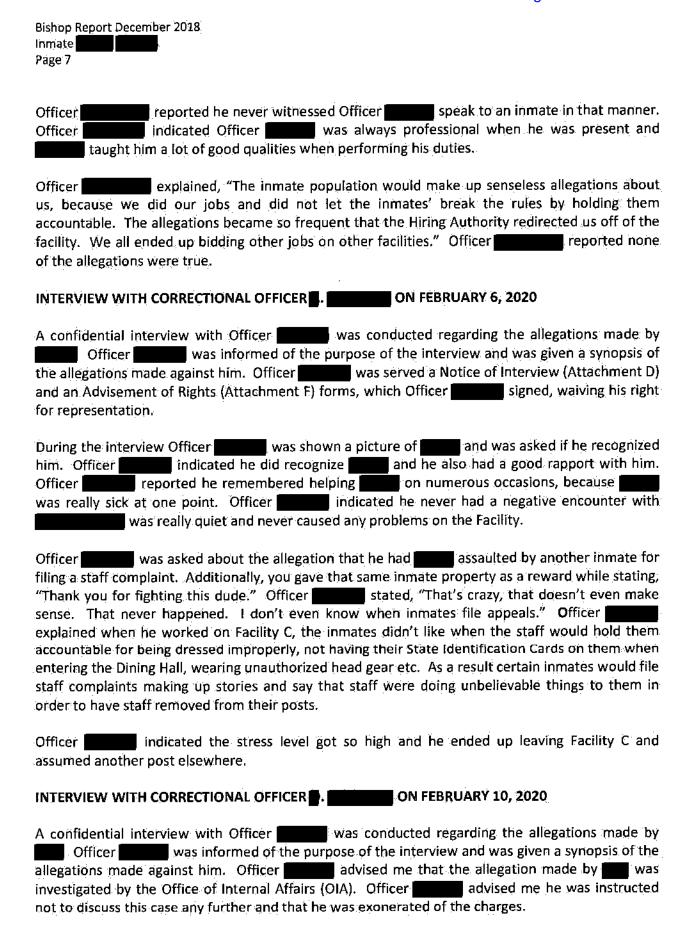
It should be noted, and did not provide any information which corroborated allegation

when asked.

Bishop Report December 2018
Inmate Page 5







Bishop Report December 2018
Inmate Page 8

CONCLUSION

I conducted an independent review of the allegations made by and During the inquiry, I reviewed all the pertinent documents, records and interviews with inmate witnesses to determine if in fact the allegations had merit. As a result of my inquiry, I have determined there is no evidence to support allegations.
claim that Officers and/or had assaulted by Inmate because he filed an appeal is without merit. It testimony disputes allegation and indicated the incident was a disagreement over the usage of the state telephone. Additionally, staff reported was the aggressor and was witnessed striking in the head and facial areas.
claim that Officer utilized unnecessary force and broke his glasses is without merit. This was solely determined by the inquiry conducted in the Report of Findings and the IERC findings, which found no policy violations and recommended no further actions.
claim that Officer orchestrated to assault him is without merit. This was determined due to lack of proof to corroborate this allegation. Additionally, testimony contradicts everything alleged. Lastly, this matter was investigated by OIA at which Officer was exonerated of all charges.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.



Correctional Lieutenant Richard J. Donovan Correctional Facility

o chon of bronk of bronks

Memorandum

CONFIDENTIAL

Date: March 2, 2020

To: MARCUS POLLARD

Warden (A)

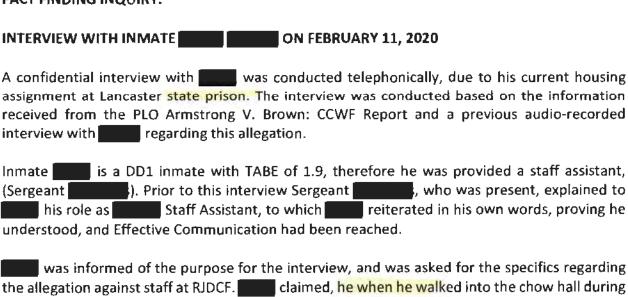
Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-015

SUMMARY:

On February 11, 2020, a fact finding inquiry was initiated as a result of allegations made by inmates and and during a previous audio recorded inquiry interview. Specifically, the aforementioned inmates claimed they had knowledge of staff misconduct at Richard J. Donovan Correctional Facility (RJDCF). They claimed to have witnessed Officer assault inmate in the dining hall, on C facility at RJDCF. They made similar claims that Officer put up against the wall and punched him, threw him to the ground and punched and kicked him while he was down.

FACT FINDING INQUIRY:



evening chow, he was confronted by an Officer regarding his clothes. claims he had altered his sweatpants into shorts, and the Officer was questioning him. explained the Officer put him up against the wall and as he was talking to him, the Officer punched him. claims after being punched by the Officer he fell to the ground. He states another inmate helped him up and picked his glasses off the floor.

Inmate

Date: March 2, 2020

Page 2 tables. After a few moments stated he got mad at what had just occurred, he got up started cursing and threw his tray against the wall. He claims he immediately ran out of the chow hall. claims as he was running he was tackled by another Officer and placed in handcuffs. explained once in cuffs he was placed on a cart and taking off the yard. was asked how many times did the Officer punch him, he replied, "One time." asked once he was punched and fell to the ground did the Officer punch or kick him, he replied, was asked if he could identify any witnesses. He claimed he could not recall any claimed he did not remember the Officers name that inmate or staff witnesses by name. punched him, but he could possible identify him if shown a picture. Claimed that two other Officers were present at the time of the incident and had done nothing to stop it. asked if he was punched or kicked when he was on the ground outside of the chow hall, after running, he replied, "No they just cuffed me up." Although could not identify any inmate witnesses by name, he stated the chow hall was full of inmates out of his building that witnessed the incident. claimed after the incident, he received a rules violation report and they took stated he never made a formal complaint, fearing for his safety. He believed if he made a complaint staff would retaliate. He also claimed he had no further issues with staff while housed at RJDCF. INTERVIEW WITH INMATE ON FEBRUARY 12, 2020 A confidential interview was conducted with a lin the Program Sergeants office, on "C" facility. The interview was conducted behind a closed door with no interruptions by inmates or was informed of the reason for the interview and was provided a brief synopsis of the allegations made. claimed that he was in the chow already seated at a table eating, when he heard yelling. He looked over towards the direction of the yelling and about twenty feet away he saw, Officer up against the wall. claimed he could not hear what was putting his cellmate said between and claimed that while had punched him two or three times and threw to the floor. claimed while on the floor kicked two times and picked him up, and shoved him back in line. claimed he was finished eating and was released from the chow hall walking on the track towards his housing unit, when he saw run out of the chow hall. claims the yard was put down, and all the inmates got down except who was still running to the middle of the yard. stated that four to five Officers were chasing when he was tackled in the middle of claimed a white cart drove on the yard and took the yard. claimed he didn't remember any other staff inside the chow hall when claimed multiple inmates witnessed this incident. He could not identify any inmate witnesses specifically but stated they lived in C15. Inmate had no further relevant information for this inquiry.

Inmate Date: March 2, 2020

Page 3

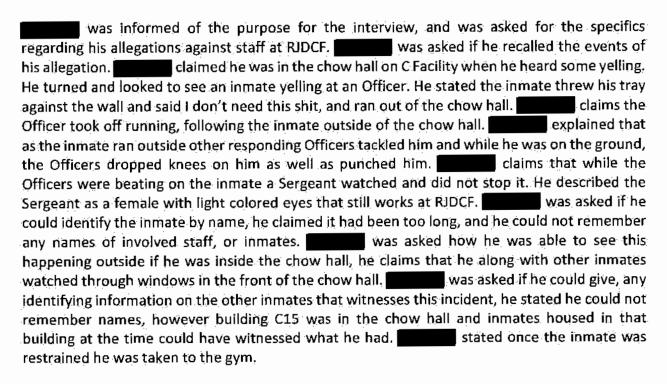
INTERVIEW WITH INMATE ON FEBRUARY 12, 2020
A confidential interview with was conducted telephonically, due to his current housing assignment at California HealthCare Facility. The interview was conducted based on the information received from the PLO Armstrong V. Brown: CCWF Report and a previous audio-recorded interview with regarding this allegation. was informed of the reason for the interview and was provided a brief synopsis of the allegations made.
claimed he was seated at a table eating chow, when inmate walked into the chow hall. claimed Officer told he had to leave the chow hall due to his altered clothing. claimed told those were the only pants he had, and he was hungry to please just let him eat. explained that got mad and pushed on the wall of the chow hall. stated he could not hear what was being said, but without warning pulled to the ground and slapped him in the head. stated punched then picked him up and pushed him back in line. claimed after ate his food he suddenly got up and yelled something, then threw his tray at the wall, and ran out of the chow hall. stated as ran out the Officers started chasing him and eventually tackled him He stated he witnessed this from inside the chow hall from the doorway.
was asked if there were any other Officers present at the time was allegedly punched. He explained, there were two Officers that didn't want to get involved and had walked away while was assaulting claimed he could not remember specific names of any inmates in the chow hall but that all the inmates had seen it. claims other inmates were yelling at to stop and that his actions had almost started a riot.
INTERVIEW WITH INMATE ON FEBRUARY 13, 2020
A confidential interview was conducted with in the Program Sergeants office, on "C" facility. The interview was conducted, behind a closed door, with no interruptions, by inmates, or staff was informed of the reason for the interview and was provided a brief synopsis of the allegations made. The interview was conducted based on the information received from the PLC Armstrong V. Brown: CCWF Report and a previous audio-recorded interview with regarding this allegation.
claimed he was seated at a table inside the chow hall eating, when Officer grabbed a black inmate threw him to the ground and kicked him. stated he could not identify the inmate by name; however, he remembered he was an older black man. claimed there was two other Officers at the door that witnessed kick the inmate. stated the officer put cuffs on the inmate and escorted him out the door.
PREVIOUS INTERVIEW WITH INMATE OF THE ON FEBRUARY 5, 2020 CONDUCTED DURING PLO INQUIRY RJD-C-19-011
A confidential interview with was conducted behind closed doors in D facility Program

Services. The interview was conducted based on the information received from the PLO

Inmate Date: March 2, 2020

Page 4

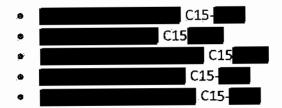
Armstrong V. Brown: CCWF Report and a previous audio-recorded interview with regarding this allegation. This interview was included in this inquiry due to the information provided had relevant information to this allegation.



INTERVIEWS WITH RANDOM INMATES HOUSED IN BUILDING C 15 ON FEBRUARY 13, 2020

A Strategic Offender Management System (SOMS) Bed History report was utilized to identify possible inmate witnesses due to their housing at the time of the Incident. The indicated inmates on this report were housed at RJDCF in building C15, on the date of the incident October 24, 2018, and were randomly selected. These interviews were conducted based off information inmate provided during his interview. He stated inmates housed in C15 were in the chow hall at the time he was attacked and would have witnessed it.

The following inmates were indicated on the SOMS Bed History Report, and identified as possible witnesses:



All the aforementioned inmates were asked relevant questions to determine if they had knowledge or details pertaining to allegation. None of the possible witnesses interviewed, provided information to refute or substantiate claim.

Inmate Date: March 2, 2020. Page 5

REVIEW OF INCIDENT REPORT RJD-CYD-18-10-0608

RJD-CYD-18-10-0608 states that on Wednesday October 24, 2018 at approximately 1725 hours inmate became agitated in in the chow hall. Was confronted by Officer and subsequently threw his tray against the wall. Officer attempted to place handcuffs on and he resisted by running out of the chow hall. Officer chased out of the chow hall. It fell as he was running, and Officer gave orders to put his hands behind his back and submit to handcuffs. Began resisting Officer as he was attempting to place him in handcuffs, by thrashing his body from side to side. Other responding staff assisted and was restrained. Officer helped to his feet and escorted him to the C gym.
A review of the Incident Commanders Use of Force Review for this incident was conducted. It should be noted that the Incident Commander found the staffs use of force during this incident to be in compliance with the departments use of force policy. No allegation of inappropriate or excessive Use of Force resulted from this incident.
A review of the Managers Use of Force Review for this incident was conducted. It should be noted that the Manager found the staffs use of force during this incident to be in compliance with the departments use of force policy.
It should be noted the Institutional Executive Review Committee at RJDCF, cleared this incident, determining all involved staff utilized force in compliance with the departments Use of Force Policy
REVIEW OF CDCR 7219 MEDICAL EVALUATION REPORTS RELATED TO INCIDENT REPORT RJD-C12-18-01-0044
A CDCR 7219 was completed on Inmate Completed October 24, 2018 at 1757 hours. This report indicated sustained pain on his right cheek, and scratches/abrasions on both knees. It also indicates scratches/abrasions on left elbow and lower back. No other injuries were noted.
INTERVIEW WITH OFFICER . February 20, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his 24 hour notice, and electing to have his chosen representative present.
During the interview, Correctional Officer was afforded the opportunity to review his incident report to refresh his memory. More details regarding the incident were provided to until he stated he remembered the incident in question. Officer was first asked, if he recalled the events that occurred on October 24, 2018. Officer stated he was in the chow hall when an inmate walked up and threw his tray right past

Inmate March 2, 2020 Page 6
claimed after throwing the tray against the wall the inmate yelled to fucking come near me. Without warning, the inmate took off and ran out of the chow hall. claimed he followed the inmate out with responding staff and assisted other staff in placing in cuffs.
claimed he had not seen inmate inside the chow hall prior to him throwing the tray. It claimed he did not witness Officer have any inmates against the wall that night. It claimed Officer was not assigned to the inside of the chow hall; he was stationed outside on the track. He claimed he did not recall entering the chow hall at any time to deal with inmates prior to throwing the tray. Officer stated, "I did not see any excessive or unnecessary force during this incident." It had no further information regarding this allegation, and his interview was concluded.
INTERVIEW WITH OFFICER . February 20, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and Advisement of Rights (Attachment F) forms, which Officer signed, waiving his 24 hour notice, and electing not to have a representative present.
During the interview, Correctional Officer was afforded the opportunity to review his incident report to refresh his memory. More details regarding the incident were provided to until he stated he remembered the incident in question. Officer was first asked, if he recalled the events that occurred on October 24, 2018. Stated he was assigned as the chow hall gunner that night. He claimed he was walking around the gun booth providing coverage alternating back and forth from Dinning hall 1 to Dining hall 2. Stated he was observing dining hall 2 when he heard a sound come from dining hall 1. He stated the noise sounded like a plastic tray hitting the floor. He claimed he turned his attention to dinning hall 1 and observed Officer talking to an inmate. Claimed the inmate took off running out of the door, and out of his view. He claimed he heard the radio announcement and continued to provide coverage of the chow hall.
claimed he did not witness any staff with inmates on the wall. He claimed the inmates line up outside the chow hall and if it had occurred while outside he would not be able to see it. was asked if he witnessed any unnecessary or excessive force during this incident, he stated, "No." had no further information regarding this allegation, and his interview was concluded.
INTERVIEW WITH SERGEANT . February 20, 2020
A confidential interview with Sergeant was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Sergeant was served a Notice of Interview (Attachment D) and

Inmate 1000

Page 7
Advisement of Rights (Attachment F) forms, which Sergeant signed, waiving his 24 hour notice, and electing not to have a representative present.
Sergeant claimed he could not recall this specific incident. He stated that during that time it was not common practice for the Sergeant to be at the dining hall during chow. Sergeant was asked several questions regarding incident RJD-CYD-18-10-0608. Sergeant was able to recall small details after the incident had taken place, such as reviewing reports and the follow up with inmate stated he did not witness the incident, by the time he arrived the inmate was already being escorted.
INTERVIEW WITH OFFICER
An attempt was made to locate Officer for interview regarding the allegations made against him. Due to Officer no longer being employed with the California Department of Corrections and Rehabilitation, he was unavailable for interview.
CONCLUSION:
I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview with a review of related documents and evidence, and interviews with staff and inmate witnesses. As a result, allegation indicating he was a victim of staff misconduct while he was housed at RJDCF has proven to be without merit.
Although multiple inmate witnesses stated they saw Officer use excessive and or unnecessary force, there accounts of the event largely differed. Some of the inmate witnesses stated the force took place outside in the middle of the yard, while others claimed it occurred inside the chow hall. Some stated was punched and fell to the ground, others claimed he was kicked. These inconsistencies make it difficult to validate the claims of each witness, as other witness testimony contradict them. It should be noted the randomly selected inmate witnesses had no information to support or refute claim. These inmate witnesses were selected as possible witnesses present in the chow hall at the time of the allegation.
During Officer interview he stated he did not witness Officer use excessive or unnecessary force. It is claimed Officer was not assigned to the inside of the chow hall; he was stationed outside on the track. He claimed he did not recall entering the chow hall at any time to deal with inmates prior to the tray.
During Officer interview he claimed he did not witness any staff with inmates on the wall. He claimed the inmates line up outside the chow hall and if it had occurred while outside he would not be able to see it. was asked if he witnessed any unnecessary or excessive force during this incident, he stated, "No."

Inmate Date: March 2, 2020 Page 8

If in fact the inmates lined up outside the chow hall on the wall to get there tray as Officer claims. It would refute, the inmate witnesses, stating the saw assaulted while in the chow hall.

Officer the subject of this allegation was unavailable for interview, however, he authored a CDCR 837C, accounting his involvement in incident RJD-CYD-18-10-0608. This report has no mention of Officer putting on the wall, punching, or kicking him.

A completed incident packet was generated for this incident. This incident was reviewed and no evidence was found to support so claim. Involved Officers clearly articulated their involvement in this incident with 837C's. A review of these reports showed clear articulation of the uses of force, as well as the imminent threat. This incident packet was cleared by all levels of review regarding the use of force policy, and no evidence was found to substantiate any allegation of staff misconduct.

Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into this claim of staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.



Correctional Lieutenant
Richard J. Donovan Correctional Facility

Memorandum

CONFIDENTIAL

Date: March 9, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-016

SUMMARY: On February 25, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. During this previous interview, claimed he had knowledge of staff misconduct. He claimed had knowledge of staff members using inmates to assault other inmates, as retaliation for disrespect. He also claimed he had knowledge of staff paying inmates off with other inmate's property for the assaults. FACT FINDING INQUIRY: INTERVIEW WITH INMATE ON FEBRUARY 27, 2020 A confidential interview with was conducted telephonically, due to his current housing assignment at State Prison Sacramento (SAC). The interview was conducted based on the information received from previous interviews, conducted with was informed of the reason for the interview and was provided a brief synopsis of the allegations made. During the interview, Inmate made several claims of staff misconduct. The following are the allegations he made: claimed he witnessed several incidents, involving Officers and beating up inmates. claimed he witnessed Officer send multiple inmates to assault inmate claimed Officer provided him information, that inmate gave information about having contraband in his cell, resulting in claimed Officer had told him to assault other inmates on his behalf for disrespect.

Date: March 9, 2020 Page 2
During the interview alleged that he witnessed several incidents involving Officer and assaulting inmates. Could not give specific dates or times of these allegations, just that it was happening all the time back in 2016 and 2017. Could not provide specific names or any other identifying information on the involved inmates. Was unable to provide any other staff witness to these allegations. Was asked if he could identify any inmates that also witnessed these allegations, which would corroborate his claims. Claimed Inmate was housed in C12 and C11 at the time, he witnessed these allegations.
claimed Officer had sent multiple inmates to assault in C13. was asked how he knew sent inmates to assault he stated everyone on the yard knew what was going on was asked if he could give any other information regarding this claim, he explained that all of this stuff happened a long time ago and he has trouble remembering things. stated his cellmate at the time, would probably be better to ask, as he would have more information regarding these allegations.
claimed that he received a rules violation report (RVR) for battering inmate He stated Officer came up to his cell front and informed that had provided information that had drugs, weapons and cell phones in his cell. He claimed after receiving this information he assaulted as retaliation.
claimed Officer on several occasions requested him to assault inmates that had disrespected claimed claimed used other inmates on the yard as well. explained he did not received RVR's for these assaults, as the Officer would not report the incidents. was asked if he could identify any other inmates or staff involved in these incidents. Claimed all the Officers on the yard at the time knew of these sanctioned assaults on inmates. Claimed he could not identify any specific dates, times, locations, or inmates victims he assaulted. Was unable to identify other inmates by name that also participated in the assaults of inmates, he claimed they were all friends on the yard. Was asked if he could give information to help identify the other involved inmates, he claimed he could not.
identified the following five (5). Officers that he could recall having specific knowledge of staff misconduct around the time of his allegations.
 Officer Officer Officer Officer Officer
INTERVIEW WITH INMATE ON MARCH 2, 2020
On March 2, 2020, a confidential interview with was conducted telephonically, due to his current housing assignment at Kern Valley State Prison. The interview was conducted based on inmate state of his allegation would have made a claim during his interview, that his cellmate at the time of his allegation would have

Inmate March 9, 2020 Page 3
information. A bed history report was utilized to identify inmate was referring too.
During the interview, it was explained to that this interview was due to an allegation, made by his previous cellmate claimed he did recall being celled with claimed he could not recall staff using inmates to attack other inmates. Claimed he did not recall inmate or was asked if he recalled Officer he stated, "was the floor cop, in my block." It did not recall Officer informing him that another inmate had provided information on him. It stated it had been a long time and he did not want to give false information, he stated he could not recall any specific details.
INTERVIEW WITH INMATE OF THE ON MARCH 2, 2020
On March 2, 2020, a confidential interview with was conducted behind closed doors, in C facility Program Services. The interview was conducted based on inmate being identified as a possible witness, by inmate
During the interview, was informed of the reason of the interview, as well as he being identified as a possible witness to staff misconduct. It claimed he remembered inmate from the time they were both housed at RJDCF on facility C. It claimed he did not recall any staff members using inmates to assault other inmates. It claimed he did remember an incident with inmate in the chow hall. He claimed there was a fight with several inmates over a phone call. It claimed he could not recall any other details regarding inmate was asked if he recalled an incident with inmate claimed he did not recall an inmate in nor an incident where several inmates beat him up.
claimed although he remembers certain staff turning a blind eye during inmate on inmate assaults, he declined to confirm names of involved staff, or inmates. Claimed he was trying to program now and did not want any problems. Claimed he paroles in two years and maybe then, he would be more willing to discuss the issues on C facility. Was asked if he had any other relevant information regarding the allegations we had discussed, he stated, "No."
REVIEW OF CONFIDENTIAL MEMORANDUM DATED JUNE 1, 2017
A review of a confidential memorandum was conducted, dated June 1, 2017 authored by Correctional Officer This memorandum speaks directly to several incidents that took place on C facility. The information provided in the aforementioned confidential, directly refutes claims that he assaulted due to retaliation. It also contradicts allegation that the reason for his attack on was a result from information he received from Officer incident RJD-C12-17-05-0212A1. It should be noted that the source of this confidential was deemed reliable.
REVIEW OF INCIDENT REPORT RJD-C12-17-05-0212A1
It was determined through some 's interview; the incident on 05/25/2017 Battery on an inmate Resulting in the Use of Force was incident# RJD-C12-17-05-0212A1. More specifically during interview, he claimed he battered inmate this incident speaks to that incident. This incident was reviewed and does not refute or substantiate claim.

Inmate Date: March 9, 2020 Page 4

INTERVIEW WITH OFFICER . ON MARCH 3, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, with representation present.
During the interview, Correctional Officer was first asked, if he recalled inmate claimed he did not recall an inmate was asked if he was aware of staff utilizing inmates to assault other inmates. Claimed he was not aware of staff utilizing inmates to assault other inmates, and had not witnessed staff misconduct while he was assigned on C Facility. Claimed if he had witnessed staff misconduct he would have reported it. Officer had no more pertinent information regarding this inquiry, so the interview was concluded.
INTERVIEW WITH OFFICER ON MARCH 3, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
Correctional Officer stated he remembered but, not any of the incidents was involved in. Stated there was a lot of fights on C Facility while he was there, however to his knowledge staff were not involved in the planning or setting up these fights. Stated he never observed excessive or unnecessary force while assigned to C Facility, if he had he would have reported it. Officer had no more pertinent information regarding this inquiry, so the interview was concluded.
INTERVIEW WITH OFFICER ON MARCH 4, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
Officer stated he did not recall inmate from the time he was assigned to C Facility. It is claimed to his recollection he did not interact with claimed to he had never witnessed, or had knowledge of staff using inmates to assault other inmates. Officer claimed he had no knowledge of staff misconduct on C Facility. Officer had no more pertinent information regarding this inquiry, so the interview was concluded.

Inmate Date: March 9, 2020 Page 5

NTERVIEW WITH	OFFICEN .		MARCH 4, 2020
NIEKVIEW WIIH	OFFICER .	OIA	IVIAKUM 4. ZUZU
,		_,,	,

A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for epresentation.
Officer stated he remembered from one of the buildings he was assigned to. Officer explained he was a building relief Officer and worked in multiple buildings on C Facility. Claimed was quiet and kept to himself. Stated he recalled multiple incidents on that facility during the year 2017, however none with inmate or inmate.
Officer claimed he had no knowledge of staff on C Facility using inmates to assault other mates. Officer was asked if he had any knowledge, of staff, sending multiple inmates to assault inmate claimed he had had no knowledge of that claim. Explained he could not recall much about inmate and did not recall him being assaulted.
Officer was asked if he had any knowledge of staff assaulting inmates, and not reporting it, He replied, "No." Officer was asked if he had any knowledge of Officer threatening inmates, replied, "No."
NTERVIEW WITH OFFICER . ON March 6, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation.
Officer claimed he could not recall inmate from C facility. was shown a picture of inmate from C facility. was shown a picture of inmate from C facility. was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility. It was shown a picture of inmate from C facility of the allegations made. After the photo, Officer from C facility of inmate from C facility of the allegations made. After the photo, Officer from C facility of the allegations made. After the photo of the property
Officer claimed he did not recall an inmate from C facility. was shown a picture of inmate in an attempt to help recall him. claimed he did not recognize the picture of and could not remember any incidents, involving was asked if he had any knowledge of Officer utilizing inmates to assault replied, "No that's ridiculous." was asked if he and were ever involved in any incidents together, he stated he could not recall. Was asked if he and ever assaulted an inmate, as well as failed to report said assault, stated, "absolutely not."
was asked if he ever used inmates to assault other inmates, over disrespect issues, he stated, "No." was asked if he ever provided information to be in regards to an inmate

Inmate Date: March 9, 2020 Page 6 even talk to that inmate. went on to explain, he had never given information to an inmate regarding another inmate, nor would he. was adamant that all the allegations brought up against him are based on retaliation. believes the inmates on facility used the appeals process in an attempt to have him removed from his assigned post, on facility C. was asked why he believed inmates would want him off the facility. I claimed he did his job and enforced the rules. I claimed, he was busting inmates on the yard with drugs and other contraband, and the inmates did not like it. He claimed at one point the inmates on C facility made a threat, to assault him. I had no other relevant information regarding this inquiry, and the interview was concluded. CONCLUSION: I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with related documents, and evidence. As a result, all allegation indicating he was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit. The specific allegation made by regarding, him witnessing several incidents, involving and beating up inmates. No evidence was discovered, or evidence provided by indicating staff violated policy. Multiple sources of evidence including eyewitness accounts fail to substantiate claim. During interview, he could not give specific dates or times of these allegations, just that it was happening all the time back in 2016 and could not provide specific names or any other identifying information on the involved inmates. was unable to provide any other staff witness to these allegations. During his interview claimed inmate would be able to provide information allegations. When interviewed was asked several questions, in an attempt to gain information to assist in this inquiry into claims. unable or unwilling to provide any information to corroborate allegations. The specific allegation made by the regarding, witnessing Officer seems sending multiple inmates to assault inmate No evidence was discovered, or evidence provided by indicating staff violated policy. Multiple sources of evidence including eyewitness accounts fail to claim. During his interview once again failed to provide specific details regarding this allegation, however he claimed his cellmate at the time, would probably be better to ask, as he would have more information regarding these allegations. An inmate was unable to be located to interview. However, it was determined utilizing SOMS bed report that cellmate at the time of his claims. Inmate was was assigned as asked several questions regarding the allegations made by He was unable to provide any information to help substantiate claims.

The specific allegation made by regarding Officer informing him, inmate gave information about having contraband in his cell, resulting in battering . . Multiple sources of evidence including eyewitness accounts fail to substantiate claim. Confidential memorandum, dated June 1, 2017 authored by Correctional Officer, directly refutes this claim made by This source of evidence speaks directly

Inmate Date: March 9, 2020 Page 7		
about incident RJD-C12-17-05-0212A1. This incident commit, Battery on a Prisoner. A review 0212A1 and the aforementioned confidential metals.	w was conducted of both incident RJD-C12-17-05-	
inmates on his behalf for disrespect. Multiple sort to substantiate claim. was provided Officers names that he believe (5) Officers were interviewed regarding	had told him to assault other urces of evidence including eyewitness accounts fail is unable to give specific details regarding this claim. Wed would have information regarding his claims. All allegations. It should be noted the rectly refute claims, of staff misconduct.	
989 request for investigation, case # S-RJD-134-1	Office of Internal Affairs, Central Intake, VIA a CDCR 9-R. On April 17, 2019, this referral was rejected via rejection based on a finding of no staff misconduct	
Based on this information, I do believe Inmat recommend no further inquiry into these claims		
Richard J. Donovan Correctional Facility has no fuclosed. This information is provided for your rev	rether interest in this matter and considers this case iew and disposition. Review 1. Carsder Case closed. M. Pollard	
Correctional Lieutenant	Warden (A)	
Richard J. Donovan Correctional Facility Richard J. Donovan Correction		

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : February 3, 2020 CONFIDENTIAL

To : M Pollard

Warden (A)

Richard J. Donovan Correctional Facility

Subject:

FACT FINDING INQUIRY FOR ALLEGATION OF STAFF MISCONDUCT #RID-C-19-018

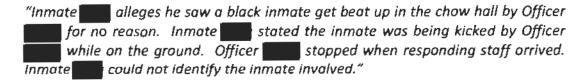
SUMMARY:

On Monday, February 3, 2020, at your request, I initiated an inquiry into an allegation of staff misconduct. This allegation was presented to Richard J. Donovan Correctional Facility (RJDCF) by a Prison Law Office (PLO) report dated June/July 2019. Specifically, according to the PLO report, the allegation/event #RJD-C-19-018 states:

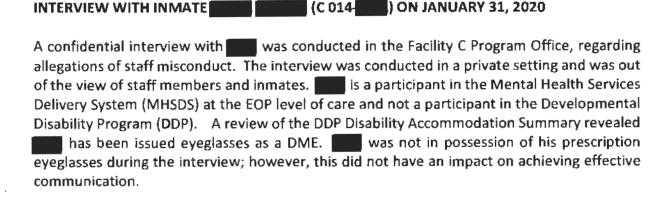
Original allegation:

"States he observed named staff kick an inmate 4 or 5 times after he was down. States a named sergeant tried to stop it and ordered staff to stop using excessive force."

Secondary allegation:



FACT FINDING INQUIRY:



Inmate

Date: February 3, 2020

Page 2 of 3 On January 31, 2020, I introduced myself to Inmate and informed him I was conducting an inquiry into allegations of staff misconduct made to the PLO. I read the allegations to and asked if he recalled making these allegations. During the interview Inmate stated he did make the allegations as reported by the PLO. stated he made both allegations and has observed staff using force more than once. observed staff kick an inmate after he was down. Stated over a year ago he observed Officer kick an unidentified black inmate in the face for no reason. stated it happened in the culinary and there were two officers that witnessed it. stated, Officer was by the door and Officer was outside. It stated he never saw the unidentified inmate after that day. said he has not been the victim of excessive/unnecessary use of force. He also stated things have been much better in the last six months with the new administration. **REVIEW OF THE DAILY INFORMATION REPORTING SYSTEM (DIRS)** A Review of DIRS revealed incident report (IR) #RJD-CYD-19-01-0041 is the incident describing in his primary allegation. This IR identifies the inmate/suspect as It identifies Correctional Officers and as responders. This incident report has a direct nexus to PLO allegations #RJD-C-19-018 (original allegation) and #RJD-C-19-020. A review of DIRS revealed IR #RID-CYD-18-10-0608 is the incident is describing in his secondary allegation. This incident report identifies the unknown black inmate as . This IR also identifies Correctional Officer . as a responder. Upon further review the location of the incident is identified as the culinary as indicated by this incident report has a direct nexus to PLO allegation #RJD-C-19-015; therefore, this matter has been referred to the Office of Internal Affairs and is an active case.

REVIEW OF CDCR 3013 INMATE INTERVIEW/3014 REPORT OF FINDINGS - INMATE INTERVIEW

A review of CDCR 3013/3014 revealed there was an allegation of excessive/unnecessary use of force made for IR #RJD-CYD-19-01-0041 which has a direct link to PLO allegations #RJD-C-19-018 (primary allegation) and RJD-C-19-020. An inquiry was conducted and a recommendation was made and submitted to the hiring authority for disposition.

A review of CDCR 3013/3014 revealed there were no allegations of excessive/unnecessary use of force made for IR #RJD-CYD-18-10-0608.

Inmate Date: February 3, 2020

Page 3 of 3

REVIEW OF AUDIO RECORDINGS

A review of audio recording of Inmate dated January 22, 2019, was conducted. The audio reiterated the information reported to the PLO and yielded no additional information.

Additional audio recordings are available that have a nexus to secondary allegation. The audio recordings will be reviewed and the information will be included in PLO allegation #RJD-C-19-015 as they are directly relative to that allegation.

CONCLUSION:

I conducted an independent review of the allegation regarding the staff misconduct, which derived from a primary and secondary allegation made to the PLO by inmate

Upon review of all available information it was determined the primary and secondary allegations made by to the PLO are currently under review in PLO allegations #RJD-C-19-020 and #RJD-C-19-015. Based on the aforementioned; the fact is not the victim of the allegations, the primary and secondary allegations have been or are being addressed, it is my recommendation PLO allegation/event #RID-C-19-018 be closed.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

RJD Special Assignment

NOTED E GONGUR

MANDEN

2/7/2020

Memorandum

CONFIDENTIAL

	CONTIDENTIAL
Date:	February 7, 2020
То:	MARCUS POLLARD Warden (A) Richard J. Donovan Correctional Facility
Subject:	FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-019
SL	JMMARY:
cla cla	refebruary 4, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate during an inquiry interview conducted December 6, 2018. Specifically, defined he had knowledge of staff misconduct at Richard J. Donovan Correctional Facility (RJDCF). He aimed that during an incident Officer during used excessive and unnecessary force on him while was seated in his wheelchair.
FA	ACT FINDING INQUIRY:
RE	EVIEW OF INTERVIEWS WITH INMATE
all	March 19, 2018, a video interview took place regarding an allegation of staff misconduct. This regation was made by inmate on a CDCR 602 log#RJD-C-18-1192. This interview was part the fact finding process for this allegation and was conducted by Lieutenant.
hi: in	uring the review of this video recorded interview, inmate stated he wanted to withdraw if he was making this withdraw good faith, stated he was. stated he was states inmate is choosing to with drawl this aim, and is not being coerced into stating this, replied, "No."
co	review was conducted of an audio recorded interview that took place January 22, 2019, and was inducted by Sergeant and Lieutenant This interview was conducted based of egations from a previous interview on December 6, 2018.
	uring the interview claims while he was getting his special religious meal, he was told to

chow hall, staff started calling him a retard. Claims he informed he was going to report him, and told him to say that again. He claims that as he was attempting to tell again,

pepper sprayed him and pulled him from his wheelchair, and beat up a little bit.

Inmate

Page 2
claimed that he dropped the complaint because he was told the Rules Violation Report (RVR) he had received would be dropped. was asked if he could identify the Lieutenant that told him his RVR would be dropped if he dropped his complaint, he stated he could not. was asked if there were any other witnesses which he stated, "Yes." claimed there were three inmate witnesses. He claimed the inmates were retaliated against for coming forward with punitive cell searches. claimed these witnesses were identified on his appeal. stated another officer helped him up and escorted him to the shower.
REVIEW OF APPEAL/STAFF COMPLAINT RID-C-18-01192
A review of appeal RJD-C-18-01192 was completed. During a review of this appeal it was discovered that approximately 29 days after incident RJD-14-18-02-0066A1 took place, inmate filed a CDCR 602, alleging staff misconduct. In the aforementioned appeal, makes the same claims as he did during the audio-recorded interview, that took place January 22, 2019. He claimed, he was sprayed with pepper spray, and pulled from his wheelchair, by Officer
Attached to appeal RJD-C-18-01192 are four anonymous letters giving witness accounts of what transpired during this incident. The identity of the authors, of these hand written notes, are unavailable. The notes are not signed and have no identifying information.
It should be noted that inmate requested to withdraw this appeal as indicated on the original CDCR 602, signed by him.
An attachment E-1 Memorandum was authored on June 8, 2018, addressed to inmate as a response to appeal RJD-C-18-01192. In this response it states was interviewed on Monday, March 19, 2018. All relevant information and evidence was evaluated, regarding the allegations made. The appeal was partially granted, in that, the appeal inquiry is complete and has been reviewed.
An attachment C Memorandum was completed regarding this allegation addressed to the hiring authority. This memorandum states, inmate was interviewed on Monday, March 19, 2018, by Lieutenant During this interview, was provided a staff assistant due to his EOP and DD2 level of care. It states during this interview, claimed, he was out of line and he had filed the 602 out of anger. He stated he no longer wanted or wished to pursue this or any other matter related, and ultimately requested his appeal to be withdrawn, by signing section H of his appeal.
It should be noted this appeal/staff complaint response was approved by the hiring authority and signed June 8, 2018.
REVIEW OF INCIDENT REPORT RJD-C14-18-02-0066A1
A review of incident report RJD-C14-18-02-0066A1 was completed. This incident was generated from the incident that inmate was referring to in his allegation. Upon review, it was reported, in this incident, On Saturday, February 3, 2018, at approximately 1759 hours, Correctional Officer was monitoring Inmates entering Facility C Dining Hall 2, when he observed Inmate approached from the wrong side of the track.

Date: February 4, 2020 Page 3
the correct way. became trate and began yelling obscenities, and stated, "This is Bullshit! You guys are fucking stupid." Once approached the dinning hall, provided him his meal, but became trate again and stated, "Fuck you guys! This is Bullshit!" and threw his meal violently to the ground.
Without warning, suddenly stood up from his wheelchair, clenched his fists and took and aggressive stance. gave suddenly a direct order to get down with negative results. continued to advance towards in an aggressive manner with both hands clinched, stating "fuck that! I'll show your ass!" To eliminate the immediate threat, stepped back to create distance, and simultaneously pepper sprayed in the facial area. Resulting in getting down with no further incident.
Officer responded and placed in handcuffs, and assisted onto his wheelchair and removed him away from the affected area which began the decontamination process.
It should be noted that no video interview was conducted at the time of the incident as no allegation was made at the time of the incident.
A review of the Incident Commanders Use of Force Review for this incident was conducted. It should be noted that the Incident Commander found the staffs use of force during this incident to be in compliance with the departments use of force policy.
A review of the Managers Use of Force Review for this incident was conducted. It should be noted that the Manager found the staffs use of force during this incident to be in compliance with the departments use of force policy.
It should be noted on June 30, 2017 the Institutional Executive Review Committee at RIDCF, cleared this incident, determining all involved staff utilized force in compliance with the departments Use of Force Policy.
REVIEW OF CDCR 7219's MEDICAL REPORT OF INJURY RELATED TO THIS INQUIRY
A review was conducted of a CDCR 7219 for inmate a complete , dated February 3, 2018 completed at 1824 hours. This form indicated O.C spray to the facial area. No other injuries are noted on this form.
REVIEW OF RULES VIOLATION REPORTS RELATED TO THIS INQUIRY
A review of the SOMS disciplinary section for inmate was completed. This section indicated he had a rules violation report for Behavior which could lead to violence RVR log# 4409441, counseling only.

Inmate Date: February 4, 2020

Page 4

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interviews, with a review of related documents, and evidence. As a result, allegation indicating he was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit.
The specific allegation involving incident RJD-C14-18-02-0066A1 of excessive force by Officer No evidence was discovered, or evidence provided by indicating staff violated the use of force policy. Multiple sources of evidence including own account of the incident refutes his original claim. During his appeals interview claims he filed the appeal because he was mad, and wished to withdraw it. Yet during the next interview, he stated all his original claims over again, contradicting himself.
failed to identify or recall his witnesses during his audio recorded interview. Although the anonymous letters attached to his appeal do support original claim. The sources credibility cannot be determined. Without having identities of the authors, there is no way to validate the information provided. These witness accounts could be fabricated witness statements.
A completed incident packet was generated for this incident. This incident was reviewed and no evidence was found to support claim. Involved Officers clearly articulated their involvement in this incident with 837C's. A review of these reports showed clear articulation of the uses of force, as well as the imminent threat. This incident packet was cleared by all levels of review regarding the use of force policy, and no evidence was found to substantiate any allegation of staff misconduct.
The 7219 completed on indicated O.C. exposure to the face. There were no injuries noted to support claim of being thrown from his wheel chair and assaulted while he was down, as he claimed.
Inmate was interviewed multiple times regarding his allegations, by several independent sources. This allegation went through the appeals process, with no finding of staff misconduct. Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.
However, if additional information is received, a review will be conducted to determine if further investigation is warranted.
Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.
Correctional Lieutenant Correctional Lieutenant Conculs Surfad. Minorder 2/1/2020
Correctional Lieutenant 2/7/1020

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : January 29, 2020

CONFIDENTIAL

To : M Pollard

Warden (A)

Richard J. Donovan Correctional Facility

Subject:

FACT FINDING INQUIRY FOR ALLEGATION OF STAFF MISCONDUCT #RID-C-19-021

SUMMARY:

On Wednesday, January 29, 2020, at your request, I initiated an inquiry into an allegation of staff misconduct. This allegation was presented to Richard J. Donovan Correctional Facility (RJDCF) by a Prison Law Office (PLO) report dated June/July 2019. Specifically, according to the PLO report, the allegation/event #RJD-C-19-021 states:

"Inmate alleges he saw an inmate get his teeth knocked aut by carrectional staff."

FACT FINDING INQUIRY:

INTERVIEW WITH INMATE	(C 014-202) ON JANUAKY 29, 2020
A confidential interview with	was conducted in the Facility C Lieutenant's Office,
regarding allegations of staff misconduct i	made by The interview was conducted
behind a closed door and was out	of the view of staff members and inmates.
is a participant in the Mental I	Health Services Delivery System (MHSDS) at the EOP
	Developmental Disabi <u>lity Program</u> (DDP). A review
	Summary revealed has been issued
eyeglasses as a DME. was no	t in possession of his prescription eyeglasses during
the interview; however, effective commun	nication was achieved as this did not have an impact
of achieving effective communication.	
	of staff misconduct made to the PLO. I read the he recalled making the allegation.
During the interview Inmate	stated he did not make the allegation as reported by
The state of the s	to the PLO, he <i>heard</i> about the alleged incident from
	rd about the allegation approximately 2 ½ years ago.
	ate or staff. went on to say he has not
	force himself nor has he been the victim of staff
misconduct/abuse during the time he has	been housed at RJDCF.

Inmate Date: January 29, 2020

Page 2 of 2

went on to stated he has seen a positive change at RJDCF. He likes the direction the new warden is taking the institution and he hopes it continues.

REVIEW OF INMATE APPEALS TRACKING SYSTEM (IATS)

A review of IATS revealed has not filed any CDCR 602 Inmate/Parolee Appeals during his time at RJDCF. Inmate has been assigned to RJDCF since August 2S, 2016, on Facilities B and C.

REVIEW OF THE DAILY INFORMATION REPORTING SYSTEM (DIRS) JULY 2017

A review of DIRS revealed there was one incident (#RJD-C15-17-07-0282A1) that resulted in serious injury during the time frame of the allegation (July 2017). I conducted a thorough review of the incident report and the injuries identified in the incident are not consistent with the injuries described in the allegation.

REVIEW OF CDCR 3013 INMATE INTERVIEW 3014 REPORT OF FINDINGS - INMATE INTERVIEW

A review of CDCR 3013/3014 during July 2017 revealed there were no allegations made of unnecessary or excessive use of force similar in nature.

CONCLUSION:

I conducted an independent review of the allegation of staff misconduct, which derived from an allegation made to the PLO by inmate Based on the fact denied making the allegation as indicated by the PLO, being unable to identify staff or inmates and the fact the allegation is similar in nature to other allegations in the PLO report this reviewer recommends PLO allegation #RJD-C-19-021 be closed.

However, if additional information is received during the course of these inquiries; a review will be conducted to determine if further investigation is warranted.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant RJD Special Assignment

m. / Longed m. / worden 2/1/1020

Memorandum

CONFIDENTIAL

Date: February 4, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-022

SUMMARY:

On January 30, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate during an inquiry interview conducted December 5, 2018. Specifically, claimed he had knowledge of staff misconduct at Richard J. Donovan Correctional Facility (RJDCF). He claimed that during an incident Officers ... excessive force on his cousin inmate **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON JANUARY 29, 2020 A confidential interview with was conducted telephonically, due to current housing assignment at Corcoran State Prison. is currently housed on B facility at Corcoran, so it was necessary for Sergeant to be present during this interview for security reasons. The interview was conducted based on the information had provided during a previous interview. was informed of the purpose for the interview, and was asked for the specifics regarding his allegations against staff at RJDCF. claimed while he was housed at RJDCF he was involved in an incident, where his cousin had been in a fight. He stated that his cousin was fighting with another inmate when responding staff used pepper spray to stop the fight. He claims his cousin sustained an injury to the head from the fight and was unable to comply with Officers orders to get down. explained his cousin was taken to the ground, and continued to resist, due to his head injury. Claimed he felt the Officers were doing what they had to do to hold his cousin down but that he felt do to his inability to understand orders they should have stopped.

He claims he got up from the ground and started towards the incident to help his cousin, when an Officer sprayed him with pepper spray. He claimed after being sprayed he immediately got down on the ground and was placed in restraints. Claimed he was rehoused in Administrative segregation, and charged with Battery on a Peace Officer.

Inmate Date: January 31, 2020 Page 2

not found guilty of Battery on a Peace Officer that he plead guilty to a lesser charge of Conduct Which Could Lead to Violence.

Triffell Could to Molerice!
was asked why he did not make this claim of excessive force the day of the incident; he stated they really did not use excessive force. Was asked if he didn't believe they used excessive force why did he make that claim during the previous interview on December 5, 2018, he claimed he was just telling a story of what happened and didn't like that he had gotten a rules violation report for trying to help his cousin. Was asked what happened once the Officers and his cousin were on the ground, Claimed his cousin continued to move around and was disoriented, and the Officers were holding him down putting cuffs on him. Was asked did he believe staff were using excessive force as he had previously reported, he stated the Officers were doing what they had to do.
INTERVIEW WITH INMATE ON JANUARY 31, 2020
A confidential interview with was conducted telephonically, due to current housing assignment at Kern Valley State Prison. The interview was conducted based on information that was gathered during this inquiry.
was informed of the purpose for the interview, and was asked for the specifics regarding an incident that had taken place on June 2, 2020. It claimed while he was involved in a fight with another inmate on that date, in his assigned housing unit. It claimed he was punched in the head during that fight which resulted in temporary blurred vision and disorientation. He claimed that while in this impaired state he swung at Officer striking him in the head. It is stated once he swung at the Officer he was taken to the ground by multiple Officers. He stated while he was on the ground the Officers held him down and made it difficult for him to breathe. He claimed while being held down his cousin jumped up and yelled you are choking him. It was asked if he felt the Officers used excessive force, It claimed the Officers were holding him down and he couldn't breathe as a result. It could not give an account of who was holding him down or how they were holding him down, He stated he just felt the pressure. It stated he was not resisting the Officers while he was on the ground. It was asked why he didn't file a staff complaint when this incident occurred, he stated I really didn't think much about it, I messed up and so did they. It was asked if he sustained injuries from the Officers, he claimed he did not receive any injuries from the Officers. Went on to explain that once the incident was over he really didn't think about it. He had not recalled the incident until this interview.
INTERVIEW WITH OFFICER
Officer was unavailable for interview due to him being off work, pending workman's comp. However, a copy of 837C was utilized as evidence for this inquiry. Officer

837C clearly articulates his involvement in incident RJD-C14-17-06-0230.

Inmate Date: January 31, 2020 Page 3						
During the review of this document, no evidence was found supporting claim that used unnecessary or excessive force. It should be noted report was signed and approved by his supervisor, as well as reviewed by the incident Commander.						
REVIEW OF INCIDENT REPORT RID-C14-17-06-230A1						
A review of incident report RJD-C14-17-06-230A1 was completed. This incident was generated from the incident that inmate was referring to in his allegation. Upon review, it was reported in this incident that was involved in an incident on June 2, 2017 in housing unit C14. The Officers reports indicate that inmate was involved in a fight with inmate the control of the report state of attacked Officer was involved in a fight with his fists. Officer report states fearing for his safety, he took down to the ground, by holding onto twisting is upper torso and utilizing momentum. The report states once was on the ground he started resisting verbal orders and continued his attack. Staff used physical strengths and holds to hold inmate down so he could be placed in restraints. In this same incident, it states that inmate was got up from a prone positioned on the floor in the dayroom of C14. It states as staff were attempting to place in restraints, advanced towards responding staff and was sprayed with OC to stop him. He got down on the ground with no further incident.						
A review of the Incident Commanders Use of Force Review for this incident was conducted. It should be noted that the Incident Commander found the staffs use of force during this incident to be in compliance with the departments use of force policy.						
A review of the Managers Use of Force Review for this incident was conducted. It should be noted that the Manager found the staffs use of force during this incident to be in compliance with the departments use of force policy.						
It should be noted on June 30, 2017 the Institutional Executive Review Committee at RJDCF, cleared this incident, determining all involved staff utilized force in compliance with the departments Use of Force Policy.						
REVIEW OF CDCR 7219's MEDICAL REPORT OF INJURY RELATED TO THIS INQUIRY						
A review was conducted of a CDCR 7219 for inmate dated June 2, 2017 completed at 1005 hours. This form indicated no injuries. The form indicated made the statement, "I'm good."						
A review was conducted of a CDCR 7219 for inmate the latest that did not be deadly and active bleeding around the eyes, and OC exposure to the face. The form indicated made the statement, "Nope."						
A review was conducted of a CDCR 7219 for inmate the completed at 1018 hours. This form indicated that had no injuries. The form indicated made the statement, "No."						

Inmate Date: January 31, 2020

Page 4

A review was conducted of a CDCR 7219 for inmate .
REVIEW OF RULES VIOLATION REPORTS RELATED TO THIS INQUIRY
A review of the SOMS disciplinary section for inmate
A review of the SOMS disciplinary section for inmate
A review of the SOMS disciplinary section for inmate was completed. This section indicated he had a rules violation report for Fighting, RVR log 2832829. Plead guilty and was found guilty as charged, and declined to make a statement. It should be noted this RVR is final and concluded.
A review of the SOMS disciplinary section for inmate. Was completed. This section indicated he had a rules violation report for, Assault on a Peace Officer by means likely to cause GBI, RVR log 2833035. Plead not guilty and was found guilty as charged. made the statement during his hearing, "I'm just going to have to fight this in court." It should be noted this RVR is final and concluded.
CONCLUSION:
I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview with a review of related documents, and evidence. As a result, allegation indicating he witnessed and was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit.
The specific allegation involving incident RID-C14-17-06-230A1 of excessive force by responding staff. No evidence was discovered, or evidence provided by indicating staff violated the use of force policy. Multiple sources of evidence including own account of the incident refutes his original claim. During the interview for this inquiry, claimed his cousin was taken to the ground, and continued to resist, due to his head injury. Claimed he felt the Officers were doing what they had to do to hold his cousin down. This statement

contradicts his previous claim that staff were using excessive force.

Inmate Date: January 31, 2020

Page 5

A completed incident packet was generated for this incident. This incident was reviewed and no evidence was found to support claim. Involved Officers clearly articulated their involvement in this incident with 837C's. A review of these reports showed clear articulation of the uses of force, as well as the imminent threat. This incident packet was cleared by all levels of review regarding the use of force policy, and no evidence was found to substantiate any allegation of staff misconduct.

A CDCR-7219 was completed on all involved inmates. The 7219 completed or indicated active bleeding in and around his eyes and reddened facial area. There were no injuries noted on neck, to support his claim of not being chocked or not being able to breathe.

Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

However, if additional information is received, a review will be conducted to determine if further investigation is warranted.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

MoTed & concul M. Lunebon 2/2/2020

Memorandum

CONFIDENTIAL

Date: February 7, 2020

MARCUS POLLARD To:

Warden (A)

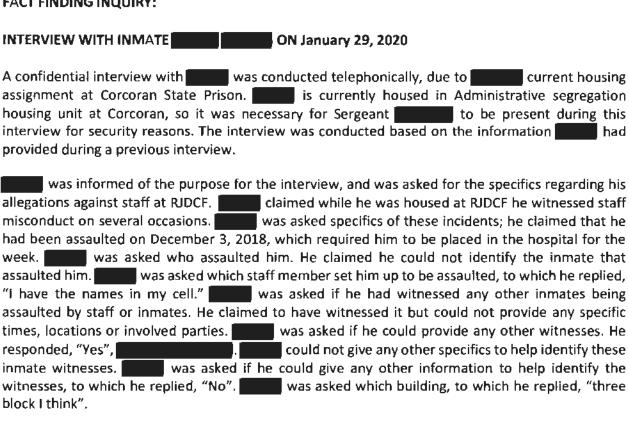
Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-023

SUMMARY:

On January 29, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate during an inquiry interview conducted December 5, 2018. Specifically, claimed he had knowledge of staff misconduct at Richard J. Donovan Correctional Facility (RJDCF). He claimed staff were setting up inmates to assault other inmates for retaliatory reasons. He also claimed he had knowledge of staff bringing contraband into the institution.

FACT FINDING INQUIRY:



Inmate

Date: January 29, 2020 Page 2
Inmate claimed he had paperwork he had filed white assigned to ASU at RJDCF, as well as while he was assigned at Calipatria State Prison. was asked if he could provide this paperwork to assist in this inquiry. Claimed the paperwork was in his cell and he would provide it if needed.
was asked specifics regarding his allegation, that he had knowledge of staff introducing contraband into the institution. Claimed he had names and information with his paperwork. He stated he did not want to give misinformation without knowing for sure. He stated all this information was in his paperwork located in his cell.
was given instructions to gather all relevant paperwork and provide it to Sergeant was informed that sergeant would scan and forward copies of the paperwork he provided and his originals would be returned to him promptly.
REVIEW OF PAPERWORK PROVIDED BY INMATE
A review of the paperwork submitted by inmate was conducted. Amongst the paper work was hospital records showing was admitted to the hospital on November 23, 2019 for injuries to the right side of his face as well as injuries to his left ribs. A review of the Strategic Management Offender System (SOMS) indicated was out to the hospital on November 22, 2018 and returned to RJDCF on November 24, 2018, which coincides with his paperwork and his claim of sustaining injuries from an attack.
Also amongst his paperwork was several appeals and allegations made while was housed at Calipatria State Prison. These appeals were addressed by the appeals office at Calipatria, and do not have relevance to this inquiry.
A CDCR Form 695 was reviewed indicating had submitted an allegation of, Misuse of Force, log number CAL-O-19-00578. This form states this appeal has been forwarded to RJD for review. That appeal was reviewed by the hiring authority at RJD and it was determined the appeal was canceled due to time constraints and was not considered a staff complaint.
None of the paperwork provided by confirmed or denied his allegations of staff misconduct. Specifically no names or specific events were noted on this paperwork to assist in the fact-finding of this allegation.
REVIEW OF CONFIDENTIAL MEMORANDUM DATED NOVEMBER 23, 2018
A review of a confidential memorandum was conducted, dated November 23, 2018 authored by Correctional Sergeant. This memorandum speaks directly to the incident that took place on D facility when inmate sustained the injuries to his face and ribs. The information provided in the aforementioned confidential, directly refutes claims that he was assaulted due to staff retaliation. It should be noted that the source of this confidential was deemed reliable.

REVIEW OF INCIDENT REPORT RID-DYD-18-11-0671A1

Date: January 29, 2020
Page 3

A review of incident

A review of incident report RJD-DYD-18-11-0671A1 was completed. This incident report speaks directly to the incident that took place resulting in the injuries. It is indicated in this incident report that inmate informed staff he had safety concerns. It was determined by staff he had sustained injuries consistent with being the victim of battery. Was sent to the RJDCF treatment and triage for a higher level of care, and subsequently to an outside hospital. He returned 2 days later and was placed in ASU for safety concerns.

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview with a review of related documents and evidence. As a result, allegation indicating he witnessed and was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit.
The specific allegation involving injuries sustained from an attack by inmates on D facility resulting in serious injury injuries. No evidence was discovered, or evidence provided by indicating staff misconduct lead to the attack. Multiple sources including a confidential memorandum indicate was assaulted for other reasons. Inmate was unable to give specific details of the staff he believed had arranged his assault. During the interview with the stated he was assaulted on December 3, 2018. However, it was determined; he was assaulted in November 21 2018 on D facility. Was unable to give pertinent information such as dates of other assaults he believed had occurred. During the interview, he stated his paperwork would provide all the requested information, such as names of involved staff, inmates, as well as dates, places and times A review of all the paperwork he provided did not support his claims, as it did not provide necessar requested information, impeding this inquiry.

The specific allegation of staff introducing contraband into the institution. No evidence was discovered, or evidence provided by indicating staff misconduct. During the interview, failed to provide any information regarding this allegation. He was asked multiple questions in an attempt to gather pertinent information, which he failed to provide. This lack of information hindered this inquiry and as a result, no specific incident could be identified.

Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

However, if additional information is received, a review will be conducted to determine if further investigation is warranted.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.



Correctional Lieutenant

pored: Covach Mandon 2/2/2020 State of California

Department of Corrections and Rehabilitation

Memorandum

Date : January 31, 2020 CONFIDENTIAL

To : M Pollard

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT #RID-C-19-024

SUMMARY:

On Friday, January 31, 2020, at your request, I initiated an inquiry into an allegation of staff misconduct. This allegation was presented to Richard J. Donovan Correctional Facility (RJDCF) by a Prison Law Office (PLO) report dated June/July 2019. Specifically, according to the PLO report, the allegation/event #RJD-C-19-024 states:

"Inmate is alleging Facility C staff are allowing inmates to fight without sounding the alarm and will not issue RVR'S for fighting. He also alleges Correctional Staff are sending inmates to assault other inmates due to them having an R suffix."

FACT FINDING INQUIRY:

INTERVIEW WITH INMATE	ON JANUARY 29, 2020							
On January 29, 2020, I conducted a search of the Strategic Offender Management System								
(SOMS) in order to locate Inmate The search revealed Inmate								
currently housed at California State Prison, Los Angeles County (LAC). I contacted A.								
Correctional Counselor I (CCI) at LAC, in an attempt to conduct a confidential								
interview with inmate CCI	informed this writer Inmate was							
unavailable for an interview due to pending transfer to Kern Valley State Prison (KVSP). Inmate								
had a change in his level of ca	are and is pending transfer to KVSP to accommodate							
his medical needs. Based on	level of care this writer believes an interview would							
not reveal accurate/credible information	1.							

REVIEW OF INMATE APPEALS TRACKING SYSTEM (IATS)

A review of IATS revealed has filed one CDCR 602 Inmate/Parolee Appeal during his time at RJDCF. The appeal was classified as a Classification issue and has no relevance to the allegation of staff misconduct. Inmate was assigned to RJDCF for approximately four months and subsequently transferred to LAC.

Inmate Date: January 31, 2020
Page 2 of 2

STRATEGIC OFFENDER MANAGEMENT SYSTEM (SOMS) RULES VIOLATION REPORT (RVR)

A search was conducted in SOMS for RVRs for the specific act of "Fighting" and "Battery on a Prisoner" for the period of January 2018 through December 2018. This search was conducted in order to support/negate the allegation which states, "alleging Facility C staff are allowing inmates to fight without saunding the alarm and will not issue RVR'S for fighting." The search revealed there were a total of forty-six (46) RVRs for "Fighting" and two hundred seventy-seven (277) RVRs for "Battery on a Prisoner".

REVIEW OF CDCR 3013 INMATE INTERVIEW 3014 REPORT OF FINDINGS - INMATE INTERVIEW

A review of CDCR 3013/3014 completed during the time was assigned/housed at RJDCF revealed there were no allegations made of unnecessary or excessive use of force.

CONCLUSION:

L	conducted	an	independent	review	of	the	allegation	regarding	staff	misconduct,	which
de	rived from	an	allegation mad	de to the	e PL	O by	y inmate 🔚				

Based on the fact level of care has increased, he is not the victim of the allegation and the search of SOMS RVRs discredits part of the allegation it is my recommendation PLO allegation #RJD-C-19-024 be closed.

However, if additional information is received during the course of these inquiries; a review will be conducted to determine if further investigation is warranted.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

NOTED MANDON 2/7/2010 CONFIDENTIAL

MEMORANDUM

Date:

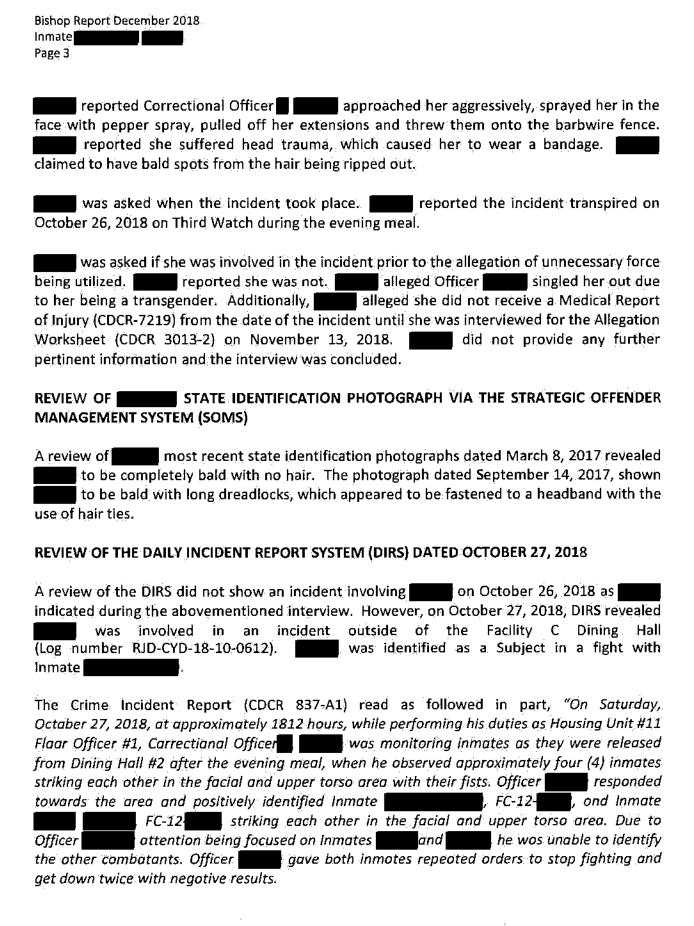
To:

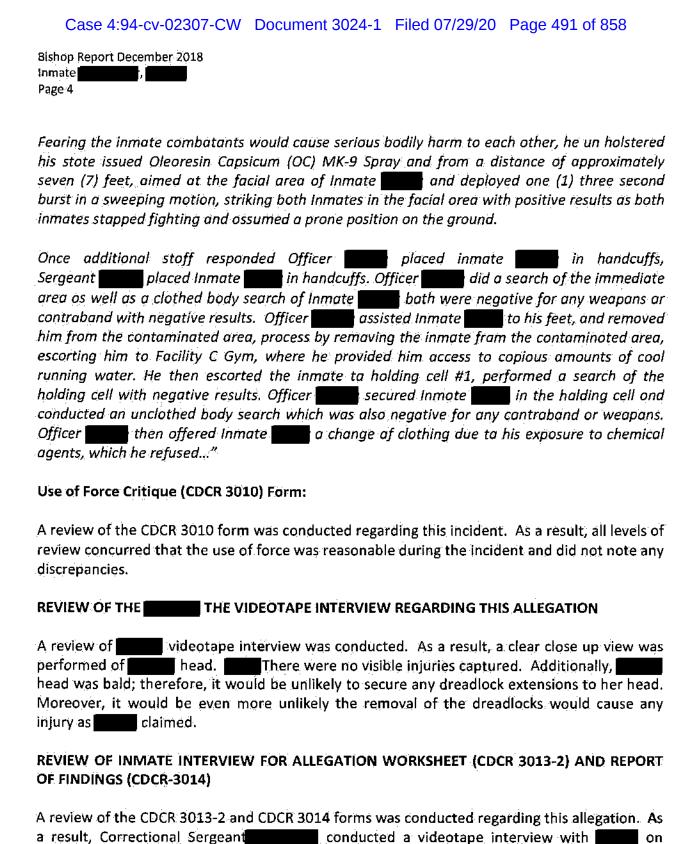
Subject:

Bishop Report December 2018

Inmate

Page 2 was a transgender inmate who was housed in C 12 during indicated reported was involved in an incident in the Facility C the year of 2018. Dining Hall during the evening meal prior to her dreadlocks being removed from her head. reported he did not remember when the incident transpired, nor could he recall an approximate time of the year. reported he was not present during the incident, but knew someone who was present and told him about it. was asked for the identity of the inmate he received the information regarding this could not provide the name of the inmate who told him the allegation. information. was asked if he knew the identity of officer who committed the aforementioned reported he was not sure, but thought it was Correctional Officer or act. REVIEW OF THE BED HISTORY REPORT OF BUILDING C 12, CELL DATED JANUARY 1, 2018, THROUGH DECEMBER 31, 2018 A review of the Bed History Report was conducted in effort to discover the identity of the As a result, the report revealed inmate inmate with the aka of " housed in C 12 from March 13, 2018 to December 28, 2018. REVIEW OF INMATE | CONFIDENTIAL FILE IN THE ELECTRONIC RECORDS MANAGEMENT SYSTEM (ERMS) Confidential folder in ERMS. This was done in effort to A review was conducted of A review of Confidential Memorandum dated corroborate the name with December 21, 2018, authored by Sergeant revealed does in fact identify by the name TELEPHONIC INTERVIEW WITH INMATE ON MARCH 10, 2020 A telephonic interview was conducted with who was housed Kern Valley State Prison was informed of the purpose of the interview and was given a synopsis of the allegation made. reported the allegation were true and factual, while she reiterated what was documented on the Bishop report. was asked if she identified by the name " reported she did, and spelled it " During the interview, explained an incident had transpired with another inmate who was sitting at the same table as her while in the dining hall. As they were exiting the dining hall the other inmate was stabbed. Stated, "We were ordered to get down and that's what I did."

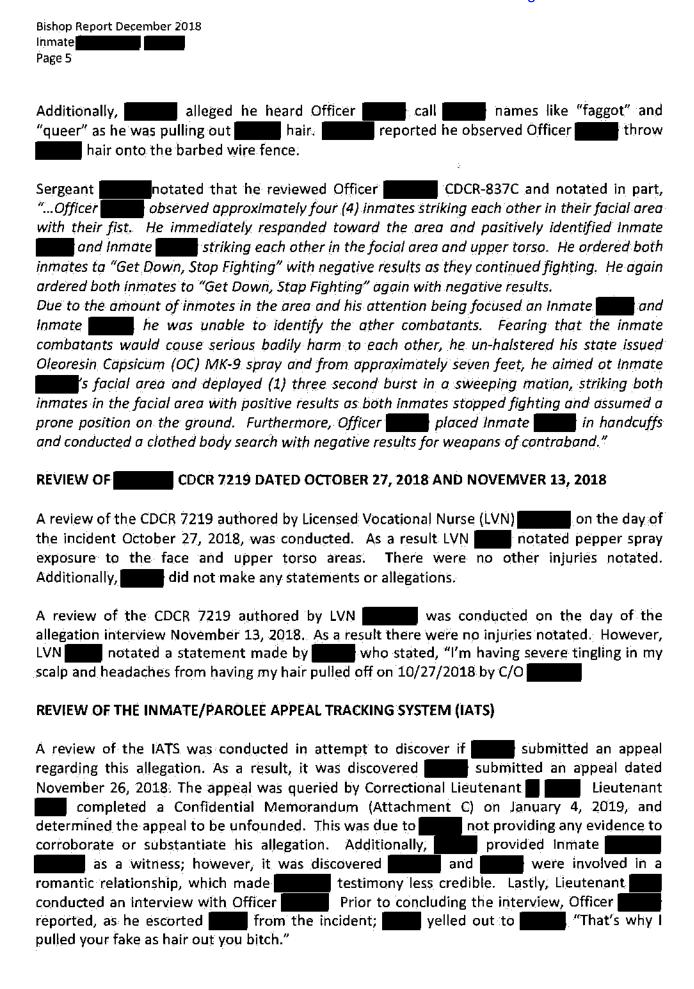




The Report of Findings (CDCR-3014) notated identified one (1) Inmate a witness to his allegations. In reported he was walking out of the dining hall and he observed Officer pull hair out while he was down on the ground in handcuffs.

November 13, 2018, at approximately 1930 hours. I made the same allegations during

the videotape interview as she claimed during the aforementioned interview.



Bishop Report December 2018 Inmate Page 6

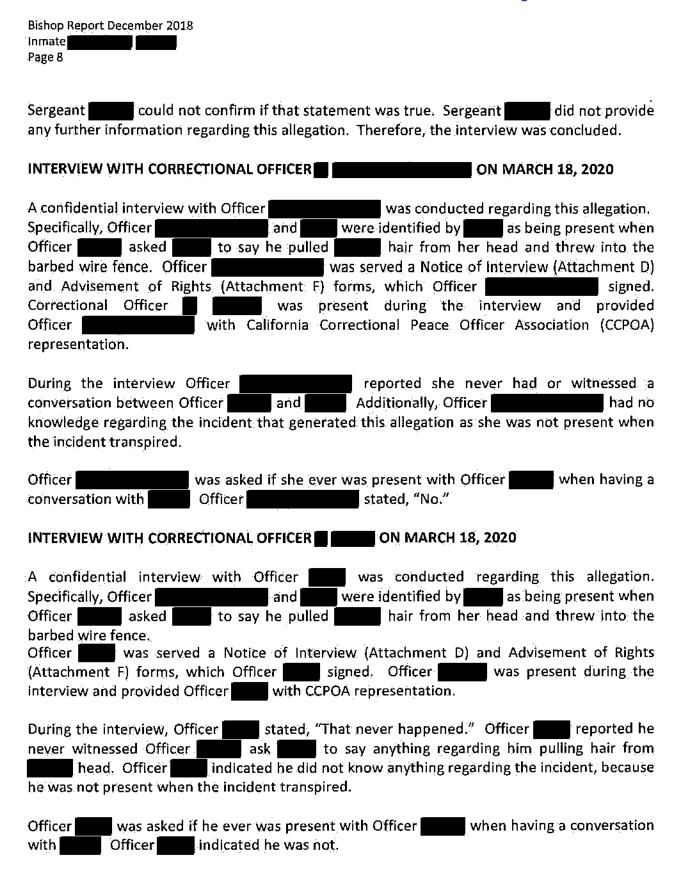
REVIEW OF THE INSTITUTIONAL EXECUTIVE REVIEW COMMITTEE (IERC) ALLEGATION FORM (CDCR 3034)

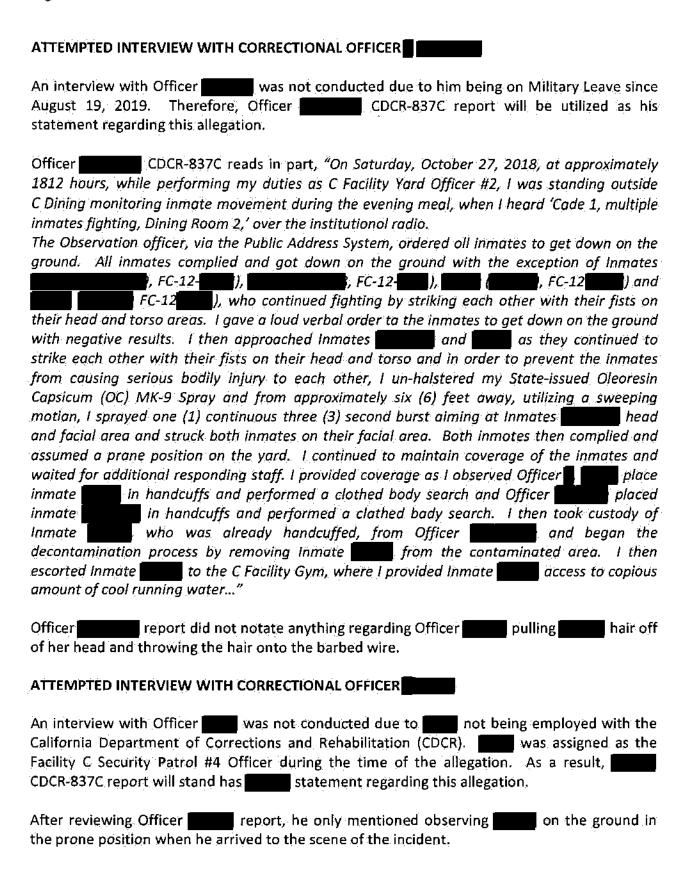
A review of the CDCR 3034 form revealed the IERC reviewed all of the documentation, videotaped interview, and the Confidential Attachment C. It was determined that no further action was warranted relative to the use of force allegation.

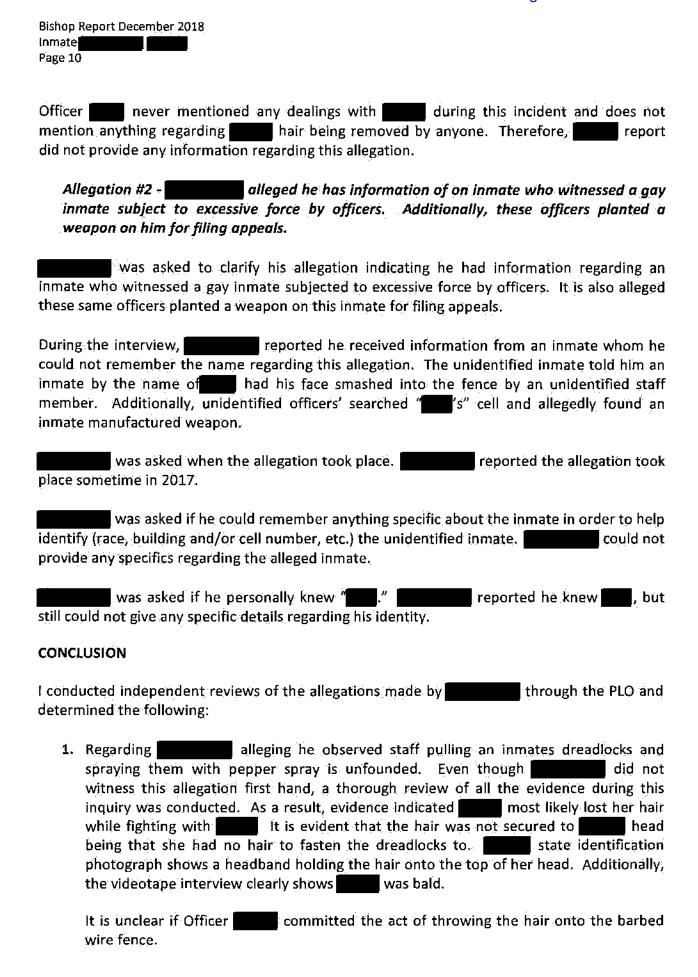
REVIEW OF RULES VIOLATION REPORTS (RVR) VIA STRATEGIC OFFENDER MANAGEMENT SYSTEM (SOMS)
A review of disciplinary history was conducted in order to review the RVR for incident Log number RJD-CYD-18-10-0612. As a result there was not an RVR noted in SOMS indicating or were involved in a "Battery on Inmate Resulting in Serious Bodily Injury" on October 27, 2018. Therefore, it appears none of the involved inmates were held accountable for their involvement in this incident.
INTERVIEW WITH INMATE OF THE ON MARCH 11, 2020
A confidential interview with was conducted regarding this allegation. was informed of the purpose of the interview and was apprised of the allegation made. was involved in a physical altercation with during the time of this allegation and was present when Officer allegation wh
recalled the day of the incident and reported he did not pull the hair off of head and throw it onto the barbed wire. Specifically, stated, "To be honest with you man; the officer's not here no more; they fired him. He asked me to step up for him and say that, and I did. The Officer's name is he's not here anymore, they fired him, and so it don't matter now."
explained a couple days after the incident; Officer along with Officers and pulled him out of C 12 and talked to him on the yard regarding the aforementioned incident. Officer asked if he could do him a favor and say he was the one who pulled off hair and threw it onto the barbed wire fence. agreed to what Officer asked. As a result, reported Officer compensated him with a television.
was asked if he witnessed Officer commit the act. stated, "Yes. I seen rip the hair off and throw it onto the barbed wire fence."
was asked if there were any inmates or staff witnesses who would attest to his statements. reported there were plenty of staff and inmate witnesses. However, the incident took place so long ago, was unable to recall any specific names.

Bishop Report December 2018 Inmate Page 7

ATTEMPTED TELEPHONIC INTERVIEW WITH INMATE
An interview with was not afforded regarding this allegation. was released to the Kings County Probation Department on May 6, 2019, and there was no noted contact information in order to reach Therefore, this allegation will commence without his testimony.
INTERVIEW WITH CORRECTIONAL OFFICER ON MARCH 17, 2020
A confidential interview with Officer was assigned as the Facility C Observation Officer on the day the incident transpired outside of the Facility C Dining Hall. Officer was informed of the purpose of the interview and was given a synopsis of the allegations made.
During the interview for this allegation, Officer was provided a copy of his CDCR-837C for review. Officer was able to recall the incident and explained he observed multiple inmates fighting. Officer condend all of the inmates to "Get Down!" However, all of the participants continued to fight. Officer reported he observed Officers and utilize their pepper spray canisters. As a result all of the combatants ceased their actions and assumed a prone position on the ground. Officer reported he did not witness anyone remove hair from the head and throw it onto the barbed wire fence.
Officer indicated allegation of suffering from head trauma due to the dreadlocks being pulled from her scalp was highly unlikely, because was completely bald and she would not have been able to fasten the dreadlocks to her head.
Officer was asked if he recalled anything else regarding the incident that pertained to this allegation. Officer stated, "No." The interview was concluded with Officer
TELEPHONIC INTERVIEW WITH CORRECTIONAL SERGEANT ON MARCH 17, 2020
A telephonic interview with Sergeant was conducted regarding this allegation. Sergeant was the responding supervisor during the aforementioned incident. Sergeant has since transferred from RJDCF to the California Institution for Men (CIM).
During the interview Sergeant was apprised of the purpose of the interview and was asked if she observed Officer utilize unnecessary force by pulling off and throwing onto the barbed wire. Sergeant indicated she recalled the day of the incident and explained she observed an inmate being stabbed along the fence line and was focused on that portion of the incident and did not see who pulled hair off. Sergeant reported she remembered seeing a wig on the barbed wire, but did not see how it got up there. Sergeant reported an officer who she could not remember, informed her threw the hair up on the barbed wire.







Bishop Report December 2018 Inmate Page 11

> This is undetermined due to the testimony given by who corroborated with the testimony of who both were witnessed fighting each other. Additionally, the testimony gave indicated Officer attempted to cover up his role in the incident. The cover up was not corroborated with the officers' who claimed to be present when Officer asked him to lie; but conveyed what had transpired without me mentioning Officer as the subject in this matter. This leads me to believe something malicious may have transpired. Additionally, stood with nothing to gain with providing this information. Therefore, the facts ascertained could not be substantiated.

> Also during this inquiry, it was also discovered RVR's were not generated for the inmates involved with incident Log number RJD-CYD-18-10-0612. The California Code of Regulations (CCR) Section, 3005 (d) (1), (2) & (3) - CONDUCT, which specifically states: (d) Force or Violence; (1) Inmates shall not willfully commit or assist another person in the commission of an assault or battery to any person or persons, nor attempt or threaten the use of force or violence upon another person. (2) Inmates shall not, with the intent to cause a riot, willfully engage in conduct that urges a riot, or urges others to commit acts of force or violence at a time and place under circumstances that produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property. 3) Inmates shall not participate in a riot, rout, or unlawful assembly. Any violations of these sorts constitutes an RVR; and it appears staff failed to submit the proper documentation regarding the aforementioned rules violation.

2. Regarding alleging he had information regarding an inmate who witnessed a gay inmate subjected to excessive force by officers; who officers also planted a weapon for filing appeals is without merit. did not provide any details or provide any evidence to pursue this allegation. Therefore, this could not be queried any further.

It is determined allegation #1 should be forwarded to the Hiring Authority for review for a possible policy violation.

Correctional Lieutenant Salinas Valley State Prison The HA CONCULS W/RX. ROFER
Allosofting T win 989,
Manden

3/20/2000

State of California

Memorandum

CONFIDENTIAL

March 9, 2020 Date:

MARCUS POLLARD To:

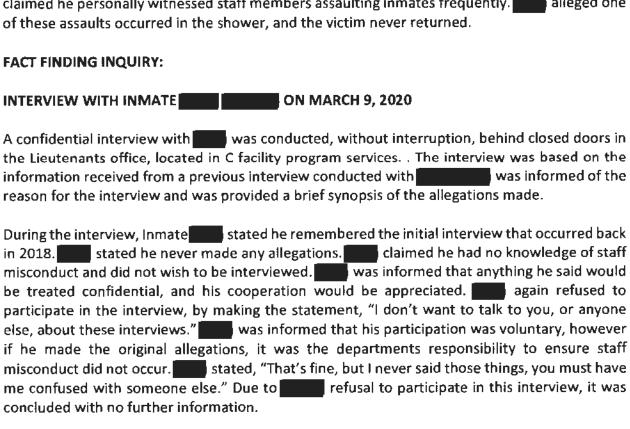
Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-027

SUMMARY:

On March 9, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. The aforementioned memo states Inmate claimed he had knowledge of staff misconduct. He claimed he personally witnessed staff members assaulting inmates frequently. and alleged one of these assaults occurred in the shower, and the victim never returned.



Inmate Date: March 9, 2020

Page 2

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with As a result, allegation indicating he witnessed staff misconduct while he was he was housed at RJDCF, has proven to be without merit.

The specific allegation made by regarding, him witnessing several incidents, involving staff assaulting inmates. No evidence was discovered, or evidence provided by indicating staff violated policy. During his interview, claimed he had not made the allegations originally reported, on the Bishop memorandum. did not wish to participate in the fact finding interview. Due to his refusal, the interviewer was unable to identify any evidence or witnesses to assist in this inquiry.

It should be noted confidential memorandum dated January 26, 2018 authored by Sergeant , states Inmate refused to come out to interview.

Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

Con cut. Close CASe.
M. Pollard
M. Pollard

Warden (A)

Richard J. Donovan Correctional Facility

Memorandum

CONFIDENTIAL

Date: March 27, 2020

To: MARCUS POLLARD

Warden (A)

SUMMARY:

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-028

On March 10, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December

2018. The aforementioned memo states that during a previous interview, claimed he had knowledge of staff misconduct. He claimed is cellmate was sprayed, and kicked in the face after being handcuffed inside C dining room.

FACT FINDING INQUIRY:

ON MARCH 10, 2020 INTERVIEW WITH INMATE A confidential interview with was conducted behind closed doors, without interruptions from inmates, or staff, in C Facility Program Services. The interview was conducted based on the information received from a previous interview, conducted with was informed of the reason for the interview and was provided a brief synopsis of the allegations made. During the interview claimed he remembered being interviewed previously, but had not made the original allegation. Claimed his previous cellmate Inmate must have made the claim, and had called as a witness. claimed he remember the day in question as well as what took place in the dining room on C facility. I claimed he was seated at one of the tables during evening chow, when he heard some yelling, claimed he turned his attention to where the yelling had come from. He stated he saw his cellmate at the time, Inmate standing up, facing an unidentified Officer. Claimed the Officer told to walk towards the Officer, to which complied. claimed as he was walking towards the Officer, making derogatory remarks directed at the Officer. Colored claimed the Officer told put his hands behind his back and get into a prone position on the floor, to which

monitoring the evening meal inside Facility C Dining Hall #2, Officer . . observed Inmate

at one of the dining tables. Officer

surrender the extra food tray. Inmate

, FC-13-) retrieve a second food tray from the tray slat window and sit dawn

approached Inmate and ordered him to

became irate and yelled, "What the fuck! That's

Da	mate atë: Márch 9, 2020 age 3
programme for the programme fo	y lunch for tonight!" Officer attempted to caunsel Inmate abruptly stood up, policy and confiscated the extra food tray from the table. Inmate abruptly stood up, probled the other food tray that was on the table, and threw it toward Officer ardered moved to the side and was able to avoid getting struck by the tray. Officer ardered mate to "Get down!" with negative results. Inmate aggressively advanced ward Officer with his fists raised in front of his chest. Fearing an imminent threat for his infety, Officer with un-holstered his MK9 Oleoresin Capsicum (OC) spray from approximately we (5) feet away and deployed one (1), two (2) second burst of OC, aiming and striking Inmate in the facial area with positive results. Inmate got down and assumed a prone position. Officer immediately utilized his institutional radio and announced a Code 1 inside the Facility C Dining Hall #2 and handcuffed Inmate
sh	review of the incident Commanders Use of Force Review for this incident was conducted. It would be noted that the incident Commander found the staffs use of force during this incident be in compliance with the departments use of force policy.
th	review of the Managers Use of Force Review for this incident was conducted. It should be noted at the Manager found the staffs use of force during this incident to be in compliance with the epartments use of force policy.
·RJ	should be noted on September 27, 2018 the Institutional Executive Review Committee at DCF, cleared this incident, determining all involved staff utilized force in compliance with the epartments Use of Force Policy.
RE	EVIEW OF RULES VIOLATION REPORTS RELATED TO THIS INQUIRY
se lik th	review of the SOMS disciplinary section for inmate was completed. This ction indicated he had a rules violation report (RVR) for Assault on a Peace Officer by means rely to cause GBI RVR log 5658744. This RVR was directly linked to the aforementioned incident at occurred on September 3, 2018, RJD-CYD-18-09-0517. Inmate refused to attend the sciplinary hearing, and was subsequently found guilty.
Se, Ho me he tal fuc co, rec na ne	ptember 3, 2018, at approximately 1842 haurs, while conducting my duties as Facility Cousing Unit 11 Floor Officer 2, I was monitoring inmates in Dining Hall 2 during the evening real, when I observed an inmate, later identified as Inmate (CDCR# FC-13-1), retrieve a second food tray from the tray slot window. I approached Inmate after taok a seat at one of the tables and ardered him to surrender the extra food tray he had ken. Inmate faced in my direction and became irate as he yelled at me, "What the ck? That's my lunch for tonight!" I counseled Inmate regarding food tray policy. As I infiscated the second food tray from the table, Inmate abruptly got up to his feet, acched with his right hand toward the dining table and threw the other food tray at me as I irrawly avoided being struck by moving to the side. I order inmate to get down with regative results. Inmate began to advance towards me with raised fist in front of his chest. aring for my personal safety and to prevent Inmate from further assaulting me, I

Inmate Date: March 9, 2020 Page 4 instinctively un-halstered my State-issued MK-9 Olearesin Capsicum Spray, aimed tawards Inmate facial area and from a distance of approximately five (5) feet away, I deployed one (1) two-second burst, striking Inmate in the facial orea with positive results. Inmate immediately complied and got down on the floor. I utilized my State-issued radio to announce a Code One via institutional radio and I order oll inmates in the dining hall 2 to remoin seated, to which they complied. I ordered Inmate to submit to handcuffs and he complied. I donned a pair of disposable latex gloved and handcuffed inmate limited. I provided coverage of Inmote as additional staff arrived. I relinquished custody of Inmote and conducted on unclothed body search of Inmate with negative results. I offered Inmate a change of clothing due to his exposure to chemical agents. This concludes my involvement in this incident." REVIEW OF CDCR 7219's MEDICAL REPORT OF INJURY RELATED TO THIS INQUIRY A review was conducted of a CDCR 7219 for inmate dated September 3, 2018 completed at 1847 hours. This form indicated chemical agent exposure to the face, with no other injuries noted. The form indicated made the statement, "I disrespected an Officer, he told me to not do it and I continued to do it, got my discipline." REVIEW OF APPEAL/STAFF COMPLAINT RID-X-18-06364 A review of appeal RJD-X-18-06364 was completed, during this review it was discovered that, inmate filed a CDCR 602, alleging staff misconduct. In the aforementioned appeal, makes similar claims as the original allegation made by inmate More specifically in CDCR 602 he claims in part; Officers and used excessive force against him on September 3, 2018. Claimed he received a tray from another inmate while seated in the chow hall. He claimed Officer took his extra tray, causing claimed he got up and dropped the other tray on the floor, and attempted to walk out. As he was walking out of the chow hall, he was pepper sprayed by Officer

On October 3, 2018, this appeal was determined by the hiring authority to be processed as a staff complaint, appeal inquiry handled at the supervisory staff level (attachment A).

claimed he got down on the floor and was kicked by Officer in the back. Claimed while still on the ground, Officer started kicking him, on both sides of his head and back. Claimed he was escorted from the chow hall, and placed in a holding cell. Claimed while in the holding cell he was denied decontamination for three and a half hours.

On January 10, 2019, this staff complaint was cancelled due to the appellant being murdered at LAC on 11/10/2018, (CDCR form 695). It should be noted; no other documentation could be ascertained, verifying the staff misconduct alleged in this appeal was investigated prior to this inquiry, to include forms CDCR 3013 or 3014.

Inmate Date: March 9, 2020 Page 5

INTERVIEW WITH OFFICER ON MARCH 12, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving her right for representation.
During the interview, Officer stated she remembered the incident that took place in the C facility dining room. It claimed she was assigned as the chow hall gunner. It is claimed she was monitoring the chow hall when she observed Officer take a tray from Inmate second tray. It is claimed to walk away from the table was sitting at, when stood up and threw his tray in the direction of Officer that the tray did not hit Officer or anyone else it hit the ground and slid to a stop. It is stated gave orders for to get down with negative results, as started walking towards Officer to claimed from her point of view looked as if he was trying to walk out of the dining hall, however was between and the exit door. It is stated sprayed from approximately 8 feet away, with positive results, as got down. It claimed responding staff arrived and placed handcuffs on with no further incident.
was asked if she saw kick inmate she stated, "No." was asked if she witnessed responding staff kick she stated, "No, I only observed force being used, once, when pepper sprayed of the other responding staff, she stated, "No." was asked if she witnessed and excessive or unnecessary force, She stated, "No." was asked if she could identify any of the other responding staff, she stated, "No, it has been to long and I move around a lot." Officer had no further information to provide, therefor the interview was concluded.
INTERVIEW WITH OFFICER ON MARCH 12, 2020
A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, requesting representation present.
Officer claimed she remembered the day the allegation took place. Claimed she responded to an alarm inside the dining hall from outside the building. As she arrived to the incident scene claimed observed inmate on the ground, face down. Claimed she remembered the smell of pepper spray in the air. Claimed she could not remember if was already in cuffs when she arrived. The recalled escorting the out of the dining room to the gym located in facility C. The claimed was allowed to decontaminate by putting water

Date: March 9, 2020 Page 6
on his face. claimed after he was finished decontaminating was placed in the holding cell and a holding cell log was started.
Officer stated she did not witness inmate being kicked by Officer she claimed she did not use any type of force, and did not kick was asked if she witnessed any use of excessive or unnecessary on inmate she stated, "No, 1 did not."
INTERVIEW WITH OFFICER TO THE STATE OF THE S
Multiple attempts were made to interview Officer during this inquiry. Officer was unavailable due to his absence from work. was contacted via telephone on Monday March 9, 2020. During that phone conversation, stated he was out of work due to a sick family member. Officer stated he did not have an anticipated return date as of yet.
Although Officer was not interviewed during this inquiry, he authored a CDCR 837C giving his written account of the incident that occurred on September 3, 2018. Therefore, this report will utilized as his statement regarding this allegation. Officer 837C states in part; "I was monitoring inmates in dining hall 2 during the evening meal, when I observed an inmate, later identified as inmate (CDCR# FC-13-10), retrieve a second food tray from the tray slot window. I approached Inmate often he act a food tray he had taken. Inmate faced in my direction and became irate as he yelled at me, "What the fuck? That's my lunch for tonight!" I counseled Inmate food tray policy. As I confiscoted the second food tray from the table, Inmate food tray policy. As I confiscoted the second food tray from the table, Inmate food tray at me as I norrowly avoided being struck by moving to the side. I ordered Inmate from further ossoulting me, I instinctively un-holstered my state issued MK-9 Oleoresin Capsicum Sproy, aimed towards Inmate facial orea and from a distance of approximately five (5) feet away, I deployed one (1) two-second burst, striking Inmate in the facial area with positive results. Inmate finance of approximately five (5) feet away, I deployed one (1) two-second burst, striking Inmate in the facial area with positive results. Inmate food one one via institutional radio and ordered all inmates in dining hall 2 to remain seated, to which they complied. I ordered Inmate food one of the facility C Gym and conducted an unclothed body search of Inmate with negative results. I offered Inmate food advance of approximate formate fo

CONCLUSION:

I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with a review of

Inmate

Page 7	
related documents, and evidence. As a result, misconduct while he was he was housed at RJD	allegation indicating he witnessed staff CF, has proven to be without merit.
was discovered, or evidence provided by sources of evidence including eyewitness account interview, he either refused to o	indicating staff violated policy. Multiple ints fail to substantiate claim. During or could not provide necessary information to its unwillingness to give specific details to the
evidence was found to support involvement in this incident with 837C's. A review the uses of force, as well as the imminent threa	this incident. This incident was reviewed and no laim. Involved Officers clearly articulated their ew of these reports showed clear articulation of t. This incident packet was cleared by all levels of d no evidence was found to substantiate any
	he victim of homicide at California State Prison was not interviewed, during the inquiry an nitted by inmate This appeal was utilized
A review was conducted of a CDCR 7219 for incompleted at 1847 hours. This form indicated chinjuries noted. No injuries were noted to substatestraints.	nemical agent exposure to the face, with no other
Based on this information, I do believe Inmate recommend no further inquiry into these claims	
Richard J. Donovan Correctional Facility has no case closed. This information is provided for yo	further interest in this matter and considers this our review and disposition.
	M. Potlard 4/1/2010
Correctional Lieutenant	Warden (A)
Richard J. Donovan Correctional Facility	Richard J. Donovan Correctional Facility

Memorandum

CONFIDENTIAL

Date: March 6, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-031

SUMMARY: On March 5, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. During a previous interview with he claimed to have knowledge of staff misconduct. He claimed to have witnessed custody staff assault an unidentified inmate, on the C facility handball 's second claim, consisted of him witnessing an unidentified inmate assault, by custody staff, in building C11 sally port. **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON MARCH 5, 2020 A confidential interview with was conducted at RJDCF, in C Facility Program services. This interview took place behind closed doors, without interruption, from staff, or inmates. The interview was conducted based on the information received from previous interviews with was informed of the reason for the interview, and was provided a brief synopsis of the allegations made. During the interview stated he could recall witnessing two (2) separate incidents. claimed the first incident was while he was housed on facility C in building 11. claimed the inmate that he witnessed being assaulted in the building sally port was inmate claimed another Lieutenant regarding the assault on had previously interviewed stated this lieutenant was conducting the interview, due to work allegation of staff misconduct. stated he had provided all the firsthand information regarding the attack on during the previous interview with the aforementioned Lieutenant. claimed his second allegation happened shortly after he arrived on C facility. stated he was on the yard, when he witnessed two (2) unidentified Officers assaulting an inmate on the handball court. claimed he was too far away from the incident to identify the staff

Inmate Date: March 6, 2020 Page 3

In the conclusion of Confidential memorandum dated July 22, 2019 authored by Sergeant , it states in part; this investigator has reviewed all supporting documentation related to the allegations made by inmate and deemed the allegation to be unfounded. There was insufficient evidence provided during the course of this investigation to identify any staff misconduct.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

Memorandum

CONFIDENTIAL

Date: March 19, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RID-C-19-033

SUMMARY:

On March 11, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. The aforementioned memo states Inmate claimed he had knowledge of staff misconduct. He claimed he observed an inmate beaten with baton, and left on EOP yard knocked out, by third watch officers.

FACT FINDING INQUIRY:

INTERVIEW WITH INMATE MARCH 16, 2020

A confidential interview with was conducted, via telephone March 16, 2020, due to his release too parole. During the interview, Inmate stated he remembered the initial interview that occurred back in 2018. stated he could not recall specifics regarding his was giving a synopsis of his original allegations, after hearing them; he claimed he could recall some parts of the allegation. was asked if he could give specific détails to the allegations and he stated he could not. _____ claimed he was out of prison now and didn't want to be involved further. was informed that anything he said would be treated confidential, and his cooperation would be appreciated. stated he couldn't recall the staff or inmates involved, that he had it all written down on papers. He claimed he had the papers and if he was given the opportunity, he could review them, and give better details of his allegations. was given the opportunity to produce said paperwork. However, he failed to produce the aforementioned paperwork or any other evidence that would assist in this inquiry. was informed that if he couldn't provide more information regarding his allegations it would be very difficult to go any further with this inquiry. stated, "That's fine, I'll just do you a favor and drop it." It was explained to conce he made the original allegation; it is the departments responsibility, to look into the matter fully, to ensure no staff misconduct occurred. claimed he would like to help but at this point, he cannot

The specific allegation made by regarding, his claim, that he had observed an inmate beaten with a baton, and left on the yard knocked out, during third watch. No evidence was discovered, or evidence provided by indicating staff violated policy. During his interview, claimed he could not recall basic information regarding his allegations. answers were vague, lacking the necessary information to deem credible. was evasive with his answers to relevant questions, which leads this interviewer to believe he was withholding information. was urged several times to be forthright and answer to the best of his ability. However, he continued his pattern of evasive answers, resulting in the interview to be terminated. Due to his refusal or inability to give pertinent information, the

Based on this information, I do believe Inmate claims to be unsubstantiated, and

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this

Warden (A)

Richard J. Donovan Correctional Facility

interviewer was unable to identify any evidence or witnesses to assist in this inquiry.

recommend no further inquiry into these claims of staff misconduct.

Correctional Lieutenant

Richard J. Donovan Correctional Facility

case closed. This information is provided for your review and disposition.

Case 4:94-cv-02307-CW	Document 3024-1	Filed 07/29/20	Page 512 of 858
Inmate Date: March 19, 2020 Page 2			
remember. stated if he would contact his parole agent t			reviously mentioned, he
CONCLUSION:			
I conducted an independent rev misconduct at RJDCF, which der allegation indicating RJDCF, has proven to be without	rived from a confiden he witnessed staff m	tial interview, wit	regarding staff h As a result, e was he was housed at

Memorandum

CONFIDENTIAL

Date: March 17, 2020

To: MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-034

SUMMARY: On March 10, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact finding inquiry, which was the result of the Bishop memo, dated, December 2018. During a previous interview with the claimed to have knowledge of staff misconduct. He claimed he had specific information of staff using unreported unnecessary force. **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON MARCH 13, 2020 A confidential interview with was conducted at RJDCF, in the Sergeants office of building B6. This interview took place behind closed doors, without interruption, from staff, or inmates. The interview was conducted based on the information received from previous was informed of the reason for the interview, and interviews with Inmate was provided a brief synopsis of the allegations made. During the interview stated he had two (2) Rules Violation Reports (RVR) that he had appealed. He claimed the first was for delaying a Peace Officer in the performance of their duties, and the second was for falsifying a document. Comment claimed he had appealed these RVR's and had them either reduced or dropped. claimed he was satisfied with the appeals and considered the issue resolved. claimed he had made the allegation of unreported unnecessary force during his previous interview. He claimed he no longer wanted to pursue this allegation. stated his original claim was that an Officer in his building punched him in the chest. the Officer hadn't actually punched him, he claimed the Officer actually grabbed his shirt and told him to lock up. claimed he could not remember the Officer's name, or anything that would help identify him. stated he no longer wanted to be interviewed regarding his claims and was happy at RJD. was informed, even though he no longer wanted to

Inmate Date: March 17, 2020 Page 2 pursue his allegations, the department investigates all claims of staff misconduct, and his cooperation would be appreciated. See stated he understands but declined to make any further statements regarding his allegations. INTERVIEW WITH OFFICER WILLIAM ON MARCH 17, 2020 A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation. Officer claimed he could not recall inmate or an incident, from the information he was provided, regarding the allegation. Officer was shown a picture of in an attempt to refresh his memory. After seeing the picture claimed, the looked familiar; however, he could not recall any incidents involving Him. had no further pertinent information for this inquiry, and the interview was concluded. INTERVIEW WITH OFFICER MINISTER ON MARCH 17, 2020 A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, waiving his right for representation. stated he could recall the day in question. explained he was informed by Facility C Work change Officer that inmate might have stolen blankets in his cell. stated he went to cell and conducted a cell search. cell search he found a blanket not belonging to and confiscated it. shortly after the cell search was completed inmate returned to the housing unit. went up to his cell to lock up, and without securing the door walked podium when he saw approaching from his cell. stated he could tell that was upset, by his demeanor. As got within approximately 10 feet, claims, he gave a direct order to stop. Claimed claimed complied with his order and stopped advancing towards him. explained that he utilized communication to deescalate and and returned to his cell without incident. Officer claimed he did not come within arms distance to Inmate stated he was assigned to

that building for a long time and had good report with inmates, and rarely had to use force.

back in his cell. had no further pertinent information for this inquiry, therefor the

Officer claimed, neither he, or his partner used force that day to get Inmate

interview was concluded.

Inmate Date: March 17, 2020 Page 3

INTERVIEW WITH OFFICER ON MARCH 17, 2020

A confidential interview with Officer was conducted regarding the allegations made by Officer was informed of the purpose of the interview and was given a synopsis of the allegations made. Officer was served a Notice of Interview (Attachment D) and an Advisement of Rights (Attachment F) forms, which Officer signed, with his representation present.
Officer control claimed he recalled inmate control being housed in C11. Stated he did not recall any incident involving control stated he did not witness floor staff punch or grab inmate control if he had, he would report it. Stated had no more pertinent information regarding this inquiry, therefor the interview was concluded.
CONCLUSION:
I conducted an independent review of the allegations made by inmate regarding staff misconduct at RJDCF, which derived from a confidential interview, with a review of related documents, and evidence. As a result, allegation indicating he was a victim of staff misconduct while he was he was housed at RJDCF, has proven to be without merit.
The specific allegation made by regarding being the victim of excessive and or unnecessary force. No evidence was discovered, or evidence provided by indicating staff violated policy. Multiple sources of evidence including eyewitness Officers accounts fail to substantiate claim. During his interview, Inmate stated he had not been punched, as he originally claimed. He claimed he had actually been grabbed by the floor Officer. Inmate was unwilling to identify the staff member he alleged had assaulted him. was asked several questions in an attempt to ascertain more information regarding his allegation. Stated multiple times he no longer wanted to cooperate with this inquiry, he just wanted it to go away. Due to unwillingness to participate, his claim could not be substantiated.
Although, was unwilling to identify inmate or staff witnesses, FLSA's sign in sheets were utilized to identify, staff assigned to C facility building 11, December 21, 2017. The following staff were identified and interviewed:
 Correctional Officer Correctional Officer Correctional Officer
It should be noted their accounts of the incident, directly refute claim.
Based on this information, I do believe Inmate claims to be unsubstantiated, and recommend no further inquiry into these claims of staff misconduct.

Inmate Date: March 17, 2020

Page 4

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

2.22 2020 in Produced

M. Pøllard Warden (A)

Richard J. Donovan Correctional Facility

The HA Review-2: Concues
with closing This CASC.
With closing This CASC.

MANdow

3/23/2020

Memorandum

CONFIDENTIAL

April 7, 2020 Date: MARCUS POLLARD To: Warden (A) Richard J. Donovan Correctional Facility Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-036 **SUMMARY:** On March 12, 2020, a fact-finding inquiry was initiated as a result of an allegation made by Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact-finding inquiry, which resulted from interviews conducted by Associate Warden Bishop included in a memorandum, dated, December 2018. The aforementioned memo states that during a previous interview, claimed he had knowledge of staff misconduct. Specifically the allegations stated: "States a named inmate got beaten up with a brick by staff 2 months ago, and was left on the yard 30 minutes. Inmate alleged an inmate got hit by a brick and was left out on the yard." **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON MARCH 12, 2020 On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I gave synopsis of the allegation and he agreed to proceed. During the interview claimed he remembered being interviewed previously, but had not made the allegation as stated. claimed he observed staff strike an inmate with a baton. He stated he was unable to recall the date but if he was interviewed in December 2018 the incident happened at the end of October 2018 or the beginning of November 2018. went on to say it was an inmate that was new on the yard. He was being escorted to the EOP yard and it looked like the inmate didn't want to come on the yard. The inmate was going in a

different direction, staff gave him orders to stop and suddenly the inmate was on the ground and

there was an officer hitting him on the head with a baton.

Inmate Date: March 11, 2020

Page 3

INMATE APPEALS TRACKING SYSTEM (IATS)

l conducted a review of IATS for Inmate	appeal history in order to gather information
in an effort to identify the allegation in questio	n. appeal history did not contain
appeals with a nexus to the allegation. In addition	n, although did not appear to be in any
way linked to the allegation, I conducted a sea	rch of his appeal history with no additiona
information obtained.	

CONCLUSION:

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

7

Correctional Lieutenant Richard J. Donovan Correctional Facility M. Pollard Warden (A)

Richard J. Donovan Correctional Facility

Consider This LASE closed. Finanten 4/1/2000

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : June 3, 2019

To : Patrick Covello

Warden (A)

Richard J. Donovan Correctional Facility

1 1 105cd. Madesta 1/2020

Subject:

INMATE

ALLEGATION INQUIRY

Inmate/Parolee Name

CDC Number:

Assigned Reviewer: Name and Title Correctional Sergeant

Findings: UNFOUNDED

Accused Staff Member(s):



Correctional Officer Correctional Officer Correctional Officer Correctional Officer

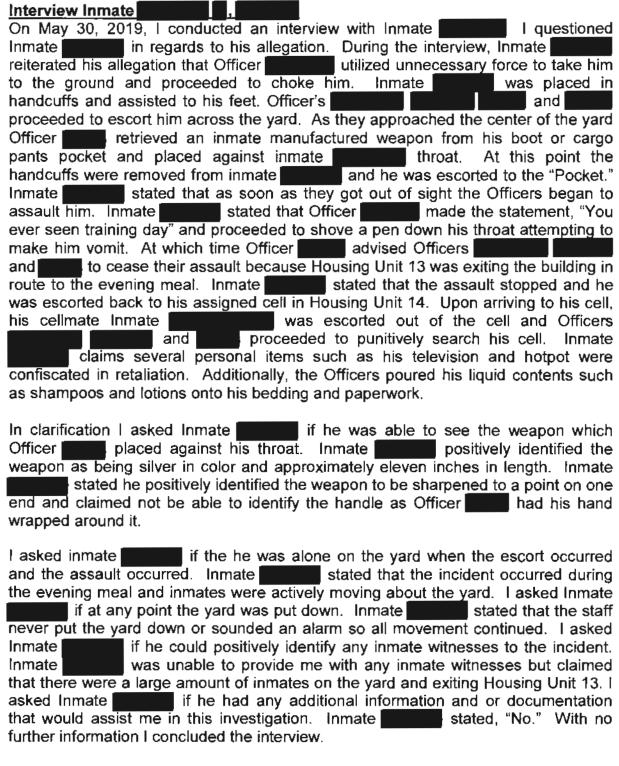
On December 4, 2018, Associated Warden, Jason Bishop arrived at the Richard J Donovan Correctional Facility (RJDCF), along with a team of Investigative Services Unit (ISU) staff from outside institutions and staff from the Ombudsman's Office to conduct interviews. This team was tasked with conducting interviews with the inmate population housed on Facility C at the RJDCF regarding staff misconduct allegations received by the Prison Law Office. Subsequently, the RJDCF Hiring Authority requested a three person panel consisting of Basic Investigators to thoroughly review allegations identified in Jason Bishop's report.

On January 17, 2019, Correctional Lieutenant authored a memorandum disclosing his findings. A thorough review of the allegations made by Inmate and all of the information gathered by the Inquiry Teams has been completed. Inmate made his allegations of unnecessary and excessive force via the Inquiry Team process and during interviews with Mental Health providers at the RJDCF. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.

CDCR # Page 2

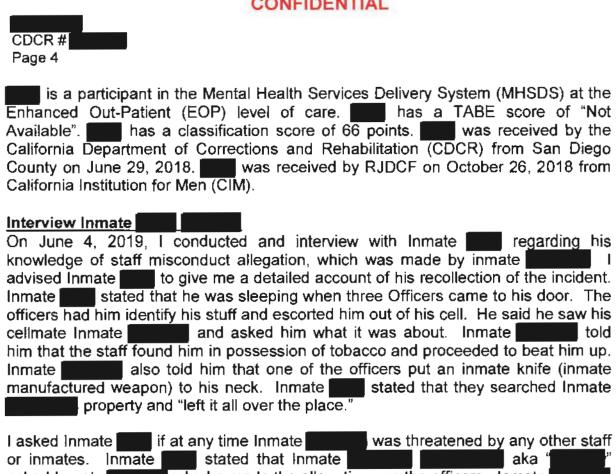
Synopsis of Allegation: Inmate | alleges that on November 15, 2018, during the course of the evening meal, Correctional Officer and Officer . approached him as he walked across the West yard on Facility C as he conducted his duties as an Inmate Assist. Inmate alleges that as he approached the facility dining approached him and questioned him regarding possible contraband in his possession. Inmate denied having any contraband and utilized force to take him to the ground. While on the ground Officer | Officer I proceeded to choke him. Additionally, Inmate Officer and Officer commenced to strike him as he was on the ground and subsequently placed in handcuffs. Inmate | stated that he was assisted to his feet and the handcuffs were removed. Officer Officer Officer and Officer proceeded to escort him across the East yard towards Housing Unit 14. As the escort approached the center of the yard, Officer removed an inmate manufactured weapon from his side cargo pant pocket and placed the weapon up to throat as they escorted him. Officer then made the statement, "All I have to do is hit myself a few times and I can say this weapon is yours." Inmate stated that he was then escorted to the "Pocket" Once they were out of the line of sight from observation, Officer and Officer commenced to assault him. During the course of the shoved his pen down inmate assault, Officer throat and made the statement, "You ever seen Training Day?" Inmate alleged that the assault stopped when Officer advised the Officers that Housing Unit 13 inmates where exiting the housing unit. alleges that he was escorted back to Housing Unit 14 and his cell Inmate I was searched punitively. His personal property was displaced throughout the cell and his television and hotpot were confiscated. Case Factors: is a 31 year old White male from Los Angeles, California. serving a term of 13 years 4 months for Penal Code (PC) Section 212.5 Robbery 2nd, PC 487 Grand Theft Firearm and Vehicle Code (VC) 2800 Evade or Att to Evade Peace Officer while driving recklessly. is a participant in the Mental Health Services Delivery System (MHSDS) at the Clinical Correctional Case Management System (CCCMS) level of care. has a TABE score of 12.9. classification score of 143 points. was received by the California Department of Corrections and Rehabilitation (CDCR) from Los Angeles County on February 29, 2008. was received by RJDCF on April 25, 2018 from North Kern State Prison (NKSP).

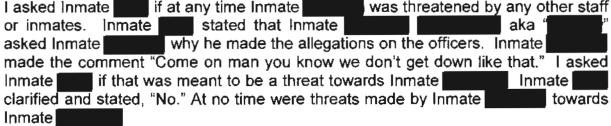
CDCR # Page 3



Case Factors:

is a 29 year old black male from San Diego, California. is serving a term of Life with parole for Penal Code (PC) Section 212.5 Robbery 1st, third striker.





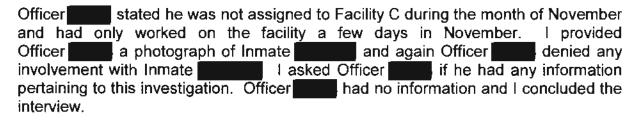
I asked Inmate if he had any additional information. Inmate stated, "Since this incident, things on the facility have gotten a lot better." With no further information provided by Inmate I concluded the interview.

Interview with Correctional Officer

On June 3, 2019, I conducted an interview with Correctional Officer advised Officer that Inmate alleged on November 15, 2018, during the evening meal he participated in the battering of Inmate and subsequently placed an inmate manufactured weapon up to his throat. I advised of his right to have representation present during the course of this interview. Officer acknowledged understanding his rights and elected to waive his right to representation. Officer stated he wished to waive his 24 hour notice and elected to proceed with the interview.

I asked Officer if he could recall any involvement with Inmate stated he was uncertain as to who Inmate was, nor did he recall any incident in similar to the allegation.

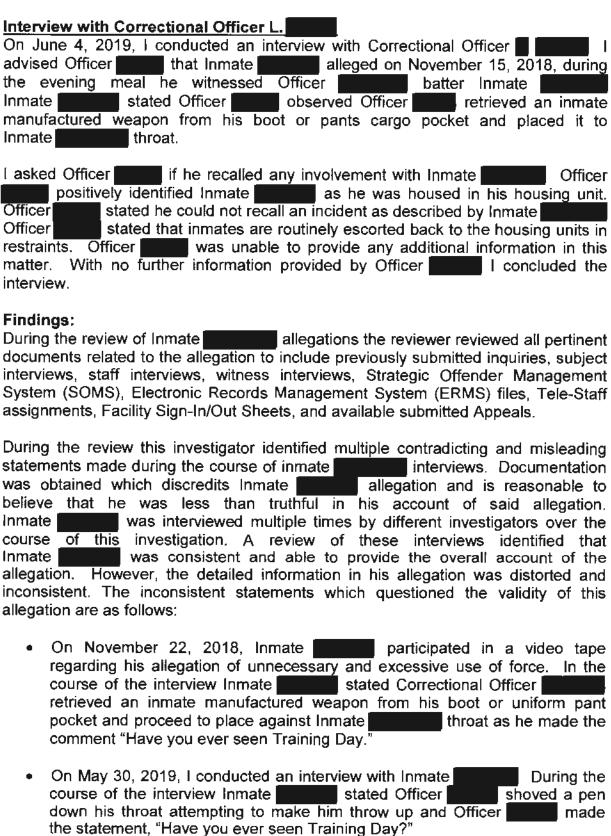




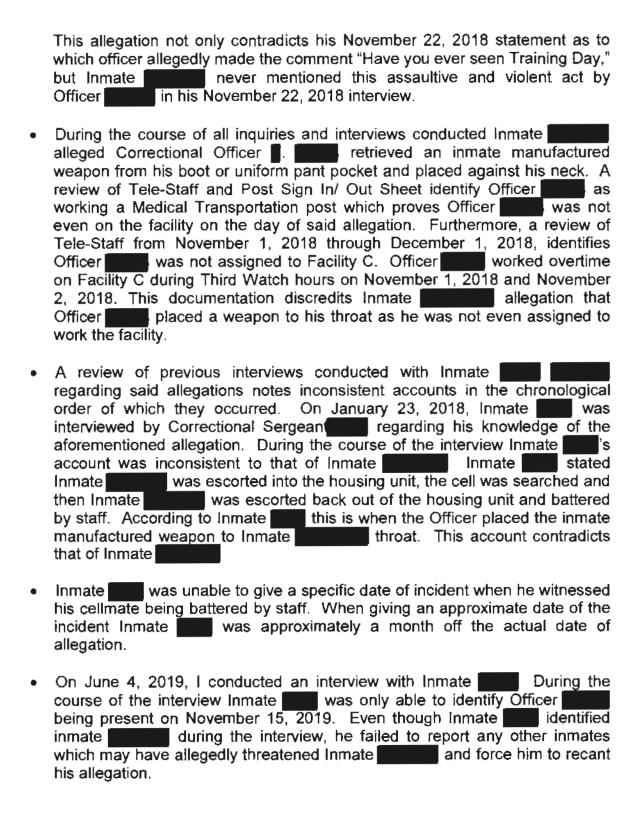
Interview with Correctional Officer On June 3, 2019, I conducted an interview with Correctional Officer advised Officer that Inmate alleged on November 15, 2018, during the evening meal he approached Inmate and questioned him regarding Inmate being in possession of contraband. Inmate utilized unnecessary force to take him to the ground and stated Officer subsequently began to choke him. Inmate stated he observed Officer retrieve an inmate manufactured weapon from his boot or pants cargo pocket and place it to Inmate throat. I advised Officer of his right to have representation present during the course of this interview. Officer acknowledged understanding his rights and elected to waive his right to stated he wished to waive his 24 hour notice and representation. Officer elected to proceed with the interview.

I asked Officer if he recalled any involvement with Inmate Officer requested a photograph of Inmate as he was aware of multiple inmates with the same last name. I provided Officer a photograph of Inmate and Officer positively identified him as an inmate which was previously housed in Housing Unit 15. I asked Officer if he had any interaction with Inmate Officer stated he recalled when approached him and requested to move to Housing Unit 14. During made the comment that the officer in Housing Unit 15 ran that time Inmate a strict program. I asked Officer if he recalled the incident which had described. Officer denied ever being involved or witnessing any unnecessary use of force. Officer stated he recalled conducting a clothed body search on inmate and discovering residual counseled Inmate regarding tobacco in his pant pocket. Officer his discovery to which Inmate was unreceptive and became verbally disrespectful. Based on Inmate not being receptive to counseling, Officer placed him in handcuffs and escorted Inmate assigned Housing Unit. Prior to rehousing Inmate in his cell he conducted a search of his cell to clear the cell of any additional contraband. Inmate was escorted to his assigned cell without further incident. I asked Officer if he had any additional information regarding this investigation. Officer had no further information and I conclude the interview.











• A review of memorandum dated January 17, 2019, authored by Sergeant , identifies a Rules Violation Report (RVR) dated December 20, 2018, where Inmate was fighting Inmate

This RVR was utilized as supporting documentation for said threat on Inmate to recant his allegation. It is this investigators assessment that this RVR could not have been used as supporting documentation for the threat on Inmate as the fight occurred on December 20, 2018, and Inmate recanted his allegation against the Officers on November 25, 2018. This disparity in time makes it reasonable to question whether the fight occurred due to inmate initial allegation.

Conclusion:

This Reviewer has reviewed all documents related to this allegation and has deemed the allegation made by Inmate to be Unfounded. Inmate made several inconsistent statements pertaining to his initial allegation. Inmate was only able to provide any inmate witness's to his allegation, even though he stated the facility was actively in the process of conducting the evening meal and inmates were in the process of coming to and from the facility dining area. Inmate only witness failed to provide any factual evidence or account of the event. Furthermore, Inmate is account of the events which transpired was inconsistent with that of inmate

This investigator considered the fact that Inmate alleged Officer placed an inmate manufactured weapon to his throat was the most damaging to the validity and truthfulness of his allegation. Reason being, Officer was not assigned to the facility on the said date, nor had he been assigned to the facility for the entire month of November.

Additionally, Inmate allegation of unnecessary and excessive use of force was reviewed by the Institutional Executive Review Committee on March 29, 2019, and was closed with no further action recommended by the committee.

Based on this information, Richard J. Donovan has no further interest in this matter and considers this case closed.

Correctional Sergeant
Richard J. Donovan Correctional Facility

THIS DOCUMENT WAS REVIEWED BY AN OUTSIDE SOURCE (IT A DOCUMENT TO BE THOROUGH & Completed.

X

4/09/2020

Memorandum

	CONFIDENTIAL
Date:	March 25, 2020
То:	MARCUS POLLARD Warden (A) Richard J. Donovan Correctional Facility
Subject:	FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-039
SUI	MMARY:
for Dec	March 12, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate 5, 2020, a fact finding inquiry was initiated as a result of allegations made by Inmate 5, 2020, a fact finding inquiry, Richard J. Donovan Correctional Facility (RJDCF), received a request a fact-finding inquiry, which resulted from interviews conducted during the month of tember in 2018 by Associate Warden, Bishop. The memorandum states alleged he had twiedge of staff misconduct. Specifically the allegations stated:
	Original allegation: "States he observed staff "stomp" a DPW inmate " in Building 13, cell or states he knows names of staff involved." Original allegation: "States he knows names of staff involved."
	Second allegation: "Inmate alleges his housing unit Officers pay inmates (STGII) to take care of problems for them. Inmates are paid with property from other inmates and allowed to fight while they look the other woy."
FAC	CT FINDING INQUIRY:
INT	ERVIEW WITH INMATE ON MARCH 12, 2020
con con syn	the above date, I introduced myself to Inmate and informed him I was at RIDCF ducting inquiries into allegations of staff misconduct. The interview with was in a fidential setting behind closed doors in the Facility C Program Services. I gave a brief opsis of the allegations made. was hesitant to proceed, I explained the importance of cooperation and agreed to the interview.
beii rece	ring the interview, stated he could not recall making the original allegation much less and interviewed by anyone named Bishop. As we continued, indicated he seemed to offeet the interview. It is stated he remembered the incident but was unable to elaborate on incident. All could recall was the allegation he made during the interview and was

unable or unwilling to identify the staff. stated he did not want to get involved. Although

Inmate March 16, 2020 Page 3
I asked if he has observed staff having STG inmates to beat up other inmates that are causing problems and receiving appliances as payment. Said he has never observed it himself but he has heard that Officer has the STG inmates beat up other inmates. Was unable to identify any inmates that participated in this conduct. In addition, has not heard anything recently, all that staff has left the yard and things are better.
INTERVIEW WITH INMATE COMMARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I informed selected him due to his housing assignment of C 13 in the months of June and July in 2018. I gave a brief synopsis of the allegations and he agreed to participate in the interview. Although agreed to participate he immediately said, "I didn't see anything I don't know anything about an inmate getting beat up or staff using STGs for anything. Due to response, I terminated the interview.
INTERVIEW WITH INMATE CONTROL ON MARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with a was in a confidential setting behind closed doors in the Facility C Program Services. Linformed selected him due to his housing assignment of C 13 in the months of June and July in 2018. I gave a brief synopsis of the allegations and he agreed to participate in the interview, immediately said he has observed excessive force on numerous occasions but he is unable to identify staff, does not know dates and cannot identify inmates. Continued to make allegations without elaborating or identifying specific incidents. In addition, did not recall an inmate in informed in order to conduct a proper inquiry I would need additional information. Such as identifying inmates that were victims of the alleged allegations or inmates that have firsthand knowledge.
I asked if he has observed staff using STG inmates to beat up other inmates that are causing problems and giving them appliances as payment. State said he has heard rumors but he cannot really say it is happening because he has not seen anything.
INTERVIEW WITH ON MARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RIDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I informed I selected him due to his housing assignment of C 13 in the months of June and July in 2018. I gave a brief synopsis of the allegation and he agreed to participate in the interview. I said he did recall the incident. I identified the inmate as white and in a wheel chair who lived in cell did not remember the inmates name but did not sound familiar.

Inmate

Date: March 16, 2020

Page 4
said the inmate was being difficult it appeared staff were giving him orders and the inmate failed to follow them. Couldn't hear what staff were saying but they kept talking to the inmate and he wouldn't move.
I asked if he has observed staff using STG inmates to beat up other inmates that are causing problems and giving them appliances as payment said the is using the to do their dirty work. When pushed to elaborate was hesitant to continue, appeared to be nervous and indicated he did not want to be interviewed for long because he didn't want the inmates to think he was telling.
INTERVIEW WITH INMATE OF THE ON MARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I informed selected him due to his housing assignment of C 13 in the months of June and July in 2018. I gave a brief synopsis of the allegation and he agreed to participate in the interview. I stated there are always rumors going around but he hasn't seen anything and he is unaware of anything happening with an inmate. He keeps to himself and he rarely stands at the cell door so he doesn't see the dayroom.
I asked if he has observed staff using STG inmates to beat up other inmates that are causing problems and giving them appliances as payment. State and he has heard something about that but just rumors and hearsay second hand and third hand. Nothing from personal observation or experience.
INTERVIEW WITH INMATE COMMARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I informed selected him due to his housing assignment of C 13 in the months of June and July in 2018. I gave a brief synopsis of the allegation and he agreed to participate in the interview.
l asked if he has observed staff using STG inmates beat up other inmates that are causing problems and giving them appliances as payment said he does not know of anything like that.
INTERVIEW WITH INMATE TO THE PARTY ON MARCH 18, 2020
On the above date, I introduced myself to Inmate and informed him I was at RJDCF conducting inquiries into allegations of staff misconduct. The interview with was in a confidential setting behind closed doors in the Facility C Program Services. I informed I selected him due to his housing assignment of C 13 in the months of June and July in 2018.

Inmate

Date: March 16, 2020 Page 5
gave stated, "I don't remember an inmate or the incident. There are many goothings going on at RJDCF. I have no complaints."
I asked if he has observed staff using STG inmates to beat up other inmates that ar causing problems and giving them appliances as payment. Stated he has heard rumor but hasn't seen anything. The has been transferred in and out of RJDCF numerous time and indicates staff are better this time and they are learning to do their job.
CONCLUSION: I conducted an independent review of the allegations made by Inmate regarding statements at RJDCF, which derived from a confidential interview, with a review of related documents and information obtained through seven (7) random interviews conducted.
 Original allegation: "States he abserved staff "stomp" a DPW inmate "states" in Building 13, cell ar ar States he knows names af staff involved."
The aforementioned allegation made by stating he witnessed Inmate stomped by Officers in building C13 is unfounded. Initially was hesitant to participate in the interview, although he agreed to continue he was unable to provide specific details of information that would allow this reviewer to conduct an appropriate inquiry. In addition, conducted seven (7) random interviews of inmates assigned to Housing Unit C 13 during the months of June and July in 2018. The interviews did not provide any information that would support the allegation. Of the seven interviews, only one indicated he has observed staff utilizing excessive force. Once asked to elaborate the interviewee was unable to provide specific detail regarding the alleged use of excessive force by staff. The additional interviewees indicated the are aware of staff misconduct; however, they have not observed it nor can they identify an alleged witnesses.
 Second allegation: "Inmate alleges his housing unit Officers pay inmates (STGII) to take care of problems for them. Inmates are paid with property from other inmates and allowed to fight while they look the other way."
was not fully committed to the interview and was vague in his responses. Due to the lact of information provided during the initial interview and inability to provide additional information or identify witnesses, this reviewer has found it difficult to deem as reliable.

This reviewer conducted several interviews with randomly selected inmates in order to gather additional facts that would either support or negate the allegation. The interviews did not identify any witnesses with firsthand knowledge. All the information provided was third party information that did not identify inmates or staff. Based on the aforementioned, this allegation is unsubstantiated. It should be noted there have been multiple allegations similar in nature documented on the Bishop memorandum. Multiple inquiries have been conducted and none have been sustained.

Inmate Date: March 16, 2020

Page 6

Based on the overall information gathered during the seven interviews conducted, the fact the review of DIRS did not produce an incident with a nexus, the lack of supporting appeals and unwillingness to provide additional information coupled with multiple allegations similar in nature being unfounded. I am recommending allegation #RJD-C-19-0039 be closed.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant

Richard J. Donovan Correctional Facility

Consider case closed

M. Trades

3/21/2010

FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT IN DECEMBER 2018

CONFIDENTIAL

MEMORANDUM

Date:

Subject:

To:

March 18, 2020

Richard J. Donovan

(EVENT RJD-C-19-041)

M. Pollard Warden (A)

SUMMARY:	
was the result of allegations provid	al Facility received a request for a fact finding inquiry, which ed by the Bishop Report from December 2018, on behalf o leged an officer told him he could get a job with officers fo
FACT FINDING INQUIRY:	
ATTEMPTED INTERVIEW CONDUCTE	D WITH THE STATE OF THE STATE O
	regarding this allegation, it was discovered ptember 24, 2019 (Incident Log number RJD-C14-19-0420) sallegation was not conducted.
REVIEW OF INMATE/PAROLEE APPE	ALS TRACKING SYSTEM (IATS) FOR INMATE
A review of IATS was conducted in a this allegation. As a result, no appea	ttempt to see if submitted a Staff Complaint regarding ls were not submitted.
CONCLUSION	
	entirety; it was determined there was not enough information e testimony of Therefore, this allegation is deemed
Richard J. Donovan Correctional Fac case closed. This information is prov	cility has no further interest in this matter and considers this ided for your review and disposition.
	This case is considered
Correctional Lieutenant Salinas Valley State Prison	Closed. M Flander 3/15/2020

MEMORANDUM

co			B. I Toler	
	NI b	 		
-		-		

Date: April 13, 2020

To: M. Pollard Warden (A)

Richard J. Donovan

Subject: FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT IN DECEMBER 2018

(EVENT RJD-C-19-045)

SUMMARY:

Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop Report from December 2018, on behalf of Inmate provided multiple allegations of staff misconduct during the Bishop Report.

FACT FINDING INQUIRY:

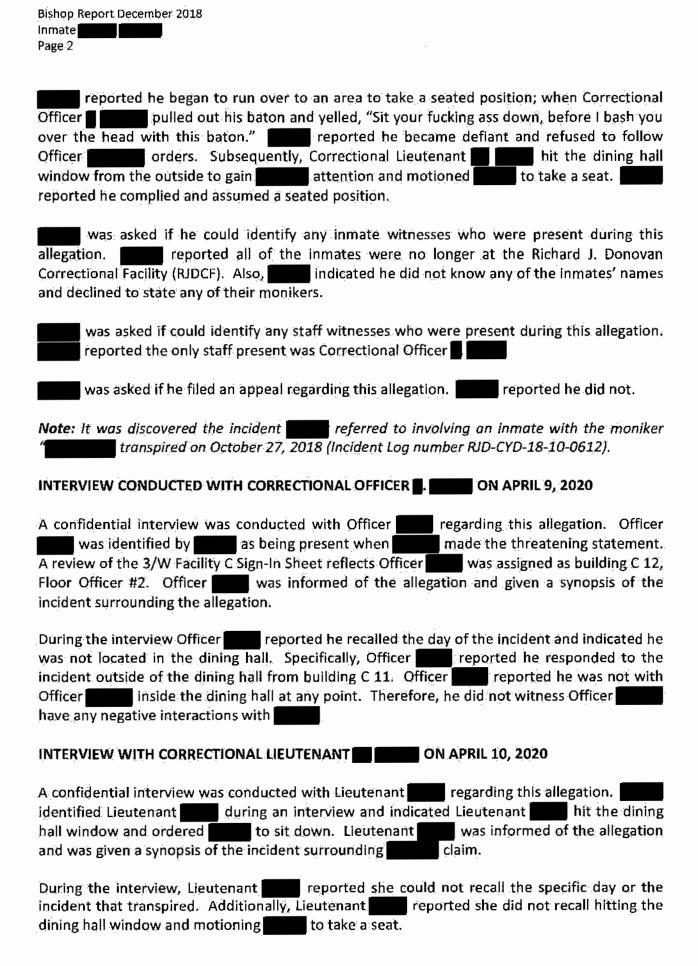
Bishop Report Allegations

During a review of the Bishop report, I determined the following allegations needed to be addressed:

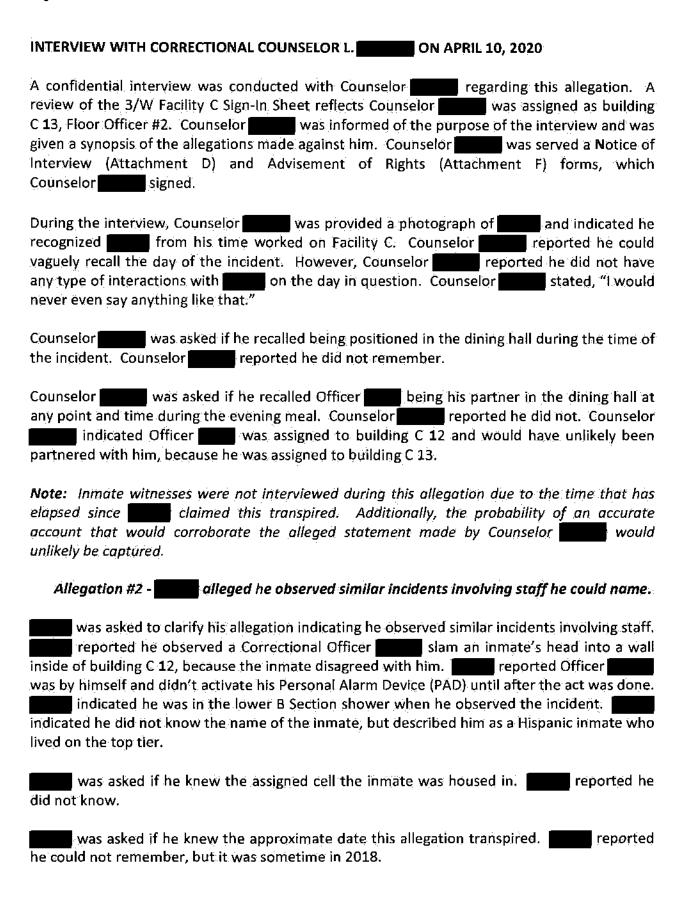
- alleged an officer threatened to hit him during chow, but was stopped by a Lieutenant.
- 2. alleged he observed similar incidents involving staff he could name.

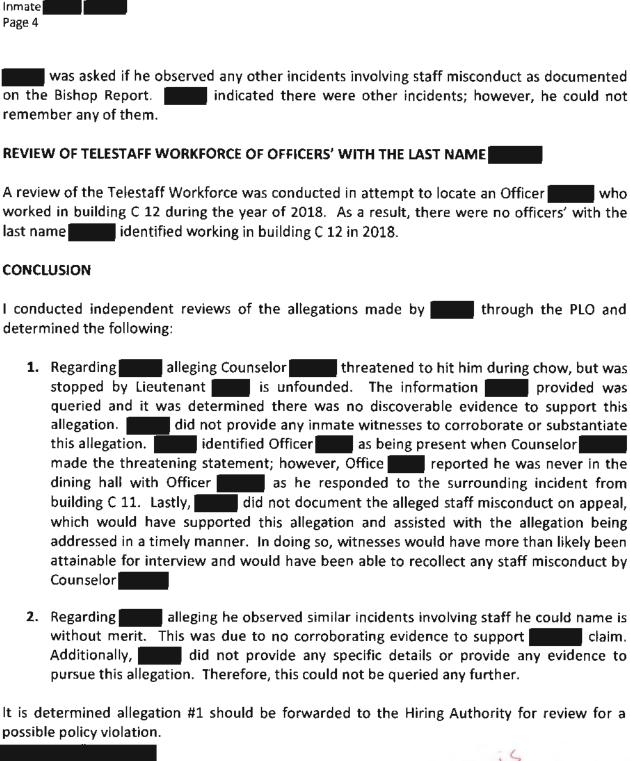
A confidential interview was conducted with regarding the allegations made. was informed of the purpose of the interview and was provided a brief synopsis of the allegations. reported the allegations were true and factual, while he reiterated what was documented in the Bishop report. During the interview reported the following allegations: Allegation #1 - alleged an officer threatened to hit him during chow, but was stopped by a Lieutenant.

During the interview, explained the allegation transpired during an incident involving a transgender inmate named being stabbed outside of the Facility C Dining Hall. reported he was located inside of the dining hall and he along with all of the inmates inside were ordered to sit down on the floor.



Bishop Report December 2018 Inmate Page 3





Correctional Lieutenant Salinas Valley State Prison

Bishop Report December 2018

This case closed red considered, closed supported wonder

MEMORANDUM

March 18, 2020

Date:

То:	M. Pollard Warden (Å) Richard J. Donovan
Subject:	FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT IN DECEMBER 2018 (EVENT RJD-C-19-047)
	SUMMARY
	Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop Report from December 2018, on behalf of Inmate provided multiple allegations of staff misconduct during the Bishop Report.
	FACT FINDING INQUIRY:
	Bishop Report Allegations
	During a review of the Bishop report, I determined the following allegations needed to be addressed:
	 alleged the inmate who was killed had his property stolen right before he was killed. alleged he heard an inmate was raped, claims staff were aware and it was not reported. alleged an inmate with the moniker of "who always filed paperwork had his property stolen.
	INTERVIEW CONDUCTED WITH THE ON MARCH 17, 2020
	A confidential interview was conducted with regarding the allegations made. was informed of the purpose of the interview and was provided a brief synopsis of the allegations. During the interview responded to the following allegations:
	1. Allegation #1 - alleged the inmate who was killed had his property stolen right before he was killed.
	During the interview, explained he did not report anything about property being stolen before an inmate was killed. Initially, and did not know which inmate I was referring to and once I provided him with the inmate's name (see the second was able to recall the incident. Interported was in the neighboring cell next to him. However, continued to deny stating the reported about property being stolen. Indicated he did not witness any such act. Additionally, reported was not killed and indicated committed suicide (Incident Log number RJD-CEN-18-11-0636).

Bishop Report December 2018

Inmate

Page 2

Allegation #2 - alleged he heard an inmate was raped, claims staff were aware and it was not reported. was asked to clarify his allegation indicating he heard an inmate was raped; and staff was aware of the incident and did not report it. reported he did not know the name of the inmate, but identified the inmate as a little Japanese kid, who the Enhanced Outpatient Program (EOP) inmates would harass by taking his canteen has he headed to his building after purchasing. Additionally, claimed the EOP inmates would also take the aforementioned inmate's personal property from his cell. was asked if he witnessed these event transpire. The reported he did not witness the events, but heard that it took place. was asked how he heard about this allegation. Indicated this allegation took place back during the year of 2017 and could not remember how he heard about the allegation. was asked if the staff members allowed the EOP inmates to victimize the aforementioned inmate. reported he did not know if the staff were aware. was asked if he knew the assigned housing of the inmate who was victimized. reported the inmate was housed in building C 14, but he did not know his assigned cell. was asked if he could identify the inmates who harassed and took the aforementioned inmate's property. Indicated he did not know who the inmates were. Allegation #3 - alleged an inmate with the moniker of who always filed paperwork had his property stolen. I was asked to clarify the allegation where he alleged an inmate with the moniker of ' had his property stolen. reported the allegation was true. However, could not provide any specific details regarding this allegation. Specifically, could not provide the identity of nor could provide an approximate date and/or time of the incident. Additionally, could not provide the names of the inmates' who allegedly stole the property. was asked if there was any staff misconduct regarding this allegation. The reported he did not know. I did not provide any further information regarding this allegation. Therefore, the interview was concluded. CONCLUSION I conducted independent reviews of the allegations made by through the PLO and determined the following:

Bishop Report December 2018 Inmate Page 3

- 1. Regarding alleging an inmate who was killed had his property stolen right before he was killed is without merit. This was determined, due to reporting he did not make this allegation and negated what was conveyed to him regarding this allegation. Therefore, this allegation could not be queried any further.
- 2. Regarding alleging he heard an inmate was raped, claimed staff were aware and it went unreported is unfounded. This was determined, due to not actually witnessing any part of this allegation. Additionally, did not provide any names, details or leads to follow regarding this allegation. Therefore, this allegation could not be queried any further.
- 3. Regarding alleging an inmate with the moniker of 'legal had his property stolen is unfounded. This was determined, due to not providing any names, details or leads to follow regarding this allegation. Therefore, this allegation could not be queried any further.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant Salinas Valley State Prison I concurwith RX Lonside All Allesations

Closed.

3/19/2020

MEMORANDUM

Date:

Subject:

To:

April 13, 2020 M. Pollard Warden (A) Richard J. Donovan FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT IN DECEMBER 2018 (EVENT RJD-C-19-050) SUMMARY: Richard J. Donovan Correctional Facility (RJDCF) received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop Report from December 2018, on behalf of alleged an incident of excessive force transpired in July 2018. involving an inmate who assaulted him, and the inmate was beat up by officers. **FACT FINDING INQUIRY:** INTERVIEW CONDUCTED WITH ON APRIL 13, 2020 A confidential interview was conducted with regarding this allegation. was informed of the purpose of the interview and was provided a brief synopsis of the allegation. reported the allegation was true and factual, while he reiterated what was documented in the Bishop report. During the interview reported as he was reporting to his job assignment in the PIA Laundry; an unidentified inmate swung and punched him in the facial area. reported the incident took place outside of the dining hall and described the unidentified inmate as big and white. reported he defended himself by taking the inmate down to the ground and held him down reported two (2) officers' responded and gave them orders to get down. reported he complied with their orders and assumed a prone position on the ground. However, the unidentified inmate did not comply and attempted to get up to continue his attack. reported the inmate became resistive and the (2) officers were forced to utilize physical indicated he could not see the exact type of physical force utilized, because he was facing away when he was in the prone position. reported no alarms were activated, no Incident Reports (CDCR 837's) were generated and no Rules Violation Reports (RVR's) were issued. was asked if he knew the names of the (2) officers he observed utilize physical. reported he did not know the officers' names. was asked if there were any inmate witnesses present who could corroborate this allegation. reported there were inmate witnesses present, but he could not remember their names.

Bishop Report December 2018 Inmate Page 2
was asked if he could remember the date of the incident. reported the incident transpired in May of 2018. I informed the Bishop Report indicated the incident transpired in July of 2018. Immediately recanted and changed the date of the incident to July.
It should be noted, statement appeared to be misleading and deceptive. was unsure of what transpired and continuously repeated himself while indicating he did not know any of the participants' names.
REVIEW OF THE DAILY INCIDENT REPORT SYSTEM (DIRS) FOR THE MONTH OF JULY AND MAY
A review of the DIRS was conducted in attempt to discover if an incident describing this allegation had transpired involving during the months of May or July. As a result, no incidents were found.
CONCLUSION
Upon reviewing the allegation in its entirety; it was determined there was not enough information provided by to pursue this allegation. misleading testimony leads me to believe he was not forthwith the information he provided. Therefore, this allegation is deemed to be without merit.
Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.
Correctional Lieutenant Salinas Valley State Prison Long. def in S Long. def Long. def Marken Long. def

Memorandum

-	-		-		-	-	AL
		N	-	-		u I	
•	_			_	_		

April 13, 2020 Date: MARCUS POLLARD To: Warden (A) Richard J. Donovan Correctional Facility Subject: FACT FINDING INQUIRY FOR ALLEGATIONS OF STAFF MISCONDUCT RJD-C-19-053 **SUMMARY:** On April 8, 2020, a fact-finding inquiry was initiated as a result of an allegation made by Inmate Specifically, Richard J. Donovan Correctional Facility (RJDCF), received a request for a fact-finding inquiry, which resulted from interviews conducted by Associate Warden Bishop included in a memorandum, dated, December 2018. The aforementioned memo states that during a previous interview, claimed he had knowledge of staff misconduct. Specifically the allegations stated: "States a DPW inmate was OC sprayed far a piece of cake." **FACT FINDING INQUIRY:** INTERVIEW WITH INMATE ON APRIL 8, 2020 On the above date, I arrived at the Facility C Program Office and informed Sergeant I was there to conduct a confidential interview with Inmate Sergeant Contacted Housing Unit C11 and instructed staff to send to the Facility C Program Office in his state issued clothing. After approximately ten minutes, I checked outside of the program office had not arrived. Sergeant contacted the housing unit staff once again and he was informed inmate elected not to exit his cell. The allegation did not indicate who the victim was, the date of the alleged misconduct or an incident location. Due to the aforementioned and the fact elected not to participate in the interview, I conducted a search of the Daily Information Reporting System (DIRS), Inmate Appeals Tracking System (IATS), the Strategic Offender Management System (SOMS) Rules Violation Report (RVR) in an effort to identify the incident.

REVIEW OF THE DAILY INFORMATION REPORTING SYSTEM (DIRS)

The interview with was in December of 2018; therefore, I conducted a review of DIRS during that time frame. The review did not reveal any incidents with a nexus to the

Inmate Date: April 8, 2020
Page 2

allegations of staff misconduct. In addition, the incidents during that timeframe have gone through the Institutional Executive Review Committee and it was determined staff were in compliance with the use of force.

REVIEW OF THE STRATEGIC OFFENDER MANAGEMENT SYSTEM (SOMS) RULES VIOLATION REPORT (RVR)

not received an RVR that would identify him as the alleged victim of this allegation.

RVR history contained two counseling chronos and one serious RVR for "Failure to Respond to Notices" which had no nexus to the allegations of staff misconduct.

INMATE APPEALS TRACKING SYSTEM (IATS)

I conducted a review of IATS for Inmate appeal history. Submitted an appeal that was classified as a staff complaint in April 2016. This appeal was submitted prior to the allegation and upon review it was determined it does not have a nexus to the allegation.

CONCLUSION:

Although refused to participate in the interview, all efforts were made to identify the victim of the allegation. All available resources such as IATS, DIRS and SOMS RVRs were reviewed with negative results. The attempts were unsuccessful; therefore, the allegation could not be corroborated. Due to the aforementioned, I recommend no further inquiry into these claims of staff misconduct. It is my recommendation allegation # RJD-C-19-053 be closed, as the allegations were unsubstantiated.

Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed. This information is provided for your review and disposition.

Correctional Lieutenant
Richard J. Donovan Correctional Facility

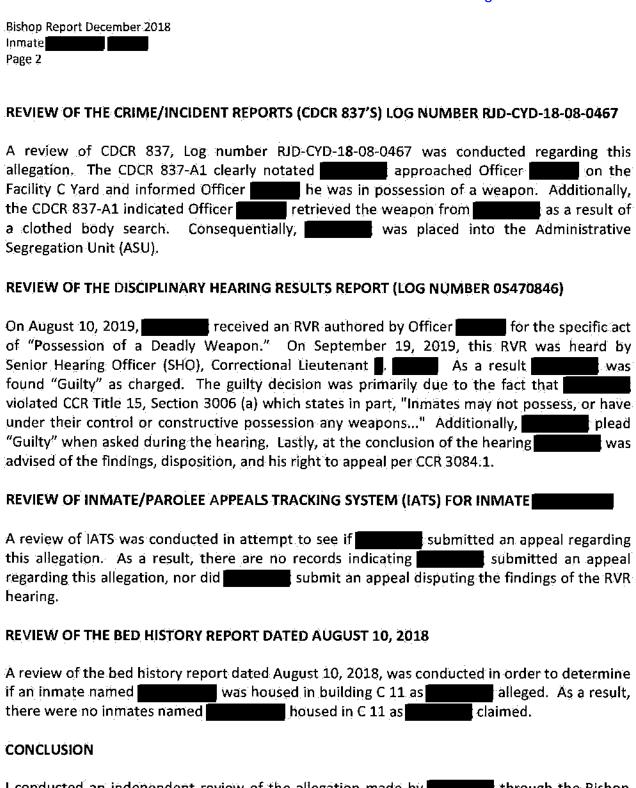
Llused 4/14/2020

Warden (A)

Richard J. Donovan Correctional Facility

MEMORANDUM

			The Call white
		CONFIDENTIAL	J lovs, dit
Date:	April 8, 2020		E. Nd. N).
То:	M. Pollard Warden (A) Richard J. Donovan		This CASE Closely This CASE Closely MANDEN 199/2000
Subject:	FACT FINDING INQUIR (EVENT RJD-C-19-055)	Y RESULTING FROM THE BISHOP REPO	ORT IN DECEMBER 2018
	5UMMARY:		
	which was the result behalf of Inmate	UD) Correctional Facility received a roof allegations provided by the Bishop Specifically, Violation Report (RVR) he received fo	Report from December 2018, on alleged staff falsified documents
	FACT FINDING INQUIR	Y:	
	TELEPHONIC INTERVIE	W CONDUCTED WITH	ON APRIL 6, 2020
	Correctional Captain housed at Kern Valley interview and was inf	conducted with conducted the telephonic is state Prison (KVSP). was bringed of the allegation made. iterated what was on the Bishop Repo	s apprised of the purpose of the reported the allegation was
	of aka unit C 11. However, grew up w Correctional Officer claimed Officer	reported reported reported reported reported that he had a weapon and he did nothing about it and passed ported he informed Officer reported reported the weapon.	was the building clerk in housing to carry out the assault, because reported he informed e wanted to turn it in.
	within the letter he sta	e wrote a letter to Captain ted the weapon ferred to the California Health Care Fa	



I conducted an independent review of the allegation made by through the Bishop Report and determined allegation is without merit. This was determined by the fact that admitted to being in possession of a weapon, which was retrieved by Officer to lit is clear surrendered the weapon for his own reasons. However, staff at the time, deemed it necessary to charge with being in possession of the weapon. The due process was followed appropriately regarding the RVR process and the SHO deemed it appropriate to find guilty with the evidence he was presented with.

Bishop Report December 2018 Inmate Page 3

However, did not. Therefore, it is my determination there is not a violation of policy or procedure.

Based on this information, Richard J. Donovan Correctional Facility has no further interest in this matter and considers this case closed.

Correctional Lieutenant

Salinas Valley State Prison

PRODUCED INFORMALLY JULY 27, 2020

State of California

Memorandum

Date :	July 5, 2019
To :	Patrick Govello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE (ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Unidentified
	A thorough review of the information provided by the Special Allegation Review Team has been completed. During the interview with the Special Allegation Review Team, Inmate had responses that could be perceived as allegations of staff misconduct. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry, Inmate had responses to questions asked to him, which could be construed as allegations of staff misconduct. Inmate was asked open ended questions by the investigators to which Inmate made general responses. The investigators did not obtain specific details to the responses made by Inmate
	This Reviewer conducted a follow-up interview with Inmate on June 25, 2019; to clarify the responses given to the questions asked by the Special Allegation Review Team. During the interview, Inmate stated his responses were not meant as allegations of staff misconduct. This Reviewer asked Inmate to clarify his response to several of the questions asked by the Special Allegation Review Team. Inmate stated he did not want to participate in the interview. The Reviewer explained to Inmate his participation is important to clarify the questions and responses from the previous interview. Inmate elected to continue with the interview to clarify his responses to the questions asked by the Special Allegation Review Team only. I asked Inmate the following questions; Q.) You stated staff are hands on, what did you mean by this?



- A.) I meant staff uses force. If you fight, they are gonna spray you.
- Q.) You stated Inmates get beat up. What did you mean?
- A.) If you try and fight the staff they will use force. They are not scared to use force. But not like just beat you up.
- Q.) You stated inmates that are slower are more vulnerable to mistreatment by staff.
- A.) Not by staff the inmates take advantage of them, not the staff.
- Q.) You stated staff may not have tolerance or knowledge to treat these inmates. What did you mean?
- A.) I see the staff get frustrated, with the EOP inmates. They just need to tolerate the way these guys act sometimes that's all.
- Q.) You stated you observed staff mistreat inmates before. Specifically, you referenced an incident with an inmate and a head cap. Can you clarify?
- A.) I don't really recall. It was like this guy didn't want to take off his cap like he was supposed to and staff patted him down, and wrote him up because he got stupid with them.
- Q.) You stated staff retaliates against inmates by taking property?
- A.) I didn't say all that. See I am done with these interviews. I don't want to continue with this.
- Q.) Do you want to end the interview?
- A.) Yes. I don't have anything else to say. It gets all messed up anyway. I'm done. I concluded the interview with Inmate

Conclusion:

This Reviewer has reviewed all documents related to Inmate interview and has deemed there was no allegation of staff misconduct. Inmate stated he made no allegations of staff misconduct. Inmate further stated his responses were taken out of context. During the interview with this Reviewer, Inmate was adamant he had no allegations or knowledge of staff misconduct. Therefore, this Reviewer could not substantiate any of the perceived allegations made by Inmate

The Reviewer concludes, after interviewing Inmate the third party allegation regarding potential staff misconduct to be unfounded. Inmate stated he had no allegations of staff misconduct. It is my recommendation no further inquiry is deemed warranted.



Correctional Lieutenant
Richard J. Donovan Correctional Facility

State of California

Department of Corrections and Rehabilitation

Wemorandum

Date : June 13, 2019

Patrick Covello Warden (A)

Richard J. Donovan Correctional Facility

Subject: INMATE _____, ALLEGATION INQUIRY

Inmate/Parolee Name:

CDC Number

Assigned Reviewer: Name and Title Correctional Sergeant

Findings: Unsubstantiated

Accused Staff Member(s):

Correctional Officer (Identified incorrectly by inmate

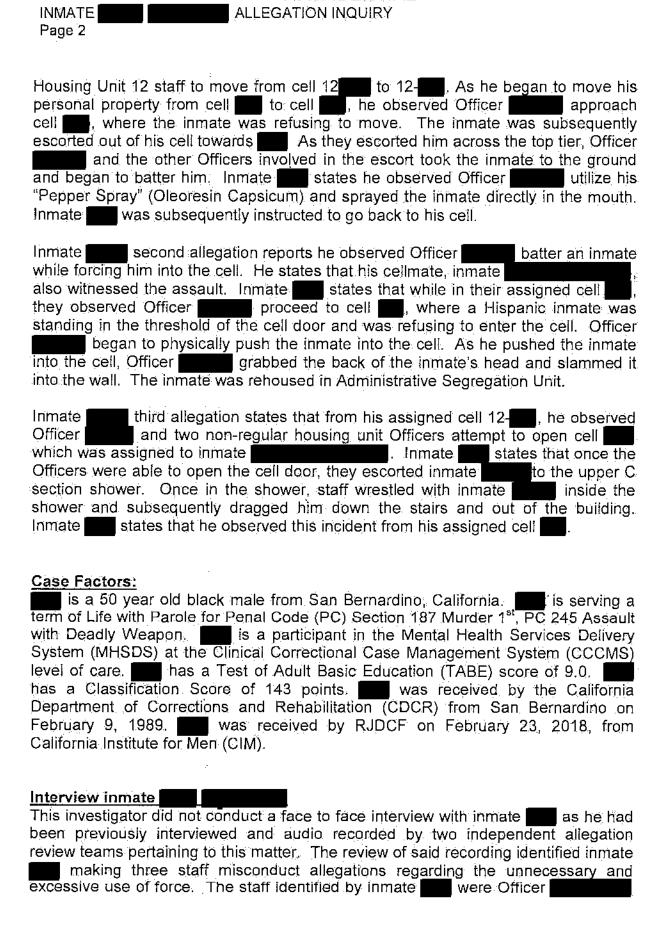
Correctional Officer Correctional Officer Correctional Officer

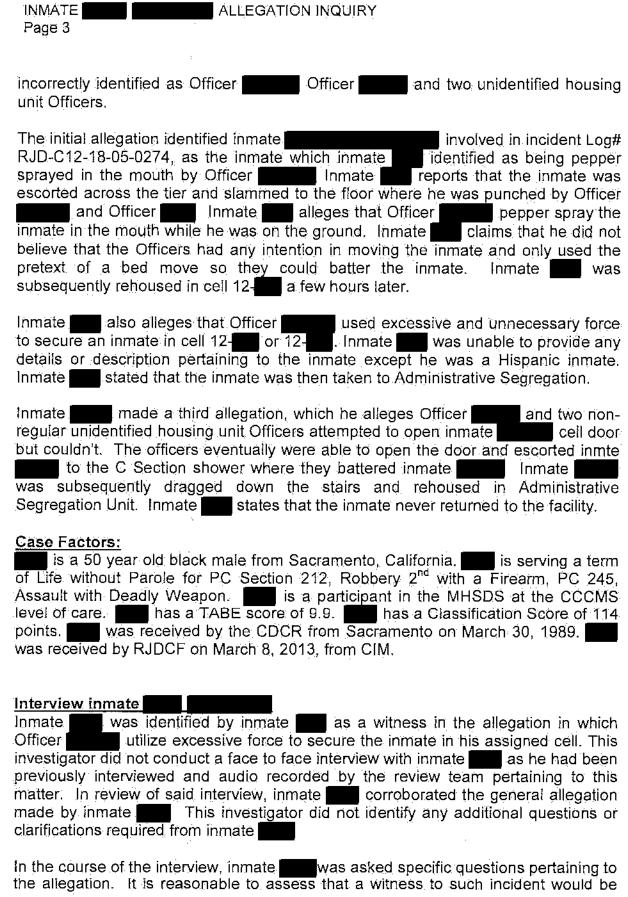
On December 4, 2018, Associated Warden, Jason Bishop arrived at the Richard J Donovan Correctional Facility (RJDCF), along with a team of Investigative Services Unit (ISU) staff from outside institutions and representatives from the Ombudsman's Office to conduct interviews regarding allegations of staff misconduct. This team was tasked with conducting interviews with the inmate population housed on Facility C at the RJDCF. Upon review of the team's findings, the RJDCF Hiring Authority requested a three person panel comprised of Basic Investigators to thoroughly review allegations identified in Jason Bishop's report.

In the course of the two interviews, Inmate was identified as requiring further inquiry. Inmate made third party allegations in which he witnessed staff utilize unnecessary and excessive use of force on other inmates. All information was gathered and reviewed to render a thorough determination regarding the allegations made against custodial staff.

Synopsis of Allegation:

Inmate reports three separate incidents in which he had first-hand knowledge and observed staff utilize excessive and unnecessary force. In the first allegation, inmate alleges that sometime in April or May of 2018, he was instructed by



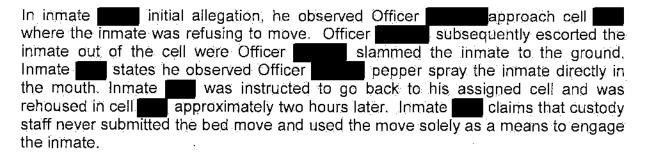




able to provide a response to such questions as approximately how many staff members were present. Inmate was unable to provide the information. Inmate was asked if he could identify who the Officer was. Inmate was unable to identify the primary staff member. As the interview proceeded, inmate would substantiate not knowing the response by making additional allegations or claims of staff misconduct. He was evasive and vague in his account of the incidents he allegedly had first-hand knowledge of. Due to inmate inability to positively identify staff or witnesses, this investigator was unable to obtain any credible information from his interview.

Findings:

During the review of Inmate allegations, this investigator reviewed all pertinent documents related to the allegations to include previously submitted inquiries, subject interviews, witness interviews, Daily Information Reporting Systems (DIRS), Strategic Offender Management System (SOMS), Electronic Records Management System (ERMS) files, Tele-Staff assignments, Facility Sign-In/Out Sheets, and available submitted Appeals.



A review of inmate as Officer as Inmate
A videotaped interview was conducted on inmate based on his allegations of excessive and unnecessary force. Inmate stated there was no inmate or additional staff witnesses to the incident. A CDCR 3013, Inmate Interview for Allegations Worksheet and a CDCR 3014, Report of Findings was completed. Reviewing staff assessed that the force reported was consistent with the noted injuries on day of incident. The incident was reviewed by Institutional Executive Review Committee, which concurred with findings in the CDC 3014, and noted no further action required.

ALLEGATION INQUIRY

CONFIDENTIAL

Page 5 Inmate second allegation, where he reports observing Officer utilize unnecessary and excessive force on an inmate while forcing him into the cell. He states that his cellmate, inmate states that while in their assigned cell the assault. Inmate , they observed Officer go to cell where a Hispanic inmate was standing in the threshold of the cell door. The inmate was refusing to enter the cell and Officer began to physically push and punch the inmate into the cell. reported that the inmate was subsequently, rehoused in Administrative Segregation Unit. did not positively identify the involved inmate in the course of the interview and only identified him as a Hispanic inmate. A review of DIRS did not identify an incident pertaining to this allegation. Inmate alleged that the Hispanic inmate was rehoused in Administrative Segregation Unit. identifying all of Housing Unit 12, housing and movement consisting of cells I upper and lower was generated and reviewed. The report noted all moves from May 7, 2018, when inmate was housed in cell the through June 19, 2019. There were no movements in the noted section to the Administrative Segregation Unit during that time that would corroborate inmate allegation made a third allegation, in which he identified inmate battered by Officer and two unidentified housing unit Officers. A review of SOMS and DIRS identified Incident Log# RJD-C12-18-12-0689 December 3, 2018, involving inmate Inmate was discovered to be in possession of a controlled substance. Upon initial discovery, staff observed that had wedged his cell door in order to prevent it from being opened by staff. A review of the Incident Log and Rules Violation Report depicts that inmate was escorted out of the housing unit without incident. Furthermore, inmate did not make any allegations of staff misconduct or submit any documentation claiming such actions. A review of this allegation notes that inmate allegations have been reviewed via the appropriate institutional levels to include Incident Commander Reviews, First and Second Level Managerial Reviews, Institutional Executive Review Committees. 3013-3014, Video Taped Review and a 989 Central Intake Unit (CIU) recommendation for Investigation. All levels of review were unable to identify any violation of staff misconduct to include the inappropriate use of force. CIU reviewed the documentation submitted and elected to reject the case noting, "CIU returned this case to the Hiring Authority because there is no reasonable belief misconduct occurred."

Conclusion:

INMATE I

This investigator has reviewed all available information related to the allegations made by inmate Inmate allegation involving inmate was deemed to be unsubstantiated.

Inmate allegation involving an unidentified Hispanic inmate housed in cell

CONFIDENTIAL



or which was assaulted by Officer (Officer is unfounded. This investigator was unable to identify any documented incident or housing reassignment for any inmate related to such allegations during the time frame in which inmate and inmate were housed in cell 12-12.

Inmate third allegation in which he alleges Officer and two unidentified housing unit Officers battered inmate in the Upper C Section shower and subsequently dragged him down the stairs is Unsubstantiated. All supporting documents were review pertaining to this incident and no force was reported in the course of in this incident. Inmate was discovered to be in possession of a controlled substance and was subsequently on Contraband Surveillance Watch which produced positive findings for marijuana.

It is my recommendation no further inquiry is deemed warranted in regards to these allegation.

Correctional Sergean

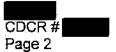
Correctional Sergeant Richard J. Donovan Correctional Facility

Department of Corrections and Rehabilitation

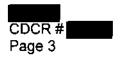
State of California

Memorandum

Date 🙏	Julý 8, 2019
To %	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name: Team Te
	CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Unidentified
	A thorough review of the information provided by the Special Allegation Review Team has been completed. During the interview with the Special Allegation Review Team, Inmate had responses that could be perceived as allegations of staff misconduct. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry, Inmate made general statements to questions asked to him, which could be considered allegations of staff misconduct. Inmate was asked questions by the investigators to which Inmate made general allegations and did not provide specific details to his allegations. The investigators did not obtain specific details to the responses made by Inmate
	This Reviewer conducted a follow-up interview with Inmate on June 25, 2019, to clarify the responses given to the questions asked by the Special Allegation Review Team. This Reviewer asked Inmate to clarify his responses to some of the questions asked by the Special Allegation Review Team. Inmate stated he only saw one incident that he felt was a misuse of force. During the interview, the Reviewer questioned Inmate regarding the incident he was referring to. Inmate stated it was an incident that happened during first watch when a suicidal Indian inmate was taken out of his cell and later died. Inmate could not provide a specific date for the incident.



5
The Reviewer discovered Crime/Incident Report, Log # RJD-CEN-18-11-0636, involving Inmate
A.) CPR but it looked really violent. I never seen CPR being done but man it looked like they were breaking his chest and ribs.
Q.) Did you see them punch or kick him? A.) No.
I concluded the interview with Inmate
Conclusion: This Reviewer has reviewed the documents related to Inmate interview and has deemed the third party allegation of staff misconduct to be unsubstantiated. During this Reviewer's interview with Inmate he stated the acts of the staff during CPR seemed violent and seemed to be causing harm to Inmate However, during the process of conducting CPR, chest compressions appear to be violent to an on looker. The act of preforming CPR is a violent act as the life saver must compress the chest approximately two inches. Many times during CPR the non-responsive person does suffer broken ribs and upper torso injuries. Additionally, during the review of the incident the Investigative Services Unit informed the Reviewer, that Crime/Incident Report, Log RJD-CEN-18-11-0636 had been referred to the Office of Internal Affairs due to other discrepancies with the reporting of the incident. However, regarding the third party allegation made by Inmate this Reviewer has determined the allegation to be unsubstantiated. Once the Reviewer explained the CPR procedure to Inmate Inmate recanted his allegation stating "CPR looks violent, but they were trying to save his life."



The Reviewer concludes, after interviewing Inmate the third party allegation of staff misconduct to be unfounded. Inmate stated he had no other allegation of staff misconduct. It is my recommendation no further inquiry is deemed warranted.



Correctional Lieutenant Richard J. Donovan Correctional Facility State of California

Department of Corrections and Rehabilitation

Memorandum

Date :	August 7, 2019
To p	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE & & ALLEGATION INQUIRY
	Inmate/Parolee Name & CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer Correctional Officer Correctional Officer Correctional Officer
	A thorough review of the allegations made by Inmate and all of the information gathered by the Special Allegation Review Team has been completed. Inmate made his allegations of staff misconduct and excessive force during the Special Allegation Review Team interview. During the interview, Inmate made in a legal provided third party allegations of Facility C staffs' use of unnecessary force. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: Inmate



During the review of Inmate		Reviewer discovered Inmate
		orce during the Administrative
Review of their Administrative		
allegation made by Inmate	revealed Inmate	allegation were similar to
the one made by Inmate	Additionally, a	review of Inmate
allegation also revealed a	similar allegation to	the allegation made by
Inmate		•
ries alta assa		

Findings:

During this Reviewer's review of Inmate allegations, all pertinent documents related to the allegations were reviewed. During the review of the allegations, the Reviewer discovered both Inmate and allegations of unnecessary force. This Reviewer reviewed the Special Allegation Review Teams allegation packet and Lieutenant Correctional Lieutenant at Ironwood State Prison referred the packet to the Hiring Authority on February 15, 2019, for Administrative Review. This Reviewer further discovered the Special Allegation Review Team did not include the video allegation interviews with the packet submitted to the Hiring Authority. On March 11, 2019, the Richard J. Donovan Correctional Facility's Hiring Authority referred the allegations to the Office of Internal Affairs for Internal Affairs Investigation. On April 17, 2019, the Central Intake Panel completed a review of the allegation and all of the enclosed documentation. The Central Intake Panel rejected the allegation and documented in their Central Intake Panel Decision Letter, No Misconduct identified.

Conclusion:

This Reviewer has reviewed the documents related to Inmates allegations. During the course of the independent inquiry by the Special Allegation Review Team, Inmate was the only one interviewed. Inmate were interviewed. However, this Reviewer was able to nor Inmate review all the information required to conduct a thorough review of the allegations. This Reviewer reviewed Crime/Incident Report, log # RJD-CYD-18-4-0207, in which alleges the third party misconduct. Additionally, this Reviewer reviewed the Internal Affairs referral packet which did not have any related documents to the allegations made by Inmate and Inmate Reviewer discovered the Special Allegation Review Team did not include the videotaped allegation interviews with the Internal Affairs referral packet, which was sent to the Office of Internal Affairs Central Intake Unit for review. However, the referral packet did include supporting documentation, to include the CDCR 7219, Medical Report of Injury or Unusual Occurrence, from the date of the incident. The CDCR 7219 did reflect the injuries noted to both Inmate and Inmate On Friday, August 2, 2019, this Reviewer reviewed the video interviews with Inmate and Inmate and could not reasonably justify the injuries noted on the video. This Reviewer believes the injuries documented on the video allegation are not consistent with the amount of force reported on Crime/Incident Report, log # RJD-CYD-18-04-0207.



Additionally, the Special Allegation Review Team submitted black and white photographs of the injuries sustained by the reporting employees. This Reviewer reviewed color photos of the injuries sustained by the reporting employees and believes the injuries sustained during the reported incident are also not consistent with the information documented in the reporting employee's reports.

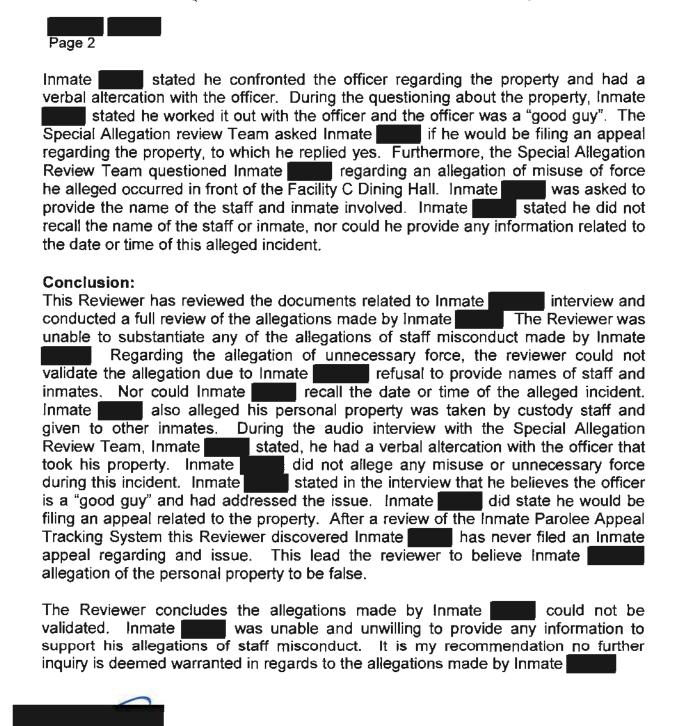
The Reviewer concludes the allegations made by Inmates and may have some merit. It is my recommendation this incident be re-referred with the aforementioned information for further review and possible Internal Affairs Investigation.



Correctional Lieutenant Richard J. Donovan Correctional Facility State of California

Memorandum

Date :	August 7, 2019
To s	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Unidentified
	A thorough review of the information provided by the Special Allegation Review Team has been completed. During the interview with the Special Allegation Review Team, Inmate made allegations of staff misconduct. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry, Inmate made vague allegations of staff misconduct. Inmate stated he recalled an incident where custody staff used unnecessary force on an inmate in front of the dining hall on Facility C. Inmate could not provide the names of inmates or staff regarding this allegation. However, Inmate did recall an incident involving his personal property being taken by custody staff and given to other inmates while he was Out to Court.
	This Reviewer reviewed all documented information and the audio recording related to the allegations made by Inmate During the review of the information provided by Inmate Inmate Stated he had knowledge of a custody staff member who was providing contraband items to inmates on Facility C. When questioned about the allegation, Inmate Stated he never witnessed the misconduct firsthand and all of the information he had was hearsay. Inmate was reluctant to provide further information regarding this allegation. Additionally, Inmate was questioned regarding his allegation that a custody officer took his personal property and gave it to other inmates. Inmate stated other inmates informed him that the officer gave his property away.



Correctional Lieutenant
Richard J. Donovan Correctional Facility

State of California

Department of Corrections and Rehabilitation

Memorandum

Date July 9, 2019

Patrick Covello
Warden (A)

Richard J. Donovan Correctional Facility

Subject: INMATE ALLEGATION INQUIRY

Inmate/Parolee Name:

CDC Number:

Assigned Reviewer: Name and Title , Correctional Sergeant

Findings: UNFOUNDED

Accused Staff Member(s):

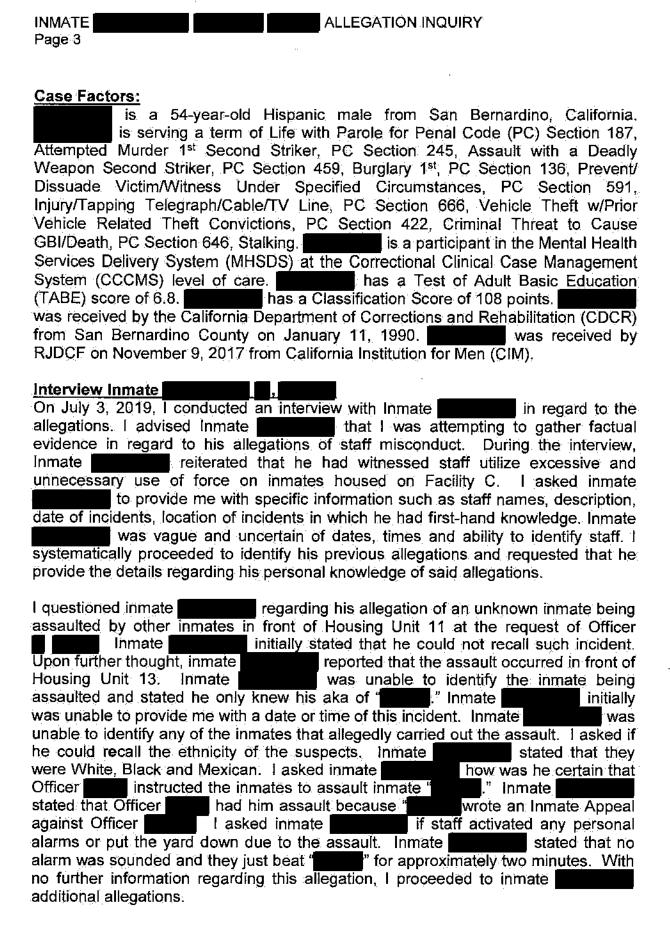
Correctional Officer
Correctional Officer

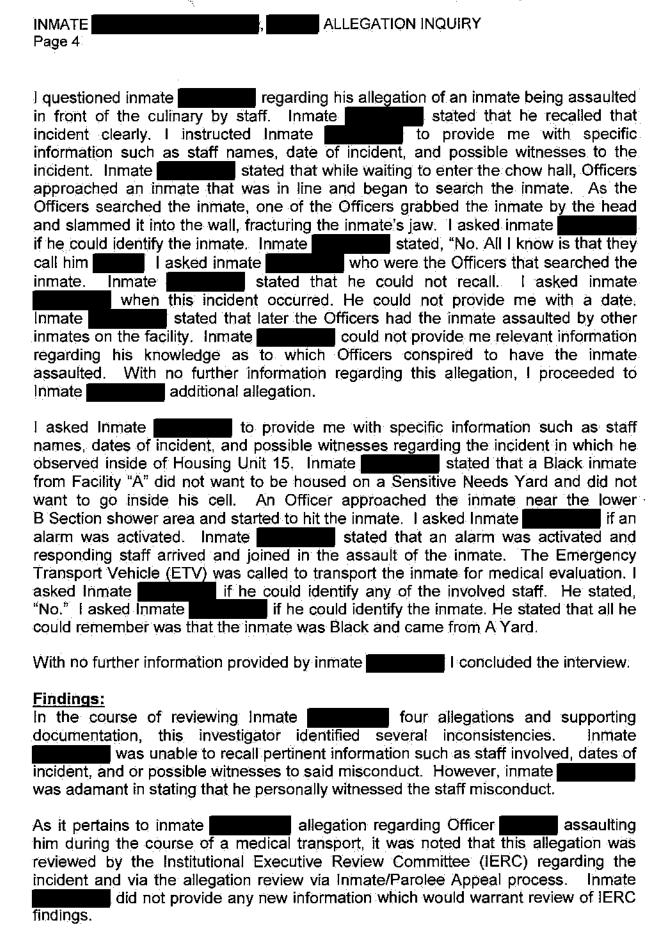
On December 4, 2018, Associated Warden Jason Bishop arrived at the Richard J. Donovan Correctional Facility (RJDCF), along with a team of Investigative Services Unit (ISU) staff from outside institutions, and staff from the Ombudsman's Office to conduct interviews. This team was tasked with conducting interviews with the inmate population housed on Facility C regarding staff misconduct allegations received by the Prison Law Office. Subsequently, the RJDCF Hiring Authority requested a three-person panel consisting of Basic Investigators to thoroughly review allegation's identified in Mr. Bishop's report.

A thorough review of the allegations made by Inmate, and all of the information gathered by the Inquiry Teams has been completed. Inmate made allegations of unnecessary and excessive use of force via a CDCR-602, Inmate/Parolee Appeal, and witnessing unnecessary and excessive force via the Inquiry Team process. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned.

searched the inmate and started hitting him without provocation. One of the Officers grabbed by the back of the head and slammed it into the wall, fracturing his jaw. Inmate states that attempted to seek medical attention days later and the Officers had him assaulted by other inmates.

Inmate alleged observing three or four Officers in Housing Unit 15 attack a Black inmate. Inmate could only identify the inmate as a General Population Black Enhanced Out-Patient inmate. Inmate stated that a personal alarm in Housing Unit 15 was activated and the Emergency Transport Vehicle was summoned to transport the inmate out of the housing unit.





INMATE | ALLEGATION INQUIRY Page 5 This investigator was unable to discover any documentation with similarities to the allegations made by Inmate Inmate Inmate was unable to provide specifics such as dates of incidents, involved staff, and/or names of involved provided aka's of said inmates that upon review of inmates. Inmate SOMS, ERMS and Inmate/Parolee Appeals Tracking databases could not be corroborated. Information provide by inmate such as ethnicities, aka's and housing location of involved inmates was determined to be incorrect via SOMS and ERMS review. Conclusion: This Investigator has reviewed all documents related to the four allegations made by and deemed the allegations to be Unfounded. was unable to provide information such as staff involved, inmates involved, dates of incidents and or witnesses to the incidents. Based on the facts obtained in the course of this investigation along with information provided by Inmate through multiple recorded interviews, this investigator was unable to obtain any evidence which gave his allegations validity. It is my recommendation no further inquiry is deemed warranted in regards to this matter.

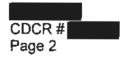
Correctional Sergeant
Richard J. Donovan Correctional Facility

State of California

Department of Corrections and Rehabilitation

Memorandum

Date :	August 13, 2019
To :	M. POLLARD Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE CONTROL (CONTROL ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title Correctional Lieutenant
	Accused Staff Member(s): Unidentified Staff Correctional Officer Correctional Officer
,	A thorough review of the information provided by the Special Allegation Review Team regarding Inmate (Section (Section Interview has been completed, Inmate (Section Inmate Section Institute I
	Synopsis of Allegation: On December 4, 2018, the Special Allegation Review Team interviewed Inmate During the interview, Inmate made several allegations of staff misconduct. Specifically Inmate informed the Special Allegation Review Team, he had witnessed a correctional officer beat up a northern inmate in the hallway. Additionally, Inmate alleged a correctional officer challenged him to a fight. Furthermore, Inmate made additional vague allegations of misuse of force.
	During the review of the information provided by the Special Allegation Review Team, this Reviewer reviewed the audio interview and documentation completed by the Special Allegation Review team. The Special Allegation Review Team determined all of the allegations made by Inmate had been thoroughly reviewed, and were unfounded. This Reviewer also reviewed the audio interview, and all available documentation regarding the allegations made by Inmate was asked specific questions regarding his alleged witnessing of misuse of force. Inmate was unable to provide specific dates, times, or names of involved staff.



During the questioning, Inmate stated several staff were present during the alleged misconduct, but could not recall names. Additionally, this Reviewer reviewed the documentation submitted regarding the allegation of an officer attempting to fight Inmate This Reviewer, along with the Special Allegation Review Team, concluded a thorough inquiry had been conducted into the allegation. The Special Allegation Review Team made the determination no further review needed.

Conclusion:

This Reviewer has reviewed the documentation provided by the Special Allegation Review Team, the audio recording of the interview with Inmate and all documentation regarding Inmate allegations. Based on the information provided, this Reviewer concurs with the Special Allegation Review Team's finding that no further action was deemed warranted in regard to Inmate allegations.

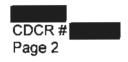


Correctional Lieutenant Richard J. Donovan Correctional Facility State of California

Department of Corrections and Rehabilitation

Memorandum

Date :	July 8, 2019
To :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE CONTROL ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Unidentified
	A thorough review of the information provided by the Special Allegation Review Team has been completed. During the interview with the Special Allegation Review Team, Inmate made allegations of unnecessary force used against him and other inmates. During the interviews with the Special Allegation Review Team, Inmate did not provide specific details to his allegations. This Reviewer conducted an additional face to face interview with Inmate on June 25, 2019, to obtain additional information to validate Inmate allegations. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry, Inmate stated that he was the victim of staff "beating him." Specifically, Inmate stated to the Special Allegation Review Team interviewers, he requested ASU placement and was assaulted by staff. Inmate further stated he was taken out to the hospital due to the assault. Furthermore, Inmate stated his cellmate was assaulted by staff for being a child molester, but did not identify the inmate or staff. The investigators did not obtain specific details to the allegations made by Inmate
	This Reviewer conducted a follow-up interview with Inmate on June 25, 2019, to clarify the allegations made to the Special Allegation Review Team. During the Interview the Reviewer questioned Inmate regarding the allegations he made. I asked Inmate questions regarding the statements he made to the Special Allegation Review Team.



I asked Inmate the following questions:

- Q.) You stated you were beaten up by staff because you asked to go to Ad Seg can you identify the staff?
- A.) That didn't happen.
- Q.) What do you mean it didn't happen?
- A.) They didn't beat me up. 1 just said that.
- Q.) So you were not assaulted by staff?
- A.) No.
- Q.) You stated your cellmate was beat up by staff, can you identify your cellmate and the staff?
- A.) I never said that.
- Q.) You didn't tell the investigators your cellmate was beaten up by staff?
- A.) Nope.
- Q.) Have you ever seen staff use excessive force?
- A.) Yes about 7 years ago at another prison staff beat up my cellie, but that was a long time ago and I don't really remember.
- Q.) Do you have any safety concerns at RJD?
- A.) No. I don't really like it but I am fine here.
- Q.) Do you have anything else you want to add or say?
- A.) No.

Conclusion:

I concluded the interview with Inmate

This Reviewer has reviewed all available information related to Inmate allegation and has deemed his allegations to be unfounded. During this Reviewer's face to face interview with Inmate he denied making the allegations to the Special Allegation Review Team. Additionally, in an effort to validate Inmate allegations, this Reviewer reviewed the Strategic Offender Management System and discovered Inmate has not been taken to an outside hospital. This Reviewer has determined based on the inconsistencies of Inmate statements that the allegations are unfounded.

The Reviewer concludes, after interviewing Inmate and reviewing the available information regarding the allegations made of staff misconduct, to be unfounded. It is my recommendation no further inquiry is deemed warranted.



Correctional Lieutenant Richard J. Donovan Correctional Facility

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : March 3, 2020

To : MARCUS POLLARD

Warden (A)

Richard J. Donovan Correctional Facility

Inmate/Parolee Name:

CDC Number:

Assigned Reviewer: Name and Title

Correctional Sergeant

Findings: UNFOUNDED

Accused Staff Member(s):
Unidentified

On December 4, 2018, Associated Warden, Jason Bishop arrived at the Richard J Donovan Correctional Facility (RJDCF), along with a team of Investigative Services Unit (ISU) staff from outside institutions and staff from the Ombudsman's Office to conduct interviews. This team was tasked with conducting interviews with the inmate population housed on Facility C at the RJDCF regarding staff misconduct allegations received by the Prison Law Office. Subsequently, the RJDCF Hiring Authority requested a three person panel consisting of Basic Investigators to thoroughly review allegations identified in Jason Bishop's report.

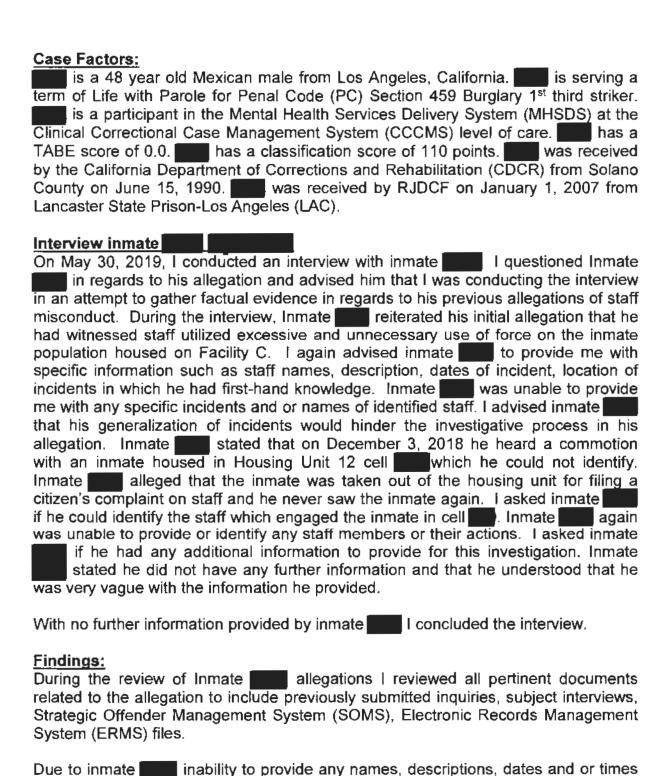
A thorough review of the allegations made by Inmate and all of the information gathered by the Inquiry Teams has been completed. Inmate made his allegations of witnessing unnecessary and excessive force via the Inquiry Team process. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.

Synopsis of Allegation:

Inmate alleges that the night before (December 3, 2014) the interview (December 4, 2018) an inmate was "Taken out" by staff for filing a citizen's complaint. Additionally inmate claimed to have information of specific staff using excessive force on an inmate as well as planting a weapon on the inmate.



allegations.



of said allegations this investigator was unable to ascertain validity to any of his

CONFIDENTIAL



However, inmate identified that on December 3, 2018, he heard noise coming from cell FC-12. Inmate claims that the unidentified inmate was escorted out of the housing unit for filing a citizen's complaint on staff and he never saw him again. Inmate did not make any allegation of witnessing staff misconduct. Even though inmate was vague with his account of what transpired this investigator was able to identify inmate FC-12- was transported to an outside hospital, Sharps Chula Vista Emergency Room for "Foreign body ingestion." Upon completion of medical treatment, Inmate was transported back to RJDCF and rehoused in Administrative Segregation Unit (ASU). Inmate was subsequently transferred to an alternate institution and has not returned to RJDCF. Inmate was vague in the information he provided. However, his account of inmate was vague in the information he provided. However, his account of inmate being escorted out of the housing due to being discovered to be in possession of a controlled substance, disproves inmate allegation that he was removed for filing a citizen's complaint.

Conclusion:

This Reviewer has reviewed all documents related to this allegation and has deemed the allegation made by inmate to be Unfounded. Inmate made several vague and misleading statements which were elaborated for the purpose of reporting a staff misconduct allegation.

It is my recommendation no further inquiry is deemed warranted in regards to this allegation.

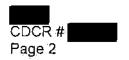
Correctional Sergeant
Richard J. Donovan Correctional Facility

Chichery,

State of California

Department of Corrections and Rehabilitation

Date :	
To :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject	FINDINGS OF INMATE (ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title . Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer
	A thorough review of the allegations made by Inmate (a) and all of the information gathered by the Inquiry Teams has been completed. Inmate made his allegations of unnecessary and excessive force via the Inmate Appeal process and during interviews with Special Allegation Review Teams at the Richard J. Donovan Correctional Facility (RJDCF). Information was gathered by the Inquiry Teams which reviewed the allegations of staff misconduct from Facility C. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the independent inquiry and thorough the Inmate Appeals process Inmate alleged, on December 30, 2018 he was walking to the dining hall for the evening meal. Inmate alleges, as he was entering the dining hall Officer physically attacked him. Specifically, Inmate alleges as he was entering the dining hall Officer stopped him and placed him against the wall. Inmate states he had a broken hand from a prior incident and as Officer was in the process of patting him down Officer grabbed his broken hand and squeezed. Inmate alleges he fell to his knees from the pain of his broken hand being squeezed. Inmate alleges at that time Officer began yelling Stop trying to swallow drugs. Inmate alleges Officer began chocking him and then slammed him to the ground. Once on the ground, Inmate alleges Officer began stomping on and kicking him in the head. Inmate alleges Officer punched him 3 times to the ribs, cracking his ribs. Inmate further alleges Officer falsified his reports to justify the attack.



Findings:

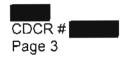
During the review of Inmate allegations the reviewer reviewed all pertinent documents related to the allegation. Inmate filed Inmate/Parolee Appeal CDCR 602 log number RJD-C-19-0812 regarding his allegation of excessive and unnecessary force on February 7, 2019. Inmate did not give a reason in his appeal for the delay in filing his appeal. During the Appointing Authority Review the determination was made to allow the appeal to be reviewed and answered at the second level of review as a Staff Complaint allegation. During the review of this allegation the Interviewer questioned Inmate in regards to his allegation. During the interview, Inmate reiterated the allegations he documented in his appeal. During the interview Inmate stated there were several staff present but could not identify any of the staff present. However, Inmate did identify inmates he says could corroborate his allegation. The Reviewer interviewed the identified inmates who gave inconsistent stories to inmate allegation. The Reviewer identified random inmates who witnessed the incident. The additional inmates interviewed further refuted the allegations made by Inmate During the Special Allegation Interview, Inmate further stated his allegation however: altered the reason of the alleged misuse of force. Inmate to the interviewers the alleged misuse of force was due to him interviewing with investigators regarding allegations of staff misconduct on Facility C. On the appeal filed, he documented the misuse of force was due to him being discovered inside of another cell.

Conclusion:

This Reviewer has reviewed all documents related to this allegation and has deemed the allegation of misuse of force to be unfounded. Inmate has several inconsistencies with his allegations, appeals, and interviews. Random inmates, who were present during the incident, were interviewed in the course of the allegation inquiry. Other than the inmates Inmate identified friends and witnesses to the alleged misconduct, the inmates interviewed refuted the allegations made by Inmate Additionally the Special Allegation Interviewers submitted a memorandum dated January 26, 2019, authored by Correctional Sergeant titled Richard J. Donovan Correctional Facility, Facility C, Non-Referrals, in which they document the allegations made by Inmate to be unfounded. Sergeant further documents Crime Incident report RJD-CYD-18-12-0741 was reviewed and all reports seem to be consistent with the force reported. Sergeant also states Officer actions and perception of the imminent threat present was reasonable and within policy.

Crime incident report CDCR 837 log # RJD-CYD-18-12-0741 was reviewed and closed by the Institutional Executive Review Committee on January 25, 2019 with no further action recommended.

Additionally, Inmate allegation of misuse of force was reviewed by the Institutional Executive Review Committee on April 30, 2019 and was closed with no further action recommended by the committee on May 9, 2019.



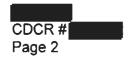
The interviewer concludes the complaint filed by Inmate regarding the misuse of force to be unfounded. Inmate has failed to provide any supporting evidence to his allegation. It is my recommendation no further inquiry is deemed warranted in regards to the allegation of Misuse of Force.



State of California

Department of Corrections end Rehabilitation

Date .	June 6, 2019
To ;	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE (MARKET ALLEGATION INQUIRY
	Inmate/Parolee Name: Section 1998
	CDC Number:
	Assigned Reviewer: Name and Title . Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer
	A thorough review of the allegations made by Inmate and of the information gathered by the Special Allegation Review Teams has been completed. Inmate made his allegations of unprofessional conduct via the Inmate Appeal process. The Special Allegation Review Team documented in their report of finding that Inmate was video interviewed by California Medical Facility ISU and made similar allegations, but named a different officer as the alleged officer. All available information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: Inmate has submitted several CDCR 602 Inmate Parolee Appeals alleging Correctional Staff have made threats against his life and the lives of his family. Specifically, Inmate submitted appeal Log # RJD-C-18-7310 on November 13, 2018, in which he documented that on October 18, 2018, Officer threatened to kill his mother. In this same appeal Inmate alleges on September 30, 2018, Officer threatened to have an inmate murder him inside of his cell. Additionally, in the same appeal Inmate alleges on October 3, 2018, Officer stated "I'll fuk yur mother".
	During the course of the Special Allegation Review Teams review, it was documented Inmate was video interviewed by the California Medical Facility (CMF) Investigative Services Unit (ISU), however the video interview could not be located during this review. The Special Allegation Review Team noted Inmate statements during the interview where similar to what he documented in CDCR 602 Inmate appeal log # RJD-C-18-4900. However, during the interview with



as the officer that threatened him. During the review of Inmate allegations, several additional allegations were discovered within his CDCR 602's and Form 22 Inmate/Parolee Request for Interview. Inmate has made similar allegations while at California State Prison — Los Angeles County and California Institution for Men. On December 18, 2018, Inmate was interviewed regarding the allegations he made on appeal log # RJD-C-18-7310. Inmate did not identify any witnesses that may corroborate his allegation of staff misconduct. The Reviewer reviewed Tele Staff and interviewed the on duty staff to include Officer All staff interviewed refuted Inmate allegation.

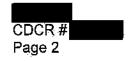
Conclusion:

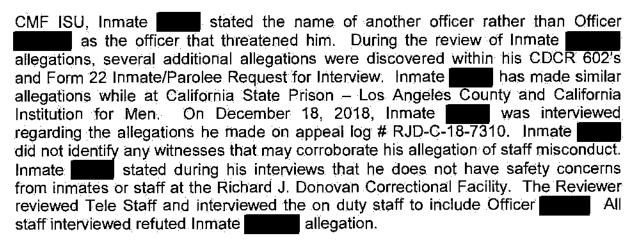
This Reviewer has reviewed all documents related to this allegation and has deemed the allegation of staff misconduct and unprofessionalism to be unfounded. Inmate has established a pattern of submitting CDCR 602's and CDCR Form 22's making allegations of staff threatening to kill him or his family. The Special Allegation Review Teams determined these allegations to be unfounded due to inconsistencies with his allegations. Additionally, the Richard J. Donovan Correctional Facility has also reviewed the allegations made by Inmate and also determined the allegations to be unfounded.

This reviewer has reviewed all available documents and pertinent information and has determined Inmate allegations of staff misconduct and unprofessionalism to be unfounded. Based on the similar allegations made by Inmate at California State Prison – Los Angeles County, Salinas Valley State Prison, California Institution for Men, and the Richard J. Donovan Correctional Facility, this reviewer believes Inmate allegations may be related to his mental illness.



Date :	
To :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE CONTROL (CONTROL ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer
	A thorough review of the allegations made by Inmate and of the information gathered by the Special Allegation Review Teams has been completed. Inmate made his allegations of unprofessional conduct via the Inmate Appeal process. The Special Allegation Review Team documented in their report of finding that Inmate was video interviewed by California Medical Facility ISU and made similar allegations, but named a different officer as the allegat officer. All available information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: Inmate has submitted several CDCR 602 Inmate Parolee Appeals alleging Correctional Staff have made threats against his life and the lives of his family. Specifically, Inmate submitted appeal Log # RJD-C-18-7310 on November 13, 2018, in which he documented that on October 18, 2018, Officer threatened to kill his mother. In this same appeal Inmate alleges on September 30, 2018, Officer threatened to have an inmate murder him inside of his cell. Additionally, in the same appeal Inmate alleges on October 3, 2018, Officer stated "I'll fuk yur mother".
	During the course of the Special Allegation Review Teams review, it was documented Inmate was video interviewed by the California Medical Facility (CMF) Investigative Services Unit (ISU), however the video interview could not be located during this review. The Special Allegation Review Team noted Inmate statements during the interview where similar to what he documented in CDCR 602 Inmate appeal log # RJD-C-18-4900. However, during the interview with





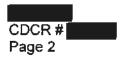
Conclusion:

This Reviewer has reviewed all documents related to this allegation and has deemed the allegation of staff misconduct and unprofessionalism to be unfounded. Inmate has established a pattern of submitting CDCR 602's and CDCR Form 22's making allegations of staff threatening to kill him or his family. The Special Allegation Review Teams determined these allegations to be unfounded due to inconsistencies with his allegations. Additionally, the Richard J. Donovan Correctional Facility has also reviewed the allegations made by Inmate and also determined the allegations to be unfounded.

This reviewer has reviewed all available documents and pertinent information and has determined Inmate allegations of staff misconduct and unprofessionalism to be unfounded. Based on the similar allegations made by Inmate at California State Prison – Los Angeles County, Salinas Valley State Prison, California Institution for Men, and the Richard J. Donovan Correctional Facility, this reviewer believes Inmate allegations may be related to his mental illness:

Memorandum

Date July 5, 2019 To Patrick Covello Warden (A) Richard J. Donovan Correctional Facility Subject: FINDINGS OF INMATE ALLEGATION INQUIRY Inmate/Parolee Name: CDC Number: Assigned Reviewer: Name and Title Correctional Lieutenant Accused Staff Member(s): Officer A thorough review of the information provided by the Special Allegation Review Team has been completed. During the interview with the Special Allegation Review made an allegation of unnecessary use of force by custody Team. Inmate staff. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C. Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry, Inmate stated to the Special Allegation Review Team custody staff assaulted him in the rotunda of a housing unit on Facility C. However, Inmate failed to provide the specific date and time of the alleged incident. Additionally, during the interview with the Special Allegation Review Team, Inmate alleged custody staff on Facility C escort inmates barefoot across the facility yard. Findings: This Reviewer conducted a follow-up interview with Inmate June 25, 2019, to clarify the allegations made by Inmate I to the Special Allegation Review Team. During the interview with Inmate this Reviewer questioned Inmate regarding the allegations he made. During the interview, responded to the questions asked, stating in part, I was never assaulted by staff. I just said that. I was suicidal. Inmate was questioned regarding the allegation that staff escort inmates barefoot across the yard. Inmate stated in part, the CO was escorting me to crisis bed that is the way they escort suicidal inmates. I know they have to strip them out so that's why I was barefoot. I mean now that I think about it that was nothing compared to what Jesus Christ went through back then.



I mean that was something, so this aint nothing compared to what he went through. The Interviewer concluded the interview.

Conclusion:

This Reviewer has reviewed all documents related to Inmate allegation and
has determined there was no staff misconduct. The Reviewer reviewed the Inmate
Parolee Appeal Tracking System and discovered Inmate has filed eight
inmate appeals within the past two years. None of the appeals filed by Inmate
have been Staff Complaints or allegations of staff misconduct. The Reviewer
further took into consideration the face-to-face interview with Inmate when he
stated, "I was never assaulted by staff". Therefore, this Reviewer could not
substantiate any of the allegations made by Inmate However, the Reviewer
instructed the Facility C supervisors of the allegation made by Inmate
regarding being escorted across the yard bare foot. The supervisors were instructed
if this practice is discovered, it should be rectified.

The Reviewer concludes, after interviewing Inmate allegation regarding staff misconduct to be unfounded. It is my recommendation no further inquiry is deemed warranted.



MEMORANDUw

unfounded.

CONFIDENTIAL

March 5, 2020 Date: To: M. Pollard Warden (A) Richard J. Donovan Correctional Facility Subject: FACT FINDING INQUIRY RESULTING FROM THE BISHOP REPORT DATED DECEMBER 2018 (EVENT RJD-C-19-048) SUMMARY: Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop report on behalf of alleged he observed Correctional Officer kick Inmate Inmate in the face while in restraints. **FACT FINDING INQUIRY:** This allegation was queried by Correctional Sergeant This allegation was also reviewed as a Staff Complaint by Correctional Lieutenant **DOCUMENT REVIEW & ANALYSIS:** A review was conducted into this matter and it was discovered an inquiry and an investigation was completed regarding the aforementioned incident involving A Confidential Memorandum dated June 6, 2019, authored Correctional Sergeant was generated, which documented the origin and events that transpired on October 27, 2018, which lead to being stabbed and allegedly kicked in the face. The memorandum notates interviews conducted with the inmates named and the staff members named. Sergeant the discrepancies and found the allegation to be "Unfounded." However, Sergeant failed to interview Correctional Officers e and i submitted an appeal (CDCR 602-Staff Complaint) regarding this allegation. As a result, Correctional Lieutenant . conducted an appeal inquiry regarding this allegation and determined to be unfounded. This was based on lack of evidence. **CONCLUSION:** An investigation was conducted in regard to this allegation. It is determined there is no evidence to support the claim provided by Inmates and and Officers are currently no longer employed with the California Department of Corrections and Rehabilitations and are not available to be interviewed regarding this allegation. Therefore, there is no further information that could be obtained to change this allegation from being

Bishop Report December March 5, 2020 Page 2

Based on this information, Richard J. Donovan has no further interest in this matter and considers this case closed. This information is provided for your review and disposition. Should you have any questions, I can be reached at extension

Correctional Lieutenant Salinas Valley State Prison 3/6/2020: I concue n/RY. Consider This Allesanion. Closed. M. Phanden.

CONFIDENTIAL

State of California

Department of Corrections and Rehabilitation

Memorandum

Date June 6, 2019

PATRICK COVELLO

Warden (A)

Richard J. Donovan Correctional Facility

Inmate/Parolee Name:

CDC Number:

Assigned Reviewer - Name and Title:

Findings: UNFOUNDED

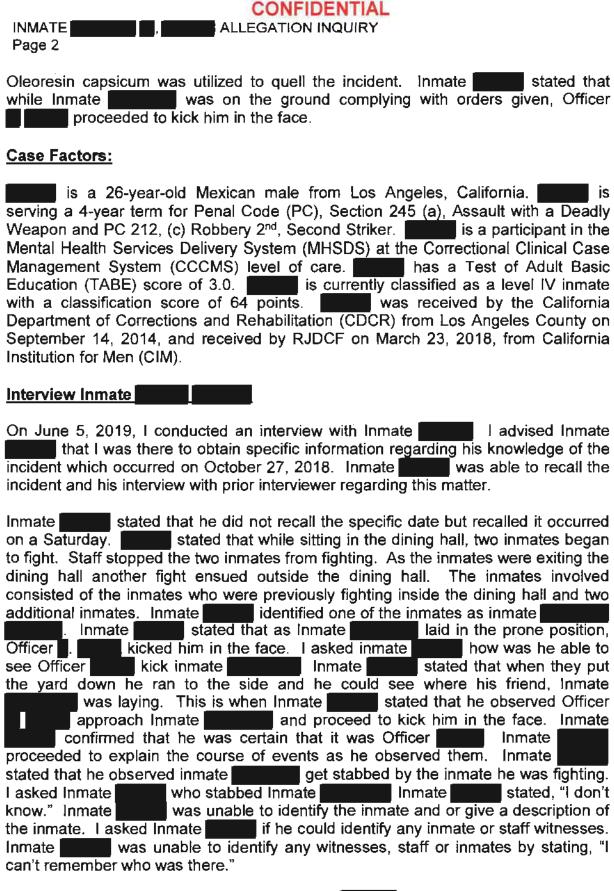
Accused Staff Member(s):

On December 4, 2018, Associated Warden Jason Bishop arrived at the Richard J Donovan Correctional Facility (RJDCF), along with a team of Investigative Services Unit (ISU) staff from outside institutions and staff from the Ombudsman's Office to conduct interviews. This team was tasked with conducting interviews with the inmate population housed on Facility C. The interviews were regarding staff misconduct allegations received by the Prison Law Office. Subsequently, the RJDCF Hiring Authority requested a three-person panel consisting of Basic Investigators to thoroughly review allegations identified in Jason Bishop's report.

In the course of the interviews Inmate ..., was was interviewed and his allegation was identified as requiring further review. Inmate made his allegations of witnessing unnecessary and excessive force via the Inquiry Team interview. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.

Synopsis of Allegation:

Inmate alleges that on October 27, 2018, during the course of evening meal a fight occurred inside the Facility C Dining Hall. The fight carried outside of the dining hall which escalated to an additional two inmates engaging in the fight. Inmate identified Inmate are all two inmates that engaged in the fight.



With no further information provided by Inmate I concluded the interview.

inmate allegation of staff misconduct;

Findings:

During review of Inmate allegation, I reviewed all related pertinent documents to include previously submitted inquiries, subject interviews, victim interviews, staff interviews, submitted Appeals, Strategic Offender Management System (SOMS), Electronic Records Management System (ERMS) files and Tele-Staff.

A review of Inmate/Parolee Appeal 602, Log # RJD-C-18-8004, submitted by inmate and the videotape interview conducted with him identify several statements which contradict inmate allegation. The following were identified as statements and or circumstances that could raise question to the validity of

- In the course of the videotaped interview conducted with inmate that he was "kicked" by Officers. Inmate does not identify Officer in his interview nor does he claim to being kicked in the face at any time.
- Inmate was asked specific questions during the appeal interview. He was advised that he did not identify who kicked him. Inmate stated that it was CO (Correctional Officer) Inmate was asked how did he know it was Officer Inmate responded, "He was there."
- A review of the Appeal Response notes an interview with Officer states he was unable to respond or observe the incident due to being inside dining hall #2.

Conclusion:

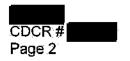
A review of all available documentation, audio and video recording related to this allegation have been completed. Based on evidence reviewed this investigator concludes inmate allegation to be Unfounded. Inmate Inmate and Inmate all made contradicting allegations. Additionally, all injuries sustained by inmate during the course of the incident coincide with the reported inmate assault which was observed by responding staff.

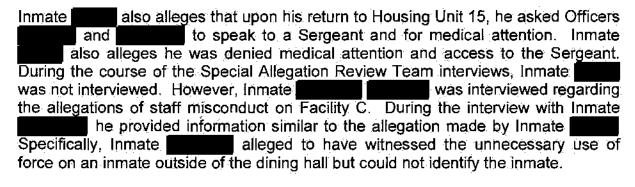
It is my recommendation no further inquiry is deemed warranted in regards to this allegation.

State of California

Department of Corrections and Rehabilitation

Date :	August 9, 2019
To :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer Correctional Officer Correctional Officer Correctional Officer
	A thorough review of the allegations made by Inmate
	Synopsis of Allegation: Inmate originally made his allegation of unnecessary force on a CDCR 602, Inmate/Parolee Appeal form, Log # RJD-C-18-2265. In the appeal, Inmate alleges that during the evening meal, Officers of and assaulted him in front of the Facility C Dining hall. Specifically, Inmate alleges Officer of threw him against the wall and kicked his legs apart. Additionally, Inmate alleges Officer of slammed his head against the brick wall twice causing injuries to his lip and left cheek area. Furthermore, Inmate alleges he attempted to speak to Sergeant



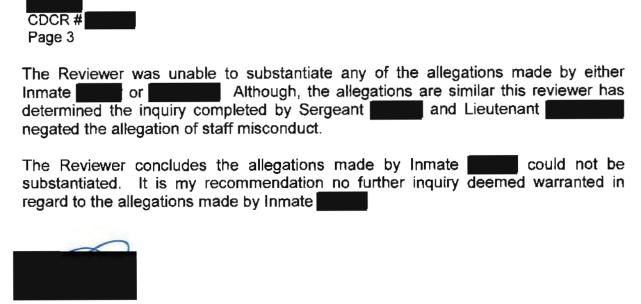


Findings:

During this Reviewer's review of Inmate allegations, all pertinent documents related to the allegation were reviewed. During the review of the allegations, the Reviewer discovered all witnesses identified by Inmate were questioned in regard to his allegations. Additionally, the Inmate Appeal responder Sergeant identified additional witnesses to the alleged incident.

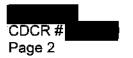
Conclusion:

This Reviewer has reviewed the documents related to Inmate was not interviewed during the Special Allegation Review Team interviews. However, this Reviewer was able to review all the information required to conduct a thorough review of the allegation. This Reviewer reviewed Appeal a log # RJD-C-18-2265, in which Inmate initially made his allegation of unnecessary use of force. Correctional Sergeant Confidential Supplement Appeal Inquiry memorandum Attachment C regarding this appeal. In this appeal inquiry, Sergeant interviewed multiple inmate and staff witnesses. Sergeant interviewed Inmate during the confidential inquiry. Sergeant concluded, after her inquiry, that Inmate allegations were unfounded due to inconsistencies with the allegations. Furthermore documented Inmate self-admitted to being involved in physical altercations on Facility C, which could have been the cause of the reported injury. Additionally, Correctional Lieutenant the Investigative Services Unit Lieutenant at the time, reviewed the allegation for staff misconduct and allegation had no merit. Lieutenant determined Inmate discovered that at the time of the alleged incident Facility C had multiple incidents during the timeframe Inmate alleges the staff misconduct occurred. The Institutional Executive Review Committee reviewed Inmate Misuse of Force on May 25, 2018. The Committee closed the allegation with no further action warranted. On February 15, 2019, Correctional Lieutenant Ironwood State Prison, reviewed the allegation and recommended the allegation be referred to the Office of Internal Affairs for Administrative Review and further investigation. On April 17, 2019, the Internal Affairs Central Intake Panel closed the allegation of staff misconduct, rejecting the referral. The Central Intake Panel documented in the rejection decision letter there was no reasonable belief misconduct occurred. This Reviewer reviewed all information gathered and generated by the previous inquiry and has determined no further inquiry would have discovered any additional information not already disclosed.



State of California

Date :	July 2, 2019
To :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE CONTROL (CONTROL ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer Correctional Officer
	A thorough review of the allegations made by Inmate and all of the information gathered by the Special Allegation Review Teams has been completed. Inmate made his allegations of unnecessary and excessive force via the Inmate Appeal process and during interviews with Allegation Inquiry Teams at the Richard J. Donovan Correctional Facility (RJDCF). Information was gathered by the Special Allegation Review teams which reviewed the allegations of staff misconduct from Facility C. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team inquiry and through the Inmate Appeals process, Inmate alleged, on December 9, 2018, Correctional Officers and (Officer) used excessive force by putting their knees on his face while he was in the prone position after his cellmate attempted to fight him on the Facility C yard. Inmate further alleged he submitted a CDCR 602 regarding an allegation of unnecessary force in May of 2018. During his interview with the Special Allegation Review Team, Inmate claimed he informed custody staff of his incompatibility with his cellmate. Inmate alleged he was placed into handcuffs and dropped to the floor. Once on the ground Inmate alleges staff put their knees on his back. Inmate additionally stated he has witnessed staff assaulting inmates.



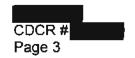
Findings:

During the review of Inmate allegations, the reviewer reviewed all pertinent documents related to the allegation. Inmate filed Inmate/Parolee Appeal CDCR 602 log number RJD-C-19-1102 regarding his allegation of excessive and unnecessary force on February 22, 2019. The reviewer identified random inmates who witnessed the incident and refuted the allegations made by Inmate During the Special Allegation Interview, Inmate further stated custody staff used unnecessary force in retaliation of him reporting his incompatibility with his cellmate in May of 2018. After a review of appeal log # RJD-C-18-3971, it was discovered, Inmate never documented an allegation of misuse of force, which is what he informed the Special Allegation Review Team. Additionally, during the course of the interviews with the Special Allegation Review Team, Inmate alleged he witnessed several assaults on inmates by custody staff. However, Inmate did not provide any specific details to these alleged incidents.

Conclusion:

This Reviewer has reviewed all documents related to the allegations made by Inmate This Reviewer has deemed the allegation of misuse of force related to appeal log # RJD-19-1102 to be unfounded. Inmate has failed to provide information to help support his claim in this allegation. The Reviewer discovered no information to corroborate his allegation. In regards to the second allegation of staff use of unnecessary force, this Reviewer reviewed appeal log # RJD-C-18-3971 and discovered Inmate did not report any misuse of force. During the interview with the Special Allegation Review Team, Inmate stated he documented this allegation on his CDCR 602. This appeal was reviewed by the Appeals Office and classified as a Custody Classification appeal issue. Inmate requesting to be placed on single cell status and have his cellmate removed from the cell due to the cellmate being a PC, doing drugs, and having a lot of traffic at the cell. The Reviewer determined this allegation to be unfounded due to Inmate final allegation was he had false statements to the interviewers. Inmate observed custody staff assault inmates on Facility C. On June 5, 2019, this regarding the additional allegation he made to Reviewer interviewed Inmate the Special Allegation Review Team. During this interview, Inmate asked to provide the names of the alleged victims of these alleged incidents. Inmate could not provide the names of any inmates of the alleged assaults by staff. Additionally, Inmate was asked to provide the names of any inmate that could corroborate his additional allegation. Inmate refused to provide names. Furthermore, inmate was asked to provide the names of any of the staff that may have been involved or witnessed the alleged misconduct Inmate simply stated "I refused to provide any names or dates. Inmate don't know. I can't remember."

Additionally, Inmate allegation of misuse of force appeal log # RJD-C-9-1102 was reviewed by the Institutional Executive Review Committee on May 29, 2019, and was closed with no further action recommended by the committee.



The Reviewer concludes the allegation filed by Inmate regarding the misuse of force to be unfounded. Inmate has failed to provide any supporting evidence to his allegation. In regards to the additional allegations made the Reviewer was unable to verify these allegations due to by Inmate refusal to provide specific dates, times, and victims. Therefore, the Reviewer determined these allegations to be unfounded. It is my recommendation no further inquiry is deemed warranted in regards to all of the allegations made by Inmate

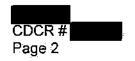
Correctional Lieutenant

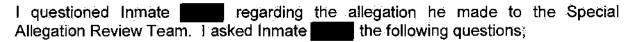
Richard J. Donovan Correctional Facility

Department of Corrections and Rehabilitation

State of California

Date :	July 8, 2019
То :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE CONTROL (CONTROL ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: . Correctional Lieutenant
	Accused Staff Member(s): Unidentified
	A thorough review of the allegations made by Inmate of the information gathered by the Special Allegation Review Team has been completed. Inmate made his allegations of staff misconduct and excessive force on December 4, 2018, during interviews with Special Allegation Review Teams at the Richard J. Donovan Correctional Facility (RJDCF). This information was gathered by the Inquiry Team, which reviewed the allegations of staff misconduct from Facility C. During the follow up inquiry in January 2019, Inmate was not interviewed to clarify his allegations of staff misconduct. However, this Reviewer conducted a follow up interview with Inmate on June 25, 2019. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team interview, Inmate made several allegations regarding staff misconduct on Facility C. During this Reviewer's review of the allegations made by Inmate several discrepancies needed to be addressed to render an accurate determination regarding the allegation made. This Reviewer determined a follow-up interview was necessary to clarify the allegation made by inmate on June 25, 2019, this Reviewer conducted a follow-up interview with Inmate
	Findings: During the review of Inmate allegations, the Reviewer reviewed all pertinent documents related to the allegation. During the review of the allegations, the Reviewer questioned Inmate in regards to his allegation. During the interview,



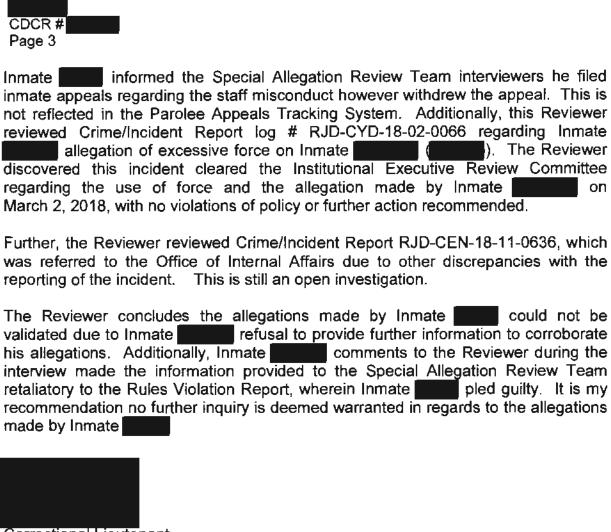


- Q.) During the interview with the investigators you made several allegations of staff misconduct, these questions are to clarify the allegations. You stated you have knowledge of staff planting a weapon on inmates. Can you identify the inmate and staff?
- A.) Yes. The Inmate was me. They planted the weapon on me.
- Q.) Who was the staff member?
- A.) I am not gonna say. I just said all this to make a point. I did have a weapon and I went to court on it, but it wasn't the weapon they said it was. I was just making a point.
- Q.) Was it the reporting employee of the weapon?
- A.) Like I said I aint going to say. I wanted to make a point and I did. I had a weapon so it is what it is. It just wasn't that weapon.
- Q.) You stated you observed an Officer place an inmate in a chokehold who later died. Can you identify the inmate and staff?
- A.) The staff was CO limit I don't remember the inmate. He put him in a chokehold over tobacco.
- Q.) Did you observe Officer use excessive force during that incident?
- A.) got his discipline for that. And he is not on the yard anymore. That was handled so I don't want to say anything more about that incident. got his discipline.
- Q.) You stated you know of an Indian that was beaten by staff so bad he later died, can you identify the inmate and staff?
- A.) No. I just heard it was an Indian guy out of 14 block.
- Q.) During the Interview you stated you filed an appeal regarding the staff and you withdrew the appeal. Why did you withdraw the appeal?
- A.) Like I said earlier. I was just trying to make a point by saying all that stuff. I didn't file an appeal. They planted the weapon. I plead guilty to it because I did have a weapon. But not that one. I made my point.

I concluded the interview with Inmate

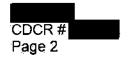
Conclusion:

This Reviewer has reviewed the documents related to Inmate so interview and conducted a follow-up interview to clarify the allegations made by Inmate. The Reviewer was unable to substantiate the third party allegation of staff misconduct due to Inmate refusal to provide names of staff and inmates. During this Reviewers interview with Inmate he stated the statements made to the interviewers were "to make a point". This Reviewer took this comment as Inmate knowingly made false statements to the Special Allegation Review Team as a retaliatory action to Rules Violation Report log # 4392126 Possession of a deadly weapon. This Reviewer also reviewed Crime Incident Report log # RJD-C12-18-02-0075 wherein the reporting employee clearly documents the discovery of the weapon. Additionally, the Reviewer reviewed the Inmate Parolee Appeals Tracking System which shows Inmate has filed thirty-seven inmate appeals from January 2018 to present, none of which are allegations of staff misconduct.



State of California

Date ;	July 1, 2019
Tớ g	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title . Correctional Lieutenant
	Accused Staff Member(s): None Identified
	A thorough review of the allegation made by Inmate Special Allegation Review Teams has been completed. Inmate several third party allegations of unnecessary and excessive force during his interview with the Special Allegation Review Team. Specifically, Inmate alleged he witnessed custody staff "dump" an inmate from his wheelchair in front of Housing Unit 15. The Special Allegation Review Team discovered CDCR 837, Crime/Incident Report, Log # RJD-CYD-18-11-0679, involving Inmate allegations of custody staffs' use of excessive force on another inmate, which was allegedly involved in an altercation with staff. During the interview with the Special Allegation Review Team, Inmate Allegation Review Team, Inmate failed to identify any of the alleged staff or inmates involved in any of his allegations. All information was gathered and reviewed to render a thorough determination regarding the allegation made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the Special Allegation Review Team interviews, Inmate alleged he observed the use of excessive force back in November of 2018. Specifically, Inmate alleged he observed custody staff, "dump" an inmate from his wheelchair to the ground in front of the EOP building on Facility C. The Special Allegation Review Team discovered CDCR 837, Crime/Incident Report, log # RJD-CYD-18-11-0679, which had similar circumstances to the third party allegation made by Inmate Additionally, Inmate made several allegations during the interview with the Special Allegation Review Team. However, Inmate did not provide any details to the investigators. Every time Inmate was asked for the names of the involved staff or inmate he would state he had just arrived to RJD.

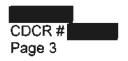


Furthermore, when Inmate was asked if he witnessed the alleged misconduct Inmate would state no, he heard from another inmate. Inmate was never able to provide staff names, inmate names, dates, or times of any of his allegations.

Findings:

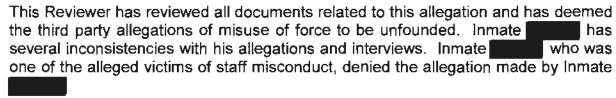
During the review of Inmate states allegations, the reviewer reviewed all pertinent documents related to the allegations. The Special Allegation Review Team who conducted allegation interviews with inmates on Facility C submitted a memorandum of findings dated December 10, 2018, authored by J. L. Bishop, Associate Warden California Institution for Men. In this memorandum, Associate Warden Bishop recommended immediate follow-up of Inmate s allegation of excessive force on an old Black man and the allegation of an inmate that was assaulted by staff. On February 15, 2019, Correctional Lieutenant Ironwood State Prison. completed an additional inquiry into the allegations of staff misconduct on Facility C. Lieutenant submitted a memorandum dated February 15, 2019, titled Office of Internal Affairs Referrals. On this memorandum, Lieutenant the allegation of excessive force on Inmate) be referred to the Central Intake Unit for further review into the allegation. Lieutenant recommendation was based on a review of CDCR 837, Crime/Incident Report, log # RJD-CYD-18-11-0679, in which Inmate was forced to the ground by Correctional Staff. Lieutenant documented in his memorandum no response supervisor was present before, during, or after the incident. Additionally, Lieutenant documented a response supervisor did not submit a report related to this incident. Furthermore, Lieutenant documented the reporting employee failed to adequately describe an imminent threat and had other resources available prior to the use of force.

This Reviewer reviewed the Crime/Incident Reports related to this incident and found Correctional Officer the reporting employee, documented Inmate stood from his wheelchair and faced him with clinched fists and was being belligerent perception was Inmate towards staff. Officer posed a threat to cause serious bodily injury, which necessitated the use of immediate force. This information was documented in Officer report and the Reviewer believes a competently trained correctional employee faced with similar facts and circumstances would react in a similar manner. In regard to a supervisor not being present before, during, or after and not submitting a report, this Reviewer reviewed the Use of Force policy which states any staff that uses or witnesses a use of force must submit a report. If an employee does not use or witness a use of force, they are not required to submit a Crime/Incident Report, Part C. Lieutenant further documented Inmate stated stated (was assaulted in front of Officer by two inmates and Officer failed to act. This Reviewer Interviewed on June 25, 2019, regarding this allegation. Inmate asked about the altercation in Housing Unit 14. Inmate stated in part, I was having issues on the yard with Security Threat Groups (STG's). I got beat up on the yard a little before that happened. Then I got jumped in the building.



I asked the officers to move me to Building 15 and they helped me out and got me to 15 to get me away from those inmates I was having issues with.

Conclusion:



Inmate allegation of misuse of force was reviewed by the Institutional Executive Review Committee on December 21, 2018, and was closed with no further action recommended by the committee.

Additionally, Crime/Incident Report. Log # RJD-CYD-18-11-0679, was reviewed by the Institutional Executive Review Committee on December 21, 2018 and was closed with no further action recommended by the committee.

It should also be noted this allegation was referred to the Central Intake Unit on March 11, 2019. The Central Intake Panel reviewed the allegation and determined there was no staff misconduct discovered. The Central Intake Panel rejected the allegation stating "CIU returned this case to the HA because there is no reasonable belief misconduct occurred."

The Reviewer concludes the complaint filed by Inmate regarding the third party allegations of misuse of force to be unfounded. Inmate has failed to provide any supporting evidence to this third party allegations. It is my recommendation no further inquiry is deemed warranted in regards to the allegations made by Inmate



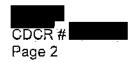
Memorandum

Date : July 9, 2019

Го :	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title . Correctional Lieutenant
	Accused Staff Member(s): None
	A thorough review of the information provided by the Special Allegation Review Team regarding Inmate interview has been completed. Inmate made no allegation of staff misconduct to the Special Allegation Review Team.
	Synopsis of Allegation: On February 12, 2019, Inmate was interviewed by the Special Allegation Review Team. During the interview Inmate did not make any allegations of staff misconduct.
	Findings: During the review of the information provided by the Special Allegation Review Team it was discovered Inmate made no allegation of staff misconduct. The Special Allegation Review Team made the determination that no further investigation or review is needed.
	Conclusion: This Reviewer has reviewed the documentation provided by the Special Allegation Review Team and has discovered Inmate has made no allegations of staff misconduct. Based on the information provided, this Reviewer has concluded there was no staff misconduct. It is my recommendation no further inquiry is deemed warranted in regards to Inmate interviews.
	Correctional Lieutenant Richard J. Donovan Correctional Facility

State of California

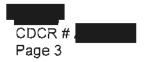
	•
Date :	
То ∷	Patrick Covello Warden (A) Richard J. Donovan Correctional Facility
Subject:	FINDINGS OF INMATE ALLEGATION INQUIRY
	Inmate/Parolee Name:
	CDC Number:
	Assigned Reviewer: Name and Title Correctional Lieutenant
	Accused Staff Member(s): Correctional Officer Correctional Sergeant
	A thorough review of the allegations made by Inmate and all of the information gathered by the Inquiry Teams has been completed. Inmate made his allegations of unnecessary and excessive force via the Inmate Appeal process and during interviews with Mental Health providers at the Richard J. Donovan Correctional Facility (RJDCF). Information was gathered by the Inquiry teams which reviewed the allegations of staff misconduct from Facility C. All information was gathered and reviewed to render a thorough determination regarding the allegations made against the correctional staff assigned to Facility C.
	Synopsis of Allegation: During the course of the independent inquiry and through the Inmate Appeals process Inmate alleged, upon his arrival to the RJDCF, on November 1, 2018, he informed staff of his self-expressed safety concerns on Facility C. Inmate alleges, his safety concerns were ignored by all staff and he was sent to Facility C. Inmate alleges Correctional Officer and an unknown officer, escorted him to Facility C, Housing Unit 14 on a cart. During the course of the escort, Inmate alleges he informed Officer of his safety concerns. Inmate alleges Officer stopped the cart in front of Housing Unit 14 and exited the cart. Inmate further alleges Officer walked over to him, while still on the cart, and utilizing his right hand grabbed him by his neck in between his collar bone and neck and choked him. Inmate alleges Officer stated to him, "You are going in here and if you move I'm gonna fuck you up." Inmate alleges there were other officers around during this interaction with Officer and Inmate alleges, Officer utilizing the hold on his neck, escorted him into Housing Unit 14 and sat him down and started rubbing his



back saying "its ok Additionally, Inmate alleged he arrived to the RJDCF in April 2017 and upon his arrival he informed Sergeant of his self-expressed safety concerns. Inmate alleges Sergeant threatened him with taking his personal property if he attempted to go to the Administrative Segregation Unit (ASU) for safety concerns. Inmate alleges once he arrived in ASU, he received a copy of his Inmate Property Inventory CDCR 1083 which had his property as confiscated for being altered. Inmate alleged Sergeant confiscated his property for claiming safety concerns and going to ASU.

Findings:

During the review of Inmate allegations the reviewer reviewed all pertinent documents related to the allegation. Inmate filed Inmate/Parolee Appeal CDCR 602 log number RJD-X-18-0607 regarding his personal property on January 13, 2018 which was approximately 280 days after the alleged incident. alleges the delay from filing this appeal was due to his housing in crisis bed and ASU. However, inmates are not restricted from filing an appeal while in this housing class therefore this appeal was canceled for not meeting time constraints set forth by the California Code of Regulations Title 15 section 8084. Inmate submitted appeal log # RJD-C-19-0171 regarding an alleged misuse of force by Officer During the review of this allegation the Interviewer questioned in regards to his allegation. During the interview, Inmate Inmate Officer I was the only Officer present during the alleged Misuse of Force. Inmate further stated that officers were walking towards Inmate in front of Housing Unit 14, however Officer waved them off stating "he has this." Inmate stated in his appeal, Officer and another unknown officer escorted him to Facility C, however Inmate did not mention the other officer during the allegation interview. Additionally, Inmate forced him into Housing Unit 14 utilizing a choke hold and sat him down and rubbed his back. During the allegation interview, Inmate stated Officer Inmate) who was assigned to and inside of cell during the alleged incident. stated to the interviewer, this allegation never Inmate informed the interviewer; Inmate never entered the happened. Inmate cell and went man down on the dayroom floor. Inmate further stated staff did not do anything to inmate. The interviewer interviewed additional inmates who were assigned to Housing Unit 14 during the alleged incident and all refuted the allegation made by Inmate Inmate also filed appeal log # RJD-X-18-8150 in which he alleges safety concerns at RJDCF regarding being the victim of an attack by inmates on Facility C. Inmate documented in his appeal as being his enemy at RJDCF. In this appeal, Inmate does not mention the alleged staff misuse of force. During the allegation as his enemy and does not interview. Inmate identifies Inmate mention Inmate . During the appeal allegation interview, Inmate was asked if Officer and Inmate were removed from the institution. could be program at the RJDCF. Inmate stated no and broadened his allegation in an effort to demonstrate his safety concerns at RJDCF.



Conclusion:

This Reviewer has reviewed all documents related to this allegation and has deemed the allegation of misuse of force to be unfounded. Inmate inconsistencies with his allegations, appeals, and interviews. Random inmates, who were housed in Housing Unit 14 during the alleged incident, were interviewed in the course of the allegation inquiry. All the inmates interviewed refuted the allegations made by Inmate The Reviewer considered the interview of Inmate. the most damaging to Inmate allegation as Inmate was the assigned cellmate in Housing Unit 14. Inmate interview negated the allegations of misuse of force. During the course of the review the Reviewer attempted to identify staff that could corroborate Inmate allegations however Inmate refused on several occasions to identify staff that may have witnessed the alleged incident. The Reviewer deemed Inmate deceitful responses as an attempt to manipulate the allegation. As for the allegation of personal property being confiscated for claiming safety concerns, the reviewer finds this appeal may have merit as staff did not allow Inmate the opportunity to send his property home if it was confiscated for being altered. Additionally, the reviewer reviewed Inmate Strategic Offender Management System (SOMS) and discovered several Administrative Segregation Unit Placement Notices wherein Inmate alleges self-expressed safety concerns. Based on the number of self-expressed safety concerns discovered in SOMS, it appears Inmate is utilizing the ASU placement and Safety Concerns as an avenue to avoid being housed at a certain institution.

Inmate allegation of PREA was given log # CHCF-PREA-18-12-054 and was determined to be unsubstantiated on March 2, 2019.

Additionally, Inmate allegation of misuse of force was reviewed by the Institutional Executive Review Committee on March 29, 2019 and was closed with no further action recommended by the committee.

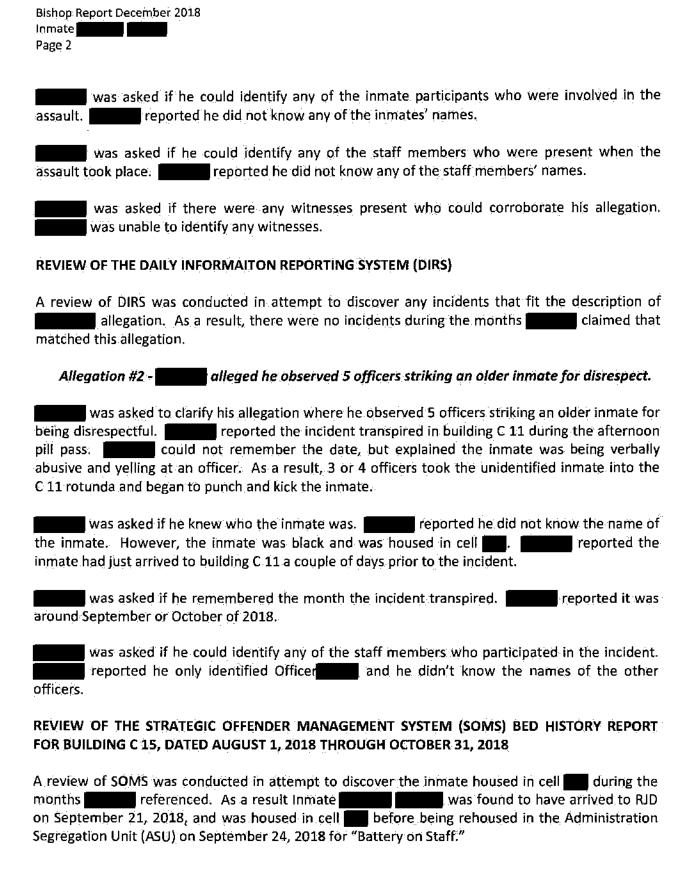
The interviewer concludes the complaint filed by Inmate regarding the misuse of force to be unfounded. Inmate has failed to provide any supporting evidence to his allegation. It is my recommendation no further inquiry is deemed warranted in regards to the allegation of Misuse of Force. Additionally, regarding the allegation of personal property the reviewer recommends this appeal be reinstated and answered at the Second level of review for possible compensation if policy is found to have been violated.



CONFIDENTIAL

MEMORANDUM

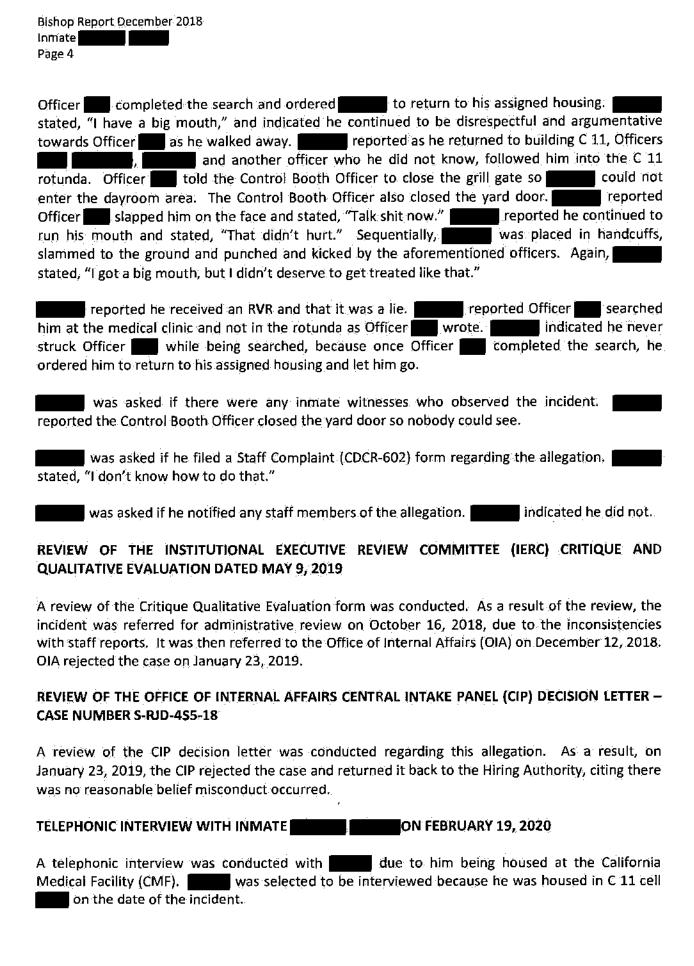
Date:	March 3, 2020
То:	M. Pollard Warden (A) Richard J. Donovan
Subject:	FACT FINDING INQUIRY RESULTING FROM BISHOP REPORT DATED DECEMBER 2018 (EVENT RJD-C-19-004)
	SUMMARY:
	Richard J. Donovan (RJD) Correctional Facility received a request for a fact finding inquiry, which was the result of allegations provided by the Bishop report on behalf of Inmate provided multiple allegations of staff misconduct during the RJD, June/July 2019, Armstrong Tour.
	FACT FINDING INQUIRY:
	PRISON LAW OFFICE ARMSTRONG REPORT DATED JUNE/JULY OF 2018
	During a review of the Bishop report, I determined the following allegations needed to be addressed:
	 alleged he observed officers have an inmate assaulted by other inmates'. alleged he observed 5 officers striking an older inmate for disrespect. alleged he observed an officer jump on an Enhanced Outpatient Program (EOP) inmate in a wheelchair.
	TELEPHONIC INTERVIEW CONDUCTED WITH CONTROL ON FEBRUARY 10, 2020
	A confidential interview was conducted via telephone with who was housed at Salinas Valley State Prison (SVSP). was informed of the purpose of the interview and was provided a brief synopsis of the allegations made. reported the allegations were true and factual, while he reiterated what was documented on the Bishop report. During the interview responded to the following allegations:
	Allegation #1 - alleged officers had on inmate assaulted by another inmate.
	was asked to clarify his allegation that officers had an inmate assaulted by another inmate. explained the incident happened during "pill call" at 2000 hours. could not remember the date it transpired, but recalled it was in September or October of 2018. Specifically, he observed five (5) white inmates batter one (1) white inmate between the gym and the urinals on the Facility C Yard. reported the officers failed to act and allowed the assault to take place. indicated the victim of the assault ended up running into building C 11 as staff watched. Staff never acted on the incident and the incident went unreported.

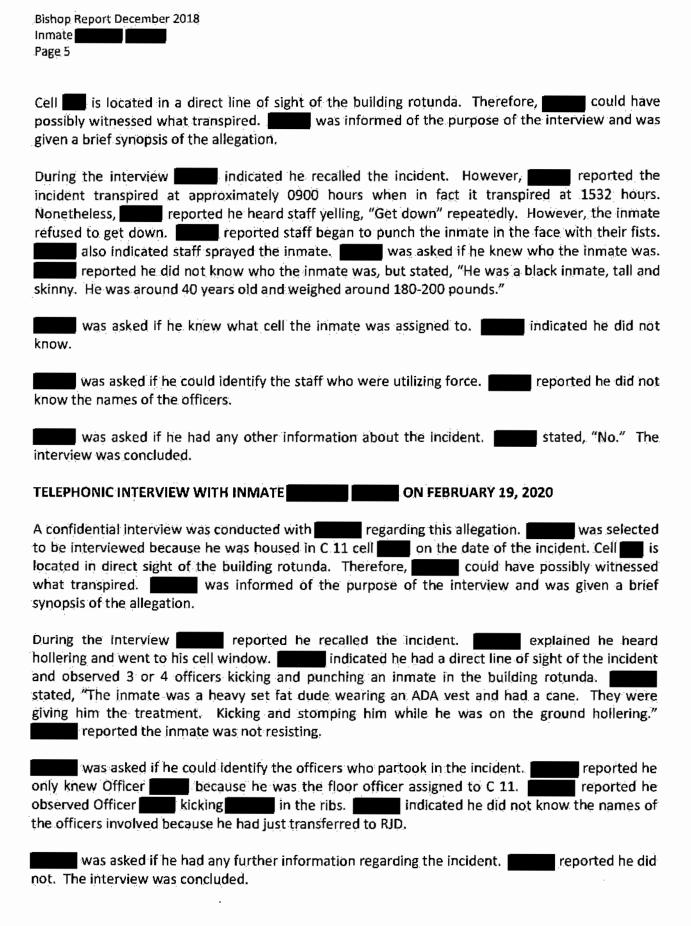


Bishop Report December 2018. Inmate Page 3

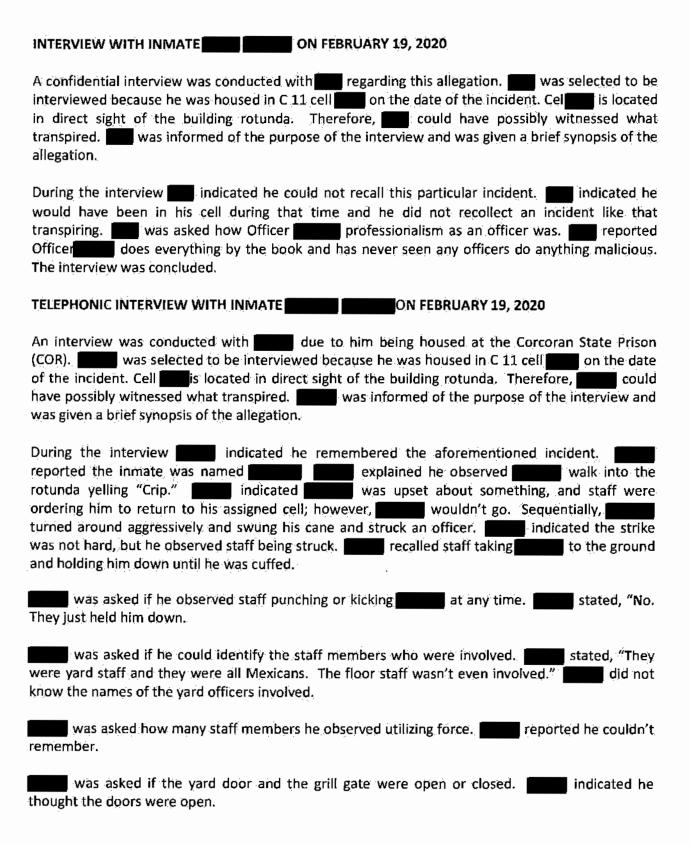
REVIEW OF THE DIRS DATED SEPTEMBER 21, 2018

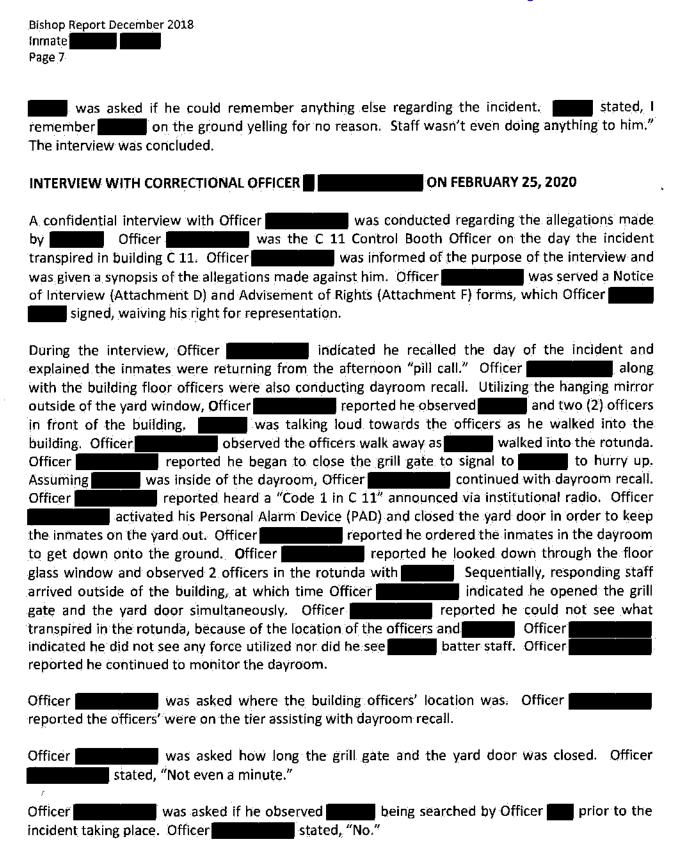
A review of DIRS was conducted in attempt to corroborate claim of an incident transpiring during the months he referenced. As a result, an Incident Report (CDCR-837) Log number RJD-C11-18-09-05651 was discovered that replicated the allegation made by This incident involved committing the specific act of "Battery on a Peace Officer." The location of the incident was in building C 11 rotunda. The incident report 837 –A1 reads as follows in part:
"On Monday, September 24, 2018, at approximately 1532 hours, Facility C Yard #2, Correctional Officer was conducting PM medication release in front of Housing Unit 11. Officer approached Inmate process in FC-11 and ordered him to go back into his housing unit with negative results as Inmate process became disrespectful by yelling obscenities. Secame erratic and his behavior intensified. Officer ordered to a clothed body search, complied. During the course of the clothed body search, began to tense up and utilized his elbow to strike Officer on his upper left rib cage area. Officer backed up and gave a direct order to get down with negative results as continued to walk towards him. Officer unholstered and utilized his MK-9 OC Pepper 5pray by spraying a 2 second burst from approximately 6 feet away, aiming for and striking in the face with negative results. Officer immediately announced via his institutional radio, "Code 1, housing unit 11, inmate resisting staff". In reached for his cane and gripped the lower portion of it like a baseball bat. Officer gave another direct order to get down with negative results as began to raise his cane off the ground. Fearing for his life, Officer utilized physical force to bring to the ground and placed him in handcuffs"
REVIEW OF DISCIPLINARY HISTORY VIA SOMS
A review of disciplinary history was conducted in attempt to discover documentation of the "Battery on a Peace Officer." As a result, a Rules Violation Report (RVR) was submitted on September 24, 2018, for the aforementioned charge (RVR Log number 05774444). On November 30, 2018, Senior Hearing Officer, Lieutenant found "Guilty" of the charge.
INTERVIEW WITH INMATE CONTROL (C 11 COLL) ON FEBRUARY 13, 2020
A confidential interview was conducted with regarding the incident in C 11 on September 24, 2018. It is a DD2 inmate and required me to speak slowly and utilize simple English. Additionally, I had describe in his own words when responding to my questions. was informed of the purpose of the interview and was given a brief synopsis of the allegation made.
reported he remembered the incident that happened in the C 11 rotunda. explained he had a verbal altercation with Officer in front of the medical clinic. As a result, Officer ordered to submit to a clothed body search, which complied.



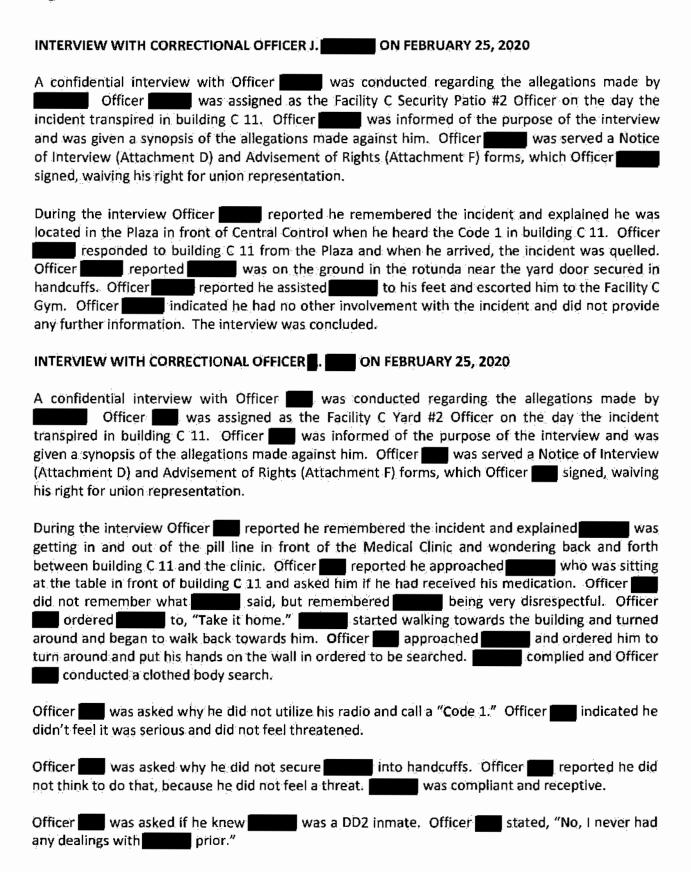


Bishop Report December 2018 Inmate Page 6

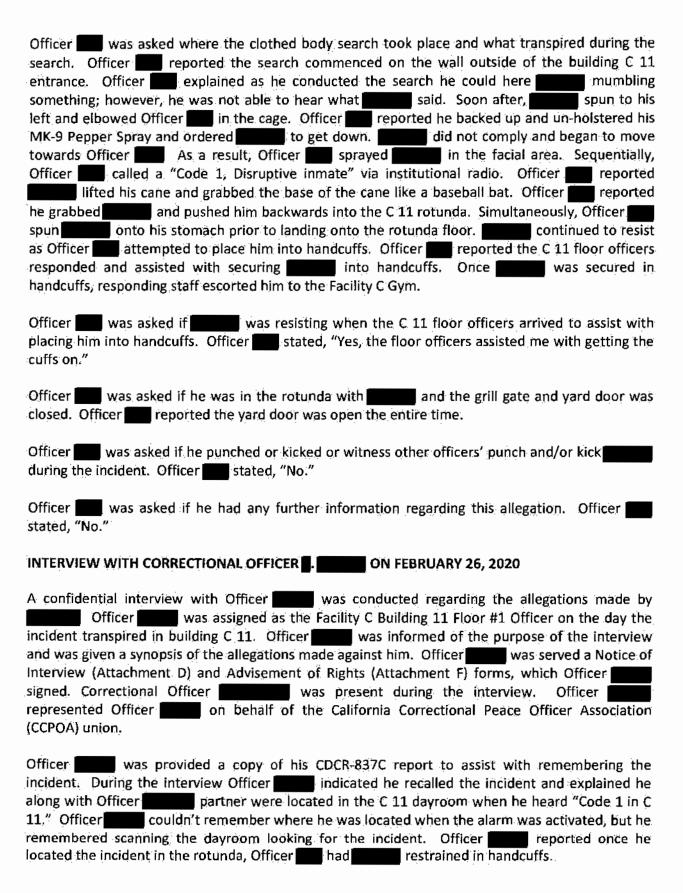


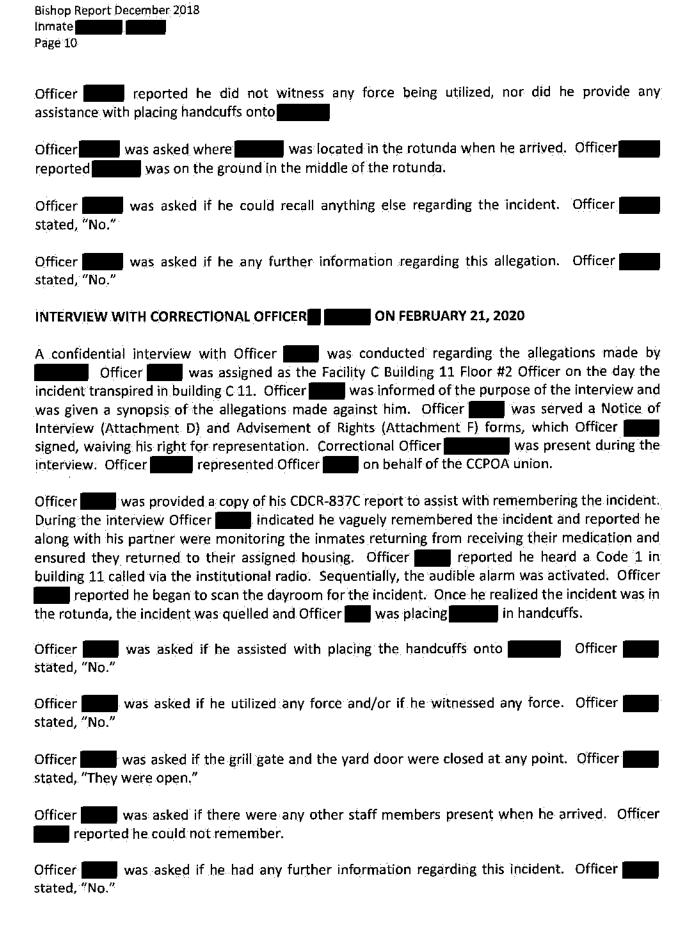


Bishop Report December 2018
Inmate Page 8









Bishop Report December 2018

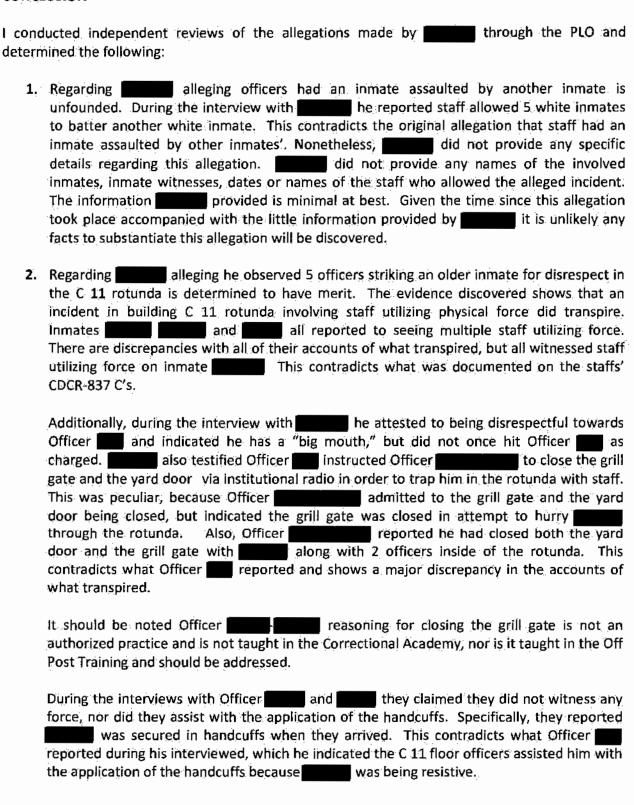
Inmate

Page 11

Note: An interview with regarding this allegation was not conducted; due to the fact that is no longer employed with the California Department of Corrections and Rehabilitation. Additionally, after reviewing the Third Watch Sign-In Sheet on the day of the incident, was not on duty.
Allegation #3 - alleged he observed on officer jump on on EOP inmate in a wheelchair.
was asked to clarify his allegation regarding an officer jumping on an EOP inmate in a wheelchair. Stated, "The incident happened during the 2000 hour pill line. Specifically, identified inmate as the inmate who was assaulted by an officer. Stated, "I was talking shit to the officers and the officers got pissed at him. They dumped him out of his wheelchair onto the ground."
was asked where he was located when this incident took place. reported he was in the pill line.
was asked if there were any witnesses who would corroborate his allegation, reported he could not remember because it was so long ago.
was asked if he could identify the staff who committed the act. Indicated he did not know the name of the officers.
was asked if he knew the date when the incident transpired.
TELEPHONIC INTERVIEW WITH INMATE ON FEBRUARY 18, 2020
A telephonic interview with was attempted on February 18, 2020. was housed at the California Health Care Facility (CHCF). Contact with building D1, Correctional Officer was made to assist with coordinating the interview. I was informed by Officer that was informed of the interview. However, refused to exit his cell and indicated he did not wish to participate with the interview.
REVIEW OF INMATE/PAROLEE APPEALS TRACKING SYSTEM (IATS) FOR INMATE
A review of IATS for was conducted. It was discovered submitted a Staff Complaint (Log number RJD-C-18-05272) dated August 16, 2018, regarding this allegation. The appeal indicated on August 16, 2018, he was assaulted by custody staff while in his wheelchair. A Confidential Supplement to Appeal (Attachment C) response was completed on March 15, 2019, by Correctional Sergeant. The Attachment C indicated refused to cooperate with the interview and would not answer any of the questions. The Attachment C also notated a videotape interview was conducted. Again, refused to cooperate with the line of questions during the videotaped interview. Therefore, the allegation was found to be without merit. The document also indicated the allegation was reviewed by the IERC on February 20, 2019. IERC also found the allegation to be without merit.

Bishop Report December 2018 Inmate Page 12

CONCLUSION



Bishop Report December 2018

Correctional Lieutenant

Inmate Page 13

	Additionally, Officer reported was located in the middle of the rotunda when he arrived to the incident. This also contradicts what Officer reported that was located near the building entrance door.
	Regarding alleging he observed an officer jump on Inmate in a wheelchair is unfounded. This was determined by multiple interview attempts with resulting with not cooperating. Additionally, the Attachment C and the IERC review indicated the allegation was deemed unfounded. Lastly, did not provide any names of inmate witnesses who observed the unnecessary use of force, nor did he identify the staff who utilized the unnecessary use of force. Therefore, there was no evidence discovered indicating this allegation to be true.
forward	thorough review of all the evidence it is believed that allegation #2 has merit and should be ded to the Hiring Authority for review for possible misconduct and policy violations. ions #1 and #3 were unfounded, due no discoverable evidence.

Recommendation For 181

EXHIBIT SS

Messag	e
--------	---

From: 6/9/2019 12:02:07 PM

Sent: 6/8/2018 12:02:07 PM

To: Covello, Patrick@CDCR [Patrick.Covello@cdcr.ca.gov]; Garnica, Luis@CDCR [Luis.Garnica@cdcr.ca.gov]; Frijas,

Emmanuel@CDCR [Emmanuel.Frijas@cdcr.ca.gov]

Subject: FW: RESCIND Modification Order #1714336 Request AMENDED SLR for #RJD-C-17-04660

This is an example of a systemic problem wherein the staff preparing appeal responses

- 1. are not interviewing all of the appropriate witnesses,
- 2. are not asking the appropriate questions of the witnesses who are interviewed,
- 3. and are making a determination based solely upon insufficient evidence/testimony.

	needs to be asked specifically, "Did you return to the cell?"
	needs to be asked specifically, "Did you state personal property items were
missing?"	
	needs to be asked specifically, "Do you know if the cell door was opened in the
	nate was a first of his cellmate?" (this question is very sensitive as it results in Officer on Off
inmate. But Office	already kinda' "dry-snitched" on [and the state of the st
Officer or his	needs to be asked specifically, "Did you open the cell door without inmate s cellmate present?"
Officer happened, but	needs to be asked specifically, "Did you state, 'I'm sorry for what you said It's a hundred people'?"
Officer happened, but	needs to be asked specifically, "Did you state, 'I don't know who's who or what don't do anything to anyone'?"
Officer it'?"	needs to be asked specifically, "Did you state, 'Get more time when you can 602
Officer	needs to be asked specifically, "Did you state, 'I hope you get it back sooner than

Perhaps the other floor officer(s) working that day can shed some light on whether the cell door was opened, and/or the circumstances when the door was opened.

I know we don't like making a habit of trusting inmates, but perhaps other inmates on the dayroom floor at the time can testify they observed inmate carry his property out of his cell.

Pursuant to CCR 3191(b) if we discovered any inmates in the building or on the facility with property items belonging to inmate we are obligated to confiscate them from that inmate and return them to unless there is some other stipulation dictating an alternate disposition.

CCR 3191(b), "In all instances of confiscation, every reasonable effort will be made to determine the rightful owner of the property. The property will be returned to its rightful owner unless, as the result of disciplinary action for misuse of property, the inmate's approval to possess the property is rescinded."

CCR 3192, "An inmate may not exchange, borrow, loan, give away or convey personal property to or from other inmates. Violation(s) of this rule may result in disciplinary action, and confiscation and/or disposal of the personal property."

CCR 3193(a), "In permitting inmates to possess items of personal property while they are incarcerated, the department does not accept liability for the theft, loss, damage or destruction of such property resulting from the intentional or careless act or activities of any inmate."

CCR 3193(b), "The department shall accept liability for the loss or destruction of inmate personal property when it is established that such loss or destruction results from employee action."

Every indication at this point is that the institution/department is liable for the lost property. Let me know if you have any questions or concerns regarding the request for an Amended Response.



DAI - Office of Appeals (916) 255-0660, fax (916) 255-4960 Department of Corrections and Rehabilitation

OOA CONFIDENTIALITY NOTICE

This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Sent: Friday, June 08, 2018 10:15 AM

To: Harder, Meghan@CDCR

Subject: RESCIND Modification Order #1714336 Request AMENDED SLR for #RJD-C-17-04660

At the direction of the Chief of Appeals I am RESCINDING the Modification Order #1714336 sent on Friday June 1st; the Office of Appeals is instead requesting RJD prepares and issues an AMENDED Second Level Response for #RJD-C-17-04660.

The Office of Appeals needs your assistance in resolving concerns regarding appeal #RJD-C-17-04660 (TLR #1714336).

The appeal is being returned to you for further action.

Please amend the response from the Second Level of Review.

As per our telephone conversation:

The appellant alleges Officer (floor officer) returned to, and re-entered, the cell following the appellant's verbal complaint on August 4, 2017.

The appellant alleges Officer acknowledged that property was missing by stating, "I know you're not lying and I believe you because I saw your box with food in it and the jars of coffee, plus I see a lot of your cosmetics missing now."

The appellant alleges Officer (control booth officer) admitted to opening the cell door in the absence of inmate (control booth officer) by stating, "I'm sorry for what you said happened, but it's a hundred people." and "I don't know who's who or what happened, but don't do anything to anyone." and "Get more time when you can 602 it." and "I hope you get it back sooner than later."

The quotations attributed to the two Correctional Officers are not disputed by them or by any other testimony or evidence

The inmate claims the cell door was secure when he departed to go to yard. Officer affirmed the cell door was secure when the inmate departed to go to yard.

If a staff member accidentally opens a secure cell door without at least one of the assigned inmates present the institution and/or the department are wholly liable for all the property damaged or missing.



DAI - Office of Appeals (916) 255-0660, fax (916) 255-4960 Department of Corrections and Rehabilitation

OOA CONFIDENTIALITY NOTICE

This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT TT



101 Mission Street, Sixth Floor San Francisco, California 94105-1738 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Gay Crosthwait Grunfeld Email: ggrunfeld@rbgg.com

June 17, 2020

VIA EMAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Tamiya Davis
CDCR Office of Legal Affairs
Tamiya.Davis@cdcr.ca.gov

Re: Armstrong v. Newsom; Request for Written Reports and Documents

Our File No. 0581-03

Dear Tamiya:

Pursuant to the Order Modifying the January 18, 2007 Injunction, "Defendants shall investigate all allegations of employee non-compliance, regardless of whether the allegation includes the name of the employee(s). [...] If Plaintiffs' counsel has a good faith disagreement with the result of a particular investigation, they may request a copy of the written report and it shall be produced. In such instances, Plaintiffs' counsel shall have the right to review all written documents utilized in making the determination set forth in the report." (See December 29, 2014, Order Modifying the January 18, 2007 Injunction, Doc. 2479, at 2.).

Based on our review of Employee Non-Compliance Logs produced by Defendants between June 2019 and the most recent logs provided, February 2020, Defendants have failed to log many serious allegations raised by Plaintiffs' counsel in our May 2019 *Armstrong* Monitoring Tour Report of CSP – Lancaster ("LAC"), issued July 16, 2019, and our November 2019 *Armstrong* Monitoring Tour Report of LAC, issued February 10, 2020. We object to this failure.

Tamiya Davis June 17, 2020 Page 2

With respect to the few allegations that were logged based on the LAC tour reports, Plaintiffs have a good faith disagreement with the results of the investigations in the following cases, which are listed as "not confirmed:"

Institution, ALTS No. (if applicable)	Last Name	CDCR No.	Date of Discovery	Inquiry Completion Date
CSP-LAC			March 20, 2019	April 2, 2019
CSP-LAC			August 7, 2018	October 10, 2018
CSP-LAC			October 8, 2018	October 23, 2018
CSP-LAC			November 14, 2018	December 19, 2018
CSP-LAC, ALTS-00008677			July 2, 2019	August 5, 2019
CSP-LAC, ALTS-0009365			July 23, 2019	August 12, 2019

We have also reviewed the recent accountability logs for several of the prisons discussed in Plaintiffs' June 3, 2020 Motion to Stop Defendants from Assaulting, Abusing, and Retaliating Against People with Disabilities, Docket No. 2948. Defendants list the following allegations as "not confirmed," and we have a good faith disagreement with that disposition:

[3558540.2]

On May 2, 2019, CCI recorded an allegation of "disability-related staff misconduct" raised by Mr. (). See ALTS-00007301. On June 8, 2019, CCI confirmed the allegation of staff misconduct and issued training to the implicated staff person. While Plaintiffs do not necessarily disagree with the outcome of this inquiry, we request the production of documents related to the confirmation of Mr. (allegation, including documents containing his allegations and CCI's inquiry, as well as any training or disciplinary documents associated with the confirmation.

Tamiya Davis June 17, 2020 Page 3

Institution, ALTS No. (if applicable)	Last Name	CDCR No.	Date of Discovery	Inquiry Completion Date
RJD, ALTS-00010197			August 23, 2019	August 28, 2019
RJD, ALTS-00010195			August 23, 2019	August 29, 2019
RJD, ALTS-00012392			December 5, 2019	Unknown ²
CCI, ALTS-00007451			May 13, 2019	May 30, 2019
KVSP, ALTS-00008505			June 26, 2019	Unknown ³
SATF, ALTS-00003638			December 28, 2018	January 9, 2019
KVSP, ALTS-00009128			July 19, 2019	Unknown ⁴
SATF, ALTS-00009975			August 15, 2019	August 27, 2019

² This allegation is noted as "Closed: Referred to DAI." Please update us on the status of the inquiry into this allegation. Please also explain why this allegation was removed from the non-compliance logs.

³ This allegation is noted as "Closed: Referred to DAI." Please update us on the status of the inquiry into this allegation. Please also explain why this allegation was removed from the non-compliance logs.

⁴ This allegation is noted as "Closed: Referred to DAI." Please update us on the status of the inquiry into this allegation. Please also explain why this allegation was removed from the non-compliance logs.

Tamiya Davis June 17, 2020 Page 4

Institution, ALTS No. (if applicable)	Last Name	CDCR No.	Date of Discovery	Inquiry Completion Date
SATF, ALTS-00009980			August 15, 2019	September 16, 2019
KVSP, ALS-00010576			September 11, 2019	Unknown ⁵
KVSP, ALTS-00010855			September 24, 2019	October 15, 2019
SATF, ALTS-00011433			October 23, 2019	December 2, 2019
SATF, ALTS-00013050			October 23, 2019	November 5, 2019
CCI, ALTS-00011091			October 2, 2019	October 22, 2019

Please immediately produce the written reports and all underlying written documents required by the Court's Accountability Order in the above cases. We request that these documents be produced within ten business days, separately from the discovery process. They are governed by the Court's Order Modifying the January 18, 2007 Injunction, not Plaintiffs' November 2019 Request for Production of Documents, and as such, should be produced outside of the scope of ongoing discovery in this case.

Some of the allegations raised in Plaintiffs' November 2019 LAC *Armstrong* Monitoring Tour Report were logged in the February 2020 Non-Compliance Log as "pending." We request an update on the status of these allegations. To the extent that any of the allegations below have been found "not confirmed" by *Armstrong* inquiries conducted from February 2020 through the present, Plaintiffs also request the underlying

[3558540.2]

⁵ This allegation is noted as "Closed: Referred to DAI." Please update us on the status of the inquiry into this allegation. Please also explain why this allegation was removed from the non-compliance logs.

Tamiya Davis June 17, 2020 Page 5

written reports and documents utilized in making such a determination in the following cases:

Institution, ALTS No.	Last Name	CDCR No.	Date of Discovery
CSP-LAC, ALTS-00014391			February 10, 2020
CSP-LAC, ALTS-00014391			February 10, 2020
CSP-LAC, ALTS-00014256			February 10, 2020
CSP-LAC, ALTS-00014262			February 10, 2020
CSP-LAC, ALTS-00014276			February 10, 2020
CSP-LAC, ALTS-00014277			February 10, 2020
CSP-LAC, ALTS-00014278			February 10, 2020
CSP-LAC, ALTS-00014279			February 10, 2020
CSP-LAC, ALTS-00014280			February 10, 2020
CSP-LAC, ALTS-00007090			April 30, 2019
CSP-LAC, ALTS-00014282			February 10, 2020

Tamiya Davis June 17, 2020 Page 6

We also expect that the many allegations of disability-related staff misconduct contained in the 58 class member declarations shared with Defendants from April 23, 2020 through June 1, 2020 will be logged on the appropriate institution's Non-Compliance log and timely investigated pursuant to the *Armstrong* accountability protocols.

Lastly, we request an update on the status of the request for documents related to allegations of non-compliance at RJD outlined in my January 3, 2020 letter to Russa Boyd. Have all of these documents been produced within the existing discovery process? If not, please expedite the production of these documents separately from the discovery process within 10 days. If they have already been produced within the existing discovery process, please re-produced them independently or provide us with the Bates numbers.

Thank you as always for your ongoing courtesy and cooperation.

Very truly yours,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Gay Crosthwait Grunfeld

By: Gay Crosthwait Grunfeld

GCG:JG:cg

cc: Ed Swanson

Damon McClain

Jeremy Duggan

Joanna Hood

Trace Maiorino

Anthony Tartaglio

Sean Lodholz

Alicia Bower

Bruce Beland

Alexander Powell

Nicholas Meyer

OLA Armstrong

Co-Counsel

EXHIBIT UU

Department of Corrections

Memorandum

Date

January 18, 2019

To

Captain, Facility C Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of January 14, 2019 I was able to observe most of the housing units 3W daily programs on Charlie Facility. Issues varied from building to building, and ranged from post orders not signed to Officers not wearing the mini-14 during mass movement. Window Covers are an issue in the EOP buildings but Inmates cooperate when asked to remove them. Officers did not know they need to obtain a Sergeants signature on the CDCR 1083 and were unclear what constitutes "6" cubic feet. Training was conducted to correct the discrepancies but will be ongoing for weeks to come.

The issue with the food port locks is almost resolved replacing a total of "47" locks so far.

There is a strong supervisor presence during the evening meal which results in minimal issues if any. The Officers conducted numerous random clothed body searches except on Friday which I noticed a significant drop off primarily due to different Officers from the previous days.

I observed "4" different Sergeants in the five days and the regulars Sgt. and Sgt. both give clear directions to Officers and run programs on time. When there isn't a regular Sergeant, Officer clearly takes the initiative and runs the program displaying leadership qualities.

Overall the 3W staff are receptive to the training and praise the administration for initiating it.

Field Training Sergeant, 3/W Richard J. Donovan Correctional Facility

Department of Corrections

Memorandum

Date

January 25, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of January 21, 2019, I continued to mentor the Officers and train them. Processing property and completeing the 1083 continues to be an issue but has seen significant improvement in just the past week. There still seems to be confusion on what constitutes six cubic feet due to being told by different supervisors. I instructed the Officers to utilize the six cubic ft. pre-made boxes that are located in H.U. 11 and H.U 15. Property will continue to be an ongoing training issue.

Conducting proper clothed body searches continued throughout the week with minimal training. DPP/DDP rosters in the control booths are an issue but I am working on the resolution and will be completely resolved by next week.

Supervisor presence is not an issue during the evening meal. If the Sergeant is unable to be present than the Lietuenant is. In some cases both are present.

Lieutenants are conducting weekly staff meetings to pass on pertinent information and training. I also conduct daily staff meetings to discuss different topics varying from cell searches, communication, Use of Force and issuing priority ducats.

Overall the 3W staff has noticed a difference in our daily program and many have approached me op-how they can contribute more.

Field Training Sergeant, 3/W Richard J. Donovan Correctional Facility State of California Department of Corrections

Memorandum

Date : February 1, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of January 28, 2019 on Facility C, a list of daily issues and concerns were observed, on Monday, January 28, 2019, the morning meal was commenced at 0630 hours ending at 0830 hours due to a Code 1, 1 on 1, resulting in Use of Force (Physical)(RJD-CYD-19-01-0054) all programs were delayed due to staff involvement. Additionally, at approximately 0948 hours, an broadcasted "Code 1, unresponsive inmate, on the ground in front of Housing Unit 11". Responding officers immediately responded to the location observing an unresponsive inmate with active bleeding on his head. Emergency Transport Vehicle (ETV) was dispatched and 911 was contacted. Subsequently, due to the injuries of the inmate victim, outside medical services were required. Staff was observed conducting systematic clothed body searches on inmates, specifically, transgender inmates. Housing Units 11/12 were observed displaying NO window covers. Staff was in compliance with grooming standards and uniform compliance. On Tuesday, January 29, 2019, the morning meal was commenced at 0645 hours ending at 0830 hours due to a late food delivery truck. Pill line was delayed due to a computer issues unable to scan diabetics identification cards. Staff was observed conducting systematic clothed body searches on inmates, specifically, transgender inmates. Housing Units 13/14 and 15 were observed displaying NO window covers. Yard crew workers were prompted to staging area(s) when the morning meal inmates are released to yard to avoid negative interactions. Close Custody count was observed in Housing Unit 13. Inmates were directed by the Control Booth Officer for all Close Custody inmates to cell lights on maintaining a standing position with their identification cards visible at the window. On Wednesday, January 30, 2019, the morning meal was commenced at 0630 hours, ending at 0758 hours due to a late food delivery truck. Additionally, increases of window covers were observed in Housing Unit 12 and 14. Inmates were observed going to and from Receiving & Releasing (R & R) verifying that all inmates were on the package list were released from their housing units and properly escorted.

Pill Line (AM/Noon) meds were observed, confirming no discrepancies. Afternoon Yard was released at 1400 hours per aily Activity Report (DAR) On Thursday, January 31, 2019, the morning meal was commenced at 0630 hours ending at 0750 hours due to a late food delivery truck which was addressed to the higher authority which continues to delay the morning release and AM Medication Line (Diabetics). Afternoon 1400 hours religious services are continually delayed due to the 1400 mass yard release. Recommended: changing the 1400 hour religious services to 1345 hours for proper release and accountability. Wheelchair repair is allegedly not being completed by custody for DPO and DPW inmates currently housed on Facility C. An inquiry will be conducted. On Friday, February 01, 2019 the morning meal was commenced at 0615 hours ending at 0750 hours due to a late food delivery truck which continues to delay the morning release and AM Medication Line (Diabetics). AM Pill Line was monitored resulting in no issues or concerns. Facility C custody was briefed on an upcoming ADA audit in March 2019 to prepare.



Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

AM Yard released on time.

Department of Corrections

Memorandum

ate

January 25, 2019

To

Captain, Facility C Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of January 21, 2019 on Facility C, all staff assigned to yard and housing unit positions have significantly improved many aspects of program needs for the inmate population by completing chow times in an effort to continue scheduled yard and dayroom releases. Additionally, all inmates were observed being released for all work, medical, groups, education and all ducted requests. Housing Units were observed displaying no window covers. Control booth officers were in compliance having their Mini-14 Rifle slung to their bodies. Yard staff directed yard crew inmates to sanitize all outside urinals and pick up trash. Overall, during my weekly presence, there was only one reported code one on the yard resulting in no use of force. Furthermore, there were no reported staff complaints or appeals concerning delays in programs needs or staff neglecting duties. Window covers continued to be enforced in an effort to conduct through standing counts and security checks. Inmate Property Inventory Form (CDCR-1083) were legibly completed, properly inventoried and signed by the inmate. Overall, all staff on 2/W showed motivation to improve. Housing unit tours were conducted verifying that housing units were releasing inmates on time for all ducted appointments. Moreover, all housing units had a surplus of CDCR 22's, 7362's and Visiting Forms CDCR 1070, 1046 and 106. All officers were in compliance with uniform and grooming standards except for one officer who was counseled on policy reflecting his appearance.

Field Training Sergeant, 2/W
Richard J. Donovan Correctional Facility

Department of Corrections

Memorandum

ate

January 11, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of January 8, 2019, I reported to Facility C to assist with programming needs, specifically, to help and assist Correctional Officers assigned to Facility C.

During my week on Facility C, second watch sergeants on the facility have been extremely supportive, noting and correcting deficiencies observed by the Field Training Sergeant (FTS). Additionally, morning meal times of inmates released were significantly reduced, completing the morning meal almost 30 minutes faster, resulting in no inmate issues, preparing for further program needs as per Daily Activity Schedule (DAS). All staff was briefed on uniform standards and immediately corrected the issues. Window covers were dramatically reduced in all housing units, especially, Enhanced Out Patients (EOP) buildings. Control Booth Officers in the initial part of the week were observed not having the Mini-14 slung to their bodies, excluding H/U 13 during inmate movement, however, were observed later in the week having the Mini-14 slung to their bodies. Inmate Property Inventory Form (CDCR-1083) were legibly completed, properly inventoried and signed by the inmate. Overall, all staff on 2/W showed motivation to improve.

Field Training Consent 244

Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

State of California Department of Corrections

Memorandum

Date

February 08, 2019

То

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the week of February 04, 2019 on Facility C, a list of daily issues and concerns were observed, On February 4, 2019 at approximately 0630 hours, the morning meal was commenced, ending at 0800 hours with interruption of a code one, two on one. "inmates fighting near Housing Unit 13. All Correctional Officers were observed responding without delay initiating a spot investigation, confirming all involved identities of the suspects and victim. Furthermore, Correctional Officers were observed conducting proper systematic clothed and unclothed body searches, verifying escorts and holding cell placement. On February 06, 2019, the morning meal was commenced at approximately 0615 hours end at 0740 hours. All programs were released on time as per DAS. Additionally, no UOF incidents reported. Housing Units 11-15 were toured, resulting in minor discrepancies. Overall, Correctional Officer issues (uniforms, grooming standards, previous addressed have been corrected. Housing Units were toured, resulting in no major issues or concerns from the inmate population. On February 07. 2019, the morning meal was commenced at approximately 0615 hours ending at 0740 hours. All programs were released on time as per DAS. Housing unit officers were remined to continue to enforce all rules and regulations pertaining to safety, security issues for inmates and staff. On February 08, 2019, the morning meal was commenced at approximately 0620 hours ending at 0730 hours. All programs were released on time as per DAS. AM Pill line was observed, resulting in no issues or concerns. Wheelchair logs were completed. Housing Unit 13 was observed releasing the morning meal inmates, making all proper notification, releasing specialized diets and diabetics promptly. All inmates were released by sections at a time. Inmates were interviewed upon returning to their perspective housing units addressing minor issues pertaining to culinary. Work order was generated. Overall, I am extremely impressed and greateful with the dedication of all staff members assigned to Facility C in the last month resulting in positive environment

Field Training Sergeant, 2/W
Richard J. Donovan Correctional Facility

Department of Corrections

Memorandum

Dat

February 11, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the week of February 11, 2019 on Facility C, a list of daily issues and concerns were observed, noted and briefed to custody staff with expectations to correct and maintain. Issues noted were correctional officers were not maintaining grooming standards, additionally, not adhering to policy regarding uniform standards. Additionally, morning meal release times have remained consistent ending around 0740 hours. All inmate programs were released per DAS not delaying any programs. Housing Unit Officers continued to maintain issues that were previously addressed and corrected. Housing unit tours were conducted verifying ADA signs were posted in English and Spanish at the appropriate height for DPW/DPO inmates. Additionally, Correctional Officers were quizzed on a wide variety of ADA issues and how to properly address them for an upcoming audit. Ombudsman from Headquarters toured Facility C.

Overall, Facility C staff displays a positive inmate/staff relationship while performing assigned duties of maintaining Safety and Security of Facility C.



Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

Department of Corrections and Rehabilitation

Memorandum

February 11, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: **WEEKLY REPORT**

> During the week of February 4, 2019, I continued to mentor the Officers and train them. Daily staff meetings were conducted to discuss yard issues as well as boost morale amongst the staff.

> Window covers are still an issue during count but have gotten better in the past weeks. We will continue to address the issue.

> Conducting proper clothed body searches continues to be a priority during the evening meal. I still have to train newer Officers on proper technique.

Supervisor presence is not an issue during mass movement. Sergeant usually present for the evening meal and yard recall. When Sqt. unavailable; than Lieutenant will attend the meal release.



I addressed some property issues for a couple inmates to avoid them from filing appeals. Property will continue to be a training issue amongst staff but the amount of appeals has seen a significant improvement. I also addressed the locks on the food ports; all locks are accounted for and operational on Facility C.

Field Training Sergeant, 3/W Richard J. Donovan Correctional Facility

o CDCR 1617 (4/17)

Department of Corrections and Rehabilitation

Memorandum

Date: February 19, 2019

Тο

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the week of February 11, 2019, Training continued with the staff throughout the week. Staff meetings were held almost daily to address issues on the yard.

Utilizing the Monthly Security Inspection Tool Worksheet that was provided during the CDW meeting, I conducted inspections of a few of the housing units addressing most of the issues. I will continue with the remaining housing units in the coming days. While inspection the housing units, I observed the dayroom recall which was conducted on time with no issues.

Random clothed body searches continued every day during the evening meal. Training wasn't necessary due to the fact that we had regular staff the whole week that had prior training.

Sergeant or Lieutenant is usually present for the evening meal and yard recall.

Conducted training on the pill line no show list, but generating 128 B's will continue to be an issue amongst staff primarily because they feel it is a medical issue. I was informed that the union is getting involved. Until otherwise directed I will continue to train the staff on generating the 128 B's.

Field Training Sergeant, 3/W Richard J. Donovan Correctional Facility State of California Department of Corrections

Memorandum

Date : February 22, 2019

To

Captain, Facility C
Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the week of short week of February 18, 2019 on Facility C due to a personal family issue, I will be giving a breakdown of daily observed issues, observed chow times and lastly, any unforeseen issues for example; delays affecting DAS, medical ducats, law library, canteen and laundry issuance. All inmate related program needs were not delayed unless justified unforeseen institutional emergencies. Overall, staff continues to display a positive attitude towards on the job criticism with an motivational drive.



Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

Department of Corrections and Rehabilitation

State of California

Memorandum

Date: February 25, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the week of February 18, 2019, Staff continued their hard work and continued to work diligently. I continued to mentor and train all staff.

Training continued throughout the week with staff regarding the pill line no show list. I provided all staff with a 128 A template and discussed the process when an inmate appears on the list. There are still discrepancies with the process but most staff is up to speed. I will continue to monitor the progress of the staff.

Random clothed body searches continued every day during the evening meal. Training was conducted on 1:1 basis with Officers who needed it.

Sergeant or Lieutenant is usually present for the evening meal and yard recall.

All housing units have been inspected utilizing the CDW monthly inspection tool audit sheet. There are still discrepancies with the PPE kits but I am working on a resolution.

Overall the staff is very receptive to all the training and appreciates the changes they have seen recently. They have expressed that they enjoy our daily staff meetings and are glad we pass on pertinent information.



Field Training Sergeant, 3/W Richard J. Donovan Correctional Facility

Department of Corrections

Memorandum

Date

March 01, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the short week of February 25, 2019 correctional officers were briefed on upcoming audits reiterating the importance of compliance thought the workplace environment. Morning meal times remain consistent, maintaining an average 1.5 hour completion time. Custody staff continues to display professionalism while maintaining grooming and uniform standards.

Field Training Sergeant, 2/W

Richard J. Donovan Correctional Facility

State of California Department of Corrections

Memorandum

Date

March 04, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WEEKLY REPORT

During the week of March 04, 2019, facility tours were conducted reiterating target areas of concerns to correct prior to upcoming audits being implemented from headquarters to verify compliance. Additionally, my tasks for the week consisted of Uniform Standards, DDP, ADA Logbooks, Cell search, inventories, CDCR 1083 signatures, RAC (inmates being released on time), window covers/curtains, tour housing unit (walk tiers, talk to staff, talk to inmates). Overall, 2/W staff continues to show great motivation with a positive drive to make Facility C great again.

On March 8, 2019, I reported to the Facility C Gymnasium observing unknown inmate property, approximately 3 boxes, being the responsibility of 3/W on March 07, 2019, which was inventoried on a CDCR-1083 Inmate Inventory Property Sheet that left on the program sergeant's desk without proper justification for filing inproperly or placement of items in the designated conex.



Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

State of California Department of Corrections

Memorandum

Date

March 22, 2019

Τo

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject: WFFK

WEEKLY REPORT

During the week of March 18, 2019, audits were being implemented from headquarters verifying compliance. Overall, custody staff that were randomly selected, specifically, facility c, second and third watch officers, exceeded my expectations by answering all questions appropriately without delay, resulting in positive feedback from the auditors on scene. Additionally, I was involved in an incident where I observed officers respond, implementing proper alarm response formations, incorporated with arrest and control techniques making the area safe for staff and the uninvolved inmates with minimal delay to programs.

Field Training Sergeant, 2/W Richard J. Donovan Correctional Facility

Department of Corrections

Memorandum

Date

April 5, 2019

To

Captain, Facility C

Richard J. Donovan Correctional Facility

Subject:

WEEKLY REPORT

During the short week of April 01, 2019, multiple issues were observed and noted during my observation of Facility C, while performing my duties as Field Training Sergeant (FTS) with variable hours during the week, consisting of 0600-1400 (2/W) / 1400-2200 (3/W). Third watch custody officers were observed not present on the yard, adjacent to housing units to provide coverage, specifically, monitoring inmate movement and lacking appropriate alarm response techniques and protocols. Therefore, during the upcoming weeks, emphasis will be applied, training officers, applying techniques to help the facility staff while maintaining a positive work environment. Furthermore, during my third watch assignment, officers that were observed lacking fundamentals of basic post order duties will be shadowed during their perspective duty hours and corrected discretely if required, followed by a CDCR 844 recording the verbal training. Lastly, night yard has been implmited, therefore, inmate and officer safety will be a priorty while monitoring all yard operations in an effort to avoid preventable issues maintaining the safety and security of the facility.



Field Training Sergeant, 2/W/3/W Richard J. Donovan Correctional Facility

EXHIBIT VV



Roy W. Wesley, Inspector General

Bryan B. Beyer, Chief Deputy Inspector General

OIG OFFICE of the INSPECTOR GENERAL

Independent Prison Oversight

July 2020

Monitoring the Use-of-Force Review Process of the California Department of Corrections and Rehabilitation

Electronic copies of reports published by the Office of the Inspector General are available free in portable document format (PDF) on our website.

We also offer an online subscription service.

For information on how to subscribe,

visit www.oig.ca.gov.

For questions concerning the contents of this report, please contact Shaun Spillane, Public Information Officer, at 916-255-1131.

4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 652 of 858



Roy W. Wesley, Inspector General Bryan B. Beyer, Chief Deputy Inspector General

Independent Prison Oversight

Regional Offices

Sacramento Bakersfield Rancho Cucamonga

July 13, 2020

The Governor of California President pro Tempore of the Senate Speaker of the Assembly State Capitol Sacramento, California

Dear Governor and Legislative Leaders:

Enclosed is the Office of the Inspector General's report titled Monitoring the Use-of-Force Review Process of the California Department of Corrections and Rehabilitation. This is the Office of the Inspector General's third annual report, as mandated by California Penal Code sections 6126 (j) and 6133 (b) (1), which addresses the California Department of Corrections and Rehabilitation's (the department) use-of-force incidents that occurred between January 1, 2019, and December 31, 2019.

Beginning with this reporting period, we have implemented a new monitoring methodology to assess the department's compliance with its use-of-force policies and procedures prior to, during, and following each incident that we monitored. For this reporting period, the OIG monitored 2,296 of the department's 9,692 use-offorce incidents which occurred in 2019 and concluded that the department's performance was overall satisfactory. We assessed the department's performance as superior in 24 incidents, satisfactory in 2,063 incidents, and poor in 209 incidents.

Based on concerns we identified in our monitoring, we provided four recommendations to the department: (1) implement a policy which clearly requires decontamination of all indoor areas following the use of chemical agents; (2) implement an unambiguous policy to clearly state the required elements for each use-of-force report; (3) track individual supervisors and impose progressive discipline on those supervisors who do not fulfill their duty to thoroughly review each use-of-force incident; and (4) implement a policy with a specified time frame to ensure the higher-level committee within the Division of Juvenile Justice reviews the more significant incidents without undue delay.

Sincerely,

Roy W. Wesley Inspector General

Roy W. Wesley

Gavin Newsom, Governor



Summary

This is the Office of the Inspector General's third annual report, as mandated by California Penal Code sections 6126 (j) and 6133 (b) (1), which addresses the California Department of Corrections and Rehabilitation's (the department) use-of-force incidents that occurred between January 1, 2019, and December 31, 2019.

Beginning with this reporting period, we have implemented a new monitoring methodology to assess the department's compliance with its use-of-force policies and procedures prior to, during, and following each incident that we monitored. Our new methodology consists of 11 units of measure which we call performance indicators (indicators). We apply the indicators to assess the following: (1) staff actions prior to the use of force, including whether officers contributed to the need for force and used de-escalation techniques; (2) whether staff used reasonable force and complied with training requirements for methods of deployment; (3) how well staff complied with decontamination requirements after using chemical agents; (4) how well staff followed requirements to medically evaluate each inmate involved in a use-of-force incident; (5) how well staff complied with requirements to supervise an inmate in restraints or a spit hood following a use-of-force incident; (6) how well staff who used force documented their actions in the required report following an incident; (7) how well staff who did not use force documented their actions and observations in the required report following an incident; (8) how well staff conducted video-recorded interviews of inmates alleging unnecessary or excessive force; (9) how well staff conducted inquiries following an incident in which an inmate sustained serious or great bodily injury that may have been caused by staff's use of force; (10) how well the institutions reviewed and evaluated each incident; and (11) how well the department's executive level committee reviewed required incidents.

For this reporting period, we monitored 2,296 of the department's 9,692 use-of-force incidents and concluded that the department's performance was overall satisfactory. We assessed the department's performance as superior in 24 incidents, satisfactory in 2,063 incidents, and poor in 209 incidents. In the 24 incidents in which we assessed the department's performance as superior, the staff performed exceptionally well in multiple areas, such as, attempting to de-escalate the situation prior to using force, decontaminating involved inmates and the exposed area following the use of chemical agents, and describing in the required reports the force used and observed. In the 209 incidents in which we assessed the department's overall performance as poor, we identified multiple failures within a single incident, such as not following decontamination protocols after using chemical agents, medical staff not evaluating inmates as soon as practical following an incident, and the levels of review failing to identify and address policy violations. The incidents in which we assessed the performance as poor also included

incidents in which we identified a single violation that was particularly egregious, such as officers using unnecessary force or staff failing to recognize and address an inmate's allegation of unreasonable force.

The department performed satisfactorily prior to the use of force, but we identified some instances in which officers had the opportunity, but did not attempt to de-escalate a potentially dangerous situation prior to using force. Also, similar to our prior reports, we identified several incidents in which an officer's actions unnecessarily contributed to the need to use force. During this period, we identified that staff's actions (or failure to act) contributed to the need to use force in approximately 3 percent of the incidents we monitored, representing an increase from the approximately one percent of the incidents in our prior report.

We found that, overall, the department performed satisfactorily during the actual use of force, but, similar to our prior reports, we identified some instances in which officers failed to describe an imminent threat to justify the force used, leading us to conclude that the force was unnecessary. The number of instances rose from approximately 1.5 percent of the incidents in our prior report, to approximately 2.2 percent of the incidents in this reporting period.

We assessed the department's performance in several areas following the use of force, including staff's compliance with the requirements to decontaminate inmates and affected areas after using chemical agents. We found that staff performed well in decontaminating involved inmates, but noted several instances in which staff did not adequately decontaminate a housing unit or offer decontamination to uninvolved inmates in the area. We also found that institutions inconsistently interpreted the requirement to decontaminate a housing unit, with some believing that the requirement does not extend to other indoor areas, such as classrooms and gymnasiums. Consequently, we provide a recommendation to the department to implement a policy which clearly requires decontamination of all indoor areas.

The department performed satisfactorily overall when writing reports following an incident and describing, among other things, the inmate's actions which led to the force and the force used and observed. We found that institutions inconsistently interpreted the report writing requirements when considering which elements are required in a report. Accordingly, we recommend that the department implement an unambiguous policy to clearly state the required elements for each useof-force report.

One area of concern we identified is the quality of the reviews conducted by supervisors and managers at the institutions. The review process for each incident involves a minimum of five levels of review, during which each reviewer is required to review and evaluate staffs' actions and identify policy deviations. We found that supervisors and managers often failed to identify and address policy violations, creating an

inefficient process and leading us to question whether the supervisors and managers require additional training or whether they merely neglect their duty to make a good faith effort to review each incident thoroughly. Consequently, we provide a recommendation to the department to track the individual reviewers and impose progressive discipline on those who do not fulfill their duty.

Finally, the department's policy requires that incidents within certain categories, such as an officer's use of force causing serious bodily injury to the inmate, be reviewed at a higher level after the institution's review. We found that the department's Division of Adult Institutions reviewed only 75 percent of the incidents that we believed met these criteria. In addition, the department reviewed only 62 percent of the incidents within the required 60-day time frame. The department's Division of Juvenile Justice reviewed all of the incidents that met these criteria, but unlike the Division of Adult Institutions, there is no requirement for its higher-level committee to review the incidents within a certain time frame. Therefore, we recommend that the department implement a policy requiring this review be completed within a specified time frame to ensure the higher-level committee reviews these more significant incidents without undue delay.

Use-of-Force Statistics, 2019

The OIG monitored 2,296 of the 9,692 use-of-force incidents that occurred (24 percent).

The OIG attended 973 of the 1,861 review committee meetings (53 percent).

Approximately 92 percent of the use-of-force incidents we monitored (2,125 of 2,296) occurred at the adult institutions and contract facilities housing adult inmates, with the remainder involving juvenile facilities (136), parole regions (19), and the Office of Correctional Safety (16).

Approximately 35 percent of the incidents we reviewed occurred at one of only five state prisons: Salinas Valley State Prison (215); California State Prison, Sacramento (206); Kern Valley State Prison (190); High Desert State Prison (104); and California State Prison, Corcoran (89).

The 2,296 incidents we monitored involved 7,717 applications¹ of force. Chemical agents² accounted for 3,511 of total applications (45 percent), while physical strength and holds accounted for 2,713 (35 percent). The remaining 19 percent of force applications consisted of options such as less-lethal projectiles, baton strikes, tasers, and firearms.3

^{1.} The number of times a staff member used a force option in an incident; e.g., two baton strikes in one incident counts as two applications.

^{2.} Chemical agents are described in detail in the force options section, beginning on

^{3.} Percentages may not sum to 100 due to rounding.

Introduction

Background

Nearly 25 years ago, in the class-action lawsuit Madrid v. Gomez, the federal court found, among other things, that officials with the California Department of Corrections4 (the department) "permitted and condoned a pattern of using excessive force, all in conscious disregard of the serious harm that these practices inflict" in violation of the Eighth Amendment of the United States Constitution.5

As a result of those findings, in 2007, the Office of the Inspector General (OIG) began monitoring the department's use-of-force review process. In 2011, after the department made significant improvements to reform its use-of-force review and employee disciplinary processes, the federal court dismissed the case. The OIG, however, has continued monitoring these processes. This report includes use-of-force incidents that occurred in 2019, and presents our analysis of how well the department followed its own policies and training.

Use-of-Force Options

Inmate behavior can be unpredictable, and at times, departmental staff must use force to gain inmates' compliance to ensure the safety of other inmates or staff. According to departmental policy, when determining the best course of action to resolve a particular situation, staff must evaluate the totality of the circumstances, including an inmate's demeanor, mental health status and medical concerns (if known), and the inmate's ability to understand and comply with orders. Policy further states that staff should attempt to verbally persuade, whenever possible, to mitigate the need for force. When force becomes necessary, staff must consider specific qualities of each force option when choosing among options to use, including the range of effectiveness of the force option, the level of potential injury, the threat level presented, the distance between staff and the inmate, the number of staff and inmates involved, and the inmate's ability to understand. Departmental policy includes a number of force options, which are described in further detail on the following pages.

^{4.} In 2005, the California Department of Corrections was renamed the California Department of Corrections and Rehabilitation.

^{5.} Madrid et al. v. Gomez (Cate) et al., 889 F. Supp. 1146 (N.D. Cal. 1995), January 10, 1995.

^{6.} California Department of Corrections and Rehabilitation, Department Operations Manual (hereafter referred to as DOM), Section 51020.

Monitoring Results

Overall, Even Though the Department Performed Satisfactorily in Its Handling of Its Use-of-Force Incidents, Staff Continue to Comply With the Department's Use-of-Force Policy at a Low Rate

The OIG reviewed and analyzed 2,296 staff-reported use-of-force incidents that occurred between January 1, 2019, and December 31, 2019. These incidents predominantly took place in a prison setting, but some occurred in the juvenile facilities or in the community setting.

Overall, the department determined that its staff completely followed policy in only 1,156 out of the 2,296 incidents that we monitored during this period (50 percent), as depicted in Figure 7 on the following page. In the OIG's opinion, staff committed some type of policy violation in 673 of the incidents in which the department concluded its staff were compliant.

When evaluating force in relation to departmental policy, we evaluate the department's three primary categories: (1) prior to, referring to the events leading up to the force; (2) during, referring to the actual force; and (3) following, referring to the events immediately following the incident through the review process. These categories help provide some measure of context to overall compliance rates.

The department concluded that staff followed policy requirements prior to the use of force in 2,207 incidents (96 percent). We mostly agreed with the department's review committees' decisions, but we determined that 17 of the 2,207 incidents had at least one policy violation relevant to this category for which the department took no action.

Regarding the policy requirements during the use of force, the department determined that staff followed policy in 2,184 of the incidents, a 95 percent compliance rate. Again, the OIG agreed with most of these determinations, but we also determined that 35 of those 2,184 incidents reflected at least one policy violation relevant to this category that the department did not address.

Finally, the department determined that staff complied with policy requirements following the use of force in 1,187 of the 2,296 incidents (52 percent). We concluded that 669 of the 1,187 incidents reflected at least one policy violation relevant to this category that the department failed to address.

Following a use-of-force incident, some staff who did not use force failed to complete their reports independently and free of any collaboration, instead copying the wording of other staff.

Of the 2,233 applicable incidents we monitored, we identified 22 instances in which nonusers of force plagiarized the reports of others (one percent). As previously noted in Indicator 6, even one such incident is unacceptable. The following is an example illustrating staff's plagiarism, resulting in a poor rating for Indicator 7 in this incident:

Officers observed an inmate cutting his wrist with a razor blade. An officer activated the alarm, and responding officers ordered the inmate to stop and drop the razor. The inmate refused and continued cutting his wrist, resulting in one of the officers using pepper spray to prevent the inmate from causing serious or great bodily injury to himself. The force was effective as the inmate stopped his actions and dropped the razor. The reports completed by both the officer who used the pepper spray and the officer who observed the force were nearly identical in many areas (Exhibits 5a and 5b, next page). The word negative was misspelled as neagative in both reports. All levels of review failed to identify the collaboration. The OIG raised the issue during the institution's review committee meeting, and the hiring authority provided a counseling memorandum to both officers to address the collaboration.

Table 5 below displays the specific policy requirements with the percentage of incidents in each category in which we determined staff followed policy and procedures.

Table 5. Serious Bodily Injury Video-Recorded Interview Compliance Rates

OIG Notification Requirement	If serious or great bodily injury occurred, did the institution timely notify the OIG?	55%			
Video-Recording	Did staff conduct a video recorded interview within 48 hours?				
Requirements	Did staff ensure a 7219 was completed prior to the interview?				
	Did the interviewed or camera operator introduce themselves?				
	Did an uninvolved supervisor conduct the interview?	90%			
	Did the interviewer make a reasonable attempt to capture injuries?	62%			
	Did staff stop the video and have a new 7219 completed?	21%			
	Did staff openly conduct the interview, not to inhibit the inmate?	96%			
	If inmate refused, was the refusal captured on video?	100%			
	Did staff conduct the video in a confidential setting?	96%			
	Did staff conduct the video free of distractions and outside noise?	92%			
Inquiry	Was the inquiry assigned to an uninvolved supervisor or manager?	92%			
Requirements	Were all pertinent staff and inmate interviews attempted?	90%			
	Did staff conduct a thorough inquiry into the cause of the SBI?	83%			
	Did staff adequately review all documents and recordings?	94%			
	Did staff adequately determine the outcome, including referral to OIA?	77%			

Notes: 7219 refers to the department's Medical Report of Injury or Unusual Occurrence form (No. 7219; see page 45, this report). SBI refers to serious bodily injury. OIA refers to the Office of Internal Affairs.

Source: The Office of the Inspector General Tracking and Reporting System.

As was the case in Indicator 8, the department's deficiencies were primarily in the areas intended to ensure prompt and adequate documentation of the inmate's injuries. Staff met the time requirements for the video-recorded interview in only 72 percent of the incidents and captured the inmate's injuries on video in only 62 percent of the incidents. Finally, staff stopped the video to obtain a new medical evaluation following the identification of additional injuries in only 21 percent of the applicable incidents.

Not all incidents in which we identified a deviation resulted in a poor rating. However, in incidents involving multiple violations, or egregious ones, we assigned a poor rating, as illustrated in the following examples:

- In one incident, an inmate refused a sergeant's orders to sit on the ground during an emergency on a yard, as required by procedures. The sergeant attempted to place the inmate in handcuffs, but the inmate pulled away from the sergeant's control; the sergeant wrapped his arms around the inmate's torso and forced the inmate to the ground. The sergeant landed on top of the inmate and the inmate's face hit the ground. The sergeant and an officer used physical force while on the ground to overcome the inmate's resistance and apply handcuffs. The inmate sustained a broken tooth and a laceration to his lip that required seven sutures. Staff did not video-record all of the inmate's alleged injuries during the interview and did not stop the video to have the inmate medically evaluated after the inmate alleged additional injuries. In addition, the inmate identified an officer as a witness, but the sergeant conducting the inquiry did not interview the witness or explain why he did not attempt to interview the witness.
- In another incident, an inmate head-butted an officer during an escort, resulting in three officers and a sergeant using physical force to place the inmate on the ground and apply handcuffs. The inmate sustained a broken eye socket and a laceration on his face as a result of the force. Staff did not attempt to video-record an interview with the inmate until 11 days after discovering the serious bodily injury. The inmate refused to participate in the interview, but the sergeant conducting the interview failed to make a reasonable attempt to video-record the inmate's injuries.

Indicator Rating Satisfactory

Superior No incidents Zero percent

Satisfactory 1,872 incidents 81 percent

Poor 424 incidents 18 percent

Indicator 10. The Department's Compliance With Policies and Procedures at the Institutional Levels of Review Was Satisfactory

Indicator 10 measures how well the institution reviewed and evaluated the use of force; this assessment includes evaluating the adequacy of each level of review as well as the decision of the institution's executive review committee.

Among incidents we monitored during this review period, we found the department's compliance with its policies and procedures at the institutional levels of review was satisfactory. The OIG found the department's performance satisfactory in 1,872 incidents (81 percent) and poor in 424 incidents (18 percent). We assigned no superior ratings.

Departmental policy states, "Each incident or allegation shall be evaluated at both supervisory and management levels to determine if the force used was reasonable under policy, procedure, and training. For reported incidents, a good faith effort must be made at all levels of review in order to reach a judgment whether the force used was in compliance with policy, procedure and training and follow-up action if necessary."46 At the culmination of the five levels of review, the executive review committee makes a final determination on each incident.

This multiple-level process of scrutiny is designed to ensure that deviations from policy regarding serious incidents such as uses of force do not go unaddressed. Failures to identify use-of-force policy deviations allow staff who do not follow policy to avoid accountability. Furthermore, deviations that are not uncovered until the committee level represent failures at lower levels of review.

The reviewing supervisors and managers often did not identify deviations from use-of-force policy, procedures, or training.

We assessed how well the institutions' reviewers at all levels identified and addressed deviations from policy. We found that at each level, reviewers failed to address policy violations that the OIG identified.

In Table 6 on the next page, we identify the number of deficiencies that reviewers at each level did not identify. Of the 2,296 incidents we monitored, we found 799 incidents (35 percent) in which one or more reviewer did not identify a deficiency. In most cases, if the first-level reviewer did not identify the deficiency, reviewers in the subsequent levels of review also missed the issue, resulting in a total of 3,113 instances in which a reviewer did not identify a deficiency. For example, if the first-level reviewer did not identify that staff failed to ensure decontamination of a housing unit following the use of chemical

^{46.} DOM, Section 51020.19.

agents, and the subsequent reviews also did not address the deviation, that represents five instances in which the reviewers missed the opportunity to address the issue.⁴⁷

Table 6. Policy Violations Not Identified at a Level of Review

Level of Review	DAI	DJJ	DAPO/OCS	Total
Incident Commander	698	68	6	772
First-Level Manager's Review	631	64	6	701
Second-Level Manager's Review	590	56	5	651
Use-of-Force Coordinator's Review	472	N/A	N/A	472
Institutional Executive Committee Review	463	48	6	517
Total Policy Violations	2,854	236	23	3,113
Total Use-of-Force Incidents Assessed by the OIG	2,125	136	35	2,296

Note: DAI stands for the Division of Adult Institutions; DJJ, the Division of Juvenile Justice, and DAPO/OCS, the Division of Adult Parole Operations/Office of Correctional Safety.

Source: The Office of the Inspector General Tracking and Reporting System.

The following examples illustrate the failures at various levels of institutional review to address use-of-force policy violations:

In one incident, an officer reported that while escorting an inmate to the institution's medical center for a mental health evaluation, the inmate attempted to pull away from his control, causing the officer to use physical force to place the inmate face-down on the ground. The inmate sustained a minor injury to her arm, but during the medical evaluation following the incident, the inmate reported to a nurse, "I did not resist nobody. [Officer] dropped me." We believed the inmate's statement constituted an allegation of unnecessary force, which should have triggered the video-recorded interview requirements. None of the reviewers at any institutional level of review identified the allegation. In fact, the

^{47.} For the Division of Adult Institutions, the five levels would include a lieutenant, a captain, an associate warden, a use-of-force coordinator, and the review committee.

- critique at each level of review includes a standard question about allegations of unnecessary or excessive force, and each reviewer indicated the question was "not applicable," and each reviewer concluded that staffs' actions prior to, during, and following the incident were in compliance with policy. During the institution's review committee meeting, we asserted that the inmate's statement was an allegation of unnecessary force. The committee disagreed with our opinion and declined to take any action.
- In another example, following a group therapy session, a therapist left the classroom to inform officers that the session had ended. During this time, the inmates were left unsupervised and restrained to their chairs. One inmate freed himself from his restraints, picked up a chair and threw it at another inmate, followed by punching the inmate in the face several times. An officer responded and used pepper spray to stop the inmate's attack. Following the incident, there were numerous discrepancies in the reports from the officers and the recreational therapist regarding the supervision of the inmates and discrepancies regarding the staff present who may have observed the force. None of the levels of review identified the lack of supervision that contributed to the need to use force and none addressed the lack of clarity—and possible dishonesty in the reports. During the institution's review committee, we recommended that the committee refer the matter to the Office of Internal Affairs for investigation. The hiring authority disagreed with our opinion and took no action to address any of the violations or discrepancies.

Indicator 11. The Department's Compliance With Its Policies and Procedures Regarding Department-Level Executive Review of Use-of-Force Incidents Was Poor

Indicator 11 measures how well the department reviewed and evaluated the use of force; this assessment includes evaluating the timeliness and adequacy of review by the department's executive review committee. Among incidents we monitored during this review period, we found the department's compliance with its policies and procedures regarding department-level executive review of use-of-force incidents to be poor. Of the 113 incidents applicable to this indicator, 48 the OIG assessed the department's performance as satisfactory in 47 incidents and poor in 66 incidents; we assigned no superior ratings.

The department executive review committees are required to review significant incidents, such as those involving warning shots, serious bodily injury, great bodily injury, or death that could have been caused by staff members' use of force.⁴⁹ In addition to this requirement, the department executive review committees may review other use-of-force incidents referred to them from the institutions' or facilities' review committees or requested by the department. Policy requires that at the departmental level, a review occur within 60 days after the institution's review committee completes its review,50 unless the incident took place at a facility within the Division of Juvenile Justice, in which case there is no policy-mandated time frame. Of the 95 incidents we monitored that the department executive committees reviewed, they identified use-offorce deviations not previously found by the institutions' reviews in 65 incidents (68 percent).

The Department Executive Review Committee failed to review all incidents as required by policy, and those it did review were often untimely.

Specific to the Division of Adult Institutions, the Department Executive Review Committee reviewed only 55 of the 73 incidents that we determined met the criteria for review (75 percent). To clarify the significance of this poor performance, this means that a quarter of the OIG-monitored use-of-force incidents requiring the highest level of review were not addressed at the departmental executive level.

The Department Executive Review Committee also failed to review the incidents within the required 60-days after the institutions finalized their reviews in 34 of the 55 incidents (62 percent). Failure to promptly review

Indicator Rating Poor

> Superior No incidents Zero percent

Satisfactory 47 incidents 42 percent

Poor 66 incidents 58 percent

^{48.} The 113 incidents applicable to this indicator includes 73 incidents within the Division of Adult Institutions that we determined met the criteria for review and 40 incidents within the Division of Juvenile Justice.

^{49.} DOM, Section 51020.19.6.

^{50.} Ibid.

incidents may leave significant policy violations unchecked and delay in imposing necessary corrective action.

The Division Force Review Committee reviewed all of the required incidents from juvenile justice institutions, but the lack of a time frame in its policy resulted in unreasonable delays.

Of the 40 incidents we monitored that met the criteria for review by the Division Force Review Committee, the committee reviewed 100 percent of the incidents. The criteria for the Department of Juvenile Justice requires the Division Force Review Committee to review a minimum of 10 percent of serious use-of-force incidents meeting specified criteria, including, self-injurious behaviors, serious injuries sustained by a ward or staff, incidents involving only one ward, use of pepper spray on a ward with a mental health designation, and incidents in which a ward alleges unreasonable force.⁵¹ During this reporting period, the Department of Juvenile Justice clearly identified certain incidents of significance that required review by departmental executives; even so, there is no requirement for the higher-level committees to review these incidents within a certain time frame. The Division Force Review Committee reviewed the incidents an average of 141 days after the facility's review, with some occurring up to 266 days after. As noted above, failure to promptly review incidents delays the department's ability to correct any inappropriate actions.

^{51.} Division of Juvenile Justice, Crisis Prevention and Management.

Recommendations

For the January to December 2019 reporting period, we offer four recommendations to the department.

Nº 1. The department should revise its current policies pertaining to decontamination of the housing unit to include all indoor areas.

The current policy is unsatisfactory because it only requires staff to decontaminate an affected cell and housing unit after the use of chemical agents. In our opinion, the spirit of the policy requires decontaminating any indoor area where chemical agents were deployed. We identified many instances in which chemical agents were used indoors but the areas were not decontaminated due to the unsatisfactory policy language. We recommend revising the current policy to include all indoor areas, including dining halls, classrooms, and chapels.

Nº 2. The department should revise its current policies pertaining to involved staff's reporting requirements to ensure the same elements are required for all force options.

The department's use-of-force policy lacks consistency when requiring staff to articulate specific details of their actions or observations, depending upon the type of force used or observed. For incidents involving some force options, staff must identify important details, including descriptions of the specific force used or observed, whether or not chemical agents were involved, the type of projector, and the distance from targets, among other requirements. However, policy only requires staff to identify the distance if the force was in the form of a projector, eliminating this requirement for all nonprojector force options.

Nº 3. The department should develop a method to ensure that reviewers at all levels adequately review and identify deviations from use-of-force policy, procedure, and training.

In many instances, reviewers at all levels, from the incident commander to the institution's review committee, failed to identify use-of-force policy deviations. Furthermore, reviewers concurred with the reviewers at the prior level all the way through the multilevel review process, leaving the deviations to be identified by the use-of-force coordinator, a noncustody staff member, or the institution's review committee. These missed deviations led the OIG to question whether the reviewers require more training on their responsibilities in this area, or whether the department fails to hold accountable reviewers who neglect their responsibilities.

EXHIBIT WW

From: Spillane, Shaun < spillanes@oig.ca.gov> Sent: Thursday, June 11, 2020 11:13 AM

Subject: New OIG Report: Sentinel Case No. 20-02 Refusal to Dismiss a Dishonest Correctional

Officer

The Office of the Inspector General (OIG) is responsible for, among other things, monitoring the California Department of Corrections and Rehabilitation's (the department) internal investigations and employee disciplinary process. Pursuant to California Penal Code section 6133, the OIG reports semiannually on its monitoring of these cases. However, in some cases, where there are compelling reasons, the OIG may issue a separate public report regarding a case; we call these Sentinel Cases. When this happens, the OIG has determined that the department's handling of a case was unusually poor, involving serious errors, even after it has had a chance to repair the damage.

This Sentinel Case involves the department entering into a settlement agreement to permit a correctional officer to return to work for the department despite a preponderance of evidence suggesting that he lied at a State Personnel Board hearing to protect another officer. Instead of dismissing the officer, the department entered into a settlement agreement for a 30-day working suspension, which is less than the penalty to which the officer was willing to settle. The department's unwillingness to dismiss a dishonest peace officer from its ranks is troubling, especially as it pertains to an officer who attempted to subvert a righteous

employee disciplinary case pursued by one of its own department attorneys and involving another dishonest peace officer.

The report can be viewed on our website, www.oig.ca.gov.

Shaun Spillane
Public Information Officer
Office of the Inspector General

Follow us on Facebook

Follow us on Twitter

OTG CONFIDENTIALITY NOTICE

This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.



OFFICE of the INSPECTOR GENERAL

Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General

Independent Prison Oversight

JUNE 11, 2020

OIG No. 20–02 SENTINEL CASE

The Department Settled a Case Against an Officer Who Was Dishonest at a State Personnel Board Hearing Regarding Another Officer's Misconduct

The Office of the Inspector General (OIG) is responsible for, among other things, monitoring the California Department of Corrections and Rehabilitation's (the department) internal investigations and employee disciplinary process. Pursuant to California Penal Code section 6133, the OIG reports semiannually on its monitoring of these cases. However, in some cases, where there are compelling reasons, the OIG may issue a separate public report; we call these Sentinel Cases. The OIG may issue a Sentinel Case when it has determined that the department's handling of a case was unusually poor and involved serious errors, even after the department had a chance to repair the damage. This Sentinel Case, No. 20–02, involves the department entering into a settlement agreement permitting an officer to return to work for the department despite a preponderance of evidence suggesting that he lied at a State Personnel Board hearing to protect another officer.

On December 4, 2018, a department attorney called an officer to testify in a State Personnel Board hearing involving allegations that a second officer left her prison post before the end of her shift and lied about it. The department attorney responsible for litigating the case called the officer to testify as a witness concerning previous statements he had made multiple times that supported the department's position that the second officer had left her post early. However, the officer took the stand and, in our opinion, falsely testified that the second officer had spent an hour assisting him with his duties and that he had seen her "around" later in the shift.

The officer met with the department attorney twice before being called as a witness. An employee relations officer also attended these meetings and took contemporaneous notes of the statements the officer made. The department attorney advised the officer he needed to be truthful regarding the events in question. During those meetings, one of which took place only a few days before the State Personnel Board hearing, the officer stated he could not remember the specific details of his shift that day, but he could assuredly state that the second officer assisted him at work on a few occasions and that, on those few occasions, the second officer only assisted him for about 15 to 20 minutes. The officer also told the department attorney and the employee relations officer that the second officer assisted him with duties that day in connection with a shift change, the period when staff ending their shift leave the

area and the next group of staff arrives to begin the next shift. The shift change process lasts about 15 to 20 minutes. The officer recounted that on the day in question when the second officer was done assisting him, she did not remain in the area because there was nothing more for her to do.

According to the department attorney, on the day of the hearing, the officer sat in a waiting area outside the hearing room and spoke with the second officer's father. The second officer's father is a lieutenant who works at the same prison. The officer also spoke with the attorney representing the second officer. During a break from the hearing, the department attorney informed the officer that she intended on calling him as a witness. Given her observations of the officer's conversations with the second officer's father and the second officer's attorney, the department attorney questioned the officer regarding his upcoming testimony. In a complete reversal, the officer told the department attorney that he had been mistaken in his prior statements, suddenly remembering that the second officer was with him at his post for an hour.

After speaking with the second officer's father and the second officer's attorney, the officer testified under oath that the second officer had been in his presence for one hour and that he had also seen the second officer later during his shift when she walked past his window in the corridor multiple times. The department attorney tenaciously questioned the officer regarding his prior inconsistent statements, which the officer admitted making. Nevertheless, on the stand and under oath, the officer continued to contradict his original statements and maintain his new recollection of events.

The State Personnel Board administrative law judge, unconvinced by the officer's blatantly false testimony, upheld the second officer's termination for being dishonest.

Subsequently, the department initiated an employee disciplinary case against the officer for lying under oath. On December 2, 2019,

Page 1 of 1





SENTINEL CASE

JUNE 11, 2020

the warden reviewed the evidence in the case, determined the officer was dishonest, and decided to dismiss him. On January 13, 2020, the department served the officer with a disciplinary action for dismissal.

After being served with a disciplinary action for dismissal, the officer proposed a settlement of the matter through his attorney. The officer presented no new information or evidence, but offered to settle the case if the department reduced the dismissal penalty to a nondismissal penalty. Surprisingly, a senior department attorney recommended that the warden accept this offer. The senior department attorney advised the warden that he believed the department could not prevail in a disciplinary action because he could not prove the officer's intent to deceive the State Personnel Board. The warden, relying on the senior department attorney's recommendation to settle, indicated she was willing to settle the case for a 10 percent salary reduction for 12 months. The OIG disagreed and elevated the decision to the warden's supervisor. In the meantime, the officer offered to settle the case for a 10 percent salary reduction for 24 months, which is a higher penalty than the warden was willing to proffer.

The warden's supervisor, an associate director, agreed with the warden and opined that the officer was not being deceitful, but was just unsure of dates and times; she indicated that she was willing to settle the case against the officer for a 30-working-day suspension. This is an even lower penalty than that which the officer proffered. The OIG disagreed and elevated the matter to the associate director's supervisor.

The associate director's supervisor, a deputy director, relied upon the senior department

attorney's weak analysis that he could not prove it was more likely than not the officer provided false testimony at the hearing. The deputy director, without offering any evidence in support thereof, also opined that the officer was probably just "confused" when he testified under oath at the State Personnel Board hearing. Based on these excuses, the deputy director removed the dishonesty allegation from the disciplinary action, added a neglect of duty allegation instead, and reduced the officer's penalty from a dismissal to a 30-working-day suspension.

The OIG disagrees with the settlement in this case. To meet its burden of proof in an employee disciplinary case against the officer, the department need only prove it was more likely than not that the officer was dishonest. There is certainly enough evidence to prove it was more likely than not that the officer was dishonest. The officer made his original statements on two occasions to a department attorney and to an employee relations officer, who contemporaneously documented the officer's statements. Immediately before testifying at the hearing, the officer spoke with the second officer's attorney and also with the second officer's father, a lieutenant and higher-ranking officer at the same prison. Immediately following these interactions, the officer suddenly and radically changed his testimony to the benefit of the second officer. The officer suddenly recalled and testified under oath that the second officer spent an hour with him at his post. The officer suddenly recalled and testified under oath that the second officer walked by him several times after the second officer left the officer's post. Shortly after speaking to the second officer's father and to her attorney, the officer made these statements in support of the second officer's defense, in complete contradiction of his prior recorded statements.

THIS CASE REFLECTS A LACK OF UNDERSTANDING regarding the importance of peace officers providing truthful testimony under oath. The department's unwillingness to dismiss a dishonest peace officer from its ranks is troubling, especially as it pertains to an officer who attempted to subvert a righteous employee disciplinary case pursued by one of its own department attorneys and involving another dishonest peace officer. The courts have provided ample guidance regarding the importance of peace officers being truthful, noting that peace officers are held to a higher standard and that dishonesty by law enforcement personnel is to be treated seriously (Ackerman v. State Personnel Board (1983) 145 Cal. App.3d; Pauline v. Civil Service Commission (1985) 175 Cal. App.3d 962). In this case, the department did not pursue the appropriate disciplinary action. Instead, it entered into a settlement agreement for a penalty less than that to which the officer was willing to settle and which also permits the officer to keep his job at the prison. oig

^{1.} There are typically 21 or 22 working days in a month. A one-working-day suspension amounts to losing 1/21 or 1/22 of an employee's monthly salary, which is approximately a 5 percent salary reduction. A two-working-day suspension is the equivalent of a 5 percent salary reduction for two months, or a 10 percent salary reduction for one month. Therefore, a 10 percent salary reduction for 24 months would be about equivalent to a 48-working-day suspension. It is a significantly higher monetary penalty than a 30-working-day suspension. This analysis solely covers the approximate monetary equivalents and does not address collateral issues, such as potential loss of benefits, seniority, or breaks in State service.





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General Independent

OIG No. 20-02

SENTINEL CASE

JUNE 11, 2020

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF THE SECRETARY P.O. Box 942883 Sacramento, CA 94283-0001



May 12, 2020

Mr. Roy Wesley Office of the Inspector General 10111 Old Placerville Road, Suite 110 Sacramento, CA 95827

Dear Mr. Wesley:

The California Department of Corrections and Rehabilitation (the Department) submits this letter in response to Sentinel Case Report 20-02. Thank you for the opportunity to review and comment on the draft report.

The Department has reviewed the draft Sentinel Report prepared by the Office of the Inspector General. Contrary to the suggestion that the Department and its employees do not understand the importance of honesty among its employees, and especially its peace officers, the Department absolutely appreciates that it is critical for all Departmental employees, including its peace officers, to be honest. In fact, the Department regularly disciplines (including terminating) employees who are dishonest. The case at issue in the Sentinel Report does not evince any lack of understanding by the Department and its employees. Instead, the case at issue involved circumstances in which there was not likely a preponderance of evidence that the employee had intentionally misrepresented known facts and a belief that the employee understood his errors when he made inconsistent statements, and based on those considerations, the Department elected to resolve the employee's discipline prior to appeal.

The Department does not believe that the Sentinel Report fully and accurately captures the facts underlying the discipline of the Department's Correctional Officer, nor does it accurately reflect the legal standards that apply to dishonesty cases. Finally, the Department disputes that the legal representation it received was poor; counsel for the Department properly advised their client of the factual and legal weaknesses in the case and the risks of proceeding with courses of action.

action.

Discipline

Procedural Overview

The Department alleged that Correctional Officer was dishonest in his testimony before the State Personnel Board in another employee's appeal of her discipline, the details of which are discussed below. Following an investigation, Department attorneys recommended against sustaining the allegation of dishonesty, as they did not believe that the facts were

1

4

5, 6, 9, 12

The OIG's comments begin on page 10.





SENTINEL CASE

JUNE 11, 2020

Mr. Roy Wesley, Office of the Inspector General Page 2
sufficient to establish by a preponderance of evidence that intentionally made false statements of known facts during his testimony. Warden decided to sustain the allegations, and was served with a Notice of Adverse Action for termination. ¹
After being served with his Notice of Adverse Action, Correctional Officer made a settlement offer to resolve any appeals of his termination. Warden after speaking with understood his errors and his career could be salvaged, thus, she wanted to make a counter-offer of a 30-day suspension. The Department's attorneys agreed with Warden proposal, as they had recommended against sustaining the allegations in the first instance.
OIG's Executive Review
OlG disagreed with Warden proposal to settle the matter, and initiated the Executive Review process, holding Executive Reviews before Associate Director and Deputy Director Associate Director agreed with making the settlement offer, and noted that had she been the hiring authority she would not have sustained the allegations at the outset, as she did not believe there was sufficient evidence that had been dishonest. Deputy Director agreed that she did not believe there was sufficient evidence of dishonesty, and with making the settlement offer. Throughout the Executive Review process, the Department's attorneys maintained that settling the case to resolve the discipline was reasonable, which was consistent with its initial recommendation.
After the Executive Review before Deputy Director or about March 12, 2020, OIG declined to seek review before Director "Although the OIG disagrees with your decision to settle this case for a 30 day suspension, the OIG will not seek a higher level of review." EAPT was instructed by OIG to work with the assigned SAIG to finalize a settlement agreement. On or about April 2, 2020, OIG approved the draft settlement agreement for Mr. signature. Mr. thereafter signed the settlement agreement. On or about April 10, 2020, OIG advised EAPT that it was going to seek a higher level of review, in effect, withdrawing its earlier
representation that it would not seek a higher level of review. Because the settlement agreement was already signed, the Department ultimately declined to agree to OIG's attempt to withdraw its prior determination to not seek further review and invoke Executive Review beyond the 3-day period provided for under the Department's policies.

¹ The Department's attorneys did not invoke Executive Review of the Warden's decision, as they did not believe that there were grounds under the Department's policies to seek review.

² In addition to the Department's policies, the Department must consider the Skelly factors which include, among other things, the likelihood of recurrence and the totality of the circumstances surrounding the misconduct.





OIG No. 20-02

SENTINEL CASE

JUNE 11, 2020

Mr. Roy Wesley, Office of the Inspector General Page 3	
It is incongruous that the OIG claims that it is concerned about the Department's conduct, when it did not properly and timely seek further review before the Director or Undersecretary, and, instead, affirmatively represented that it would not seek review and approved the settlement agreement without further comment.	3
Grounds For Discipline	
discipline arises out of testimony he gave in the appeal filed by another employee before the State Personnel Board, and its apparent contradictions to statements made to Department attorneys during witness preparation. Specifically, the Department held that was dishonest when he testified that on December 24, 2017, assisted him in the control booth for one hour, and that he saw around" after she left the control booth. However, in prior discussions with Department's attorneys, stated that assisted him in the control booth on a few occasions during shift change and that interaction lasted approximately 15-20 minutes, that he did not recall seeing during the rest of his shift, and that he could not remember whether she helped him on December 24, 25, or 26. The Department's attorneys informed that they would not call him as a witness. He was ultimately subpoenaed by counsel.	5
Internal Affairs interview, when questioned about the purported discrepancies regarding how long was in the control booth, he explained that all times he was providing approximations, and that the dates were approximations. He further explained that at the SPB hearing he was simply trying his best to recall the time frame from one year prior. He explained that he was nervous and had never been in a situation like the SPB hearing. He reinforced that he was trying to the best of his knowledge to remember the day (December 24, 2017) and that he was always unsure as to the dates and times. explained that it was never his intent to give false statements and he simply tried to state what he could remember. Further, denied that anyone attempted to persuade him to change any of his answers. ⁴	6
was not interviewed during the investigation into conduct, and the hearing on her appeal took place on or about December 4, 2018, almost a year after the date of conduct. Further, was not interviewed by the Department's attorneys until on or about October 1, 2018 (for approximately 15 minutes) and December 2, 2018 (for approximately 10 minutes).	
⁴ There was no evidence as to the content of any alleged discussion between and father (who is also a Department employee) on the day of the hearing. Neither of the Department attorneys identified hearing any conversation that would lead them to conclude that father and discussed his testimony. Further, father was not interviewed regarding the nature of his conversation with As such, any speculation as to the discussion is just that.	





SENTINEL CASE

Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General

OIG No. 20-02

JUNE 11, 2020

5

7

Mr. Roy Wesley, Office of the Inspector General Page 4

EAPT's Evaluation

There were and are potential issues relating to the ability of the Department to prove the required elements of dishonesty as to statements at hearing. EAPT's recommendation was at all times that the Department should not sustain the allegations.

Dishonesty under Government Code section 19572, subdivision (f), requires a showing of intentional misrepresentation of known facts, or a willful omission of pertinent facts, or a disposition to lie, cheat, or defraud. (Nhut Minh Nguyen (1999) SPB Dec. No. 99-01, p. 8; Eliette Sandoval (1995) SPB Dec. No. 95-15, pp. 4-5.) "'Dishonesty' connotes a disposition to deceive...It denotes an absence of integrity; a disposition to cheat, deceive, or defraud." (Gee v. California State Pers. Bd. (1970) 5 Cal.App.3d 713, 718-19 (emphasis added).) Whether or not an employee is intending to deceive parties, or makes false statements because of other factors, raises conflicts in the evidence and presents a factual determination for a trier of fact. (See, e.g., Cvrcek v. State Personnel Board (1967) 247 Cal.Ap.2d 827, 832 (recognizing a distinction between an employee who lied in order to deceive or who "lied only because they are nervous and under extreme tension.").)

EAPT identified several issues with the allegation of dishonesty, based on the purportedly dishonest statements:

1.	That	H	helped		for an ho	our on th	e date	in questi	on.		
	a.		did r	not uneq	uivocally t	estify tha	t	wast	here fo	r an ent	ire hour.
		Instead, his testimony was that helped him with shift change (which took									
		approx	imately :	15-20 mi	nutes) and	then pr	ovided	him with	n a deb	rief.	
		testifie	d that he	e viewed	these two	events	as sepa	rate.		estima	ited that
		these a	ctivities	lasted "n	naybe an h	our," bu	t occur	red "with	in the f	first hou	r of shift
		change	" and "n	io longer	than that	." Finall	у,	te	stified	that he	was not
		paying	attentic	on to the	e time, as	he was	a nev	w Correc	tional	Officer	and the
		assignn	nent was	s hectic.							
	b.	While D)epartm	ent attor	ney	stated a	t the SF	B hearin	g that		never
		told he	r about t	he "debr:	ief" time i	n additio	n to ass	sisting wi	th the s	shift cha	nge,
			maintaiı	ned that	he did. F	urther, E	mploye	ee Relatio	ns Offi	cer	, who
		was pre	esent du	ring	di	scussion	with		, inclu	ded in h	er notes
		that		stated t	hat "[wou	ld] give	e me a br	ief on v	what to	do." ⁵
		i.	It should	d be note	d that		and		m	emoran	ida state
			that		testified 1	:hat	w	as with I	nim for	about	one and
			one-half	f hours.		memo	randun	n states t	hat		testified

Page 6 of 16

testimony and was not interviewed as

was similarly not interviewed.

was retired at the time of the investigation into

part of the Internal Affairs investigation. Department attorney





SENTINEL CASE OIG No. 20-02

JUNE 11, 2020

Mr. Roy Wesley, Office of the Inspector General Page 5

		that was with him for over an hour. None of these accounts is consistent with the testimony and could open the Department's employees up to significant impeachment regarding the accuracy of their recollection of the exact statements that were made and are at issue in this case.	8
2.	That	helped on December 24, 2017.	
	a.	initially testified that assisted him on December 24, 2017, and	
		conceded that he did not recall the specific date, and that it could have	5, 6, 9
	L	been December 24, 25 or 26.	
	D.	At the hearing, explained that he was providing estimates. During his	
		Internal Affairs interview, maintained that it was always his intention to provide estimations and that he was trying to remember to the best of his	
		ability.	
	c.	The Department does not have direct evidence of intention to make	12
		a false statement of fact regarding the date that helped him. Instead, the	
		Department has repeated representations that at all times he was	
		providing estimates, and on the day of the hearing he was attempting to do his	
		best, and was nervous.	
	d.	However, repeated affirmative statements that helped him	
		on December 24, and his clarification that was an estimate only when confronted	10
		with his prior statements could support an inference that was	
_		intentionally making a false statement early in his testimony.	
3.	That	saw "around" after she left the control booth on December 24,	
	2017.		
	a.	in the corridor, but did not identify when/how soon after she left the control booth he saw her.	
	b.	In response to being questioned regarding the apparent inconsistency with his	5, 6, 9
		prior statements to testified that he could not remember	
		when helped him, but that it had to be on either December 24, 25 or 26,	
		and that had gone back to work after she helped him. However,	
		was not questioned further regarding his knowledge of return to work,	
		nor was he asked to clarify whether he recalled seeing her after shift change on	
		any date other than December 24.	
	c.	The Department does not have direct evidence of intention to make	12
		a false statement of fact regarding whether he saw her after shift change on	
		December 24. Instead, the Department has repeated	





JUNE 11, 2020

OIG No. 20-02

Page 6

Mr. Roy Wesley, Office of the Inspector General

SENTINEL CASE

	ı	representations that at all times he was providing estimates, that he could not recall which date(s) helped him, and on the day of the hearing he was attempting to do his best, and was nervous. However, statement that he saw on December 24, and his	
	u.		10
		confronted with his prior statements could support an inference that	
		was intentionally making a false statement early in his testimony.	
consist corrob establi Board. the De	ates, retent stated ish that	h by notes), EAPT did not believe the Department had sufficient evidence to was intentionally misrepresenting known facts to the State Personnel is issues were identified to and discussed with the Department's hiring authorities in nent's attorney's Executive Review memorandum and throughout the Executive	7
Depar	tment's	nent disputes that the analysis or evaluation by its attorneys was weak. Rather, the is attorneys evaluated the claims based on all facts known to them, and the legal dishonesty, which requires more than mere inconsistency in statements.	
<u>Furthe</u>	r Corre	ections to Factual and Legal Assertions in the Sentinel Report	
1)		tates in several places that testified that was in the control of for longer than an hour. As discussed, above, did not testify that was in the control booth for longer than an hour.	5
2)	her sh	did not testify that did not leave the institution prior to the end of hift.	5
3)		scussed, above, was consistent that gave him a "brief" or rief" on what his job duties were after helping him with shift change.	7
4)	SPB's	decision in thecase is not as represented. For example:	
	a.	OIG states that the ALJ rejected testimony. However, name and testimony were not mentioned anywhere in that decision. The mere fact that testimony was not relied on is not the same as being rejected by a trier of fact. Further, as noted below, admitted to leaving the institution early on the day in question, thus, the ALJ did not need to consider testimony.	11





OIG No. 20-02

SENTINEL CASE

JUNE 11, 2020

Mr. Roy Wesley, Office of the Inspector General Page 7
b. SPB did not conclude lied about leaving the institution early. In fact, at hearing she admitted she left the institution early. SPB found her credible on when she left the institution. The SPB determined that was dishonest for failing to accurately reflect when she left the institution on her time sheet and for failing to be truthful about how she sought and received permission to leave early in a memorandum submitted the next day.
5) OIG's statement of the legal standard is incomplete. The Department has to show by a preponderance that the employee was dishonest. However, OIG's summary does not identify the necessary elements of dishonesty, and most critically here, the requirement that the Department show an intentional misrepresentation of a known fact, not merely that story was inconsistent.
6) The Hiring Authorities made their own evaluations of the evidence and reached their own conclusions. It should be noted that at the outset, the Hiring Authority did not follow the recommendation of EAPT. Further, the Hiring Authorities, in particular Associate Director and Deputy Director listened to testimony and reviewed the investigation records prior to reaching their own decision on the matter.
7) Associate Director did not propose a 30-day suspension. Warden proposed the 30-day suspension as a counter-offer to offer to settle his discipline. OIG invoked the Executive Review process from Warden desire to make this counter-offer.
The Department understands the importance of honesty among its employees, particularly its peace officers, and takes these matters seriously. If you have further questions, please contact me at (916) 323-6001.
Sincerely,
RALPH M. DIAZ Secretary





Inspector General
Bryan B. Beyer
Chief Deputy
Inspector General
Independent

G No. 20–02 Sentinel Case

JUNE 11, 2020

COMMENTS

OFFICE OF THE INSPECTOR GENERAL'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

To provide clarity and perspective, we are commenting on the California Department of Corrections and Rehabilitation's (hereinafter referred to as the department) response to our Sentinel Case 20–02. The department contends the Sentinel Case does not fully capture the facts underlying the discipline of the officer in this case. We submit the facts contained in the Sentinel Case are comprehensive and have been verified for accuracy. Any factual revisions in the Sentinel Case have been noted in this response. Furthermore, the department alleges that we are inaccurate in our representation of the legal standard in this case, but that is not correct. "The California Supreme Court has stated that the standard of proof to be used in state employment cases is a preponderance of the evidence" (Skelly v. State Personnel Board, supra, 15 Cal.3d at p. 204, fn. 19, 124 Cal.Rptr. 14, 539 P.2d 774). This is the standard which we have used in our analysis. The numbers below correspond with the numbers we have placed in the margin of the department's response (pages 3–9).

1. The department alleges that this case involved circumstances in which there was "not likely" a preponderance of evidence that the officer had intentionally misrepresented known facts and a belief that the officer understood his errors when he made "inconsistent statements." Nevertheless, at the investigative and disciplinary findings conference, *the warden*, who was the hiring authority designated by the department to make decisions in the case, reviewed the evidence and *determined there was, in fact, a preponderance of the evidence* that the officer had misrepresented known facts when the officer testified at a State Personnel Board hearing. Based on the warden's finding that there was a preponderance of evidence that the officer was dishonest, the warden dismissed the officer.

At the time of the investigative and disciplinary findings conference, the senior department attorney assigned to the case disagreed with the hiring authority's finding and set forth the reasons for his disagreement. The warden did not find the senior department attorney's arguments convincing, however, and still decided to find that the officer had been dishonest and that the officer should be dismissed. The warden sustained a finding that the officer intentionally provided false information when he testified at a State Personnel Board Hearing. When the OIG or department attorneys do not concur with the decisions of a warden or any other hiring authority, department attorneys may choose to elevate decisions to the hiring authority's supervisor. This process is called *executive review*. Here, even though the senior department attorney did not agree with the warden's findings, the senior department attorney *never* elevated the matter to the warden's supervisor.





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General Independent

JUNE 11, 2020

OIG No. 20–02 SENTINEL CASE

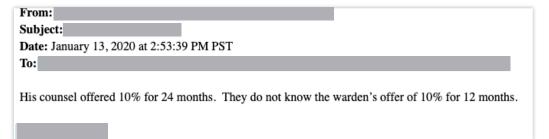
Furthermore, if it is true that the department is now asserting that the officer's actions should not have warranted a sustained finding of dishonesty and a dismissal penalty, then it follows that the senior department attorney

wrote and the department served a disciplinary action dismissing an officer based on a case the department believed it could not prove.

2. The department is not providing a complete history of the settlement discussions and the negotiations between the department and the officer. The warden originally indicated she was willing to offer a salary reduction of 10 percent for 12 months to resolve the officer's case. The employee relations officer sent the following email message to the senior department attorney and to the OIG:

rom: ent: Monday, January 13, 2020 2:29 PM	
o: ubject:	
officer was walked off today. He has since contacted us to negotiate a deal in lieu of dismissal. The warden agrees to 10% for 12 months. We remove the dishonesty charge and he waives all rights to approximately	eal.
Vhat do you two think?	

This offer was never communicated to the officer. The officer conveyed to the department that, in lieu of a dismissal, he was willing to enter into a settlement agreement with the department for a 10 percent salary reduction for 24 months, which is the monetary equivalent of 48 days. The employee relations officer sent the following email message to the senior department attorney and to the OIG:



The OIG did not agree with the department's decision to settle the case and invoked executive review. From the time the warden decided to sustain the dishonesty allegation and dismiss the officer to the time the department offered to settle case, there was not a change of circumstances, meaning the evidence in the case remained the same. Yet, even though there was not a change in circumstances and evidence, the department was willing to settle the case. After the OIG invoked executive review, the department proposed

Page 11 of 1

^{1.} To the present day, the evidence has remained the same. In other words, the evidence the warden originally analyzed to decide to sustain the allegation and dismiss the officer is still the same even though the department has now settled the case for a 30-working-day suspension.





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General Independent

JUNE 11, 2020

DIG No. 20–02 SENTINEL CASE

settling the case for a 30-working-day suspension, which is a more favorable penalty for the officer than the 48-working-day suspension.

3. The OIG does not instruct the department to do anything. The OIG monitors the department's internal investigations and employee disciplinary process and makes recommendations, which the department can choose to accept or reject. Moreover, while the OIG may review written settlement agreements to verify that the form of an agreement complies with policy and that it accurately reflects the decision made by the department, the OIG does not approve settlement agreements and is not a signatory to the agreements. When the department presented the settlement agreement to the OIG, the OIG reviewed it and agreed with the *form* of the settlement agreement, not the *substance*. The OIG has never agreed with the substance of the settlement agreement in this matter.

It is important to point out that, at the time the department forwarded the settlement agreement to the officer, the OIG had already expressed its disagreement concerning the settlement to the warden, invoked executive review of her decision, and engaged in the executive review process with two other departmental executives: an associate director and a deputy director. Furthermore, by this time, an OIG executive had already elevated the matter to an undersecretary at the department. The undersecretary indicated he was reviewing the case and that the department would be taking no further action on the case until he concluded his review. On April 10, 2020, after discussions with the undersecretary, the OIG informed the department that it was invoking further executive review. However, by that juncture, the department attorneys had already sent the written settlement agreement to the officer, and it had been executed by all parties.

- 4. We strongly disagree with the department's contentions that our report does not fully and accurately capture the facts underlying the discipline of the officer and that it does not accurately reflect the legal standards that apply to dishonesty cases. We provide further clarifications in sections 5, 6, 9, and 12 below.
- 5. In the prior discussions with the department attorney and the employee relations officer, the officer consistently stated that the second officer assisted him for approximately 10-20 minutes. In an October 1, 2018, discussion, the officer told the department attorney and the employee relations officer that he did not remember any details of the shift he worked on December 24, 2017, the date in question concerning his interaction with the second officer. The officer said the second officer helped him briefly in the past during shift change, but the officer did not remember the specific day and had no memory regarding whether he had seen the second officer during the rest of the shift after the second officer had helped him.

In another discussion on December 2, 2018, two department attorneys and the employee relations officer met with the officer in person and again discussed the officer's recollection of December 24, 2017, events. Again, the officer indicated he could not remember any details of his shift except for the fact





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General

JUNE 11, 2020

IG No. 20–02 Sentinel Case

that he remembered working in the control booth and that the second officer helped him during shift change on one of three days (December 24, 25, and 26, 2017). The officer stated that the second officer only helped during shift change for approximately 15-20 minutes. The officer said the second officer would have no reason to remain in the control booth after the control booth was no longer busy. The officer specifically stated he did not remember if he had seen the second officer after she left the control booth. The department attorney did not subpoena the officer to the hearing. It is reasonable to infer the department attorney did not subpoena the officer because of the officer's poor memory regarding the events in question.

The State Personnel Board held a hearing concerning the second officer's disciplinary action on December 4, 2018. Prior to the hearing, in the lobby, the officer interacted with the second officer, the second officer's father, and the second officer's attorney. Subsequent to his interaction with those individuals, the officer testified under oath at the hearing. Interestingly, the officer suddenly had a moment of clarity and clearly remembered the specific date that the second officer assisted him in the control booth and testified regarding the duration of the time that the second officer allegedly assisted him on the date in question. Under oath, the second officer testified that the second officer assisted him for a duration which was at least triple the time frame he had previously provided to the department attorney and the employee relations officer on the two prior occasions. Furthermore, the officer testified under oath that the officer definitively saw the second officer after the second officer left the control booth. Concerning the bottom paragraph of page six of the department's response (numbered 1 and 2), the OIG reviewed the audio recording of the State Personnel Board hearing again and notes that the officer testified that the second officer was in the control booth for an hour or "within the hour" of his first shift, and the OIG acknowledges that the officer did not testify that the second officer left the institution before the end of the second officer's shift.

Earlier in the December 4, 2018, hearing, the department attorney impeached the second officer's testimony based on the department attorney's two prior conversations with the officer, meaning she confronted the second officer with the information provided by the officer in the two prior conversations. The officer subsequently testified. The officer's testimony not only contradicted his earlier statements to the department attorney and to the employee relations officer, the officer's testimony also negated the department's prior impeachment of the second officer. The officer's testimony also corroborated the length of time the second officer was claiming to have stayed in the control booth and the second officer's story that she had, in fact, returned to the vicinity of the control booth later in the afternoon in question.

6. The officer's testimony at the December 4, 2018, State Personnel Board hearing was not only a vast departure from the information he had previously repeatedly provided to the department attorney and to the employee relations officer, but suddenly his recollection of the events in question became specific concerning events which occurred almost a year earlier in December 2017. In a





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General Independent

JUNE 11, 2020

OIG No. 20–02 Sentinel Case

matter of days, the officer's memory went from failing—on October 1, 2018, and again on December 2, 2018, just 48 hours before the hearing, his recollection concerning the events was very unclear—to suddenly becoming undecayed and clear at the December 4, 2018, State Personnel Board hearing. This is not a case of nerves. This is a case in which the officer completely changed his testimony on the heels of being surrounded in the lobby of the location of the State Personnel Board hearing by the second officer and the second officer's father a lieutenant and higher-ranking official of the department. Incidentally, the second officer's father was a character witness who was present and remained in the lobby during the hearing and interacted with subpoenaed witnesses. Although there is no direct evidence of the content of the discussions which took place in the lobby before the hearing, after his interaction with the other individuals in the lobby, the officer suddenly had an otherwise unexplainable and significant change in his version of events and testified with newfound clarity concerning events which took place almost a year before. The officer's interactions with the second officer, the second officer's father, and the second officer's attorney immediately before testifying coupled with the officer's inexplicably radical change in his recollection while testifying is circumstantial evidence of the officer's intent to be dishonest.

7. The department identified as an issue that the department attorney's statement and the officer's contention regarding the contents of their previous discussions of the incident in question contradict each other. It is disheartening to note that the department views conflicting statements between its own department attorneys versus those of an officer as problematic without assessing the quality and reliability of the statements. While the officer changed his story multiple times, the department attorney has been consistent with her recitation of the facts and her recollection of events.

Furthermore, the department attempts to corroborate the officer's testimony during the State Personnel Board hearing with the fact that the employee relations officer mentions in her memorandum that the officer previously stated the second officer would "brief" him on what to do. On the day of the hearing, the officer testified that the second officer "debriefed" him for the remainder of the hour after shift change in an attempt to account for the extra time the second officer remained in the control booth. However, the officer never mentioned anything about a debrief in his previous conversations with the department attorney and the employee relations officer. The department incorrectly uses the words "brief" and "debrief" interchangeably. However, there is a difference between the verb and the noun forms of brief and debrief. To brief means to summarize or to give instructions. On the other hand, to debrief means to question or get information from someone.² A briefing primarily occurs before and sometimes during an event. A debriefing usually occurs after the event. Therefore, even if the second officer gave the officer a brief, it still would not account for any of the time the officer is now claiming the second officer allegedly stayed in the control booth after shift change.

Page 14 of 1

^{2.} A Brief on "Brief" and "Debrief." Retrieved from https://www.merriam-webster.com.





JUNE 11, 2020

SENTINEL CASE

8. The department seems to be applying a double standard here to the information and testimony provided by the officer and the information and statements provided by the department attorney and the employee relations officer. It gives the officer every deference and benefit of the doubt as to the interpretation of his statements, yet it does not do so with the statements provided by the department attorney and the employee relations officer. The department has now determined that all instances in which the officer gave dates and times were "approximations," that it should now overlook the fact that, under oath, the officer dramatically changed his recollection of events and omitted crucial information he provided in prior conversations with the department attorney and the employee relations officer, and, therefore, gave the officer leniency and settled the case. In the two prior conversations between the department attorney and the officer, the officer appeared to be candid when he indicated that he had an extremely poor recollection of the incident in question. However, on the day of the hearing, the officer had no reasonable explanation as to why his version of the events in question changed and never articulated a reason as to how or why his memory suddenly improved.

In contrast, the department now criticizes the statements of the department attorney and the employee relations officer, who are credible and reliable departmental staff, and their recollections of the December 4, 2018, hearing despite the fact the department's position was undermined by the contradictory testimony of the officer. The department now concludes that statements of the department attorney and the employee relations officer "could open the department employees up to significant impeachment." However, a memorandum is a summary of their recollections and, unlike the actions of the officer, not sworn testimony. The department now gives every benefit of the doubt to the officer, but not to the department attorney and the employee relations officer. Clearly, the department has no confidence in the ability of its own employees to articulate their recollection of the events or clarify their memorandums. Ultimately, the department's point is moot because the State Personnel Board recorded the hearing and the recording of the hearing is, itself, the best evidence.

The officer changed his testimony multiple times on the stand. Under oath, the officer repeatedly testified concerning facts that he had never previously shared with the department attorney, despite his previous conversations with the department attorney on October 1, 2018, and December 2, 2018, and in which the department attorney repeatedly questioned the officer concerning his recollection of the incident in question. The first time the officer revealed the new information was immediately before he was called to testify under oath. Under oath, the officer repeatedly testified that the second officer helped him on December 24, 2017; that the second officer was in the control booth for the duration of the first hour of his shift; and, finally, the officer testified that he, in fact, saw the second officer later in the shift after the second officer left the control booth. The officer's testimony was clear enough that, after the hearing, the employee relations officer, who was present at the hearing and saw the officer testify, felt compelled to write a complaint to the hiring authority concerning the officer's sworn testimony being so different from his prior





Roy W. Wesley Inspector General Bryan B. Beyer Chief Deputy Inspector General Independent

OIG No. 20–02 SENTINEL CASE

JUNE 11, 2020

statements to the department attorney and to the employee relations officer. In addition, the officer's testimony was clear enough that two department attorneys wrote memorandums detailing the substantive inconsistencies of the officer's testimony compared with the officer's previous statements to departmental staff concerning the incident.

- 10. The department even admits that the officer's affirmative responses under oath concerning specific facts, such as the officer helping the second officer on December 24, 2017, and seeing the second officer again after she left the control booth, support the allegation that the officer falsely testified at the State Personnel Board hearing.³
- 11. The department is correct when it notes that the State Personnel Board did not conclude that the second officer lied about leaving the institution early, but that the second officer was dishonest for not accurately reflecting on her time sheet when she left the institution and for lying in a memorandum concerning the incident. The department contends the State Personnel Board did not reject the officer's testimony because the officer's name and testimony are not mentioned in the State Personnel Board's decision concerning the second officer's case. However, the fact that the State Personnel Board administrative law judge did not mention the officer's name and testimony in the written decision indicates the officer's testimony was rejected or dismissed by the administrative law judge.
- 12. The OIG is clear concerning the legal standard needed to prove a dishonesty allegation. Allegations are proven by evidence. The department contends that it does not have direct evidence of the officer's intent to make false statements while testifying at a State Personnel Board hearing. However, the department's contention completely ignores the fact that there are two types of evidencedirect and indirect. Direct evidence is that which speaks for itself. For example, if a witness testifies she saw a jet plane fly across the sky before she testified at the State Personnel Board hearing, that testimony is direct evidence a jet plane flew across the sky. Indirect evidence suggests a fact by implication or inference. For example, if a witness testifies she saw the white trail which jet planes often leave, that testimony is indirect evidence because it supports the conclusion a jet plane flew across the sky.4 It appears, however, the department is positing that, in order to prove intent, the department needs a confession from the officer regarding his false testimony, which would be direct evidence that the officer intentionally misrepresented known facts. The reality is that direct evidence of intent rarely exists. Intent can be proven by circumstantial evidence.5 The law makes no distinction between the weight given to direct or circumstantial evidence. It is well settled that circumstantial evidence is just as reliable as direct evidence (NLRB v. Wal-Mart Stores, Inc. 488 F.2d 114, 116 (CA8 1973); McGraw-Edison Co. v. NLRB, 419 F.2d 67, 75-76 (CA8 1969)). As mentioned above, circumstantial evidence exists in this case (see No. 6).

^{3.} Department's Response, page 5, 2 (d); page 6, 3 (d).

^{4.} Example taken from Judicial Council of California Civil Jury Instructions, 202 Direct and Indirect Evidence.

^{5.} CALCRIM 223 Direct and Circumstantial Evidence: Defined.

EXHIBIT XX



Roy W. Wesley, Inspector General

Bryan B. Beyer, Chief Deputy Inspector General



Independent Prison Oversight

June 2020

Complaint Intake and Field Inquiries

Addressing Complaints of Improper Governmental Activities Within the California Department of Corrections and Rehabilitation

Initial Report

Electronic copies of reports published by the Office of the Inspector General are available free in portable document format (PDF) on our website.

We also offer an online subscription service.

For information on how to subscribe,

visit www.oig.ca.gov.

For questions concerning the contents of this report, please contact Shaun Spillane, Public Information Officer, at 916-255-1131.

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 691 of 858



Roy W. Wesley, Inspector General Bryan B. Beyer, Chief Deputy Inspector General

Independent Prison Oversight

Regional Offices

Sacramento Bakersfield Rancho Cucamonga

June 2, 2020

The Governor of California President pro Tempore of the Senate Speaker of the Assembly State Capitol Sacramento, California

Dear Governor and Legislative Leaders:

Enclosed is the Office of the Inspector General's report titled *Complaint Intake and Field Inquiries: Addressing Complaints of Improper Governmental Activities Within the California Department of Corrections and Rehabilitation.* This is our first report dedicated to the work we perform in response to complaints we receive from inmates, family members, interest groups, and other concerned individuals. As part of our statutory responsibilities, we maintain a statewide complaint intake process that provides concerned individuals a point of contact to raise allegations of improper activity within the California Department of Corrections and Rehabilitation (the department). This report summarizes the work we performed in response to 6,009 complaints we received in the two-year period between July 1, 2017, and June 30, 2019.

This report provides an overview of our processes for reviewing and analyzing the complaints we receive and examples of ways in which we have helped individuals resolve their disputes with the department. The report also summarizes the inquiries our field inspectors performed into 49 complaints that warranted additional scrutiny. Our field inspectors identified instances in which the department responded appropriately and commendably to the concerns we raised. But in other instances, our field inspectors found policies and practices that were both costly to the State and harmful to the inmates who were affected by the policies and practices.

Chief among the concerns we identified is the unintended impact of a regulation the department enacted in 2017, which restricted the department's ability to advance an inmate's release date after discovering staff erred in rescinding an inmate's sentence reduction credits. The regulation prohibits the department from releasing an inmate any sooner than 60 days after the error is corrected. After reviewing allegations that the department erroneously rescinded four inmates' sentence credits within 60 days of their estimated release dates, we determined that the department's policy of performing audits of inmates' release date calculations when an inmate is only 60 days from release imposes an undue hardship on inmates. Because the department cannot fully correct any mistakes staff make in the final 60 days of an inmate's incarceration, inmates are forced to forfeit these earned credits, with the only remedy being to initiate litigation against the department seeking damages for holding them beyond their release dates. In these four cases, the department's mistakes and administrative delays caused these inmates to spend a total of 122 additional days in prison, which directly cost the State approximately \$28,360 and exposed the department to additional liability for denying inmates of the liberty interests they earned that entitled them to an earlier release from prison.

We also reviewed the department's response to 36 complaints we forwarded to hiring authorities statewide that involved allegations of staff misconduct. We determined the department's hiring authorities performed inadequate inquiries into 21 of these complaints, finding concerns similar to those we raised in our January 2019 report titled *Special Review of Salinas Valley State Prison's Processing of Inmate Allegations of Staff Misconduct*. We discovered that hiring authorities did not perform inquiries into four complaints and did not document the



others it had not. Nevertheless, we assessed the response taken by the hiring authorities in each of the 36 complaints. We assessed whether complaint responses were timely, thorough, and complete based on the documentation generated during the inquiry and other information the hiring authorities and their staff conveyed to our field inspectors.

In 32 of the 36 complaints we reviewed, the hiring authorities ordered their staff to perform an inquiry into the allegations. In three of the 32 inquiries ordered by hiring authorities, our ability to review the department's handling of the complaint was limited because the staff who performed the inquiries did not draft an inquiry report or otherwise document their investigative efforts. Table 4, below, summarizes the department's performance in each aspect of the inquiry process that we assessed.

Table 4. Assessment of the Department's Performance in Addressing the 36 Complaints of Staff Misconduct We Referred for Their Review

	Inquiry Performed	Inquiry Documented	Timely Inquiry	Adequate Interviews*	Adequate Document Review*	Adequate Overall
Yes	32	29	20	20	24	15
No	4	3	12	8	6	21

^{*} The OIG was not able to assess adequacy of the interview and review of evidence in cases with limited documentation or in cases in which the OIG found the category was not applicable.

Source: The Office of the Inspector General.

Although the 36 field inquiries we performed involving allegations of staff misconduct represent a much smaller sample size than the 188 we assessed during our special review of Salinas Valley State Prison's handling of staff misconduct allegations in 2018, we noticed some similarities between the two samples. During that special review, we found 104 of the 188 staff complaint inquiry reviews (55 percent) inadequate, whereas in this period, we determined the department performed inadequate inquiries into 21 of the 36 complaints (58 percent). We also found a number of similar issues in the inquiries the department performed into complaints of staff misconduct, such as incomplete investigative work, outward signs of bias, and a lack of independence. Appendix C presents a summary detailing the various reasons why each inquiry was not adequately conducted.

Four Wardens Failed to Take Any Investigative Steps into Complaints of Staff Misconduct We Brought to Their Attention

An essential component of an adequate inquiry is that an inquiry is actually performed. In four of the 36 complaints we reviewed

(11 percent), the hiring authority did not perform an inquiry into allegations that its staff engaged in misconduct. The primary reason we refer allegations of staff misconduct to the department is because we lack the authority to perform investigations into allegations of staff misconduct ourselves. That authority was removed in July 2011 as part of the 2011-12 Budget Act.²⁰ As has been our practice since July 2011, when we receive complaints alleging staff misconduct, we can only refer the complaint to the department, and request information and documentation reflecting the actions it took in response to receiving the complaint. As a result of the 2011 changes, if the hiring authority does not perform an inquiry, the allegation of staff misconduct goes unaddressed.

In one instance, we provided a warden with a complaint we received from an inmate alleging institutional staff never responded to a complaint he filed. In that complaint, the inmate alleged a correctional officer retaliated against him because he previously filed a complaint against the officer. In the initial complaint, the inmate alleged the officer required him to share a cell with an inmate whom he believed posed a risk to his safety. The inmate warned the officer that his new cellmate was a member of a gang whose members had tried to murder him before he came to prison and that neither he nor his cellmate were safe if they were forced to live together. The inmate alleged that despite being made aware of these safety concerns, the officer still required the inmates to share a cell. Ten days after the inmates were housed together, they were involved in an in-cell altercation in which

each inmate claimed to have been the victim of an assault

initiated by the other.

After we discussed the complaint with the warden, the warden sent the inmate a letter explaining that the institution had not responded to his complaint because it was filed on a Citizen's Complaint form (Form 2142) rather than on the required Inmate Appeal form (Form 602) (text box, page 20). When we followed up with the warden two months after providing him a copy of the complaint, we learned that because the inmate never refiled his allegations on the proper form, the institution did not perform an inquiry or investigation into his allegations.

Although a departmental regulation required the inmate to submit this complaint on a Form 602, the department should have recognized the seriousness of the allegations, processed the inmate's complaint as a staff complaint, and assigned a staff member to perform an inquiry into the allegations. Instead, the warden opted to ignore the inmate's allegations

CITIZEN'S COMPLAINT PROCESS

Any noninmate may register a complaint against any departmental employee for improper conduct by completing and submitting a CDCR Form 2142, "Citizens' Complaint Against Employees of CDCR."

The department reviews all complaints of misconduct received and may initiate an investigation based upon the nature and seriousness of the allegation(s). If an investigation is initiated, the complainant is notified when the investigation is complete.

Source: California Code of Regulations, Title 15, Article 2, Section 3391; the California Department of Corrections and Rehabilitation, Office of Internal Affairs, Frequently Asked Questions, http:// cdcr.ca.gov/oia/faqs/ (URL accessed on February 5, 2020.)

^{20.} Senate Bills 78, 87, and 92 of the 2011-12 legislative session.

that a correctional officer engaged in serious misconduct that resulted in an in-cell assault because the complaint was not written on the correct form. Regardless of the form on which an allegation of staff misconduct is made, the department has an obligation to inquire into such allegations, especially when the allegations involve serious misconduct suggesting staff intentionally placed the safety of two inmates at risk.

Hiring authorities also failed to perform inquiries into the following three complaints of staff misconduct we forwarded to them:

- The former spouse of a correctional officer alleged the officer sent harassing text messages to her and to their two children, threatened to kill her and commit suicide, and made false allegations about her that could jeopardize her employment and harm her reputation. She also alleged the officer verbally abused her and her children and threatened to assault her new boyfriend.21
- The mother of an inmate alleged a lieutenant was mistreating her son because his commitment offense involved an assault on a peace officer and because she had previously complained about the lieutenant's treatment of her son. She alleged her son was accused of writing a "kite" (inmate note) that threatened to harm the lieutenant, and was handcuffed and escorted to the lieutenant's office, where the lieutenant questioned him about the threat. The lieutenant then allegedly placed the inmate in a holding cell for five-and-onehalf hours, where he allegedly interrogated the inmate and told him, "Where did this get your family writing complaints against me? Tell your family to back off."
- An inmate's wife alleged the correctional officer responsible for coordinating family visits at an institution required her husband to pre-order food up to two months in advance of the visit, causing the food to grow moldy or expire by the time the visit occurred. The wife also alleged the officer refused to accommodate the dietary restrictions her doctor ordered and would not allow her to bring her own food into the institution with her during family visits, even though the institution did not provide her an option to purchase food that met her doctor's orders. The inmate's wife also alleged the officer confronted her after she called the department's

^{21.} The hiring authority opened an inquiry into similar allegations the spouse submitted directly to the institution seven months later, which included additional allegations of misconduct that occurred after she submitted her initial complaint to our office. However, the hiring authority took no action in the seven preceding months despite being made aware of the spouse's initial complaint.

Office of the Ombudsman regarding her complaints and told the inmate, "We're going to have some problems" if his wife kept filing complaints. The officer also allegedly refused to answer the wife's calls regarding her visits.

Hiring Authorities Performed Timely Inquiries Into Only 63 Percent of the Staff Misconduct Inquiries We Reviewed

Although the department's regulations establish time frames within which it must conduct inquiries into complaints of staff misconduct it receives from inmates, there are no time frames for the department to inquire into allegations of staff misconduct that the department receives in other manners, such as through the citizen complaint process; informally, such as by email or phone call; or after a referral from our office or another entity. Timely inquiries are an essential component of an effective system of internal review. Complaints must be investigated in a timely manner to ensure that the most reliable information and memories are collected and preserved. Inmates and staff have dozens of interactions with one another on a daily basis. As time passes, it becomes more and more difficult to separate any one of those interactions from the others. Because most of these allegations involve the actions of peace officers, to whom a one-year statute of limitations applies, any delay in investigation shortens the amount of time the hiring authority has to perform an investigation and institute discipline, where appropriate.

Considering the majority of the complaints we refer to the department come from inmates, we assessed the timeliness of the department's inquiries by the same standards applicable to complaints of staff misconduct raised via the inmate appeal process, which requires the hiring authority to complete its inquiry within 30 business days of receipt, but also provides a process for requesting an extension of time in extenuating circumstances.

During our review period, we determined 20 of the 32 inquiries (63 percent) the department performed were either completed within 30 business days or beyond 30 business days, but with a reasonable justification for the delay. As set forth in the cases below, several hiring authorities deserve recognition for performing immediate inquiries into allegations of staff misconduct:

On September 21, 2018, we notified an institution's public information officer that we had received a complaint from an inmate alleging he overheard multiple correctional officers make statements about a captain suggesting they would not come to the captain's aid if he were being attacked. Immediately upon receipt of our request, the institution deployed a team of investigators to assess the validity of

the allegations. By October 8, 2018, just 17 days later, the department had completed its inquiry, which included interviewing approximately 135 inmates living on the captain's assigned yard, the inmate who made the allegations, an inmate who allegedly overheard the statements, and the officers alleged to have made the statements.

- On February 7, 2018, we referred a complaint that identified 28 allegations of misconduct to the hiring authority and recommended an inquiry into the allegations contained in the complaint. By February 20, 2018, just 13 days later, the institution's investigative services' lieutenant had completed his inquiry after either interviewing or collecting statements from more than 13 staff members, reviewing a voluminous amount of documentation related to the allegations, and summarizing the results of his inquiry into a report. Based on the inquiry report and the warden's request, the department's Office of Internal Affairs opened an investigation into two of the allegations contained in the complaint.
- On July 25, 2018, we notified the department's Office of Internal Affairs that we received a report that a departmental employee had been recently seen riding in a car with a parolee, suggesting the employee was engaged in an overly familiar relationship with the parolee. Within three business days, the Office of Internal Affairs determined the employee had ended her employment with the department 10 months earlier and was able to close its inquiry because former employees are not prohibited from associating with inmates or parolees.

However, in 12 of the 32 inquiries the department performed (38 percent), the department failed to perform the inquiries within 30 business days. In the following examples, the hiring authority performed inquiries into allegations of staff misconduct that were so untimely that we question the reliability of the information gathered during the inquiry:

In one case, a warden's 161-day delay in interviewing three staff members precluded the warden from referring a case to the department's Office of Internal Affairs for further investigation. In his complaint, the inmate alleged he was attacked by a group of inmates on March 8, 2018, 16 days after voicing safety concerns to institutional staff, who did not take any action to address his concerns.

The inmate initially notified the institution of these allegations when he filed a staff misconduct complaint with We met with the warden to discuss the complaint on July 31, 2018, who stated he would look into the matter. On August 14, 2018, the warden informed us that his staff had already performed an inquiry into the complaint, which determined the allegations were unsubstantiated. On September 7, 2018, after a change in leadership at the institution, we recommended the new warden review the inmate's complaint. On September 27, 2018, the warden agreed to interview the mental health staff and officers who were not interviewed during the initial inquiry and to re-interview the inmate who filed the complaint. We followed up with the warden again on November 8, 2018, December 27, 2018, and January 8, 2019; during each conversation, the warden told us he had not yet performed these three additional interviews.

On January 11, 2019, 164 days after we first met with the former warden about this complaint, and 126 days after we first raised the complaint to the new warden, the institution sent us the report summarizing the new information it discovered after performing additional interviews. The report noted that one of the mental health workers located notes she compiled during her assessment of the inmate's mental health status on February 21, 2018, just 15 days before he was attacked. During the assessment, she noted the inmate was referred to her due to claims that he was suicidal. When she met with the inmate, he explained that he was not actually suicidal, which led her to believe that he was trying to get placed in a mental health crisis bed because he feared for his safety. She noted that custody staff had refused to send him to administrative segregation the day before, even though he had informed them of his safety concerns. Her notes indicated the inmate was planning to discuss his safety concerns with staff again following the assessment. This information directly supported the inmate's allegation that he reported safety concerns to custody staff 16 days before the attack.

Despite the discovery of this corroborating information, because the department first learned of the inmate's allegations of staff misconduct on March 23, 2018, 10 months earlier, only two months remained in the one-year limitations period for the department's Office of Internal Affairs to review the case and perform an investigation. Because two months was too little time to refer the case to the Office of Internal Affairs, which often takes 30 days to open an investigation, the hiring authority told us he would handle the matter internally and interview additional staff regarding the allegations. However, when we followed up with the hiring authority a few months later, after the one-year limitations period expired, he told us he had not taken any further steps to address the new information provided by the mental health worker.

- On September 7, 2018, we met with a warden to inform him of a complaint we received from an inmate alleging multiple custody staff and mental health staff failed to take any action during two separate incidents in which an inmate was being attacked by a group of several other inmates. The warden did not have staff initiate an inquiry into these allegations until January 28, 2019, 143 days later. As discussed in greater detail on pages 49-50, when the warden's investigative staff finally interviewed the inmate, he could not remember important details about the incident.
- On November 7, 2017, we sent the department's Office of Internal Affairs a complaint from an employee alleging that officers had filed false rules violation reports against inmates and that a lieutenant was involved in an intimate relationship with a subordinate employee. The employee further alleged that when she spoke to an investigative services unit sergeant about these allegations of staff misconduct, the sergeant threatened her that she would be placed under investigation if she continued reporting these allegations and that the sergeant improperly disclosed her confidential communications with him to the lieutenant and other officers working on her yard. Although the Office of Internal Affairs began its inquiry in a timely manner, it did not complete the inquiry until February 2, 2018 (87 days later) and did not send the inquiry report to the hiring authority until March 6, 2018 (33 days after completing the report).

Hiring Authorities Performed Thorough, Complete, and Independent Inquiries Into Only 53 Percent of the Complaints We Reviewed

In 19 of the 36 complaints we examined (53 percent), the department performed inquiries that appeared to be both thorough and complete. We assessed the adequacy of the inquiries from the contents of the inquiry reports compiled after the completion of the fact-finding process. Below, we describe three cases in which we determined the reviewers performed commendably:

In one case in particular, the warden and the staff member who performed the inquiry demonstrated a thorough understanding and appreciation for the many different issues any single complaint can raise. In that case, a family member of an inmate alleged officers assaulted the inmate, threw him in a holding cell for more than three hours, ripped off his clothes, and refused his requests to use the restroom, causing him to defecate in his holding cell. We discovered the inmate had already filed a complaint against the officers alleging they used unreasonable force and engaged in sexual misconduct. The institution had already referred the complaint to the institution executive review committee (IERC) to review the use of force, assigned a locally designated investigator to perform an immediate review of the sexual misconduct allegations, and assigned a reviewer to perform an inquiry into the allegations of staff misconduct.

USE-OF-FORCE REVIEW

The Institution Executive Review Committee (IERC) is the primary level of review for use-of-force incidents occurring at adult institutions. For each adult institution, an institution's executive review committee examines every use of force, except those involving deadly force, which are reviewed separately by the department's Deadly Force Review Board, Each institution's IERC is chaired by the warden (or his or her designee, such as a chief deputy warden) and includes an institution's associate wardens, captains, and health care representatives. Committees at each institution meet regularly, depending on the volume of use-of-force incidents, to discuss the merits of the force used, and to determine whether staff followed policies and procedures when using force. Departmental policy generally requires the committees to review each incident within 30 days of occurrence.

Source: Department Operations Manual, Section 51020.19.5.

After reviewing all the records the institution compiled during these processes, we determined the institution properly handled the inmate's complaints, recognizing that the complaint raised three different concerns that required compliance with three different processes—an immediate interview of the inmate as required by PREA, an inquiry into the allegations of staff misconduct, and a thorough review of the use-of-force allegations by the IERC (text box, left). Institutional staff completed all three processes in a timely and thorough manner, and reached reasonable conclusions in light of the evidence collected.

The PREA interview resulted in a determination that the inmate's allegations of sexual misconduct by staff were not substantiated based on the inmate's statements that he was not touched in a sexual manner, and staff did not make sexual comments during the incident. The lieutenant assigned to perform the inquiry into the inmate's allegations of staff misconduct performed an inquiry within 30 days and provided the inquiry report to the IERC for its consideration. The IERC reviewed staff reports regarding the incident and the inquiry report, and determined that additional inmate witnesses should

have been interviewed during the inquiry to provide a complete account of the incident and that one officer's account of the incident needed clarification. As a result, the reviewer conducted interviews of two additional inmates who may have seen the incident, conducted a follow-up interview with the officer, supplemented the inquiry report, and provided the supplemented report to the IERC for further review.

Upon further review, the IERC determined staff complied with policy during the incident; we agreed with that determination. As a result of the three distinct processes, the institution discovered minor policy violations that did not appear to affect the quality of the institution's processes. Nonetheless, the warden appropriately trained and counseled staff regarding their mistakes. We also observed that the institution's staff were extremely cooperative and transparent during the course of our review of this incident, which enabled us to provide effective oversight of the institution's processes in this case.

- We received a complaint alleging an officer was smuggling weapons into an institution, providing inmates with contraband, permitting inmates to possess inmatemanufactured weapons and to store stolen goods in their lockers, threatening inmates, and disclosing confidential information regarding inmates' commitment offenses to other inmates. The assigned investigator examined access logs to determine whether the subject officer accessed confidential inmate information and interviewed 11 inmates, the complainant, and the subject regarding the allegations. The investigator also searched the lockers and bunk areas of two inmates whom the officer allegedly allowed to store weapons and contraband. The inquiry report thoroughly summarized the information the reviewer collected and arrived at reasonable conclusions that factored in all the information summarized in the inquiry report.
- We received a complaint from an inmate alleging that when he arrived at his current institution, he was improperly housed in general population housing, despite being classified as a maximum-security inmate based on his status as a gang drop-out. The inmate alleged he told staff, upon arrival, that his life would be in danger if he were placed with the general population. The inmate further alleged that three days after he was placed in general population housing, the inmate was assaulted by four other inmates and suffered serious injuries, including the loss of an eye.

We reviewed the institution's inquiry report, which indicated the institution promptly and thoroughly investigated the inmate's complaint of staff misconduct. The assigned investigator interviewed the pertinent witnesses and summarized the witnesses' statements. In his report, the investigator considered all the information gathered during the inquiry and arrived at a reasonable conclusion that staff violated policy when assigning the inmate to general population housing. Prior to the inmate's arrival at the institution, he had been placed in administrative segregation by the action of the former institution's institutional classification committee (ICC) (box, page 57, for an explanation of the ICC). Departmental policy states that the inmate could only be removed from administrative segregation by the actions of an ICC; individual staff cannot override the order of the ICC. The involved staff member also admitted to having seen the inmate's designation as a maximum-security inmate, but explained that he was persuaded by the inmate's request to live in the institution's general population housing and his assurances that he would be safe there.

Insufficient Investigative Steps

In nine of the 32 complaints (28 percent) of staff misconduct we reviewed in which an inquiry report was compiled, we determined the inquiries were not thorough and complete because the reviewer failed to interview all relevant witnesses or failed to ask the witnesses critical questions, failed to collect or review departmental records that contained pertinent information, and in some cases failed in both respects. In eight of the 32 complaints (25 percent), the reviewer failed to perform interviews of individuals who were likely to have information that would support or refute the allegations. In six of the 32 complaints (19 percent), the reviewer failed to collect or review departmental records that contained pertinent information. Five of the 32 inquiries (16 percent) suffered from both defects. We describe two of these complaints below:

• In the first of these two cases, an inmate alleged a correctional officer asked him to attack other inmates who filed complaints against the officer and convince them to withdraw their complaints, and showed him confidential information on his work computer that included newly arriving inmates' conviction offenses. The inmate alleged the officer expected the inmate to attack convicted sex offenders in the institution, and rewarded him with canteen items

the officer took from other inmates. The inmate named two staff members who were either involved in the misconduct or witnessed the misconduct, and 75 inmates who either witnessed the misconduct or were victims of his attacks. We provided a copy of the inmate's complaint to the institution's investigative services unit, which conducted an inquiry into the staff complaint.

Although the inmate named 46 inmates who might have relevant information, the reviewer interviewed only three of the named inmates, noting that he attempted to interview several others who refused to speak with him. Of these three inmates, one did not support the complaining inmate's allegations at all. The second inmate interviewed stated that although he did not know the complaining inmate, he did know that the subject officer ordered another inmate to attack others. The final inmate interviewed indicated he had never witnessed any inmates attacking others at the officer's request, but noted the subject officer confiscated canteen items from inmates' cells and provided them to other inmates.

Although the complaining inmate's credibility was appropriately called into question after he was unable to identify the names of any of the 30 to 40 inmates he allegedly attacked, two of the three inmates interviewed provided corroborating information that the officer used inmates to attack others, and improperly confiscated and redistributed inmates' canteen items. The reviewer did not interview either of the two relevant staff members identified by name during the inquiry, nor did he collect any documentation that could have corroborated or refuted the complaining inmate's allegations, such as the number of appeals filed against the subject officer, how many of those appeals were withdrawn, and the number of inmate-on-inmate assaults that occurred in the complaining inmate's housing unit.

In the second case, discussed earlier (pages 41-43), the inquiry into an inmate's complaint that staff failed to protect him from harm did not include an interview of mental health staff to whom an inmate alleged he reported safety concerns. After we notified the hiring authority of its failure to interview these staff, the hiring authority interviewed the mental health staff. One of the staff members corroborated the inmate's allegations that he notified staff of his safety concerns. The inquiry also did not include an interview of

the inmate's cellmate who was allegedly with him at the time of the attack. It also did not include a review of records that would have identified other staff and inmates to be interviewed, such as time-sheet records identifying staff who were on duty when the incidents occurred, medical records from the attack, records generated by the mental health staff member to whom the inmate raised his safety concerns, or a memorandum authored by a captain who interviewed the inmate regarding his safety concerns more than two weeks before the attack.

Departmental hiring authorities also failed to perform essential investigative steps that could have led to evidence corroborating the allegations of staff misconduct. Below are two examples in which the department failed to perform essential investigative steps:

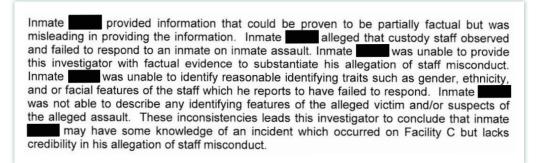
- In response to a complaint of excessive force, a sergeant interviewed the complaining inmate and five officers, and reviewed one medical report that was generated on the date of the incident. The sergeant concluded the inmate's allegations could not be substantiated. Two weeks later, at the request of an inmate advocacy group, a lieutenant reviewed the sergeant's inquiry and performed additional investigative steps, re-interviewing the inmate and reviewing multiple records, including staff sign-in sheets and staff rosters; the use-of-force incident package, which included incident reports from involved staff and witnesses, and medical records for the inmate and staff injured during the incident; the inmate's appeal history; and the rules violation report the inmate received as a result of the incident. During this review, the lieutenant discovered the existence of a medical report generated on the date of the incident indicating the inmate suffered injuries inconsistent with the use of force reported by staff. The lieutenant also obtained additional information from staff that appeared to support the inmate's version of the events. The lieutenant concluded, and the warden agreed, there were sufficient inconsistencies in the records he reviewed to warrant making a request that the department's Office of Internal Affairs open an investigation into the matter.
- An inmate alleged that officers were disclosing to inmates the names of other inmates who were convicted sex offenders and child molesters. Although the hiring authority did not document the steps it took during its inquiry into this

complaint, the investigating officer informed us that he spoke to two inmates in the housing unit who were alleged to have learned other inmates' commitment offenses from officers in the housing unit. They denied learning of the commitment offenses from the officers and claimed the information was common knowledge. They also denied any knowledge of officers asking inmates to harm other inmates. After performing these two interviews, the investigator concluded that the allegations could not be substantiated. We believe a thorough inquiry into this matter would have included interviews of other inmates and staff in the housing unit to determine if anyone else witnessed the alleged conduct and how inmates' commitment offenses became common knowledge.

Lack of Independence

During the field inquiries we performed during this reporting period, we also found that inquiries were sometimes flawed due to bias or a lack of independence by the reviewer. In one complaint, the reviewer showed outward signs of bias in his report. And, in two other complaints, hiring authorities assigned potential subjects of the complaints to perform investigations into the allegations against them.

In one case, the reviewer displayed bias in his inquiry report when he concluded that the inmate who filed the complaint was "misleading" because he could not provide physical descriptions of inmates involved in an assault or the officers who allegedly failed to intervene to stop the attack. During the course of his inquiry, the reviewer received information indicating that on the day of the alleged attack, strong winds were blowing dust and dirt around, which limited visibility on the yard where the attack occurred. The reviewer used this information to justify officers' failure to come to the aid of an inmate who was being attacked, surmising that they probably could not have seen the attack. However, the reviewer ignored the same environmental conditions when assessing the inmate's credibility. As shown in the excerpt on the following page, the reviewer concluded the inmate was "misleading" because he could not provide physical descriptions of the involved individuals even though the limited visibility on the day of the attack provided a reasonable explanation for the inmate's inability to provide this information.



Source: The California Department of Corrections and Rehabilitation.

The reviewer also failed to consider that the inmate's memory of the incident was not fresh, considering the incident he was investigating had occurred in June 2018. We informed the warden of the allegation in September 2018. But the interview did not occur until January 28, 2019—seven months after the incident occurred and nearly five months after we brought the complaint to the warden's attention. The investigator chose to conclude that the inmate was misleading, even though it was at least equally likely that the inmate's memory was not as clear at the time of the interview as it had been seven months earlier.

In the following two cases, the department assigned the subjects of misconduct allegations to perform the official inquiries into the complaints against them:

In one case, we received a complaint alleging a chief and a deputy chief at departmental headquarters permitted two of their subordinate employees to operate their personal businesses on State time. The department assigned one of the subjects—the chief who was accused of allowing his subordinate to engage in personal business on State time—to perform the inquiry. We believe that given the chief's alleged involvement in the wrongdoing, he should not have been assigned to perform the inquiry. The department cannot guarantee an independent and unbiased investigation when a subject of alleged misconduct is asked to perform an inquiry into the allegations against himself or herself. This conflict should have been apparent to both the headquarters executive who assigned the inquiry to the chief and to the chief as well, especially since the report begins by acknowledging the clear conflict:

ALLEGATION INQUIRY

In December 2017 you requested that I conduct an allegation inquiry in response to an anonymous complaint (Exhibit 1) filed with the Office of the Inspector General. complaint listed several allegations of misconduct against and . The complaint also alleged that Deputy Chief

Based on your analysis of the complaint you deemed it appropriate that I conduct the fact-finding inquiry on your behalf.

Source: The California Department of Corrections and Rehabilitation.

and I were aware of the alleged misconduct.

The report also incorporated as evidence personal observations and personal knowledge the reviewer obtained over the previous few years while managing and supervising the subject employee. The report included the following statements:

During casual conversations with I recall learning that he purchased an engraving machine one to two years ago. I recall him taking at least a week of vacation time after he bought the machine so he could set the machine up at his house and familiarize himself with its operation. Following that I have, on occasion, witnessed deliver items he has made to people in the office. Usually this would occur first thing upon his arrival to the office then he would go about his normal CDCR duties. Based on my personal observations, has printed/embroidered clothing for CDCR employees, members, sporting teams, private businesses etc. for several years. , I have witnessed Similar to my observations for deliver items he has made to people in the office. Usually this occurred first thing upon his arrival to the office then he would go about his normal CDCR duties.

Source: The California Department of Corrections and Rehabilitation.

Given the reviewer's degree of alleged involvement in and personal knowledge of the activity that formed the basis of the allegations of staff misconduct, the reviewer should have been interviewed as part of the inquiry.

In another case, we received a complaint from an employee at a prison alleging she informed her supervisor that officers had filed false rules violation reports against inmates and that a lieutenant was involved in an intimate relationship with a subordinate employee. The employee further alleged that

when she spoke to a sergeant assigned to the institution's investigative services unit (ISU) about these allegations of staff misconduct, the ISU sergeant threatened her by stating that she would be placed under investigation and that he later improperly disclosed her confidential communications with him to the lieutenant and other officers working in her area, who subjected her to ridicule.

We provided the complaint to the Office of Internal Affairs, which assigned a special agent to perform an inquiry into the allegations. However, during the course of the inquiry, rather than perform all the interviews himself, the special agent only performed the interview of the complaining employee. The warden tasked the ISU sergeant, who was one of the subjects of the alleged misconduct, to perform interviews of one inmate and three correctional officers. The special agent then incorporated the sergeant's interviews into the investigative report. The warden should have recognized the clear conflict of interest posed by having the subject of an allegation of misconduct perform interviews in connection with the investigation and should have assigned a different staff member to perform the interviews.

Departmental Staff Improperly Punished an Inmate and His Spouse for Violating Visiting Rules, Despite the Existence of Video Footage **Demonstrating They Complied with Visiting Policies and Staff Directives**

We received a complaint that an officer terminated an inmate's visit with his spouse because the inmate allegedly disobeyed the officer's orders to comply with proper departmental seating positions and contact procedures with his visitor (his spouse). The officer also issued the inmate a rules violation report, causing him to lose visitation privileges for 30 days, which the prison rescinded 12 days early after receiving a complaint from the inmate's spouse. We reviewed the complaint and the surveillance video from the date of the visit, and believe the officer's termination of the visit and issuance of a rules violation to the inmate were not warranted. We also had concerns that the officer dishonestly reported the events he witnessed during the inmate's visit.

The visit, which occurred in June 2018, was one of approximately **720 visits** in which the inmate and his spouse engaged between 2006 and 2018. During their previous visits, they had never been punished for violating the department's visitation policies. However, approximately 30 minutes into this June 2018 visit, the officer warned the inmate and his spouse that their seating position violated policy and that they needed to adjust their seating position (Photo 1, below). The surveillance video confirmed that the inmate's spouse adjusted her chair and seating position in response to the officer's directive (Photo 2, below) and rested her hands on her stomach (Photo 3, below). She maintained this position for the next eight minutes, when the inmate left the table to obtain his medications from a nurse.



Photo 1. Correctional officer issues verbal command for visitor to adjust seating position.



Photo 2. Visitor stands and relocates further away from her spouse.



Photo 3. Visitor primarily has both hands folded over her stomach during visit and is facing the inmate.

The officer again notified the inmate at the officer's podium, as the inmate was leaving to pick up his medication, that he would terminate the visit if the inmate and his visitor did not comply with orders to adjust their seating positions. As the inmate returned to the visiting area, the officer repeated his warning to the inmate. Two minutes later, approximately 50 minutes into the visit, the officer notified the inmate and his spouse that he was terminating the visit. After the visit, the officer issued the inmate a rules violation that resulted in a 30-day suspension of visitation privileges.

The inmate's spouse submitted complaints to the institution, the department's Office of the Ombudsman, and the OIG regarding the terminated visit, the rules violation, and the decision to suspend the inmate's visiting privileges for 30 days. According to the inmate's spouse, the officer told her that the visit was being terminated because she was sitting sideways, and the officer could not see her hands because they were positioned between her legs. However, upon review of the surveillance video (Photos 1-3, previous page), the inmate's spouse had clearly adjusted her hands and seating position, as instructed. Furthermore, the video shows the visitor's hands were primarily folded over her stomach.

According to the department's visiting policy, when a verbal warning or a restriction fails to achieve compliance, or fails to correct the conduct by a visitor, the visit shall be terminated for the day.²² The institution's visiting policy states, in part:

Inmates shall sit at the tables facing the correctional officer at the Visiting Podium. All visitors shall sit facing the inmate. Sitting sideby-side shall be prohibited. Inmates and visitors shall not intertwine any portion of their body (legs, arms, or feet).²³

We reviewed the officer's report and the corresponding rules violation report he wrote to understand the reasons the officer articulated for terminating the visit and issuing the inmate a rules violation. The officer's report indicated the inmate and his spouse did not adjust their seating positions, and they only feigned adjusting their seating positions. The officer's report also stated that the spouse's hands were obstructed from view, which contradicts what the surveillance video showed. After receiving the spouse's complaints, the department

^{22.} Department Operations Manual, Section 54020.29.1.

^{23.} The institution's Department Operations Manual Supplement, Section 54020.7.

rescinded the rules violation, reducing it to a counseling chrono,²⁴ and re-instated the inmate's visitation privileges, but not until 23 days after the initial rules violation report was issued. The counseling chrono stated the officer terminated the visit due to excessive contact with the visitor, but did not clearly describe the nature of the excessive contact. Although the department reduced the rules violation to a counseling chrono and withdrew the penalties that remained from the initial imposition of the rules violation, we believe the more appropriate response would have been to rescind all records of the incident from the inmate's file, considering the video footage demonstrated the inmate and his spouse did not violate any policy or directive. Even though the associated rule violation was rescinded, because a counseling chrono documents an inmate's actions the department considers misconduct, it can still reflect poorly on the inmate's suitability for parole during future parole hearings.

Visits from friends, family, and loved ones are an important part of the rehabilitation process for many inmates, and maintaining ties to family and loved ones can have a positive effect on an inmate's time in prison. In the case of this inmate, he lost his visitation privileges even though he and his visitor clearly followed the officer's orders to maintain proper sitting positions. Perhaps even more troubling is the officer's dishonesty in describing the series of events in the reports he wrote after the visit. We believe the video footage of the incident clearly demonstrates the officer's account of the visit is inaccurate.

The Inspector General met with the department's executive staff to discuss his concerns with this inmate losing visiting privileges for a period of time as a result of the officer's inaccurate reporting of events from the visit and requested the department refer this matter to its Office of Internal Affairs. The department declined the Inspector General's recommendation, stating that while it found discrepancies in the officer's report, it would not be referring the matter to the Office of Internal Affairs because it did not believe the officer was "blatantly dishonest" when reporting the facts of the visit. Instead, the department provided the officer remedial training for report writing. We believe the department failed to comply with its policy, which requires it to refer allegations of dishonesty for an internal investigation for the purpose of confirming or clearing the officer of misconduct.

^{24.} A counseling chrono refers to a Counseling Only Rules Violation Report, which is a form of discipline the department issues to inmates "when similar minor misconduct reoccurs after verbal counseling or if documentation of minor misconduct is needed." The report is intended to document an event or misconduct for an inmate and contains a description of the misconduct and counseling provided. Source: Title 15, California Code of Regulations, Section 3312, subdivision (a)(2).

Staff Inactions and Indifference Caused an Inmate to Languish in Administrative Segregation for Two-and-One-Half Months

"Release from administrative segregation shall occur at the earliest possible time in keeping with the inmate's case factors and reasons for the inmate's placement in administrative segregation."

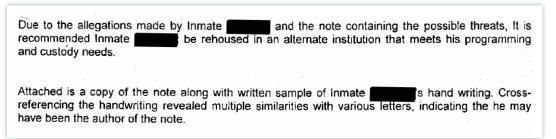
Source: Title 15, California Code of Regulations, Section 3339, subdivision (a).

We received a complaint from the mother of an inmate, alleging a lieutenant was mistreating her son because her son had been convicted of an offense involving an assault on a peace officer and because she had previously complained about the lieutenant's treatment of her son. She alleged her son was falsely accused of writing a kite (an inmate-written note, below) that contained a threat of harm to the lieutenant, and was handcuffed and escorted to the lieutenant's office where the

lieutenant questioned him about the kite. The lieutenant then allegedly placed the inmate in a holding cell for five-and-one-half hours, where he interrogated the inmate and told him, "Where did this get your family writing complaints against me? Tell your family to back off." The inmate's mother had submitted two other complaints in the two months prior regarding her son's treatment by the lieutenant, and the treatment she and her son experienced during a recent visit to see him at the institution.

Source: The Office of the Inspector General Tracking and Reporting System.

We reviewed the records that staff generated related to the discovery of the kite, which confirmed that on August 12, 2017, the lieutenant ordered staff to place the inmate in a holding cell, where he remained for four hours—the maximum amount of time permitted without obtaining approval from a manager. The inmate was then placed in administrative segregation due to the suspicion that the inmate wrote the threatening note. On August 14, 2017, the lieutenant wrote a report about his discovery of the kite and the steps he took after reading it, including having the inmate placed in a holding cell and rehoused in administrative segregation. At the conclusion of the memo, the lieutenant wrote:



Source: The California Department of Corrections and Rehabilitation.

The lieutenant's captain reviewed the memo and approved its placement in the inmate's central file. On August 15, 2017, the institution's investigative services unit (ISU) completed its investigation into the threat. The ISU investigator issued a written report on August 16, 2017, determining the handwriting samples "revealed multiple similarities, indicating that [the inmate] may have been the author of the note" and then concluding, without further analysis or evidence that he "discovered circumstantial evidence to believe [the inmate] is the author of the inmate note threatening [the lieutenant]. Therefore, the [Investigative Services Unit] no longer has any interest in [the inmate] and recommends [he] be referred to the Institutional Classification Committee where his case factors can be reviewed by the committee members for appropriate housing and program needs" (text box, right).

On August 16, 2017, not knowing the ISU had already completed its investigation into the threat against staff, the ICC reviewed the inmate's placement into administrative segregation, electing to retain the inmate in administrative segregation pending closure of the investigation into the threat against staff. The committee decided to hold the inmate in administrative segregation for 45 days to

INSTITUTIONAL **CLASSIFICATION COMMITTEE** (ICC)

The Institutional Classification Committee at each institution makes decisions affecting transfer, program participation, supervision, security, housing, and safety of persons. Among the members of the committee are the institution's warden or chief deputy warden, an associate warden, a psychiatrist or physician, a captain, a correctional counselor, a lieutenant, and a representative of educational or vocational programs.

Source: Department Operations Manual, Sections 62010.8., 62020.8.2.

allow staff to complete the investigation, setting his next committee hearing for September 30, 2017. On August 22, 2017, six days after the ICC hearing, the institution approved the inmate's transfer to another institution. On August 23, 2017, the inmate arrived at the new institution, where he was placed in administrative segregation housing pursuant to the former institution's decision and the new institution's lack of appropriate housing for the inmate, who was designated as requiring housing for a sensitive needs yard.

On September 11, 2017, a staff member in the new institution's administrative segregation housing unit contacted the lieutenant and captain at the former institution asking whether the investigation into the inmate's threat against staff had been completed and informing them that there was no information in the inmate's central file indicating whether he had received a rule violation for the threat or whether a staff separation notice²⁵ had been issued. On September 18, 2017, after getting an incomplete response from the captain and the lieutenant, the staff member sent a request to his counterpart at the former institution, requesting formal documentation setting forth the results of the investigation and whether a staff separation alert would be issued.

On October 2, 2017, we received a phone call from the inmate's mother informing us that the inmate was still in administrative segregation, had not received a decision regarding the results of the investigation, had not been issued a rules violation report, and had not had an ICC hearing. He appeared to be languishing in administrative segregation with no end in sight. We contacted the new institution the same day, at which point the lieutenant's captain immediately issued a closure memorandum indicating the inmate would not receive a rules violation report and that a staff separation order would not be placed in the inmate's file. On October 5, 2017, the new institution held an ICC hearing, during which it approved the inmate's transfer to another prison that had appropriate housing for sensitive needs inmates. On November 1, 2017, the inmate was finally released from administrative segregation and housed on a sensitive needs yard at another institution.

As a result of the discovery of the kite containing the threat against staff, the inmate spent 81 days in administrative segregation, despite the investigation into the threat lasting less than five days. In line with the department's policy regarding placement in administrative segregation, which notes that "release from segregation status shall occur at the

^{25.} A separation alert is a record placed in an inmate's central file that identifies an inmate's enemy concerns. These alerts typically restrict an inmate from being housed at the same institution as any of the individuals identified in the record. In this inmate's case, the staff separation alert would have precluded the inmate from being housed at the institution where the lieutenant worked.

earliest possible time in keeping with the circumstances and reasons for the inmate's initial placement in administrative segregation,"26 we believe the duration of the inmate's stay was unnecessarily prolonged by staff inaction at the original institution.

Although we could not determine from our limited review of the records generated what time of day on August 16, 2017, that ISU completed its investigative report and delivered it to the captain, it is reasonable to presume that the captain had not yet received the report before the ICC hearing at 10:19 a.m. that day. At that hearing, the committee decided to extend the inmate's assignment to administrative segregation housing for 45 days pending the completion of the ISU investigation. However, the lieutenant's captain was identified as a recipient of the ISU investigative memorandum and presumably received it within a few days of the hearing. The same captain was identified as having been present at the ICC hearing during which the inmate was assigned to an additional 45 days in administrative segregation. When the captain received the ISU report after the hearing, he should have acted on it promptly and requested that the inmate's housing status be reconsidered, since the investigation had been completed. Instead, the captain did nothing with the results for 47 days, after being asked four times²⁷ to create an official record that would permit the new institution to consider releasing the inmate from administrative segregation.

At the time of this incident, the department did not have a formal policy regarding the investigation of threats against staff. However, the department's Secretary previously disseminated a memorandum setting forth its initial policy in this area as required by legislation enacted in 2015, requiring the department to create such a policy. The memorandum required, among other things, that upon becoming aware of a threat made against staff by an inmate:

- The subject of the threat immediately report the threat to his or her supervisor;
- The supervisor report the threat to the hiring authority;
- The hiring authority assign a staff member to investigate the threat;
- The hiring authority create a threat assessment response team (TART);

^{26.} Title 15, California Code of Regulations, Section 3339, subdivision (a).

^{27.} The captain received email messages on September 11, 2017, September 18, 2017, September 22, 2017, and October 2, 2017, requesting creation of an investigative closure notice.

- The TART assess the validity of the threat, determine whether any further investigative steps are warranted, and make recommendations to ensure the threat is adequately addressed; and
- The hiring authority ensure all appropriate documentation is placed in the inmate's central file.

PRIVILEGE RESTRICTIONS IN SEGREGATED HOUSING

While in administrative segregation, inmates also have restrictions placed on their ability to participate in the general contact visiting process, purchase items from the canteen, possess reading materials and appliances, make telephone calls, communicate with other inmates, participate in programs, classes, and services, and receive packages.

Inmates in administrative segregation are also required to spend their one hour of daily exercise time in a cage measuring approximately 10 feet by 15 feet rather than in the general exercise yard. Inmates who have a cellmate exercise together, whereas inmates in single cells exercise alone.

Had staff complied with the Secretary's directives, there would have been numerous opportunities for institutional staff to realize that the investigation into the threat had been completed and that the inmate remained in administrative segregation at another prison because no one placed a record in the inmate's file indicating the investigation had been closed.

The prolonged stay in administrative segregation had several negative impacts on this inmate (text box, left), who has been a consistent participant in the department's family visiting process (text box, page 68) and had been engaging in family visits every three months before the August 2017 incident. The inmate's prolonged stay in administrative segregation appeared to have prevented him from participating in the family visiting program between August 2017 and February 2018. Since March 2018, he has had family visits every other month.

Our review of the institution's handling of the threat against staff also revealed another area of concern regarding the involvement of staff who have threats made against them. In this case, the lieutenant who was the subject of the

threat—the same lieutenant about whom the inmate's mother complained—was heavily involved in the processing of the threat and the inmate's housing decisions. This lieutenant authorized the inmate's four-hour placement in the temporary holding cell, personally interrogated the inmate about the note, authorized the inmate's placement in administrative segregation, performed a handwriting analysis of the note using the inmate's prior appeals as writing samples, and authored a memorandum that was placed in the inmate's central file that concluded the inmate "may have been the author of the note" and recommended the inmate's transfer to another institution.

We believe the involvement of the lieutenant, who had a personal conflict in making decisions with regard to an inmate who was suspected of making a threat against him, unnecessarily subjected staff and inmates to harm. This situation provided the inmate with an

opportunity to carry out the threatened violence against the lieutenant. It also gave the lieutenant the opportunity to retaliate against the inmate for making the threat, and at the very least, provided the inmate with an opportunity to allege retaliation, even if staff acted in complete accordance with policy.

Although the department formalized its policy governing the assessment of threats against staff in its January 2018 Department Operations Manual, the policy does not include an instruction that staff members who are the targets of threats by inmates remove themselves from the investigation process and refrain from making or influencing decisions that impact the inmate suspected of issuing the threat. We believe the lack of a conflict-of-interest provision constitutes a critical gap in the department's policy governing threats against staff. As long as staff who are the targets of threats continue to involve themselves in investigating the threats and in decisions regarding the inmate's housing assignments and privileges, the department unnecessarily exposes inmates to retaliation by the targeted staff and subjects staff to claims of retaliation.

EXHIBIT YY

933291mcginnis07272020.txt

1

1 In the United States District Court 2 For the Northern District of California 3 Oakland Division 5 JOHN ARMSTRONG, et al., Plaintiffs 6 7 Case No. C94 2307 CW ٧s 8 GAVIN NEWSOM, et al 9 10 11 12 The Deposition of KENNETH MCGINNIS, 13 Taken at 140 East Second Street, 14 Flint, Michigan, Commencing at 11:20 a.m., 15 Monday, July 27, 2020, 16 17 Before Deana M. Ryan, CSR-3715. 18 19 20 21 22 23 24

Page 1

25

933291mcginnis07272020.txt

2

1 **APPEARANCES:** 2 3 PENNY GODBOLD (Via Zoom) 4 JACK GLEIBERMAN (Via Zoom) 5 Galvan & Grunfeld, LLP 6 101 Mission Street 7 Sixth FLoor 8 San Francisco, California 94105 9 415.433-6830 Appearing on behalf of the Plaintiffs 10 11 12 TRACE O. MAIORINO 13 SEAN LODHOLZ (Via Zoom) Office of the Attorney General 14 455 Golden Gate Avenue 15 Suite 11000 16 San Francisco, California 94102 17 415.510.3594 18 Trace.maiorino@doj.ca.gov 19 Appearing on behalf of the Defendants. 20 21 22 23

2425

933291mcginnis07272020.txt

3

Flint, Michigan 1 2 Monday, July 27, 2020 3 11:20 a.m. 4 5 KENNETH MCGINNIS, 6 was thereupon called as a witness herein, and after 7 having first been duly sworn to testify to the truth, 8 the whole truth, and nothing but the truth, was examined and testified as follows: Penny Godbold 9 10 MS. GODBOLD: My name is Penny Godbold and I am an attorney for the plaintiff class in the 11 12 Armstrong case and I will be taking your deposition 13 today. 14 Mr. McGinnis, I'm going to be asking you a 15 set of questions here today. My questions and your 16 answers will be recorded by the court reporter and 17 this is a reminder to speak loudly and in the manner 18 that can be understood by the court reporter so she can record your answer. You have just taken an oath 19 20 that requires you to tell the truth, the whole truth, 21 and nothing but the truth. Do you understand that? 22 THE WITNESS: Yes. 23 MS. GODBOLD: I don't want you to guess 24 about things. If you can make a statement about 25 something based upon your knowledge you should do

1	that. Do you understand that?
2	THE WITNESS: Yes.
3	MS. GODBOLD: Please let me know if you
4	don't understand one of my questions. Also let me
5	know if you need to take a break.
6	Have you taken any medication or drugs that
7	might make it difficult for you to understand an
8	answer my question today?
9	THE WITNESS: No.
10	MS. GODBOLD: Is there any reason that you
11	would not be able to answer my questions fully?
12	THE WITNESS: No.
13	MS. GODBOLD: Is there any reason you would
14	not be able to answer the questions truthfully today?
15	THE WITNESS: No.
16	MS. GODBOLD: I'd like to go ahead and
17	enter Exhibit Number 1.
18	MR. MAIORINO: Good afternoon. Penny, I
19	want to make my appearance for the record. I'm an
20	attorney with the attorney for defendant.
21	MARKED FOR IDENTIFICATION:
22	DEPOSITION EXHIBIT 1
23	11:23 a.m.
24	BY MS. GODBOLD:
25	Q. Mr. McGinnis, have you seen this document before?

1

22

23

24

25

Α.

Yes.

5

2 Q. I'm now going to represent to you that we received 3 notice from defendants counsel in this case on June 9th that you were designated as an expert witness in 4 5 this case. What is your understanding of what it 6 means to be an expert in this case? 7 That I have knowledge based on my professional Α. 8 experience of the issues that are involved in this 9 particular matter. What did you review to prepare for your deposition 10 Q. 11 today? 12 I basically reviewed most of the documents that I had Α. been provided previously. Mr. Vail's declaration, 13 Jeff Schwartz' declaration, my report. I reviewed the 14 15 deposition of Deputy Director Seibel. I reviewed the deposition of Miller. I also reviewed the statistic 16 17 report that I prepared as part of my report. 18 Okay. Who did you speak with other than counsel to Q. 19 prepare for the deposition? 20 Only Trace and Sean in terms of preparation of the Α. 21 deposition.

and reserve the right to continue the deposition if

responsive to the documents requested in this notice.

defendants produce additional documents that are

MS. GODBOLD: And I would like to go ahead

- 1 BY MS. GODBOLD:
- 2 Q. Mr. McGinnis, what's your current employment?
- 3 A. Currently I'm senior vice president of CGL Companies.
- 4 Q. And what is CGL Companies?
- 5 A. CGL Companies is a criminal justice consulting company
- 6 that provides services to the criminal justice
- 7 community including jails, prisons, and courts.
- 8 Q. How long have you been in that position?
- 9 A. Since I believe 2013.
- 10 Q. Prior to that what was your employment?
- 11 A. Immediately prior?
- 12 Q. Yeah.
- 13 A. Immediately prior I was vice president of a company
- 14 called CNA, The Center for Naval Analysis out of
- 15 Arlington, Virginia.
- 16 Q. And prior to that what was your employment?
- 17 A. Prior to that I was a partner in a consulting firm
- 18 called MGT of America from Tallahassee, Florida.
- 19 Q. How long were you in that position?
- 20 A. I think it was about nine years.
- 21 Q. And you provided your resume that we have as an
- 22 exhibit to your report also. I'd like to go ahead and
- 23 enter Exhibit Number 2, the declaration of Ken
- 24 McGinnis.
- 25 COURT REPORTER: We don't have that.

1		MS. GODBOLD: Off the record.
2		(Off the record at 11:30 a.m.)
3		MARKED FOR IDENTIFICATION:
4		DEPOSITION EXHIBIT 2
5		11:40 a.m.
6		(Back on the record at 11:40 a.m.)
7	BY N	MS. GODBOLD:
8	Q.	The declaration of Kenneth McGinnis has been entered
9		and I would like to mark this exhibit as confidential.
10		Do you know what this document is?
11	Α.	Yes, it's basically my report that I prepared at the
12		request of CDCR.
13	Q.	Exhibit B to your declaration is your report, correct?
14	Α.	Yes.
15	Q.	And this report contains your opinions in this case
16		after reviewing documents relevant to RJD; is that
17		correct?
18	Α.	Yes.
19	Q.	RRD is Richard J. Donald correctional facility. I'll
20		just refer to as RJD if that is agreeable to you?
21	Α.	Yes.
22	Q.	Your report includes a list of all sources of
23		information that you relied on in forming your
24		opinions; is that correct?
25	Α.	Yes.

- 1 Q. Other than it was listed in your report did you rely
- on any other documents in formulating your opinions
- 3 contained in that report?
- 4 A. No other documents, no.
- 5 Q. Your report states that you reviewed four declarations
- 6 from incarcerated people at RJD; is that correct?
- 7 A. I believe that's the number, yes.
- 8 Q. Were these declarations that were provided to you by
- 9 defense counsel in this case?
- 10 A. Yes.
- 11 Q. Are you aware that at the time you produced your
- 12 report plaintiffs had filed 73 declarations about
- 13 staff misconduct at RJD from incarcerated people?
- 14 A. I knew there were additional declarations. I didn't
- 15 know what the number was.
- 16 Q. Are you aware that plaintiffs have now shared 85
- 17 declarations of staff misconduct at RJD with defense
- 18 counsel?
- 19 A. No, I didn't know the number.
- 20 Q. Did you review any of those additional 61
- 21 declarations?
- 22 A. I'm not really sure because I don't know what they
- are. I reviewed the decorations that were attached,
- 24 though I'm not sure there were declarations attached
- to Mr. Schwartz' document. Those were the additional

- ones I reviewed in addition to the original 24, 25,
- 2 whatever that number was.
- 3 Q. Okay. Part two of your declaration states that you
- 4 were retained by CDC to review the steps that CDCR
- 5 have taken to protect inmates and eliminate misconduct
- 6 by staff at RJD; is this correct?
- 7 A. Yes.
- 8 Q. I would like to go ahead and discuss some of the steps
- 9 that CDCR has taken. On page seven of your report you
- 10 describe CDCR's use of force policies?
- 11 A. Yes.
- 12 Q. You state that CDCR use of force policies meet or
- 13 exceed requirements found in similar state
- 14 jurisdictions across the US, correct?
- 15 A. Yes.
- 16 Q. You note that one element missing from the CDCR policy
- is fixed time frames in which an incident is to be
- 18 reviewed by supervisory staff?
- 19 A. Yes.
- 20 Q. Why are fixed time frames for review of incidence
- 21 important?
- 22 A. Well, I think typically what I see in most
- jurisdictions is there will be a fixed time frame for
- the initial review for the second level review, which
- 25 in your case would amount to be either the incident Page 9

- 1 manager or the institutional executive review
- 2 committee.
- 3 Typically those time frames are anywhere
- 4 from five to ten days so that there's some immediate
- 5 review and action on the incident that had been
- 6 reported.
- 7 Q. Five to ten days for the initial review or for the
- 8 second level?
- 9 A. Second level review.
- 10 Q. You cite in your report you would expect three to four
- days as a typical time frame for the initial review;
- is that correct?
- 13 A. Yes.
- 14 Q. You cite those in reference to use of force incidents.
- 15 Do you think that those time frames are applicable to
- 16 all allegations of staff misconduct?
- 17 A. I think they're applicable to the submission of a
- 18 critical incident is the context in which I use those
- 19 time frames.
- 20 Q. Okay. How would you define critical incident?
- 21 A. Well, it's a little different in every jurisdiction
- but basically it's the same. Critical incidents are
- those unusual incidents whether it is use of force,
- use of chemicals agents, use of deadly force,

933291mcginnis07272020.txt 25 assaults, fights that result in injuries. Those kind

- of situations, discovery of major contraband. Those
- 2 things that would trigger a formal incident report for
- 3 submission to the institutional administration to
- 4 review.
- 5 Q. And that could be triggered based on a complaint that
- one of those incidents occurred as opposed to a formal
- 7 write-up by staff, formal incident report?
- 8 A. It could be triggered by several things. It could be
- 9 a complaint filed. It could be simple observation of
- the incident or the discovery of the contraband or it
- could be a report submitted by staff also.
- 12 Q. So a complaint from an incarcerated person that force
- was used and that they were injured that would be a
- 14 critical incident?
- MR. MAIORINO: Objection, incomplete
- 16 hypothetical, vague and ambiguous.
- 17 A. That could be just a simple grievance, submission of a
- 18 grievance or a complaint that would not necessarily be
- 19 a critical incident -- would generate a critical
- 20 incident report.
- 21 BY MS. GODBOLD:
- 22 Q. If that were a submission of a grievance you would
- 23 expect grievance time frames to apply in that case?
- 24 A. Yes.

25 Q. So if an inmate alleges excessive force was used and a

- 1 chemical agent was used and that there was injuries
- 2 would you expect that the critical incident time
- 3 frames that you just discussed or grievance time
- 4 frames would dictate the use of that incident?
- 5 MR. MAIORINO: Objection, incomplete
- 6 hypothetical, vague and ambiguous.
- 7 BY MS. GODBOLD:
- 8 Q. Go ahead.
- 9 A. Well, I think those time frames would start on the
- 10 receipt of that information by staff, yes.
- 11 Q. So once staff receives the complaint by an
- incarcerated person that excessive force was used
- including chemical agents and injuries resulted that
- 14 would trigger the look at the incident as a critical
- 15 incident with the time frames that you discussed?
- MR. MAIORINO: Objection, incomplete
- 17 hypothetical, vague and ambiguous.
- 18 A. Generally, yes.
- 19 MS. GODBOLD: I just want to make sure,
- Trace, I can't quite hear what you're saying.
- MR. MAIORINO: I'm sorry.
- 22 MS. GODBOLD: It's fine if it's -- as long
- as everybody on your end can hear it. I just want to

let you know because I think you are a little bit far

24

25

away.

13 1 MR. MAIORINO: I'm sorry. I do have a max 2 on so I'll try. 3 MS. GODBOLD: I understand you're registering objections for the record. 4 5 MR. MAIORINO: Yes. MS. GODBOLD: Please let me know if you're 6 7 trying to say something other than that. I don't mean 8 to talk over you but I am having a little trouble hearing. 9 10 MR. MAIORINO: Okay. I'll try to speak up 11 without being too intrusive. 12 BY MS. GODBOLD: Many of the declaration include complaints that staff 13 14 did not activate an alarm during a force incident. Is 15 net activating an alarm during an incident consistent with policy? 16 17 MR. MAIORINO: Objection, incomplete hypothetical, vague and ambiguous. 18 19 No. Α. 20 BY MS. GODBOLD: 21 Many of the declarations include complaints that staff 22 did not write a report after force was used. Is not 23 writing a report after force is used consistent with Page 13

24 policy?

25 MR. MAIORINO: Objection, incomplete

- 1 hypothetical, vague and ambiguous.
- 2 A. No.
- 3 BY MS. GODBOLD:
- 4 Q. The declarations submitted by plaintiffs in this case
- 5 include allegations that staff did not follow policy,
- 6 correct?
- 7 A. Yes.
- 8 Q. A prison system can have good policies and staff may
- 9 not be following them; isn't that correct?
- 10 MR. MAIORINO: Objection, incomplete
- 11 hypothetical, vague and ambiguous.
- 12 A. Yes.
- 13 BY MS. GODBOLD:
- 14 Q. What is the remedy for not following policy?
- 15 A. Well, it depends on the policy that they did not
- 16 follow. I think there's a range of remedies from
- 17 counseling up to including discharge depending upon
- 18 the seriousness of the noncompliance.
- 19 Q. In order to know that staff aren't following policy
- 20 you have to adequately investigate the complaint,
- 21 correct?
- MR. MAIORINO: Objection, vague and

933291mcginnis07272020.txt ambiguous, incomplete overbroad.

- 23
- 24 Correct. Α.
- 25 BY MS. GODBOLD:

- 1 And if staff are found to have violated policy they Q.
- 2 should be held accountable; is that correct?
- 3 MR. MAIORINO: Objection, incomplete
- hypothetical, vague and ambiguous. 4
- 5 Α. Yes.
- 6 BY MS. GODBOLD:
- 7 You state in your report that there have been Q.
- breakdowns and failures in the decision of those 8
- 9 involved that have resulted in inappropriate outcomes
- 10 here. Did you identify inappropriate outcomes at RJD?
- MR. MAIORINO: Could you direct us to the 11
- 12 area of the report that you're referring to?
- 13 MS. GODBOLD: Sure.
- 14 BY MS. GODBOLD:
- Let me get the report out. It's the bottom of page 15
- 16 eight of the report. I believe that there have been
- breakdowns and failures in the decisions of those 17
- 18 involved, continuing on to page nine. I believe that
- 19 there have been breakdowns and failures in the
- 20 decisions of those involved in the processes that have
- resulted in inappropriate outcomes. 21
- 22 Could you repeat the original question? Α. Page 15

- 23 BY MS. GODBOLD:
- 24 Q. Do you state that there have been breakdowns and
- 25 failures in the decisions involved that have resulted

- in inappropriate outcomes? Did you identify
- 2 inappropriate outcomes at RJD?
- 3 A. Well, I think as I looked at it the policies and the
- 4 processes were adequate. I think the problem I noted
- 5 was in the execution of those policies and practices
- 6 where some people failed to comply such as you
- 7 mentioned earlier in terms of filing a report on use
- 8 of force case. I think the outcome of that is no
- 9 action was taken in response to that. Some of those
- incidences were not properly followed up on, not
- 11 properly investigated, and therefore individuals were
- 12 not held accountable. I think I acknowledged that
- that's pretty clear and I think the department
- 14 acknowledged that at the inception of the strike team
- 15 in 2018.
- 16 Q. So you believe there were staff that were violating
- 17 policy and that those staff members were not being
- 18 held accountable at RJD?
- 19 MR. MAIORINO: Objection, incomplete
- 20 hypothetical, overbroad, misstates prior testimony.
- 21 A. Yes, I think from the review of documents there

933291mcginnis07272020.txt
22 clearly was some staff who were not complying with

- 23 policy.
- 24 BY MS. GODBOLD:
- 25 Q. Can you cite any specific examples?

17

- 1 A. Not really not off the top of my head. I think I
- 2 looked cumulatively and collectively. I think, you
- 3 know, the documentation from the Bishop report clearly
- 4 supports that conclusion.
- 5 Q. So based on your review of the Bishop report you noted
- 6 allegations of staff violating policy included in that
- 7 report and you believe that those staff were not held
- 8 accountable?
- 9 A. I think the Bishop report acknowledges that fact, yes.
- 10 Q. And you believe that the reason that happened was not
- 11 necessarily because the investigative process was
- faulty, just that bad decisions were made by
- investigators in that process to result in those bad
- 14 outcomes?
- MR. MAIORINO: Objection, vague and
- ambiguous.
- 17 A. Well, I think you've simplified it a little bit, but I
- 18 think there were multiple reasons for some of those
- 19 breakdowns, including, you know, the simple fact that
- 20 people weren't following policy, the fact that people
- 21 weren't being held adequately accountable.

Page 17

22 From my perspective the training from the 23 training modules I reviewed people were properly 24 trained and the processes were there. I think it was 25 just in the execution of those policies and practices.

18

1 BY MS. GODBOLD:

- 2 Q. What has changed since the strike team to make sure
- 3 that the policies and practices of the investigative
- 4 processes are carried out annually now?
- 5 A. Well, I think, you know, as I noted I think again the
- 6 trigger for me was looking at the data and the
- 7 significant drop in incidents reported from the time
- 8 of the strike team to 2019, so something happened that
- 9 didn't happen accidentally because of the dramatic
- 10 change in the trend lines. The trend from 2017 to
- 11 2018 was going upwards and all of a sudden it dropped
- 48 percent from the 2008 numbers. So there clearly
- 13 was a shift, a dramatic shift in what was happening
- there. I attribute it to the fact -- multiple facts.
- The fact that the Bishop report sends a
- 16 clear message I think to staff and inmates that
- 17 somebody was looking at this issue and then the follow
- 18 up to the Bishop report, the interview and
- investigations that occurred on the cases that the
- 20 Bishop team identified as needing follow up I think

933291 mcginnis 07272020.txt reinforced that message that the CDCR was going to put 21 an end to this or change the culture of the facility. 22 I think that combined with pretty much 23 24 replacement of the administrative staff with Warden 25 Pollard I think sends an additional message in my 19 1 discussion with Warden Pollard some of the things he 2 did in terms of being visible, being out in observing the of the institution I think sends a message to both 3 staff and inmates that people were going to be held 4 5 accountable for complying with policy. I think that set the tone for the operation of the facility. I 6 think combined with a lot of reenforcing training that 7 8 he and Deputy Director Seibel implemented, including 9 the back to basics training and things like that I 10 think changed the -- started to change the culture of 11 the facility. Started to hold people more accountable. 12 So your opinion is primarily based on a reduction in 13 Q. 14 the number of incidents on facility C; is that correct? 15 MR. MAIORINO: Misstates prior testimony. 16 To me that's the key indicator. Clearly as I reported 17 Α. 18 I wasn't able to visit the facility. I wasn't able to observe the interchange between staff and inmates. I 19 20 wasn't able to observe training. I wasn't able to do

Page 19

a lot of the things that people in my position should do to reach an opinion.

23 Clearly when you look at the data, just

simply the data, there's a dramatic shift. It's not a

25 slight shift, it's not a ten percent shift, it's a

- 1 huge shift and that doesn't happen accidently, because
- the population remained fairly stable, same
- demographics of population, pretty identical size, so
- 4 the numbers didn't change, so there's a reason for
- 5 that change, and the big factor I think -- I think
- just based on my experience as a warden and director
- 7 and then observing a lot of different institutions the
- 8 tone's set by the warden and I think he set a new tone
- 9 at that particular facility that's had a positive
- 10 outcome.
- 11 BY MS. GODBOLD:
- 12 Q. When you say that facility are you referring
- 13 specifically to facility C?
- 14 A. Well, I think RJD as a whole but clearly the numbers I
- 15 looked at in detail were at facility C because it
- appeared that that's where the significant problem
- 17 existed prior to that time existed. When you look at
- numbers at facility C it's dramatic so that's what I
- 19 was looking at, yes.

933291mcginnis07272020.txt

Q. Did you look at whether the decisions of those
involved in individual cases resulted in different
outcomes since the strike team was there at RJD?

A. You know, I did not -- you know I looked at cases
cumulative. I did not analyze each case and do a
comparison. I just reached the conclusion after

21

1 reading the designations that were attached to Vail's report and the stuff from the Bishop report that there 2 clearly was a problem, so to me it was more of at that 3 4 point did the CDCR act appropriately given the information they had now available. I believe they 5 6 did to. 7 But you haven't reviewed any individual cases that Q. 8 have arisen since the strike team to determine whether 9 any individual case the CDCR has acted appropriately 10 regarding the investigation and discipline in this 11 case? 12 I think there were a couple other cases that were Α. included in the Schwartz case were 2019 cases but I 13 did not -- I did not, again, analyze the outcomes in 14 15 those individual cases. I was taking it more collectively. 16 17 And based on the information that you reviewed were Q. 18 you able to say that collectively the decision making

at RJD was different after the strike team in regards

Page 21

- 20 to specific investigations and disciplinary action?
- 21 MR. MAIORINO: Objection, vague and
- ambiguous, incomplete hypothetical, overbroad.
- 23 A. Well, again, I looked at it collectively. You kind of
- 24 mixed collectively and individual cases there, so I
- 25 cannot answer that question in terms of individual

- cases but collectively I think there was a change in
- 2 how things were being handled, yes.
- 3 BY MS. GODBOLD:
- 4 Q. You mentioned a change in the tone of what was being
- 5 done at the prison. Was there a change in the outcome
- 6 of cases collectively at RJD following the strike
- 7 team?
- 8 MR. MAIORINO: Objection, vague and
- 9 ambiguous, overbroad, incomplete hypothetical.
- 10 A. Again, I was looking at incidences occurring and a lot
- of the incidences occurred started to occur after that
- time period had not been brought to conclusion at the
- time I did my report so I didn't really have a lot of
- 14 information relevant to outcomes of those cases in
- 15 2019. At least I didn't see that. I really don't
- think I can answer that question adequately.
- 17 BY MS. GODBOLD:
- 18 Q. Did you find the declarations and the cases cited in

933291mcginnis07272020.txt 19 the Bishop report consistent? 20 MR. MAIORINO: Objection, vague and 21 ambiguous. 22 I'm not sure what you mean by consistent. They 23 involved a lot of different types of behaviors and 24 activities. I think that one consistency in the 25 Bishop report was that the allegations were being 23 1 presented and there wasn't adequate review and follow 2 up to those allegations. I think that's the one thing 3 that was consistent among the cases that Bishop 4 reported. 5 BY MS. GODBOLD: 6 So you don't believe there was adequate investigation Q. 7 and follow up to the cases that were cited in the 8 Bishop report? 9 MR. MAIORINO: Objection, misstates prior 10 testimony. My conclusion was that Bishop and his team concluded 11 Α. 12 that and I concurred with that, yes. BY MS. GODBOLD: 13 And once Bishop and his team concluded that there 14 Q. 15 hadn't been adequate follow up with the cases cited in 16 the report do you believe that then CDCR took action to adequately follow up with those cases? 17

Yes, I believe there was some aggressive action and

Page 23

18

Α.

response to that. In terms of deployment of the
investigation teams to review the cases that Bishop
had identified and, again, I'm not sure what the
outcomes of each one of those cases were. I know
there were some referrals for discipline, some of
those cases that I saw, but I think each one of those
cases were reviewed either by the local investigating

- 1 team or members of OIA.
- 2 Q. If I were to represent to you that since 2017 only two
- 3 correctional officers at RJD have been terminated for
- 4 harm to an incarcerated person would you be surprised?
- 5 MR. MAIORINO: Objection, vague and
- 6 ambiguous.
- 7 A. No, I saw that trim there. Yes, I think that was
- 8 reported in several documents I've seen.
- 9 BY MS. GODBOLD:
- 10 Q. And do you think that is appropriate?
- 11 MR. MAIORINO: Objection, vague and
- ambiguous.
- 13 A. Well, I'm sure I'm able to judge whether that's
- 14 appropriate because I didn't fully investigate each
- one of those cases to determine what outcome was.
- 16 It's certainly is odd given the number of incidents in
- that were submitted and then the red flag is again the

- observation of the Bishop team that there was clearly
- 19 a problem there that needed to be corrected so yes.
- 20 BY MS. GODBOLD:
- 21 Q. Yes, you're surprised by the low number of termination
- 22 at RJD given what you've read in the Bishop report and
- the complaints in the declarations?
- 24 MR. MAIORINO: Objection, mischaracterize
- 25 prior testimony.

- 1 A. Yes, I'm somewhat surprised but, you know, each system
- 2 is different. Each human resource system is
- different. The policies governing discipline are
- 4 different. I'm not aware of what kind of arbitration,
- 5 court cases impacted the disciplinary matrix so I'd
- 6 have to look at those cases individually really to
- 7 make a definitive statement, but it is unusual to have
- 8 that low number of cases for a facility with 1,082
- 9 security staff.
- 10 BY MS. GODBOLD:
- 11 Q. Based on the evidence that you reviewed here including
- 12 the Bishop report and the declarations submitted by
- plaintiff's counsel would you have expected to see
- 14 more terminations at RJD?
- 15 A. Yes, I think based on my experience I would have
- 16 expected to see more, yes.
- 17 Q. Would you expect an incarcerated person who has a Page 25

18 physical disability to be more likely or less likely

19 to be involved in a use of force incident?

20 MR. MAIORINO: Objection, incomplete

21 hypothetical, vague and ambiguous.

22 A. You know I -- I really don't know how to answer that.

23 Incidents certainly happen at facilities with the

population that existed at RJD. A lot of that is due

to the interaction between the inmate population. You

26

have the mental health population. You have a

2 sensitive needs yard population, which I consider

3 protective custody that tends to have conflict with

other inmates that create conflict and so staff

intervening there's use of force, so in that sense the

numbers tend to be higher at facilities with the

7 composition of popopulat that RJD has based on what

8 I've seen in other system, yes.

4 5

6

9 Q. Would you expect an incarcerated person with a serious

10 medical condition to be more or less likely to be

involved in a use of force incident?

MR. MAIORINO: Objection, incomplete

13 hypothetical, vague and ambiguous.

14 A. I think I can go either way on that. Depends on that

individual and I don't think you can really say one

16 way or another based on the medical condition.

- 17 BY MS. GODBOLD:
- 18 Q. You've reviewed data regarding use of force incidents
- 19 at RJD during that three year period, correct?
- 20 A. Yes.
- 21 Q. Did you review any 2020 data?
- 22 A. No, I did not.
- 23 Q. Why did you not review 2020 data?
- 24 A. I was looking for a full year of comparison initially.
- 25 When I first started it was April so there wasn't much

27

- 2020 data out there so I just simply did not review
- 2 2020 data.
- 3 Q. You think the 2020 data would be relevant to
- 4 determining whether or not the measures taken by CDCR
- following the strike team are actually working?
- 6 MR. MAIORINO: Objection, vague and
- 7 ambiguous, overbroad, incomplete hypothetical.
- 8 A. A full year of data would be interesting to have. In
- 9 fact, one of my recommendations was I think they
- 10 should do a Bishop strike team review sometime at the
- end of the year just to have a comparison to the
- original report to measure whether the myriad of
- changes they've made there are having a positive
- impact, the impact they want. The more data you have
- the better off it is and the longer trim line you have
- 16 the better off the data.

Page 27

- 17 BY MS. GODBOLD:
- 18 Q. Do you know whether CDCR has taken your recommendation
- 19 to convene another strike team?
- 20 A. I do not know. No.
- 21 Q. In other words, for an incident to be included in the
- 22 data that you had reviewed it would have to be sorted
- 23 by staff; is that correct?
- 24 A. That's correct.
- 25 Q. Your analysis did not include any incidents that were

- unreported by staff at RJD; is that correct?
- 2 A. That's correct.
- 3 Q. Are you aware that a number of the allegations
- 4 included in plaintiff's declarations and also in the
- 5 Bishop report includes complaints that staff failed to
- 6 report force incidents?
- 7 A. Yes.
- 8 Q. The data that you relied on does not include
- 9 complaints from the Bishop report or plaintiff's
- 10 declarations that cite incidents where staff did not
- 11 report force incidents?
- 12 A. Yeah, there are no record of those complaints so
- obviously it wasn't reported, but if I may add if you
- 14 look at that -- let's make the assumption you're
- 15 correct, there's a number of cases that weren't

933291mcginnis07272020.txt I assume that trim line would continue 16 reported. 17 relatively the same level without any intervention so I assume now in 2019 where there's intervention we can 18 19 assume, at least I would assume based on what I observed that there's been a reduction in the number 20 21 of cases that don't get into the system. I think you 22 have to take that into account, which over a period of 23 time you have to make the assumption that the positive 24 reaction by the CDCR has reduced the number of the 25 unreported. So, in fact, the total if you were to add

29

1 as your scenario the total in 2017 if those were added 2 to the total reported there's even been a more 3 significant reduction in 2018 than what's in 2017 if I make that assumption or that hypothetical. 4 5 Q. So you're making an assumption based upon the 6 reduction in the number of reported cases that there has been a reduction in the number; is that correct? 7 8 It's not an assumption. You made that statement and Α. 9 I'm trying to explain how I would view that assumption. 10 Isn't it possible that the number of reported cases 11 Q. 12 has gone down because the number of unreported cases 13 have gone it? 14 MR. MAIORINO: Objection, vague and 15 ambiguous, incomplete hypothetical.

Page 29

- 16 A. Yeah. You can make that hypothetical. You can make
- 17 it almost any scenario you want because it's an
- 18 unknown number.
- 19 BY MS. GODBOLD:
- 20 Q. Do you have the evidence that the number of unreported
- 21 cases has not gone up?
- MR. MAIORINO: Penny, can I ask you let Mr.
- 23 McGinnis finish his response before asking your next
- 24 question please?
- 25 BY MS. GODBOLD:

- 1 Q. I'm sorry, I didn't mean to cut you off.
- I was just wondering do you have any
- 3 evidence that the number of unreported cases has gone
- 4 down?
- 5 A. Well, I think the only evidence that might indicate
- 6 that is -- I did have data on grievances that have
- 7 been filed and those have dropped significantly in
- 8 2019. I am making the assumption that if there was a
- 9 use of force case, nobody acted on it the individual
- 10 would have filed a grievance, so I think -- under your
- scenarios I think those numbers would have gone up
- 12 rather than gone down. I think that's the only
- indication I have. I don't have hard evidence one way
- or another.

933291 mcginnis 07272020.txt Based on the evidence that you reviewed, including the 15 Q. Bishop report and the declarations that you reviewed 16 17 in this case would you have expected any referrals for 18 criminal prosecution of staff? 19 Quite honestly based on my experience I wouldn't have 20 expected it one way or the other because each 21 prosecutor in that jurisdiction deal with these cases 22 differently. I've seen where people have gotten 23 stabbed and the prosecutors will not act upon those as 24 they like the administrative processes to work out and 25 deal with the issues, so I have no expectations of

- prosecutions because it really depends on the local
- prosecutor.
- 3 Q. It sounds like you're referring to cases that have
- 4 actually been referred to the prosecutor and what
- 5 you're suggesting is that it's up to the local
- 6 jurisdiction what the prosecutor does in that case.
- 7 Are you aware that CDCR hasn't referred a single case
- 8 from RJD for criminal prosecution?
- 9 MR. MAIORINO: Objection, vague and
- 10 ambiguous, incomplete hypothetical.
- 11 A. I didn't have that information available, no.
- 12 BY MS. GODBOLD:
- 13 Q. Would you have expected based on evidence that you
- reviewed, including the Bishop report and the Page 31

- declarations submitted by plaintiff's counsel that
 some of the cases arising out of RJD would have been
- 17 referred for criminal prosecution?
- 18 A. Again, I really wouldn't have any expectation on that
- 19 because I think that's in my experience both as a
- 20 director and a warden that's usually a message that's
- sent in advance to the prosecutor, don't be sending me
- these cases because I'm not going to prosecute them
- 23 because you have administrative remedies that you can
- 24 deal with those kind of situations. From my viewpoint
- I didn't have an expectation one way or another.

- 1 Q. I see. You're suggesting that there may have been a
- 2 message send by the local prosecutor that they weren't
- going to take those cases up and therefore that could
- 4 be a disincentive for CDCR to even refer cases in that
- 5 situation?
- 6 MR. MAIORINO: Objection, misstates prior
- 7 testimony, mischaracterizes prior testimony.
- 8 A. Yes, generally that's the way I would view that. I
- 9 really didn't have an expectation for prosecution in
- 10 these kind of cases.
- 11 BY MS. GODBOLD:
- 12 Q. Did you identify evidence of criminal misconduct in
- 13 the Bishop report and the declarations that you

933291mcginnis07272020.txt 14 reviewed? 15 MR. MAIORINO: Objection, vague and 16 ambiguous. 17 Well, I think some of the excessive use of force cases 18 could justify criminal prosecution, yes. 19 BY MS. GODBOLD: 20 0. If you were the director of the Department of 21 Corrections would you have expected that those 22 incidents would be referred for criminal prosecution? 23 MR. MAIORINO: Objection, incomplete 24 hypothetical, overboard. 25 Not necessarily because I've had these same individual Α. 33 discussions with prosecutors in other jurisdictions 1 2 where they make it pretty clear what their expectation 3 is. If there's a prosecutor that's willing to take 4 those cases on then I would expect a referral. BY MS. GODBOLD: 5 You discussed the strike team events in your report 6 Q. 7 starting on page 16. Are you aware that the strike 8 team was convened in part due to reports made during a 9 joint auditor with defendant's and plaintiff's counsel in this case? 10 11 I really don't know exactly why the strike team was Α.

impaneled. I did see references to that discussion in

some of the documents but I didn't have a definitive

Page 33

12

- reason why did you decide to do it right at this time,
- 15 no.
- 16 Q. The strike team interviews were conducted on facility
- 17 C beginning December 4 and 5 of 2018; is that correct?
- 18 A. That's my understanding, yes.
- 19 Q. And the results of those interviews are documented in
- the December 10 letter that we've been referring to as
- the Bishop report; is that correct?
- 22 A. Yes.
- 23 Q. On page 17 of your report you state that you concur
- 24 with the conclusions of the strike team; is that
- 25 correct?

- 1 A. Yes.
- 2 Q. The strike team found that incarcerated people at RJD
- 3 consistently reported that incident reports were not
- 4 being filed by staff; is that correct?
- 5 A. That's correct.
- 6 Q. You state that the Bishop report serves as a milestone
- 7 in this case, correct?
- 8 A. I believe it does, yeah.
- 9 Q. You also state that actions take by CDCR to convene
- 10 the strike team was based on its best judgement and
- information that it had available at that time; is
- 12 that correct?

- 13 A. Yes.
- 14 Q. Would you have taken a different action if you were
- 15 the director of CDC?
- MR. MAIORINO: Objection, vague and
- 17 ambiguous, incomplete hypothetical.
- 18 BY MS. GODBOLD:
- 19 Q. Okay.
- 20 A. I really don't know. I'm not sitting in his shoes and
- 21 I don't know what information he has and what the
- 22 history of this situation was, so I don't know what I
- 23 would have done.
- 24 Q. You've read the Bishop report though?
- 25 A. Yes.

1 Q. If you had that report sitting in front of you what

- 2 you action would you haven as the director of the
- 3 department of corrections?
- 4 MR. MAIORINO: Incomplete hypothetical.
- 5 A. I think I would have been very aggressive in
- 6 responding to that, which I think they've done that in
- 7 terms of dispatching investigators to follow up. They
- 8 already changed the administration so I think there
- 9 was some indication that there was a problem there.
- 10 I think Deputy Director Seibel indicated
- they really intensified training efforts, return to
- basics, cultural change-type activities. Clearly if I
 Page 35

- 13 was director I would put a lot of emphasis on that
- 14 particular facility until I saw the numbers change.
- 15 BY MS. GODBOLD:
- 16 Q. You mentioned that you would have aggressively
- followed up with the allegations coming out of the
- 18 strike team?
- 19 A. Yeah.
- 20 Q. Can you explain what you would have done to
- 21 aggressively follow up with the allegations coming out
- of the strike team report?
- 23 A. I think I would have done exactly what CDCR did and
- 24 that is I'd deploy investigators, interview the
- 25 individuals that are identified, document the

- 1 allegation and determine whether it was appropriate
- 2 for follow up to OIA to conduct formal investigation.
- 3 Several of those ended up going up the chain to OIA.
- 4 But I think the important thing was there was formal
- 5 investigation of all those keys cases that were
- 6 identified by Bishop.
- 7 Q. What time frame would you have expected for there to
- 8 be formal investigation of all the cases included in
- 9 the strike team report?
- 10 MR. MAIORINO: Objection, vague and
- ambiguous, incomplete hypothetical.

933291mcginnis07272020.txt 12 I'm not sure I would have an expected time frame Α. 13 because it really depends on the type of case and complexity of the case, availability of witnesses, 14 15 availability of the people you need to interview so I'm not really sure I would put a time frame on that. 16 17 How quickly would you have expected formal Q. 18 investigation to begin in response to complaints 19 identified in the Bishop report? MR. MAIORINO: Objection, vague and 20 21 ambiguous, incomplete hypothetical. 22 Well, I think once the initial review by the deployed Α. 23 investigators, once that was completed and there was a 24 report and there was a determination whether it would 25 go to OIA or not I think it really gets into the OIA

37

2 30 days after that referral was made that some action would be initiated. In terms of when that review 3 would be concluded I think that depends on the case. 4 So the Bishop report included interviews with 5 Q. incarcerated people. Those incarcerated people 6 7 describe incidents and events that they had witnessed 8 at RJD. As you point out some of those were referred 9 to OIA for follow up. For the remainder that were not referred to OIA for follow up what would you have 10 11 expected CDCR to do with those complaints? Page 37

process. It think it would be fairly quickly within

12 Well, again I think that depends on the case, but, you Α. 13 know, since -- as I understand it the investigative 14 team interviewed each individual, came to a determination of whether there's a reasonable belief 15 that the incident happened, whether there's supporting 16 17 documentation, whatever. 18 Those that the initial team thought merited review they went up to OIA. Those that didn't meed 19 20 that standard I'm not sure I would have any expectation for additional follow up unless there's 21 22 something there. I do know that those interviews 23 produce some secondary referrals where individuals 24 made additional allegations involving other people so 25 those were interviewed, so I'm not sure I would expect

38

anything to happen once that decision was made there wasn't reasonable belief or reasonable evidence that the event occurred, there's not really much more you can do at that point in time.

1

2

4

5

6

7

8

9

10

Q.

So with all of the cases coming out of the Bishop report you would have expected somebody to make a determination about whether there was a reasonable belief that his conduct occurred based on whether or not there was additional evidence to support that complaint such as additional documents or witnesses to

933291mcginnis07272020.txt support that complaint; is that correct? 11 12 MR. MAIORINO: Objection, misstates prior testimony, mischaracterizes prior testimony. 13 14 I think what you said is accurate. Yes, i would 15 expect -- if there was existing supporting evidence then it goes up to OIA. If there's just simply he 16 17 said-she said kind of situation and there's nothing 18 there or there's an indication that that incident couldn't have happened as described then I expect that 19 20 case to be dropped. 21 BY MS. GODBOLD: 22 And if a case does go to OIA would you expect OIA to 23 deterimine whether or not there's additional 24 supporting evidence? 25 I think that the intent is that they then would review Α.

39

2 to proceed or not to proceed. If there is proceed 3 with formal investigation. If not the case is concluded if there's just simply not sufficient 4 evidence. 5 6 If a complaint coming out of the strike team were Q. 7 simply forwarded to OIA without additional evidence 8 included would you expect OIA to determine whether there was any corroborating evidence in the file or 9 through witnesses before closing the case? 10 Page 39

1

the matter, determine if there's sufficient evidence

- 11 MR. MAIORINO: Objection, incomplete
- 12 hypothetical, vague and ambiguous.
- 13 A. Generally I think that's the purpose of referring the
- case to OIA to determining whether there's sufficient
- 15 evidence corroborating statements, some kind of
- 16 evidence to support the allegation for formal
- 17 investigation.
- 18 BY MS. GODBOLD:
- 19 Q. And just to be clear, your expectation is that OIA
- 20 would make that determination?
- 21 A. That's my understanding, yes. That's what I would
- 22 expect, yes.
- 23 Q. Would you be concerned if OIA were closing the case
- 24 without making a determination about whether
- 25 additional corroborating information exists?

- 1 MR. MAIORINO: Objection, vague and
- 2 ambiguous, incomplete hypothetical.
- 3 A. Well, you know, again, without looking at a case I'm
- 4 not sure I can answer that one way or another. I
- 5 think for some cases they end up being referred for
- 6 investigation and I've seen elsewhere that simply on
- 7 face value there's nothing you really can -- there's
- 8 nothing there to investigate further.
- 9 Normally there's a review conducted, an

933291mcginnis07272020.txt
exploration of can we generate some additional
information on this particular allegation and that's
documented and a determination is made.

- 13 BY MS. GODBOLD:
- 14 Q. I want to get into specific cases that OIA looked at
- but we will do that a little bit later.
- In your report on page 33 you state that
- facility C is the focus of excessive use of force and
- 18 staff misconduct; is that right?
- 19 A. Yes.
- 20 Q. Do you believe that staff misconduct at RJD is limited
- 21 to facility C?
- 22 A. No.
- 23 Q. And what is your opinion based on?
- 24 A. Well, I think there was cases that I reviewed that
- 25 were throughout the complex. Clearly the majority of

- those cases were facility C, but do I believe those
- 2 could happen at M and A, yes.
- 3 Q. Are you aware of any actions taken by CDCR to
- 4 determine whether staff misconduct existed at other
- 5 facility besides facility C?
- 6 MR. MAIORINO: Objection. Vague and
- 7 ambiguous.
- 8 A. There was no strike team for facility M, for example,
- 9 if that's what you're asking. I did not see specific Page 41

- documents relative to the other components of RJD.
- 11 BY MS. GODBOLD:
- 12 Q. So you're not aware of whether any action was taken by
- 13 CDCR to determine whether staff misconduct existed on
- 14 other facilities at RJD?
- MR. MAIORINO: Vague and ambiguous,
- 16 mischaracterizes prior testimony.
- 17 A. No.
- 18 BY MS. GODBOLD:
- 19 Q. And you mentioned that the strike team was limited to
- 20 only facility C; is that right?
- 21 A. That's my understanding, yes. The interviews were
- 22 facility C inmates.
- 23 Q. If you were the director of CDCR and you received the
- 24 Bishop report would you have employed the strike team
- 25 to other facilities at RJD to determine whether staff

misconduct was also a problem at those facilities?

- 2 MR. MAIORINO: Objection, incomplete
- 3 hypothetical.
- 4 A. Not necessarily. I may have discussed the situation
- 5 with the warden and certainly made the warden aware of
- 6 it but I think the primary focus based on the
- 7 information and data that I reviewed it was facility C
- 8 where the real problem existed. That's not to say --

933291mcginnis07272020.txt I mean you can have staff misconduct at a five star 9 10 greatest prison in the United States. It's not to say 11 staff misconduct won't occur anywhere, but clearly the 12 data here indicates the primary care was facility C and I think that was the focus of the department's 13 14 review. 15 BY MS. GODBOLD: Given the level of problems identified on facility C 16 Q. 17 do you think it would have been appropriate to 18 determine whether or not serious problems also existed 19 at other facilities at RJD? 20 MR. MAIORINO: Objection, incomplete 21 hypothetical, vague and ambiguous. 22 I think that depends on the number of complaints that are stemming from those particular facilities and the 23 24 level of problem that was perceived by the department. 25 Certainly I think if I was the warder there

43

1 I would be aware that this might be a bigger problem 2 than facility C and I would be monitoring that situation, but would I ask for a strike team 3 4 deployment for M or for A? Not necessary given the 5 numbers that were involved. BY MS. GODBOLD: 6 7 You state in your report that the measuring stick for Q. 8 performance of whether use of force incidents have

Page 43

- 9 improved is not the elimination of the use of force
- 10 incident but rather the objective is to ensure that
- force is only used when necessary and appropriate; is
- 12 that correct?
- 13 A. That's correct.
- 14 Q. Did you conduct a review of the use of force incidents
- 15 alleged in plaintiff's declaration to determine
- whether the force used was necessary and appropriate
- in those cases?
- 18 A. You know, I read the declarations. I didn't analyze
- 19 each and every declaration in terms of coming to a
- 20 conclusion. I looked at it collectively.
- 21 Q. So you don't have an opinion about whether the use of
- force at RJD has been necessary and appropriate in the
- 23 cases raised there?
- 24 MR. MAIORINO: Objection, vague and
- ambiguous, overbroad.

- 1 A. I think as I said, I didn't make that evaluation on
- 2 individuals cases that I reviewed, so in that sense I
- 3 agree with your comment. I didn't make a judgment
- 4 evaluating each individual case this was appropriate,
- 5 this wasn't. I looked at it collectively.
- 6 BY MS. GODBOLD:
- 7 Q. And collectively do you think the force being used at

933291mcginnis07272020.txt 8 RJD is necessary and appropriate?

- 9 MR. MAIORINO: Objection, vague and
- ambiguous, over broad, and incomplete hypothetical.
- 11 A. I think, as I said, I concur that there certainly were
- individual cases where it was excessive.
- 13 BY MS. GODBOLD:
- 14 Q. And do you have any specific cases that you can cite
- 15 to?
- 16 A. Not off the top of my head. No, I do not. Again, I
- 17 tried to look at this in the bigger picture than just
- 18 ab individual case.
- 19 Q. You state that the objective is to ensure the safety
- of staff and inmates and the application of force is
- 21 properly documented and reviewed consistent with CDCD
- 22 policy, correct?
- MR. MAIORINO: Penny, can you give us the
- page number?
- MS. GODBOLD: I think that's on page 19.

- 45
- 1 MR. MAIORINO: Okay. Thank you.
- 2 A. That's correct. Yes.
- 3 BY MS. GODBOLD:
- 4 Q. Did you conduct a review of use of force incidents to
- 5 determine whether the force was properly documented
- 6 and consistent with policy?
- 7 A. Well, as I reviewed the declarations and the Bishop
 Page 45

- 8 reports clearly there were indications that were not
- 9 properly documented according to policy.
- 10 Q. Are you aware that the vast majority of cases coming
- out of the strike team were found to be unfounded?
- 12 MR. MAIORINO: Objection, vague and
- ambiguous.
- 14 A. I knew a large number of them had determined to not
- meet that threshold is a reasonable belief that the
- 16 event occurred.
- 17 BY MS. GODBOLD:
- 18 Q. If the strike team found that incarcerated people were
- 19 consistently reporting serious misconduct and
- 20 retaliation why were almost none of the cases
- 21 confirmed?
- 22 MR. MAIORINO: Objection, overbroad, vague
- and ambiguous, incomplete hypothetical.
- 24 A. I don't think I can answer that. That's a pretty
- 25 broad question.

- 1 BY MS. GODBOLD:
- 2 Q. You said yourself that you identified a case where
- 3 there were policy violations and where excessive force
- 4 was used. How do you reconcile that with the fact
- 5 that the results of the strike team found that policy
- 6 violations and excessive of force were not confirmed

933291mcginnis07272020.txt 7 in the vast majority of cases? 8 MR. MAIORINO: Objection, vague and ambiguous, overboard. 9 10 I think what I said and my conclusions are that there 11 clearly were allegations that encompassed what you 12 said. Now taking that allegation and being able to 13 prove and sustain it is another leap. I didn't get to 14 the point of proving and sustaining those allegations. I think collectively there was a large number of cases 15 16 that clearly the Bishop team through their interviews 17 merited further review. Proving that is another 18 matter and another leap that I did not get involved. 19 what would be necessary to prove that in those cases? Q. 20 MR. MAIORINO: Objection, overbroad, vague 21 and ambiguous. I think it depends on the individual case, whether 22 Α. 23 it's reasonable to believe that the case occurred based on the injuries, based on the circumstances, the 24 25 location of the parties, other witnesses. I mean

47

there's a myriad of things there that I don't think
you can apply universally across the board. I think
it depends on the case.

MS. GODBOLD: Okay. Let's go off the
record and take a quick break here.
(Recess taken at 12:50 p.m.)

Page 47

- 7 (Back on the record at 12:59 p.m.)
- 8 BY MS. GODBOLD:
- 9 Q. The declaration in plaintiff's motion describe
- injuries such as broken bones, broken teeth and loss
- of consciousness. In your experience are those types
- of injuries commonly found in use of force incidents
- in the correctional systems?
- 14 MR. MAIORINO: Objection, vague and
- ambiguous, overbroad.
- 16 A. I don't think it would be common but it would not be
- 17 unheard that use of force particularly if there was a
- 18 combatant situation that there would be injuries but
- it's not the common situation as you said.
- 20 BY MS. GODBOLD:
- 21 Q. Would it be common to see such a large number of cases
- as described in plaintiff's declaration with broken
- bones, broken teeth, loss of consciousness?
- 24 MR. MAIORINO: Objection, vague and
- ambiguous.

- 1 A. Well, you know, I'm not sure how to define large
- 2 particularly given the size of the complex that we're
- 3 dealing with. I mean, you don't see 4,000 bed
- 4 complexes very often except in California and a couple
- 5 other places, so I have trouble doing a comparison to

933291mcginnis07272020.txt the term large, plus we're talking over a three year 6 7 period. I would have to do a lot more analysis of 8 that to give you a definitive answer. Is it unusual? 9 Yes, in terms of number of allegations. BY MS. GODBOLD: 10 11 Q. Were you surprised by the severity of the injuries 12 described in the declaration? 13 MR. MAIORINO: Objection, vague and 14 ambiguous. 15 Not necessarily because I've seen that elsewhere in Α. 16 certain cases. No, I don't think I was surprised at 17 all. BY MS. GODBOLD: 18 19 Were you surprised by the number of injuries reported 20 in the declarations presented by plaintiff's counsel? 21 MR. MAIORINO: Objection, vague and 22 ambiguous. 23 Again, I think I answered that generally in my prior Α. It's hard for me to do a comparison because 24 answers. 25 of the size of the complex plus, again, we're talking 49 1 over a three year period, so I'd have to break those 2

- out, you know.
- 3 I didn't break out data by that kind of
- detail in terms of severity of injury and stuff like 4
- 5 that so it's difficult for me to answer that Page 49

- 6 specifically.
- 7 BY MS. GODBOLD:
- 8 Q. The declaration describes officers punching people in
- 9 the face and kicking people in the head who are
- 10 already restrained and on the ground during use of
- force incident. Are punching in the face and kicking
- in the head common use of force tactics that you would
- 13 expect to see in a prison?
- 14 A. No. I think that clearly would be under the
- definition of excessive use of force.
- 16 Q. Would you say that evidence of punching in the face
- 17 and kicking in the head during the use of force
- 18 incident described in this case is surprising?
- 19 MR. MAIORINO: Objection, vague and
- ambiguous.
- 21 A. Again, I don't find anything I see in prison
- 22 surprising, quite frankly, so, no, it doesn't surprise
- 23 me.
- 24 BY MS. GODBOLD:
- 25 Q. If you were the director of the Department of

- 1 Corrections and you received reports of multiple
- 2 incidents of broken bones, broken teeth, loss of
- 3 consciousness, punching in the face, kicking in the
- 4 head coming out of one of your prisons what would you

 $933291 mcginnis 07272020.txt \\ do in response?$ 5 6 MR. MAIORINO: Objection, incomplete 7 hypothetical, vague and ambiguous. 8 Well, I think I would basically do some of the things, 9 if not all of the things, the CDCR did. I think the first thing was deploy some kind of team to find out 10 11 what's going on at this particular facility and then 12 take corrective action based on that so I think that's kind of a strategy that's been used elsewhere in terms 13 14 of not necessarily the strike team but a review group 15 to go in and find out the basis of the allegations, 16 the validity of the allegations and then what the next 17 steps are. I believe that's what the Bishop team did. 18 They defined the problem and they suggested some remedial steps to address the problem. 19 20 BY MS. GODBOLD: 21 Would you have done anything in addition to what CDCR Q. has done in this case? 22 23 I'm not sure what that would have been. I mean, they Α. 24 typically -- the first thing you do is change the 25 administration managers of that particular facility

- 1 and they did that. I think that he took the steps
- 2 that normally would be taken by any executive of an
- 3 agency in this particular situation.
- 4 Q. You seem to suggest that convening the strike team was Page 51

5 in and of itself a remedy to fix the serious problems 6 that were coming out of RJD at the time. What would 7 you have expected to happen as a result of this 8 reporte of Bishop coming out of the strike team? 9 well, first of all, I don't think I referred to the 10 Bishop team as the remedy. I think the Bishop team in my estimation was deployed to either validate a 11 12 problem and define what the problem was, which I think 13 they did. And I think they then defined some remedial 14 steps that the department should take, which I think 15 the department took in terms of deploying follow up 16 investigative teams to interview all the people. I 17 think the issues of reenforcing training and stuff like that all stems from that Bishop report so I don't 18 19 see the Bishop report as the remedy. I see that as 20 really the first step. Again, I just don't think it's 21 an accident, it didn't happen out of thin air that the 22 numbers dramatically dropped in 2019 after that 23 occurrence and the steps that the department initiated 24 immediately. I think that sent a clear message that 25 things needed to change and they were going to change.

52

- 933291mcginnis07272020.txt 4 enter Exhibit Number 3 confidential.
- 5 MARKED FOR IDENTIFICATION:
- 6 DEPOSITION EXHIBIT 3
- 7 1:08 p.m.
- 8 BY MS. GODBOLD:
- 9 Q. Exhibit 3 is the declaration of Jeffrey Schwartz.
- 10 Your report lists the deposition of Jeffrey Schwartz
- 11 as a document that you reviewed in preparing your
- 12 report; is that correct?
- 13 A. Yes, it is.
- 14 Q. So you read the declaration of Jeffrey Schwartz?
- 15 A. Yes.
- 16 Q. You state on page eight of your report that you
- 17 disagree that the inquiry and investigation and
- 18 disciplinary processes do not work.
- 19 A. Could you tell me where that is?
- 20 Q. Sure, page eight of your report.
- 21 MR. MAIORINO: I believe it's the last
- 22 paragraph.
- 23 A. Yes.

1

- 24 BY MS. GODBOLD:
- 25 Q. You state that you disagree that the disciplinary

records and the investigative process do not work.

- 2 You believe they're working?
- 3 A. Well, you didn't read the next sentence. Basically Page 53

- 4 what I believe is the processes themselves are
- 5 adequate and appropriate. I think the execution of
- 6 those processes, which we talked about earlier,
- 7 certainly there were breakdowns in executing those
- 8 processes. That I agree with.
- 9 Q. Did you read the case analysis portion of Mr.
- 10 Schwartz' report?
- 11 A. I read through it, yes.
- 12 Q. He breaks down a number of areas where he believes
- 13 that the execution of the investigative and
- 14 disciplinary process is not working. Would you agree
- that the investigative and disciplinary process did
- 16 not work in the cases outlined in Mr. Schwartz'
- 17 report?
- 18 A. Well, I agree what you just said was the execution of
- 19 the process did not work. There were breakdowns.
- 20 People did not follow policy and there wasn't, you
- 21 know, consistent compliance with policy across the
- board. I agree with the execution part of that
- 23 statement, yes.
- 24 Q. And do you agree with the areas in Mr. Schwartz'
- 25 report where he identifies that the execution of the

- investigative and disciplinary processes didn't work
- 2 in these cases?

933291mcginnis07272020.txt 3 MR. MAIORINO: Objection, vague and 4 ambiguous. 5 Again, I agree that the execution broke drown. 6 agree with everything you just said? I'm not certain 7 because I'm not sure what that encompasses. I do disagree with several of the conclusions of Mr. 8 9 Schwartz but in terms of the execution of the 10 processes I certainly agree with. 11 BY MS. GODBOLD: 12 Okay. I think I understand but I just want to make Ο. 13 sure that I understand. Mr. Schwartz, for example, 14 starting on page ten he lists a number of areas where 15 the executions of the investigative process broke 16 down. He talks about investigations, for example, that don't discover all of the evidence that should 17 18 have been found in cases. Do you agree with his 19 assessment of the areas where there were breakdowns in the execution of the investigative process? 20 I think there was a variety of breakdowns in the 21 Α. 22 execution of the process, yes. I said that before. 23 And breakdowns that you identified are those similar 24 to the ones that are outlined in Mr. Schwartz' report 25 on pages ten and 11?

55

1 MR. MAIORINO: Objection, vague and

2 ambiguous.

- 3 A. Generally, yes, I think I would agree with that.
- 4 MS. GODBOLD: I'd like to go ahead and
- 5 enter confidential Exhibit Number 4, RJD master
- 6 allegation tracking log.
- 7 MR. MAIORINO: Penny, we may not have that
- 8 exhibit.
- 9 MS. GODBOLD: Let's go off the record.
- 10 (Recess taken at 1:13 p.m.)
- 11 (Back on the record at 1:17 p.m.)
- 12 MS. GODBOLD: I would like to mark this
- 13 exhibit as confidential and also mark this portion of
- 14 the deposition as confidential.
- 15 BY MS. GODBOLD:
- 16 Q. Have you seen this document before, Mr. McGinnis?
- 17 A. I don't recall the document specifically. That
- 18 doesn't mean I haven't seen it.
- 19 Q. Okay. This is referred to as the RJD master
- 20 allegation tracking log. It was identified in your
- 21 index of documents that you referred to in compiling
- the opinions for your report. Do you know whether you
- relied on this document?
- 24 A. I honestly didn't spend a lot of time. I had the
- documents, reviewed all the documents but I didn't

56

1 spend a lot of time on this particular document, no.

933291mcginnis07272020.txt 2 Q. In your report you state that this list 3 includes 48 allegations from inmates originally interviewed during the strike team and that it also 4 5 includes an additional 14 inmates who were interviewed based on information learned during the strike team. 6 MR. MAIORINO: Penny, what page is that? 7 8 MS. GODBOLD: That's on page 21. 9 That wasn't that document. That was the email summary Α. that Sean sent me. I think the reference you're 10 11 making I didn't rely necessarily on this document. 12 did get a document, an email from I believe it was 13 Sean that evidently summarized this document, listed 14 the cases and what the outcome was, so I didn't rely 15 on this document itself but it's the same information, the 48 cases and then the 14 additional cases. It was 16 17 just kind of an abridged version of this, I assume. 18 BY MS. GODBOLD: 19 okay. Q. 20 Jack, if you're able to MS. GODBOLD: 21 scroll a little bit over on the screen so we can see 22 the outcome column? 23 BY MS. GODBOLD: 24 Can you see that Mr. McGinnis? Q. 25 Yeah. He has to move it a little bit over to my left Α.

- 2 photo.
- 3 Q. Yeah, I've got that also.
- 4 The outcome column there lists information
- 5 such as confidential memorandum, dated 3-18-2020?
- 6 A. Yes.
- 7 Q. Findings were unfounded. Is that the type of
- 8 information that was included in your email summary
- 9 provided by defense counsel in this case?
- 10 MR. MAIORINO: Objection, misstates prior
- 11 testimony.
- 12 A. I think the summary I had was basically the status
- 13 column and not necessarily the outcome column. I'm
- looking, completed, case closed, completed case close
- is what I saw in the document I reviewed I recall
- 16 relying on and then I cross-checked some of the cases
- 17 with other emails and documents that I had been
- 18 provided from the summary of the investigation. I
- 19 cross-checked that to verify I was looking at the
- 20 right case but I really didn't rely on this particular
- 21 formatted document.
- 22 BY MS. GODBOLD:
- 23 Q. Okay. And you don't think that the information that
- you relied on had this outcome information?
- MR. MAIORINO: Objection, vague and

933291mcginnis07272020.txt 1 ambiguous, overbroad. 2 I'm not sure of to tell you the truth. I know I had Α. 3 the status of cases that were closed, reference to 4 cases that have been referred to OIA, summary of cases in which action was pending or going to be taken, so 5 it kind of summarized where that particular case was 6 7 at, but in terms of knowing that there was a 8 confidential memo by the lieutenant, no, I don't 9 recall that. BY MS. GODBOLD: 10 11 Okay. And because you didn't have the outcome column Q. 12 in the information were you aware that there were 13 confidential memos produced in response to these cases 14 as listed here on this document? Not that I recall, no. 15 Α. Do you know if you received any of the confidential 16 Q. 17 memos that are listed here on this document? They may be a part of the investigative pack that were 18 Α. part of the information I provided, but I did not 19 20 receive this format, no. MR. MAIORINO: Penny, to be clear I don't 21 22 believe we provided him those confidential memos. 23 MS. GODBOLD: I'm sorry? You said they

MR. MAIORINO: The confidential memos that

weren't produced to him?

24

- 1 are identified in the outcome column weren't produced.
- I believe this is the RJD tracker. I believe that was
- 3 provided to Mr. McGinnis. I think it might have been
- 4 a green tone. The one on the screen is yellow.
- 5 A. For example, as I look at the document down -- the
- fourth case down where it's got allegation was
- 7 rejected, I did have that information in the -- that I
- 8 had tracked down through cross-referencing cases but
- 9 in terms of confidential memos I don't recall any of
- that.
- 11 BY MS. GODBOLD:
- 12 Q. You state in your report on page 21 that you reviewed
- eight of the cases included on this list; is that
- 14 correct?
- 15 A. Did you say page 21?
- 16 Q. Yes, I think it's footnote 23.
- 17 A. Yes, I had a document that summarized those eight
- 18 cases where they were at in the process and what the
- 19 outcomes were.
- 20 Q. Is the document that you're referring to the same
- 21 document that you mentioned earlier from Sean Ladholz
- that provided a synopsis of each of the cases and the
- 23 status of each?
- 24 MR. MAIORINO: Penny, I think these
- documents were after the strike team documents that we

- 1 provided him.
- 2 A. Yeah. There was a packet of -- from one was from a
- 3 sergeant and I can't remember his name that summarized
- 4 the status of these eight cases that was part of that
- 5 whole strike team outcome packet that I received.
- 6 That summarized each of those eight cases and I went
- 7 through those.
- 8 BY MS. GODBOLD:
- 9 Q. Are you referring to the summary from Sergeant
- 10 A. It was a sergeant. I can't remember specifically
- 11 which -- there were a couple of documents that
- 12 summarized the initial review of the allegations and
- what the next step was going to be. One of those as I
- 14 recall was Sergeant but I think there were two
- of those documents that kind of separated the cases
- 16 but I do remember name. I'm not sure if that
- 17 was the specific one referenced to this.
- 18 Q. And I'm sorry that I'm nitpicking and asking so many
- 19 questions about this. I'm just trying to figure out
- if we received the documents that you're referring to
- in our production.
- 22 Trace, do you know whether --
- 23 A. It was part of the documents that I dumped.
- 24 MR. LADHOLZ: This is Sean. I can probably
- 25 direct you to it Penny. I apologize for interrupting.

1		I sent a chat message initially, but I can
2		show you where it is if you would like?
3		MS. GODBOLD: I see your chat now.
4		Off the record.
5		(Discussion off the record at 1:27 p.m.)
6		(Back on the record at 1:28 p.m.)
7		MARKED FOR IDENTIFICATION:
8		DEPOSITION EXHIBITS 5 and 6
9		1:29 p.m.
10		MS. GODBOLD: I'd like to go ahead and mark
11		as confidential Exhibit 5, SRJD 134 19 R. Exhibit six
12		is SRJD 141 19 R.
13	BY M	IS. GODBOLD:
14	Q.	Do you recognize these documents, Mr. McGinnis?
15	Α.	I recognize the format. I don't recognize the names
16		specifically but these are the type of documents you
17		reviewed, yes.
18	Q.	These are OAI files for the cases that have been
19		identified on the RJD master tracking log Exhibit
20		Number 4. These are cases that arose out of the
21		strike team and they correspond on that log to cases
22		for Mr. These are cases
23		that you reported in footnote 23 that you reviewed in
24		your report.
25		In your report you state that you reviewed

1		these cases and that you found that the documentation
2		attached to each case was extensive and comprehensive
3		and supported the decision by OIA to reject the case;
4		is that correct?
5	Α.	Yes.
6	Q.	In Mr case, that's Exhibit 5, the strike
7		team allegations are reported on page 51 and 52 of
8		that case. Mr. alleges that he carried out
9		assaults on other incarcerated people at the direction
10		of staff, including officer and officer
11		Mr. also reported that he had knowledge
12		that an officer arranged assaults on incarcerated
13		people including Mr. Do you recall those
14		allegations?
15	Α.	Generally I do, yes.
16	Q.	Related to those allegations Mr. which is
17		Exhibit 6, case 141-19 during strike team interview,
18		which is found on pages 14 and 15 of that exhibit, he
19		alleges that he was assaulted by other incarcerated
20		people working for officer He stated that that
21		assault was arranged in retaliation for reporting
22		unnecessary force by that officer and following a
23		strike team identifying these allegations both were
24		referred to OIA. Was it your understanding of what
25		happened in those cases?

1	Α.	Yes.
2	Q.	Regarding the first allegation that Mr. was
3		hired by staff to assault incarcerated people
4		MR. MAIORINO: Are you referring to Exhibit
5		5?
6	BY N	MS. GODBOLD:
7	Q.	admission that he did, in fact, assault those
8		people what would you expect OIA to do with that
9		allegation?
10		MR. MAIORINO: Just point of clarification,
11		are you referring to Exhibit 5?
12		MS. GODBOLD: Yes.
13	Α.	Okay.
14		MR. MAIORINO: Objection, incomplete
15		hypothetical, vague and ambiguous.
16	Α.	What's the question now? I'm sorry.
17	BY N	MS. GODBOLD:
18	Q.	Regarding Mr. allegation that he was
19		hired by staff to assault the other incarcerated
20		people and his admission that he did, in fact, carry
21		out those assaults what would you expect OAI to do in
22		response to receiving that information on the strike
23		team?
24	Α.	On the second page of the document the incident
25		described doesn't match what you're talking about. I

64

1 know on the summary that's one of the allegations, but 2 in terms of this particular -- and I haven't got 3 through it yet, but it starts out by two officers 4 monitoring the dayroom, observed inmate attacking --5 that's the start of this investigation. 6 Q. Yeah, you're absolutely correct. 7 So I'm trying to shift through the 50, 60 pages to try Α. 8 to understand how to answer your question. 9 Mr. alleges that he was hired to assault a Q. 10 number of people and so there's an of incident 11 included in this pact? 12 Yes, there is. Α. 13 The specific incident that I'm referring to is on page Q. 14 51 and 52 and if you flip to those pages -- do you see 15 the specific allegations station reported by the 16 strike team? Starting on page 52 it says interview 17 with inmate What appears to have happened 18 here was CDCR photcopied the entire memo from the 19 strike team and included it in the packet involving Mr. ____ in the prior -- so all the --20 21 okay. Α. 22 -- allegations got sent to OIA but according to the Q. 23 RJD masters allegation tracker this particular allegation was the one that was intended to be 24 25 referred to OIA. So OIA received this entire packet

65

and one of the specific allegations is -- Mr. 1 2 had a couple -- one of his specific 3 allegations was Mr. was hired by staff and he names the staff, officer officer to 4 5 assault other incarcerated people. 6 Α. Yes. 7 That allegation was referred by the strike team to Q. 8 OIA. My question is what would you expect OIA to do 9 with an allegation from an inmate self-incriminating stating I was hired by officer and officer 10 to attack other incarcerated people and I did that, 11 12 what would expect OIA to do with that allegation? 13 MR. MAIORINO: Objection, vague and 14 ambiguous, incomplete hypothetical. 15 In any of these cases they try to validate or repute 16 the allegation simply put. BY MS. GODBOLD: 17 So you would have expected OIA to look for additional 18 19 corroborating evidence in this case? 20 MR. MAIORINO: Mischaracterizes prior 21 testimony. 22 Yes, I would. Α. 23 BY MS. GODBOLD: 24 Q. Are you aware that OIA rejected this case with looking

for any additional corroborating evidence?

- 1 MR. MAIORINO.
- 2 A. Well, I'm not sure what they did. All I see is it was
- 3 rejected because there's no reasonable belief
- 4 misconduct occurred. That's kind of where I'm at with
- 5 it. It was rejected.
- 6 Q. And if you understood that OIA rejected it without
- 7 conducting further investigation to determine whether
- 8 the reasonable belief misconduct occurred would you be
- 9 concerned?
- 10 MR. MAIORINO: Objection, incomplete
- 11 hypothetical.
- 12 A. Yes, I'd be concerned.
- 13 BY MS. GODBOLD:
- 14 Q. Do you thinkg that an allegation from an incarcerated
- person that he worked for a named staff member in
- 16 committing criminal acts should be investigated?
- 17 MR. MAIORINO: Objection, incomplete
- 18 hypothetical.
- 19 A. Yes.
- 20 BY MS. GODBOLD:
- 21 Q. As I mentioned one of the officers named in this case
- 22 is officer Are you that the list of
- 23 strike team allegations, Exhibit 4 in this deposition,
- 24 includes at least four different complaints involving
- 25 officer

1

Α.

67

I'm not sure about four but I do remember name 2 being in there multiple times, yes. Exhibit 4 does include four different complaints. One 3 Q. 4 is an allegation from Mr. That officer 5 threatened him. Another is an allegation from Mr. 6 that officer attempted to fight him on 7 the yard. Another is an allegation from that 8 states officer let porters in to another inmate's cell to steal that inmate's property after that inmate 9 10 was assaulted. Then there's this allegation from Mr. 11 he was hired by officer to assault 12 people. Given that officer name appears in 13 almost ten percent of the original 48 allegations 14 discovered by the strike team do you think that OIA 15 should have investigated the allegation arising from case against officer 16 MR. MAIORINO: Objection, incomplete 17 hypothetical. 18 Yes. It appears they at least reviewed the case. I 19 Α. 20 don't know to what extent they reviewed it. The mere fact that has four allegations against him 21 22 oftentimes that's really a result of where you're 23 assigned, quite frankly. For example, if you're 24 assigned to the administrative seg unit where there's 25 a lot of activity going on oftentimes the same four or

68

five guys will pop up with allegations. Not to 1 2 diminish the need for reviewing that but sometimes 3 you're a victim of where you're assigned. Sometimes 4 you're a victim of doing the right thing, of being a 5 good officer, where inmates want to get you, guite 6 frankly, out of the way. The mere fact that his name 7 appears four times does not raise a red flag with me as much as the degree that the investigation was 8 9 conducted. Once it's on the books there should be a 10 11 thorough investigation. There's certainly rational 12 reasons why would pop up four times. It may good 13 it may be bad so on the surface I can't respond to 14 that. 15 BY MS. GODBOLD: 16 Are you aware that there are hundreds of correctional 17 officers that work at RJD? 18 Yes. I think I said before there's over 1,000 19 security staff. I'm well aware of that. Typically 20 people get assigned routinely to the same assignments 21 and same jobs. I didn't look at the staff rotation practices at RJD but that's typically the practices. 22 23 John Doe ends up in A housing unit much is pretty much his standard assignment. 24 25 Given that there's hundreds of correctional officers Q.

69

1 working at this facility at RJD does the fact that 2 officer name comes up four different time in regards to allegations -- on the 48 allegations do you 3 4 think that should be given any weight by OIA in 5 considering allegations against thhis officer? 6 MR. MAIORINO: Objection, vague and 7 ambiguous. 8 Not by itself, no, by any means. I mean, a large 9 percentage of those thousand officers probably have no 10 contact during the day with an inmate. Another 11 percentage of them are in M where there is minimal 12 conflict of any kind. So, again, I'm going back to 13 that sometimes you're in a situation you're in just 14 simply that's where you're typically assigned. I'm 15 not saying that's a reason to deny the investigation. I think on the surface the fact that his name pops up 16 more than John Doe who's working at the front gate is 17 not significant in itself. 18 19 BY MS. GODBOLD: 20 Regarding the allegation that Mr. and Mr. Q. 21 state that an officer hired incarcerated people to assault Mr. would you expect OIA to 22 23 investigate that incident further? 24 Α. Yes. 25 Q. Mr. alleges that officer hired

70

1		incarcerated people to assault him because he filed a
2		that 062 on officer and policy it's regarding an
3		excessive force. The 602 that filed is included
4		in Exhibit 6 at page 22. Do you see that document?
5	Α.	Yes, I do.
6	Q.	Mr. states that he was assaulted by officers
7		and on that his rib was broken on August
8		19, 2018. Do you see that?
9	Α.	Yes.
10	Q.	The confidential supplement to that appeal on page 23
11		states that was no incident reported on that day
12		involving Mr. and also that the officers denied
13		being involved in any incident involving Mr.
14	Α.	Yes, I see that.
15	Q.	It also indicates that Mr. withdrew his staff
16		complaint?
17	Α.	Yes, I saw that.
18	Q.	OIA rejected this case without any further
19		investigation.
20		MS. GODBOLD: I'd like to enter
21		confidential Exhibit Number 7.
22		MARKED FOR IDENTIFICATION:
2.2		DEDOCTITON EXCITETY 7
23		DEPOSITION EXHIBIT 7

25

BY MS. GODBOLD:

- 1 Q. I'm going to represent to you that this is a page out
- of Mr. medical file. You will see that that
- file has Mr. name on it?
- 4 A. Yes, I see that.
- 5 Q. Is it a record from Tri-City Medical Center?
- 6 A. Yes.
- 7 Q. It's dated August 22 after the alleged incident?
- 8 A. Yes
- 9 Q. Under the history of the present illness section of
- 10 the form do you see where Mr. alleges that he
- 11 was assaulted by officers?
- 12 A. Yes.
- 13 Q. Four days ago?
- 14 A. Yes.
- 15 Q. On page two of this record under medical decision
- 16 making narrative the record indicates that an x-ray of
- the rib cage and the chest reveals probable rib
- 18 fracture.
- 19 A. Yes, I saw that.
- 20 MS. GODBOLD: I'd like to enter Exhibit
- 21 Number 8 marked confidential.
- 22 MARKED FOR IDENTIFICATION:
- 23 DEPOSITION EXHIBIT 8
- 24 1:51 p.m.
- 25 BY MS. GODBOLD:

1	Q.	This is a report of his examination and it confirms
2		left rib fracture?
3	Α.	Yes, I see that.
4	Q.	So Mr. claims he was assaulted on August 19.
5		The medical files confirm that he had a broken rib
6		around the date of that incident. His complaint is
7		dismissed because there was no incident report on that
8		date and the officer said he didn't do it said they
9		didn't do it. Mr. recants he later says out of
10		fear. There are no medical records included in the
11		OIA pact. There's no indication that additional
12		witnesses were interviewed and there's no indication
13		or explanation for how his rib was broken if he was
14		not involved in any incident around this time. Are
15		you concerned that this information was not reviewed
16		by OIA?
17		MR. MAIORINO: Objection, vague and
18		ambiguous.
19	Α.	well, yeah, but I can see, you know, once he refused
20		to participate in the investigation, refused the
21		interview you can confirm the injury, you just can't
22		confirm on how that injury occurred, so I think that
23		are problems with the thoroughness of the
24		investigation, but on the other hand I can understand
25		once he terminated his participation in the Page 73

73

1		investigation it becomes a challenge to the
2		investigators.
3	BY M	IS. GODBOLD:
4	Q.	Do you think the investigator should have asked him
5		why he was terminating his staff complaint?
6	Α.	Yeah. It's not documented but I'd have to assume they
7		did have that discussion but I don't know if they did
8		or not because it's not documented.
9	Q.	And are you aware that the declaration in this case
10		and the findings of the strike team show that many
11		people are afraid to report staff misconduct due to
12		retaliation?
13	Α.	Yes. I saw that clearly in the allegations, yes.
14	Q.	Mr. goes on to claim that he was assaulted a few
15		months later in October by incarcerated people who
16		were hired by officer Mr. Mr. during
17		his strike team interview corroborates that
18		information. Both of these allegations are referred
19		to OIA. OIA rejected these allegations without
20		further investigation.
21		Do you think the rejection of these
22		allegation without further investigation is warranted?
23		MR. MAIORINO: Objection, vague and
24		ambiguous, incomplete hypothetical. If you're moving

Page 74

933291mcginnis07272020.txt 25 into OIA territory seems to be outside the scope of

- 1 MR. McGinnis' report.
- 2 A. Could you repeat the question.
- 3 BY MS. GODBOLD:
- 4 Q. Do you think OIA should have investigated the
- 5 complaint from Mr. that he was assaulted by
- 6 incarcerated people who were hired by officer
- 7 MR. MAIORINO: Same objections.
- 8 A. Yes.
- 9 BY MS. GODBOLD:
- 10 Q. Are you aware that officer name appears in at
- 11 least five different allegations arising from the
- 12 strike team interviews?
- 13 A. I think we dan go through he same scenario we talked
- about earlier. You know, I also recall specifically
- that in one declaration, and I think even Mr. Vail
- 16 mentioned it or it was in one of Mr. Vail's
- 17 declarations to be attached, there was the allegation
- there was a core group of four to seven officers who
- 19 were involved in this kind of activity. I'm aware of
- that and I'm aware of those kind of allegations.
- 21 Q. Do you think that special attention should be paid in
- the case where there are allegations of multiple
- 23 allegations citing a core group of problematic
- 24 officers?

MR. MAIORINO: Objection, vague and

75

1 ambiguous, incomplete hypothetical. 2 I can run through the same scenario. I think it's Α. 3 worthy of looking at just on the service because you 4 have multiple allegations versus another group of 5 officers it could be just because of where you're assigned and the nature of your post. So on the 6 7 surface certainly that's something that should raise a 8 red flag for people to look at. I'm not sure on the 9 surface that should entail a reason for a formal investigation in and of itself. So I think that's 10 11 something you have to be aware of and look at. Would you be concerned if CDCR's investigative and 12 Q. 13 disciplinary process did not have a mechanism for looking at whether an officer was somebody that was 14 15 coming up in multiple allegations? 16 MR. MAIORINO: Objection, vague and 17 ambiguous, incomplete hypothetical. 18 Well, I think most systems -- I've been involved in Α. 19 helping some systems create dashboard tracking systems 20 that flag those kind of things. You look at time, you 21 look at dates, you look at shift, you look at assignment, location and then you look at number of 22 23 complaints against individual officers as something

24

933291mcginnis07272020.txt that are indicators that you should review, yes, I

25 would have to agree with that because I've encouraged 76 1 other systems to do that. I'm not aware of whether 2 CDCR has that capability at the present time. I know I talked to Captain and he was involved with 3 the implementation of the incident tracking system and 4 5 as he described to me I think he'll have the capability to do some of those things with the 6 7 tracking system once it's fully up and running and 8 accurate. At the time I talked to him he wasn't confident the data was sufficiently accurate to share 9 that information with me so I didn't ask for it. 10 11 Did he give you an idea of when he thought it would be Q. 12 up and running and be accurate? 13 No. This is just my recollection of the conversation. 14 He had data that was on the system from January to October of 2019 so far but he acknowledged that there 15 were gaps in that data so analysis of that information 16 17 would be pretty mature so I didn't get a sense from him specifically when that would be available. 18 19 sounds like the kind of dashboard that I would expect the system to have. 20 You mentioned a couple of different fields that you 21 Q. wouldn't expect to be tracked on such a dashboard. 22 Can you describe exactly what data points you think 23 Page 77

- 24 are necessary to track such a system?
- 25 A. Typically what happens is I understand from my brief

77

1 conversation with Captain is the incidents are 2 electronically entered so it has all kinds of data and 3 type, the type of force that was used, the type of 4 incident, the participants, the location, the time, the shift, some brief demographics of the inmate 5 6 involved. For example, if he was developmentally 7 disabled or in the mental health program, et cetera so 8 you can then virtually pull up trim data on incidents 9 as they occur and specific locations or specific 10 institutions. That's the kind of data systems are now 11 developing. Some systems are more advanced in terms 12 of doing that. Other systems are in last five years are starting to develop those systems as the 13 14 electronics provide that capability. Prior to that the electronic systems for the most part in most 15 states weren't sophisticated enough to do that. 16 17 Are you aware that there's an existing court order in Q. 18 the Armstrong case that requires the tracking of 19 complaints against officers related to disability 20 violations and misconduct?

Page 78

Are your aware the vast majority of the allegations

21

22

Α.

Q.

No.

raised in this case have not been tracked in that

MR. MAIORINO: Objection, vague, ambiguous,

23

24

25

system?

78 1 overbroad, incomplete hypothetical. 2 I would have to disagree with you because the Α. 3 spreadsheet I got clearly differentiated people by whether they were members of the Armstrong class and 4 whether they were members of the Armstrong class at 5 the time of the incident, so to some degree they're 6 7 tracking that at least from the data I received 8 because I was able to separate out the percentage of 9 cases that involved Armstrong class individuals. I 10 don't know specifically the order you're talking 11 about, but the data I've got certainly has that to 12 some degree. 13 BY MS. GODBOLD: Is it possible that defense counsel actually went 14 Q. 15 through case by case and pulling that information from 16 their system as opposed to the fact that there they're actually tracking that information? 17 MR. MAIORINO: Objection. Vague and 18 ambiguous, incomplete hypothetical, speculation. 19 20 I've got a spreadsheet. How that spreadsheet was 21 developed I cannot answer that question. It was a 22 pretty detailed spreadsheet. Covered the time period Page 79

- I requested and had all the information that I
- 24 requested.
- 25 BY MS. GODBOLD:

- 1 Q. The RJC tracking log that we referred to early,
- 2 Exhibit Number 4, refers to confidential memoranda
- 3 closing many of the cases on this log. We've
- 4 established already that you did not receive the
- 5 confidential memoranda cited to on the RJD allegation
- 6 tracking log, Exhibit 4, correct?
- 7 A. That's correct.
- 8 MS. GODBOLD: I'd like to go ahead and
- 9 enter confidential Exhibit Number 9. This is going to
- 10 put our exhibits slightly out of order. This is dated
- 11 February 11, 2020, to warden W. Pollard. This
- document is a confidential order signed by Lt.
- 13 Can we go off the record for just a second.
- 14 MARKED FOR IDENTIFICATION:
- 15 DEPOSITION EXHIBIT 9
- 16 2:07 p.m.
- 17 BY MS. GODBOLD:
- 18 Q. I'd like to draw your attention to Exhibit Number 9,
- 19 the confidential memo of February 11, 2020. This memo
- 20 states that it concerns allegations that I had made by
- an incarcerated person named Mr. Have you

- 22 ever seen this memo before?
- 23 A. No.
- 24 Q. This memo correspondence to a case listed on the RJD
- 25 allegation tracking log RDJC-19-002. That's Exhibit

- 4. Do you see this case on the tracking log? I'll
- 2 represent to you this case is on that log and,
- 3 therefore, is arising out of the strike team. The
- 4 allegations by Mr. according to this memo are
- 5 that he is alleged to have knowledge of custody staff
- 6 allowing security threat group inmates into other
- 7 inmates' cells to steal property as retaliatory means.
- 8 He is alleged to have knowledge of custody staff
- 9 refusing to summon medical assistance for an inmate in
- 10 distress and he is alleged to have knowledge of
- officers stomping on an inmate in chow hall. Do you
- see those allegations?
- 13 A. Yes.
- 14 Q. Do you consider these to be serious allegations?
- MR. MAIORINO: Objection, vague and
- ambiguous.
- 17 A. Yes.
- 18 BY MS. GODBOLD:
- 19 Q. Do you think these allegations warrant follow up
- following arising out of the strike team interviews?
- 21 MR. MAIORINO: Objection, vague and Page 81

ambiguous.

23 A. I was reading through materials and I'm not sure who

24 Lt. is or what his assignment is but I assume

25 that the interview of random inmates in-house go

81

1 interview officers was follow up. I don't know if 2 he's an OIA staff members or what, but I mean it's certainly isn't a case where they listen to the 3 allegations and throw this out. 4 They interviewed They interviewed 5 6 two officers. They reviewed his housing placement, 7 his history and the interview random other inmates in the housing unit, so I'm not sure if this is the 8 formal investigation or if this is the local strike 9 team analysis of the cases. I'm not sure where this 10 is at in context of follow up as you defined it. I 11 don't know if that makes sense to you. 12 13 Q. Well, these allegations arose out of the strike team in December 2018; is that correct? 14

15 A. Yes.

16 Q. When would you have expected CDCR staff to conduct

follow up on allegations arising from the strike team

in December 2018?

19 MR. MAIORINO: Objection, vague and

ambiguous, incomplete hypothetical.

- 21 A. Some time therefore but recently, you know, within a
- 22 30 to 45 day period. Again, I'm not sure what this
- 23 is.
- 24 BY MS. GODBOLD:
- 25 Q. This memo states that the telephonic interview with

- 1 Mr. was conducted on January 17, 2020?
- 2 A. Yeah, because he had been transferred to high Desert.
- 3 I understand that.
- 4 Q. Abd that's over a year after the strike time interview
- 5 took place?
- 6 A. Yes.
- 7 Q. Is there any indication in this memo that there was
- 8 any further investigation in between the strike team
- 9 and this telephonic interview conducted a year later?
- 10 A. Not that I can see, no.
- 11 Q. Do you have any evidence that's been presented to you
- by defense counsel in this case that there was any
- follow up to this allegation in between the December
- 14 2018 strike team and the telephonic interview with
- this interview a year later?
- MR. MAIORINO: Objection, vague and
- 17 ambiguous, overboard.
- 18 A. Not that I can recall. I don't think I have anything.
- 19 MS. GODBOLD: I'd like to go ahead and
- 20 admit as confidential Exhibit Number 10. Page 83

- 21 MARKED FOR IDENTIFICATION:
- 22 DEPOSITION EXHIBIT 10
- 23 2:22 p.m.
- 24 BY MS. GODBOLD:
- 25 Q. This document is a confidential memo from Lt. to

- 1 Warden Pollard dated February 12, 2020. Have you seen
- 2 this document before?
- 3 A. Not before today, no.
- 4 Q. This memo corresponds to a case that's listed on the
- 5 RJD allegation tractor case RJD 190-003 so I will
- 6 represent to you that the case is on is that log and
- 7 therefore arose out of the strike team interviews?
- 8 The allegation in this memo are that Mr.
- 9 alleged to have knowledge of specific custody staff
- 10 creating a, quote-unquote, fight alley. Mr.
- is alleged to have information regarding an inmate who
- tried to get help for suicidal ideation but who then
- cut himself too deep and ended up dying, and to have
- observed specific staff allow other inmates to go into
- inmate cells and assault them. Do you consider these
- 16 to be serious allegations?
- 17 MR. MAIORINO: Objection, vague and
- ambiguous.
- 19 A. Yes.

- 20 BY MS. GODBOLD:
- 21 Q. And according to this February 12, 2020, memo when was
- 22 the telephonic interview of Mr. conducted?
- 23 A. January 31, 2020.
- 24 Q. And that's over a year after these allegations
- interview of the strike team; is that correct?

- 1 A. I assume it is, yes. I'm not sure whether this is
- one. I'm just qualifying. I'm not sure if this is
- one of the original allegations or there was a set of
- 4 allegations that stemmed from the original allegations
- 5 when they interviewed the inmates, so it's just a
- 6 timing of it. It's still January 31, 2020. It's just
- 7 a matter of when and where did it originate and that's
- 8 not really clear here other than it stems from the
- 9 Bishop report.
- 10 Q. And the Bishop report was dated December 10, 2018. So
- if this arose out of the Bishop report then it's safe
- 12 to assume it was during the December 4th and 5th
- interviews at Richard J. Donald?
- 14 A. That's not what I'm absolutely I assume your correct
- but I'm not absolutely sure because I was as I look at
- 16 documents when they started interviewing people in
- 17 January, February, and March there were some secondary
- 18 allegations that arose from that that stem from the
- 19 Bishop report but weren't actually included in the Page 85

- 20 Bishop report, so I haven't cross-checked this to find
- 21 that out. I'm putting in a little qualifications
- there. But it says it stems from the Bishop report so
- I assume that's the case.
- 24 Q. Assuming it does stem from the Bishop report and the
- 25 initial allegations this memo indicates that the

- follow up occurred a year later on January 31, 2020;
- 2 is that correct?
- 3 A. That's correct.
- 4 Q. Rather than go through a number of these memos going
- to represent to you that plaintiff counsel received 36
- 6 such confidential memorandums arising out of the 61
- 7 cases included on the RJD allegation tractor. Of the
- 8 36 confidential memorandums that we've received there
- 9 was no investigative follow up until after January 16,
- 10 2020, on approximately 35 of the 36 cases. Are you
- 11 concerned that in 35 cases CDCR did not conduct any
- follow up to the strike team allegations for over a
- 13 year?
- 14 MR. MAIORINO: Objection, vague and
- ambiguous, incomplete hypothetical.
- 16 A. If that's not indication yes I would be concerned.
- 17 BY MS. GODBOLD:
- 18 Q. You state in your report that CDCR set you have the

933291mcginnis07272020.txt
strike team to conduct the reviews of allegation and
that establishing the strike team is an indication
that CDCR took these allegations seriously. Given now
that you know that CDCR did not follow up on
allegations in the majority of cases for at least a
year do you think CDCR took the strike team
allegations seriously?

86

MR. MAIORINO: Objection, vague and 1 2 ambiguous, misstates prior testimony mischaracterizes 3 prior testimony. 4 Well, you know, I think I saw a lot of documentation Α. 5 that there was an immediate response to the 6 allegations and referral to OIA. I was not aware of 7 these. Again, I don't know what's in the interim 8 here. What's between that initial referral, the local 9 reviews that were conducted by Sqt. and others and this document here. If there's absolutely nothing 10 I would tend to agree with you. If there are interim 11 steps there then I have a different opinion. 12 I have a gap here that I'm not sure about 13 14 because the documents I saw clearly there was a pretty 15 aggressive response immediately after the Bishop 16 report in terms of interviewing of inmates. BY MS. GODBOLD: 17 So if there were no interim taken in between the 18 Q.

Page 87

January and February and March 2020 you would be

19 initial strike team interviews in December 2018 and

20 January 2019 and the follow up that was conducted in

22 concerned about how seriously CDCR took these

23 allegations?

21

MR. MAIORINO: Objection, vague, incomplete

25 hypothetical, mischaracterizes prior testimony.

- 1 A. Yeah, I would be concerned if there was absolutely
- 2 nothing going on for that year period.
- 3 MR. MAIORINO: Can we take a quick break?
- 4 MS. GODBOLD: Sure.
- 5 (Recess taken at 2:30 p.m.)
- 6 (Back on the record at 2:37 p.m.)
- 7 BY MS. GODBOLD:
- 8 Q. I'd like to refer you to page 18 of your report.
- 9 According to page 18 of your report the strike team
- 10 recommended increased supervisory and managerial
- 11 presence on facility C during all hours but
- 12 particularly during nine business hours. Do you
- 13 recall that recommendation of the strike team?
- 14 A. Yes.
- 15 Q. And you state on page 34 of your report that you
- 16 recommended that CDCR add additional sergeant posts to
- facility C with the primary responsibility of

- 18 providing additional supervision to housing unit. Do
- 19 you recall that?
- 20 A. Yes, I do recall that.
- 21 Q. Why do you recommend CDR add additional supervision to
- 22 facility C?
- 23 A. Well, you know, I kind of came to that recommendation
- 24 about creating a unit management system so I started
- looking at staffing patterns of facility and I asked

- for the employment roster, basically how the facility
- was deployed and talked to Warden Pollard about that
- also. It appeared to me that there was for a facility
- 4 that large and that complex they basically were using
- 5 one in most cases and seems two rovers to manage those
- 6 housing units and provide supervisory oversight. I
- 7 just thought that was thin for that type of facility
- 8 and the nature of the population there. So I
- 9 recommended they tweak their staffing planning with
- some additional housing unit sargeants who could focus
- 11 specifically on the housing unit and not worry about
- the yard and other common areas at the same time.
- 13 Q. Do you know whether CDCR adopted your recommendation
- and added sergeant posts to facility C?
- 15 A. No, I do not.
- 16 Q. You state on page 34 of your report that because
- facility C houses a population of level four inmates
 Page 89

- 18 with a high percent of special needs that a more
- 19 concentrated presence of supervisory staff in the
- 20 housing units and adjacent areas appears to be
- 21 warranted at this time?
- 22 A. Yes, I see that.
- 23 Q. By special needs do you mean people who have
- 24 disabilities and mental illness that are housed there?
- 25 A. I categorize anybody who isn't in the general

- 1 population like the sensitive need yards, that
- 2 population, the mental health population, all those
- 3 people that need additional supervision and attention.
- 4 Q. And because there are a high number of people with
- 5 special needs, including disability and mental illness
- 6 you believe adding supervisory staff is especially
- 7 warranted on a facility like facility C; is that
- 8 correct?
- 9 A. That's correct.
- 10 Q. You state on page 33 of your report that a review of
- 11 the duty statements for RJD indicate very similar
- staffing at facilities A, B, D, and E. Do you recall
- 13 that?
- 14 A. Yes.
- 15 Q. Are you aware that facilities A, B, D, and E also
- housed high numbers of disabilities and mental

- 17 illness?
- 18 A. Yes, I am.
- 19 Q. Do you agree it would be a good idea to add additional
- supervisory staff to facility A, B, D, and E also?
- 21 A. Well, I didn't look at that specifically because of
- 22 the difference in mission like administrative
- 23 segregation and stuff like that.
- 24 The staffing patterns are a little
- different in the housing units than they are for C, so

- I would have to revisit that. I didn't really focus
- on that. It was similar but I didn't compare apple
- for apple. I think it's worth looking at certainly
- 4 whether that staff is appropriate.
- 5 Q. Do you know whether CDCR has looked at whether
- 6 staffing levels are appropriate on facilities A, B, D,
- 7 and E?
- 8 A. I don't know anything about their follow up to my
- 9 report at this point in time.
- 10 Q. Are you aware that the court in this case just issued
- 11 a temporary restraining order to transfer two people
- out of facility A, both of whom were retaliated
- against for participation in this case?
- 14 MR. MAIORINO: Objection, assumes facts,
- 15 vague and ambiguous.
- 16 A. Trace and I had a very brief discussion that he was Page 91

- involved in a TRO relative to transferring inmates to
- another facility. That's the extent I know of that.
- 19 BY MS. GODBOLD:
- 20 Q. Okay. And those inmates were housed on facility A at
- 21 RJD. Were you aware of that?
- 22 A. No, I was not.
- 23 Q. Do you think it would be a good idea for CDCR to take
- a look at staffing allocations on facilities A, B, D,
- 25 and E?

- 1 A. Yeah, I think that's warranted. I think clearly my
- focus was on C and I didn't really examine closely the
- 3 staffing of the other components out there.
- 4 Q. According to your report the strike team also
- 5 recommend that CDCD require frequent unannounced and
- 6 unscheduled managerial and AOD tours during
- 7 non-business hours on facility C. Do you agree with
- 8 this strike team recommendations?
- 9 A. Yes. I had a discussion. In fact, Warden Pollard
- 10 raised that same issue that he was trying to conduct
- 11 more of these types of unannounced unscheduled visits
- 12 to the facility, so I assume they are doing that based
- on my discussion with Warden Pollard, but I haven't
- seen any documentation one way or another on that.
- 15 Q. And do you know whether that's occurring only on

933291mcginnis07272020.txt facility C or whether it's occurring in other areas of 16 17 the institution? I am unsure of that. My discussion with Warden 18 19 Pollard about that subject was facility C, so I didn't 20 really raise the issue. I got the sense that his 21 managerial style was to be out in the institution and 22 he expected duty officers and the deputies to be out 23 similarly to that but I did not have a discussion 24 specifically relative to the other units. 25 The strike team recommended a comprehensive security Q.

- threat group review be conducted on facility C. Do
- 2 you recall that recommendation?
- 3 A. Yes, I do.
- 4 Q. And you state on page 35 of your report that you
- 5 concur that some ongoing action is necessary to ensure
- 6 this type of behavior is eliminated?
- 7 A. Yes, I said that.
- 8 Q. What ongoing action do you believe is necessary to
- 9 ensure that this type o behavior is eliminated?
- 10 A. Well, this is based on my discussion with Warden
- 11]Pollard and Deputy Director Seibel. I know they have
- on site presence of SCG specialists. My discussion
- with warden Pollard is that might consider similar to
- the strike team doing the similar kind of thing just
- with the security threat group to make sure they Page 93

16

17

18

19

20

21

22

23

24

13

14

properly identified security threat group members and activities that's going on at the facility.

Our discussion really centered on the difference there of security threat group members versus others who, you know, weren't necessarily at the level of security threat group. Discussion was to make sure that they were clearly differentiating those groups and I think it's a good time to do that and follow up to the Bishop report.

25 Q. When you talk about differentiating the groups are you

93

1 talking about differentiating security threat groups 2 from what you say in your report is referred to by 3 other disruptive groups? Is that what you --Yes. Disruptive group members is a term that's really 4 Α. used in a lot of jurisdictions. It's not solely a 5 California term. A disruptive group is just a 6 7 collection of guys who get together and create disruption in an institution versus an organized 8 9 security threat group that is very well structured, very well organized and is involved in more than one 10 11 institution. 12 In my discussion with him they need to

define who exactly is creating the problem. Is it a

security threat group, is it a disruptive group or

933291mcginnis07272020.txt should they redefine some of these disruptive groups 15 as security threat group members. I think that's kind 16 17 of the flushing out of that issue that the gang 18 intelligence group should look at. 19 So there can be behavior arising out of these disruptive groups that would rise to the level of 20 21 being -- needed to be identified as a security threat 22 group? 23 MR. MAIORINO: Objection, vague and 24 ambiguous, mischaracterizes prior testimony. 25 You know, these groups tend to evolve and try to Α. 94 1 evolve into security threat groups status. My point 2 was let's make sure you're identifying those folks and 3 making sure they're not evolving and it's standing 4 their activities to the point that they are a security 5 threat group.

6 BY MS. GODBOLD:

7

Q.

threat group or a disruptive group CDCR should be equally concerned about the kind of behavior that those inmates are participating in?

Yes, and I think based on my discussion they're doing that. They've identified them as disruptive group

I see. So, whether they're identified as a security

members. They just aren't falling under the category of STG.

15 You state in your report that you're aware of the Q. 16 capability and structure of CDCR and the STG approach. 17 what is the CDCR STG approach? 18 I was looking at it in terms of the big picture. The Α. 19 only reason I became familiar with it is I was doing a 20 project involving the federal bureau of prisons and one of the things they asked us to look at was their 21 approach to security threats groups. So I actually 22 23 talked to the folks -- the federal folks who are 24 actually stationed in Sacramento for the Bureau of 25 Prison. We started talking and they were describing

95

how they utilized many of the practices and procedures from CDCR in their approach. I learned a lot about the CDCR approach actually from the bureau of prisons gang officials and their approach is very similar to the approach that you see in Texax, Conneticut, Illinois, New York, the high gang concentration states, and the way they identify, track, and follow security threat group members. I'm not sure what the term they use there, the renunciation practice. They don't go as far as Texas where they actually put them in an administrative seg.

The approach in terms of identifying and monitoring their behavior is pretty much similar to

Page 96

1

2

3

4

5 6

7

8

9

10

11

12

- 933291 mcginnis 07272020.txt the approach that most of the large gang oriented 14
- states have used so that's what I was referring to. 15
- 16 So this CDCR approach is aimed at identifying, Q.
- 17 tracking, and following gang behavior for inmates; is
- that correct? 18
- Yes. 19 Α.
- 20 Is the CDCR SCG approached designed to identify, Q.
- 21 track, and follow gang related behavior among
- 22 officers?
- 23 That I do not know. I did not get into that. Α.
- 24 Are you aware that in this case a number of the Q.
- 25 complaints coming out of the Bishop report of this

- 1 strike team and also plaintiff's declaration states
- 2 that officers are involved in gang behavior?
- 3 MR. MAIORINO: Objection, vague and
- 4 ambiguous, overbroad.
- Yes, I saw those allegations. 5 Α.
- 6 BY MS. GODBOLD:
- 7 Q. Do you know whether CDCR is using any of its gang
- 8 related SGT comparables to identify, track, and follow
- 9 officer gang behavior?
- 10 MR. MAIORINO: Objection, vague and
- ambiguous. 11
- 12 I do not know.
- 13 BY MS. GODBOLD:

- 14 Q. You recommend enhancing the capabilities of the ISU in
- 15 the short term at RJD to make eradicating SGT behavior
- 16 a priority. Do you recall that recommendation?
- 17 A. Yes.
- 18 Q. Do you know whether CDCR followed your recommendation
- 19 to enhance ISU to eradicate that behavior?
- 20 A. I do not know.
- 21 Q. Do you know what is meant by the term the
- MR. MAIORINO: Objection, vague and
- ambiguous.
- 24 A. No. I've heard the term. I can recall hearing the
- term but I don't really know what it is.

- 1 BY MS. GODBOLD:
- 2 Q. If I represent to you that the second is a term
- 3 that refers to a notorious officer gang in California
- 4 does that sound familiar to you?
- 5 MR. MAIORINO: Objection, vague and
- 6 ambiguous, overbroad, not in evidence, goes beyond the
- 7 scope.
- 8 A. You know, I vaguely remember the term and I remember
- 9 discussion about it originated in the desert area as I
- 10 remember because of something they wore but that's the
- 11 extent. I recall that they were involved in excessive
- 12 use of force activities and they picked up that term.

933291mcginnis07272020.txt Things are popping in my mind. That's 13 exactly what I recall about the discussion, but I did 14 15 not get into the origination of that term or the 16 meaning of that term at all with anybody. 17 BY MS. GODBOLD: 18 Are you aware that one of the witnesses in this case Q. 19 received a note signed by which he believed 20 that said, quote, don't fuck referring to We will be your worst nightmare. Rat, rat, 21 22 wherever you go you can't hide, mother fucker. 23 I will find your old ass and cut your heart out, rat? 24 MR. MAIORINO: Objection, assumes facts not evidence, argumentation. 25

- 1 A. I don't specifically recall seeing that.
- 2 BY MS. GODBOLD:
- 3 Q. Would you be concerned about a complaint from a
- 4 witness in this case claiming that he received such a
- 5 threat?
- 6 MR. MAIORINO: Objection.
- 7 A. Yes. Anybody would be concerned, yes.
- 8 Q. Would your expectation be that that would be referred
- 9 for criminal prosecution?
- 10 MR. MAIORINO: Same objections.
- 11 A. Not on the surface not until there's some review of
- the origin of the note, who it was directed to, et Page 99

- 13 cetera, et cetera. I wouldn't see that referred for
- 14 criminal prosecution without some preliminary review
- 15 prior to that occurring.
- 16 Q. Would you expect that that would be referred for a
- 17 criminal investigation?
- 18 MR. MAIORINO: Same objection.
- 19 A. I thought I just answered that question. I thought
- 20 that's what you said. You asked me if it was referred
- 21 for criminal investigation and I said just not on the
- 22 surface until you had some information on the origin
- of that and what was occurring. If you confirmed it
- and you could identify who it was from then I would
- 25 suggest that's something you talk to your prosecutor

about. Whether they prosecute is another question.

- 2 BY MS. GODBOLD:
- 3 Q. You state in your report that you're unable to
- 4 determine the overall effectiveness of some of the
- 5 initiatives taken by CDCR due to your inability to
- 6 complete a site visit. That's on page 21. Can you
- 7 explain the initiatives that you were unable to
- 8 determine the overall effectiveness of?
- 9 A. I think literally all of them. The way I approach
- 10 this whole thing is I think you need to be on site to
- 11 get a flavor of the staff, officers' interaction, talk

933291mcginnis07272020.txt to inmates informally and listen to what they're 12 13 saying. I need to have a more in depth discussion with the warden and his management staff. I like to 14 15 observe training or talk to staff about the effectiveness of training. 16 I just think it's a more complete picture 17 18 if you have an opportunity to be on the ground looking 19 at what's going on versus trying to interpret things 20 through reports and data and statistics. It rounds 21 out I think a person's evaluation for what's going on. 22 That's my background. That's what I did for a long 23 time. It's very easy for me to walk around to get a 24 feel for that particular facility as would anybody who 25 spent a lot of times in prisons.

100

1 Q. Do you think that a review of use of force data is 2 effective in determining how effective CDCR's response to training has been? 3 MR. MAIORINO: Objection, vague and 4 5 ambiguous, incomplete hypothetical. Well, I think training plays a role and clearly I 6 Α. 7 think the warden and my discussions with Deputy 8 Director Seibel in terms of enhancing the training, in 9 terms of trying to focus on the culture of the institution and things like that. I think they 10 recognize the importance at least at the local level 11

Page 101

12 of getting back to the basics program. All that is 13 directed in enhancing the training of staff both 14 in-service and pre-service. I do think there's a tie in to that clearly, but there's also a tie in to a lot 15 16 ob other things like accountability measures, the 17 ability of the warden to be out and observe what's going on and setting the tone for the institution so 18 19 it's not solely training. 20 we talked a little bit about your recommendations that Q. the strike team be repeated at RJD. Do you think 21 22 repeating the strike team is the best measure of 23 effectiveness of CDCR's effort at reform here? 24 MR. MAIORINO: Objection, vague and 25 ambiguous.

101

I think clear in my mind it can be a measure. I don't 1 Α. 2 think it's the sole measure but certainly it's 3 comparative data that they initiated all these steps. The warden has expressed his management style and his 4 5 approach to running the institution. I think a repeat of what was done before, some random interviews, 6 7 similar process would give a comparison to see where 8 they've improved and where things haven't improved and then they adjust their approach to remedial action 9 10 based on that. I think that's just sound approaches Page 102

933291mcginnis07272020.txt 11 to take. 12 BY MS. GODBOLD: 13 Without repeating the strike team it's impossible to 14 tell from the inmate's perspective whether or not 15 what's happening on the ground at the prison has 16 actually improved; isn't that correct? 17 MR. MAIORINO: Objection, vague and 18 ambiguous, incomplete hypothetical. I think there' other indicators as we talked about, 19 Α. 20 iust the shear number of incidences that are 21 occurring, the filing of grievances and things like 22 that, but I think the interviews play a key role in 23 that of documenting clearly what inmates are seeing 24 and reporting and concerned about. I think that gives you a baseline comparison. 25

102

BY MS. GODBOLD:Q. You agree

Q. You agree that CDCR should install an audio visual

3 surveillance system at RJD, correct?

4 MR. MAIORINO: Objection, vague and

5 ambiguous.

9

6 A. I certainly recognized that it was in the process and

7 they told me about that. Now that the technology has

8 advanced to the point where those systems are fairly

effective it's simply another tool that can be used to

hold the staff and inmates accountable to the system Page 103

11 investigation process. On the other hand without that 12 tool they have significant progress at least 13 statistically. They're doing it the old way, I way that I had to do it when I didn't have cameras. 14 15 There's management approaches that can be implemented 16 the same outcomes. It's much easier to do with cameras because if you have an allegation from John 17 18 Doe you can just pull up that time and date and view 19 the events that occurred there, but it didn't deter the warden from effecting some change whether you 20 21 believe it was accidentia or manipulation of the 22 numbers, the numbers are what they are and without the 23 cameras they achieve considerable progress I think. The cameras would certainly make it a lot easier to 24 25 key that progress and certainly assist investigators

- in reviewing allegations and determining the validity
- of those allegations whether it be against staff of
- inmates. It's a tool that can enhance accountability
- 4 within the institution.
- 5 BY MS. GODBOLD:
- 6 Q. Given the seriousness of the complaints in this case,
- 7 coming out of the strike team, interviews and
- 8 plaintiff's declarations do you believe cameras should
- 9 be installed at CDCR as soon as possible?

933291mcginnis07272020.txt MR. MAIORINO: Objection, vague and 10 ambiguous, incomplete hypothetical. 11 I said that in my report. Yeah, I think as soon as 12 13 reasonable. I think somebody said they should be installed in nine days, which I found a little 14 impractical based on my experience of trying to do 15 16 this. CDCR initiated the steps to achieve that. I 17 don't understand the politics of the budget of California and that it was derailed because of Covid. 18 I think there's at least in my discussion with the 19 20 warden and the deputy director still continue to get that done and I think that would enhance the 21 22 accountability measures of the institution. 23 BY MS. GODBOLD: Are you aware that CDCR had a contract in place since 24 Q. 25 2016, a multiyear contract to install cameras

104

throughout CDCR? 1 2 No, I wasn't aware of that. I saw the budgetary Α. 3 information on the installation of cameras at three institutions including RJD and that that was going 4 5 through the budget process had been approved. That's the information that I had available. 6 7 Given the seriousness of the allegations included in Q. 8 this case about staff misconduct are you concerned 9 that since 2016 CDCR has had a multiyear contract in

Page 105

10 place to install cameras and they haven't acted on it? 11 MR. MAIORINO: Objection, vague and 12 ambiguous, assumes facts not in evidence and 13 incomplete hypothetical. 14 Again, based on -- I haven't seen that document. I 15 don't understand the parameters of that particular contract, the limitations. I really can't respond to 16 17 that without seeing what authorization that is and how broad that authorization is. If it's the department 18 can install cameras anywhere they want to, that's one 19 20 thing. If cameras can be installed at specific sites 21 and locations that's another thing so I would like to see that document before I comment on that. 22 Okay. You state that a 90 day period is unrealistic 23

and in your report I think you cite to a 12 month

period as being a more realistic estimate for the

105

- 1 installation of an audio visual survey system in the
- prison system; is that correct?
- 3 A. That's correct.

24

- 4 Q. Are you aware that CML Security, who contracted with
- 5 CDCR previously for installation of cameras at RJD
- 6 state they can deploy cameras in 30 days and have a
- 7 system operational within 120 days.
- 8 MR. MAIORINO: Objection, incomplete

933291mcginnis07272020.txt hypothetical, assumes facts not in evidence, vague and 9 10 ambiguous, beyond the scope of his report. 11 was the question am I aware of that? Α. 12 Yes. Q. 13 No, I'm not. Α. If you were aware of that do you believe that that's a 14 Q. 15 reasonable implementation time? 16 MR. MAIORINO: Same objections. well, you know, we talked very briefly about what my 17 Α. company does and what my company does a lot of is 18 19 building and remodeling jails and prisons. 20 involved in helping program those facilities so I'm 21 familiar with the installation of cameras in prisons 22 and jail and if they can do it in 90 days they are a very, very special group bed cause I have yet to see 23 24 anybody who can do it in that time frame, do it right. 25 Let's put it that way, do it right.

106

1 People can come in and stick cameras in but 2 typically in Alabama -- I've been through this with 3 Alabama did that and they put them in the 4 wrong location, they were destroyed, they didn't work and they've never been fixed because of the poor 5 quality of the installation. I reiterate that I'm 6 7 very doubtful that somebody can do it in a complex 8 this big in such a short time but if they can do it Page 107

- 9 more power to them.
- 10 Q. To be clear what CML Security said was they could
- deploy cameras in 30 days and have the system
- operational within 120. The estimate wasn't 90 days
- specifically but it was operational system within 120
- days.
- 15 A. I still doubt that that can be done but again, if they
- 16 can do it, they're a great company.
- 17 Q. You stated that one of your concerns installing the
- camera system would be the state procurement process
- 19 which can oftentimes result in delays; is that
- 20 correct?
- 21 A. Yes, I stated that.
- 22 Q. Do you believe a federal court order could hasten the
- 23 state procurement process and eliminate some of the
- 24 delays involved with securing an ABS system?
- 25 MR. MAIORINO: Objection, vague, overbroad,

- beyond the scope of his report.
- 2 A. I don't understand the California procurement. I will
- 3 never try to understand the California procure, so I
- 4 don't know how such an order if issued would impact
- 5 that procurement system. Even then if the department
- 6 issued an order tomorrow you're not going to get a
- 7 system in there in 90 days. It's going to be

933291mcginnis07272020.txt 8 appropriately done. Even if you have an immediate 9 order you're not going to get that in 90 days, 10 because somebody has to think out placement of 11 cameras, types of cameras, making sure the view of 12 each one of those cameras is comprehensive, covers the 13 entire institution at the proper locations. Then 14 they're going to have install equipment whether it be 15 wireless or fixed and some of the cameras only really 16 work effectively if they're fixed so that requires 17 conduit, wiring. It's just a very difficult problem 18 you should get done very quickly and do it's why and 19 that's why I used a year as kind of the guiding post 20 that we use in trying to fix these kinds of systems. 21 Regarding body worn cameras you state that you have no Q. personal experience regarding the use of body worn 22 23 cameras in a correctional setting; is that correct? 24 I have no experience with body worn cameras. Α. 25 Do you know if the Florida department of corrections Q.

- deputies have procured a secluded grant for the body
- 2 worn camera program there
- 3 A. I do not onow.
- 4 Q. Did you speak with anybody in Michigan about the body
- 5 worn camera initiative there?
- 6 A. It was kind of a side conversation I had with the
- 7 director about she was familiar with it and she said Page 109

- 8 they were exploring the pilot program and that's the
- 9 extent I went with it because they hadn't implemented
- 10 that pilot program as far as I understood.
- 11 Q. What about Minnesota, are you familiar with the
- 12 initiative there?
- 13 A. No, I'm not. As I said in my report I called around
- 14 to peop0le I know. I was aware they were doing
- 15 something in Florida. I had a contact who gae me a
- 16 previous summary of what Georgia was doing. The
- 17 representative of a company that I called said they
- 18 were a pilot in I think it was Peaksville, New York.
- 19 I was searching for last that I could use for
- information but every no yes, sir it's.
- 21 Q. You stated that you do believe body worn cameras of
- some that are not quad; is that correct?
- 23 A. He basically got an explaining from in a from
- 24 districts on in Florida who said they were interested
- in using it for their certificate team and for high

- security transportation things and things like that
- were they cameras than nobody. Its effectiveness
- 3 experience with it.
- 4 Q. Do you know there should be some valve in though.
- 5 Sounds records body camera in conjunction with the A.
- 6 B. D.D. system?

933291mcginnis07272020.txt 7 MR. MAIORINO: Objection, incomplete 8 hypothetical. The more information you have the better, yes. 9 Α. 10 Do you know the recent Kim of Georgia, Florida is Q. 11 going to hasten the body worn? 12 MR. MAIORINO: Objection, vague out of the 13 scoop. 14 I have no idea. Α. Aims a little bit more nuance than that. 15 16 If it's an allegation of serious bodily injury and it 17 involves a reported use of force it doesn't to aims. 18 It stays at the local prison. Were you aware of that 19 distinction? 20 MR. MAIORINO: Objection, vague and ambiguous. 21 It's my understanding it involves use of force that 22 Α. 23 results in a serious bodily injury it would go to aim. That's actually not true under the regulation? 24 Q. 25 Those would remain at the prison and prison staff. Α.

- Came I involves not to in our cases that involve use of force design that are not reported.

 That's not my understanding.

 Q. If given that use of force allegations that are
- 6 reported remain at the local prison are you concerned Page 111

- 7 that those are not investigated through the ain't
- 8 approximate assume if you mean pack not in evidence?
- 9 A. Again, he was that he that's appropriate.
- 10 Q. I just want to make sure I'm clear on the testimony.
- 11 Let's go ahead and take five minutes and come back and
- 12 take a break.
- 13 (Recess taken at 3:35 p.m.)
- 14 (Back on the record at 3:47 p.m.)
- 15 BY MS. GODBOLD:
- 16 Q. I want to confirm that your testimony about serious
- 17 bodily injury you support incident going to aims is
- 18 correct. Is it your understanding that use of force
- 19 allegations that do not involve alleges of serious
- 20 bodily injury also go to aims?
- 21 A. It's my understanding that if there's not serious
- 22 bodily injury it stays local for the existing review
- 23 process.
- 24 Q. And do you think that's appropriate?
- 25 A. I think it's a good separation at least to start the

- 1 process and find out how this is going to work and
- went the department. I think as with an almost every
- 3 process that goes in place I think there's federal
- 4 government to be tweak down the road depending on what
- 5 they find and if they find that there are cases being

933291mcginnis07272020.txt eliminated because of that they should consider just 6 7 go it and expanding the rule but I think it's a good 8 definition for the start up of the process to make 9 sure it works would, and it's effective. I think they could benefit in some select cases and I don't know 10 how many or how few that would be that they open the 11 12 door for those being reviewed externally, too, but I 13 don't think the vast majority of these /TPHOP /SKAURT 14 bodily injuries cases need to be reviewed by a 15 third-party. Because I think the process are there 16 and should work effectively to deal with those. 17 So for example, an allegation that staff were mean to Q. 18 me /-RBGSZ that is an allegation that you think should 19 be routed to the aim process or be handled locally? Locally. 20 Α. 21 Are you aware that under the aims process it is a Q. 22 staff misconduct complaint process that handles all allegations of staff misconduct except for cases that 23 are reported use of force unless they have serious 24 25 bodily injury. Then it goes back to aims?

112

MR. MAIORINO: Objection, vague and ambiguous.

A. Well, you just confused me a little bit because I was having trouble what you're saying. Again, if I can repeat. My understanding is that all cases of staff Page 113

6 misconduct including use of force stay locally except 7 for those involving serious bodily injury those go to 8 aims. Great bodily injury are defaulted to OIA. That's correct. My understanding of the process and 9 Q. 10 if I'm wrong I'm wrong but that's. In review their 11 little decision tree that was what I got out of the 12 process. I think that's at that process that would be 13 beneficial to the department and inmate of the system because there would be a secondary review of those 14 15 cases in which that's a gray area. To see if they can 16 find additional supporting information that would 17 permit it to go further. So I've clarified my understanding of what the system 18 Q. 19 is because it's not the simple thing at least I had to 20 residency it a dozen times because I thought I 21 understand what /* understood what it said? 22 I'm going to come back to aims probably and enter an Q. 23 exhibit about that. Let's move on from aims for now

Off the record.

and we'll come back to that.

25

24

1	(Recess taken at 3:51 p.m.)
2	(Back on the record at 4:00 p.m.)
3	MS. GODBOLD: I'd like to go ahead and
4	enter Exhibit 11 not confidential. These are the CDCR
	Page 114

933291mcginnis07272020.txt 5 that have been adopted pertaining to the aims process. 6 Allegations of staff misconduct. Do you see this 7 document? 8 MR. McGinnis /-RPLG yes. Α. The aims regulation I'll give you a minute to look 9 Q. over the aims regulations here state that they pertain 10 11 to all claims alleging staff misconduct. Can you tell 12 me what page that is on? 41. 13 Α. 14 Thank vou. Request /* okay. Based on this regulation Α. 15 aisleway claims of misconduct will be referred to the aims process except for uses of force that do not 16 17 allege bodily injury and that are reported. Sections 18 D. Below says when an allegation of staff misconduct concerns a use of force incident then the reviewing 19 authority shall refer the claim to OIA for completion 20 21 if the allegations use of force by staff resulted in serious bodily juror the alleged use of force in the 22 23 reported. Those are the situations that go to aims.

So in addition to all staff misconduct all claims

alleged staff misconduct use of force incident that

114

allege serious bodily injury go to aims and ones that
do not allege serious bodily injury and are reported
stay at the local institution. This is different than
your description of your understanding of the aims
Page 115

24

6 MR. MAIORINO: Objection. Vague and

- 7 ambiguous, assumes facts not in evidence. I don't
- 8 think that's a correct statement of it person I. I
- 9 think we're still having trouble.
- 10 A. You know, I heard what you said and I'm reading this
- 11 Nd I still think maybe -- and I'm so focused on, you
- 12 know, the two documents the decision tree documents
- 13 which is what I really utilize because I got doing
- 14 down in all this verbiage.

process.

5

- 15 A. Clearly I think we're going to have to agree to
- disagree and if I'm wrong I'm wrong but. I went back
- 17 to Miller's deposition to try to see life I was
- 18 confused about this too and maybe pile still confused.
- 19 I went back to Miller's deposition and tried to
- 20 understand the questioning there and her answer and I
- 21 kept going back to the decision tree to documents and
- I think we're going to have to agree to disagree
- 23 because I'm reading it totally different than what I
- think you're trying to say.
- 25 Q. Assuming for a minute that it is what I'm reading

- which is that all claims alleging staff misconduct to
- 2 go to aims except for uses of force that are reported
- 3 and that do not include allegations of serious bodily

4 injury do you agree with the aims process. 5 MR. MAIORINO: Objection, vague and ambiguous, assumes fact not in evidence and incomplete 6 7 hypothetical. 8 If you're right I find it a little inconsistent 9 because all allegations go to aims and use of force 10 staying locally to me that would be reversed if you're 11 correct and I'm not acknowledging that you're correct yet because I still think I'm right but this is a very 12 13 this isn't presented in a logical manner, let's put it 14 that way when I read this and I still struggle with it but your scenario doesn't make a lot of sense to me I 15 16 would think it would be the reverse as I suggested it 17 was. Okay. If it's true that all allegations alleging 18 Q. 19 staff misconduct go to aims except the use of force 20 incident would you agree that that's a fatal flaw of 21 the process? 22 MR. MAIORINO: Objection, vague and 23 ambiguous, incomplete hypothetical, assumes facts not 24 in evidence, argumentative. 25 Α. I don't think anything is a fatal flaw. It's still an

improvement. It's still another process of review. I
just don't think the requirements of priority are
correct. I wouldn't describe that as a fatal flaw. I
Page 117

- 4 won't through this whole thing out. I just think it
- 5 needs to be f that in finishing is the way it is.
- 6 MR. MAIORINO: I think the flow charts
- 7 might be helpful to clarify this, Penny.
- 8 Q. Assuming that it is all allegations of staff
- 9 misconduct except for reported non-serious bodily
- 10 injury cases of use of force do you believe that CDCR
- 11 has the priority?
- 12 MR. MAIORINO: Objection, vague and
- ambiguous, incomplete hypothetical, argumentive,
- 14 misstate facts in evidence.
- 15 A. Well, if your goal was to confuse me you succeeded.
- 16 I'm not sure I would use the term backwards. I think
- 17 the priority should be use of force cases and not
- simply staff misconduct because staff misconduct is so
- 19 broad and, you know, the majority of those cases are
- 20 relatively minor staff misconduct. I just think more
- 21 emphasize if in fact you're right that should placed
- on use of force cases although I'm not conceding
- you're right yet because I still think I'm right.
- Just so I understand your testimony though, I hope
- I've confused you as much as you've confused.

- 1 Q. I think we all thoroughly confused. I think it's
- 2 telling that this process is confusing to say the

933291mcginnis07272020.txt least, but you're stating that you would expect that 3 4 the attention paid to cases by the aims process would 5 be given to the use of force cases and not necessarily 6 all of the other allegations of staff misconduct that might arise in a prison? 7 MR. MAIORINO: Objection, vague and 8 9 ambiguous, incomplete hypothetical mischaracterize and 10 misstates prior testimony. I think generally for the scenario you described, yes, 11 Α. 12 I would agree with that. 13 And so to make sense then for the use of force Q. 14 incident to be routed through aims process? 15 MR. MAIORINO: Same objection. 16 Yes. Α. Did you have to deal with correctional officer 17 Q. 18 termination when you were the director of the 19 department of corrections for Illinois and Michigan? 20 Ultimately, yes. Α. Do you believe that an officer who is /PWOUPTDZ do you 21 Q. 22 have thrown somebody out of the wheelchair should be 23 fired? 24 MR. MAIORINO: Objection, incomplete 25 hypothetical.

- 1 A. I think that's one of the potential outcomes that you
- 2 would look at, yes, but I think, you know, I'd have to Page 119

3 see all the circumstances, the officers prior record. 4 I think there's a lot of things that go into discharge 5 and quite frankly every state is different on what you can do as it relates to discipline because of 6 arbitration rules, court cases, civil service 7 commission rules. The matrix is result of a lot of 8 things including state California and /TPHOERBGS with 9 10 the union on the disciplinary matrix. What I've tried 11 to say is I don't think I would make a scenario that everybody be fired. I think it's something you would 12 13 see as first option and then look at other 14 circumstances surrounding that particular individual. We've talked a little bit about criminal prosecution 15 in your role as director of the department of 16 17 corrections. Were you ever involved in recommending 18 that an officer be criminally prosecuted? 19 Typically in both systems I would have to sign a Α. 20 letter to the prosecutor asking for prosecution to be 21 considered in serious cases. Sometimes the chief of 22 internal affairs would write that letter but on the

119

more serious ones I would be involved, yes.

that you were involved in?

And what were the circumstances of any of those cases

23

24

25

Q.

933291mcginnis07272020.txt of another inmate, sexual assault. Again, you know, 2 3 each of the states I was in had over 100 counties and each one of those counties the prosecutor controlled 4 5 what he was going to do so you know, once you got beyond the really, really serious cases and inmate may 6 7 be prosecuted in one jurisdiction and prosecutor won't 8 do it in the next days so you were relying upon the prosecutor and their willingness to indication and 9 most of the cases /STHORT of the really serious case 10 it was an argue on their behalf that you're 11 12 administrative remedy could do as much as I could in a 13 criminal prosecution so that was a battle to get /PHO* 14 jury /TKPWEUBG /SPHORLT of the homicide or very much 15 large amount. Contraband and things like those. It was an individual decision. 16 17 On page 35 of your report you talk about a Q. 18 conversation that you had with Warden Pollard where he acknowledges that payments are being used as, 19 20 quote-unquote, enforcers of staff A at RJD If that 21 were true would that be grounds for termination of the 22 officer? 23 I think it would. I think, again, you would look at 24 the total of the circumstances but I think that's 25 something that you would certainly look at.

- 2 did you have to deal with officers related gang
- 3 activity?
- 4 A. In the Illinois system yes, not in the Michigan
- 5 system.
- 6 Q. What did you do in response to officer gang related
- 7 activity in Illinois?
- 8 A. Well, in Illinois part of our investigative arm of the
- 9 agency I state police detectives who were assigned to
- 10 us and in those cases we could we didn't have doing
- outside the agency because the state police detective
- were assigned as part of investigative team so they
- had a resolution and piece soft status to do that
- 14 /STHO?
- 15 A. Those cases when we /SUS he had that we typically it
- 16 to that particular group who then would use their
- 17 resource at the local community +/KPHUBTS no /EBGS
- 18 /KHROR the /SRAFPL of that hand whether or not there
- 19 was evidence no /SPHOP that.
- 20 Q. Do you know whether CDCR has an and Al /TKPWUS
- 21 component?
- 22 A. No, I don't.
- 23 Q. What was the name of the group that you said that you
- 24 work with /-FRPLT it was my internal /A* /TPAEURGS
- 25 /THAOEFRPLT in a quit /TPREUPG lipping in Illinois it

933291mcginnis07272020.txt 1 was if he had I had by a state police /KORP /EPL I had 2 an in /TER agent agreements to have him work for me 3 /STPHRO width /STPHEBG /KW-PL far /ARP they /WRAEF 4 sworn police detectives /A* /SPHAOEUPD /TPHOUGS and actually /SE /SR-R was in place in Michigan where the 5 estate police detective actually had offices in most 6 7 of your major facility handle them who conduct more serious criminal investigations where as DOC 8 9 /TKPWAEUPLT /ORS would conduct cases less than 10 /KPREUPL hand /THEFRPL would /SPUP support the work of 11 the /STPAEUPLT police. In both stays there was 12 /STPHRAR struck urge but I think it's practitioner 13 unique /RA* crossing the country when I look across 14 the country. So if there was cell contact /A* alleged then it would 15 Q. be /TERPBDZ over to the state police detective to take 16 17 occasion of that in stemmed of being handled 18 specifically by the DOC investigate /ORS is that 19 correct? 20 Yeah a little tweak is just to state police would be Α. 21 /-PBT load. /OURP DOC investigator would still 22 participate in the case but the /HRAOEFPD would be bib 23 the state police. 24 Did you evaluate whether access to disability Q. 25 accommodations /EUPBL /* /EPL /PROEFPLD at RJD

- following the post strike team measures taken by CDCR?
- 2 A. No I did not.
- 3 Q. I'd hike to take a 15 minute recess to go back through
- 4 my notes hand see if I have any additional questions?
- 5 A. /W-FRPLT /W-FRPLTS /TKHAERS sounds good and then maybe
- 6 /SKWRUBS before we completely /KOPB cloud weak swear
- 7 up Ken's payment and then /WAEPL do housekeeping with
- 8 the exhibit just if we are getting /KPHROGS to the end
- 9 if that sounds good MS. GODBOLD /THAEPS sounds good.
- 10 Had a /SKA a back on at 4:47 p.m.
- 11 Q. /P-FPL P. You mention he had earlier that you would
- have expected to see more than two termination in the
- 13 last three years at RJD Is that correct?
- 14 A. Yes.
- 15 Q. I want to clarify in the record that /WHAEL two
- 16 determine termination have been /TPAOEUPBL thereof
- 17 actually been six officers referred to for
- 18 termination. Would you expect to see more /TPHAPB six
- 19 referrals for termination in the last three years at
- 20 RJD MR. MAIORINO objection vague and ambiguous /-FRPLT
- 21 well, you know, I /WAPTS to clarify I thought the two
- number was from two 17 and I knew this was five or six
- 23 that just occurred in 2019 /A* /HREPB /* alone and so
- I mean over /THAOE year period it seems low but I
- 25 think the at least for the first half of 2019 I

1		thought the numbers sick /* six was going the right
2		direction /TKPWEFRPB. Information that they had
3		obtain through the /PWEUGS hop report so it's still
4		collect I have low for three year period for 1,000
5		more /THAP a thousand staff. It seemed to be /TKP-BG
6		the rate direction with the increased number at least
7		is what I remember in the early parts of 2019.
8	Q.	So to chair /TPAOEU for a /THAOE year period going
9		back to 2017 six recommends for referral for term
10		that's is low in your opinion?
11	Α.	I think it's low given the size of the facility and
12		the number of staff, yeah.
13	Q.	You stated earlier that you believe additional
14		training apartment RJD has set the tone /P-R change go
15		the culture at the facility is that correct /-FRPLT
16		yes?
17	Q.	You referenced /SAOEUB he will training. What is this
18		training that you're referring to MR. MAIORINO
19		objection vague and ambiguous /-FRPLT women I didn't I
20		didn't mean to insinuate that it was /SAOEUB he will
21		doing the training although she did tell me she did
22		one training program that she had also offered at a
23		warden meeting and I went flew that but they were
24		talking about in the warden mentioned that they had
25		been /* done some /TRAPBG on was it O. OD A. Or

1 whatever it is observe or /AOEPBT decide and act 2 training that was /STKEPD to kind of like training about D. /* /TKAOE he is /KHAEUT go situation they 3 4 were stressing that. The warden also had implemented back to basic training program floor all staff that he 5 had offered. They had done some training on the stand 6 7 Ford effect lose if he can and stuff like that that's /PRELT I am routine. And then they were doing a 8 9 monthly will training program that was really focused 10 on improving the culture of the facility and that's 11 kind of the /KPWEPBG of extra frank program that I was 12 referring to not necessarily just what /SAOEUB he will 13 had done. 14 For the observe act /AOEPLS? Q. 15 It's /ABG pro familiar. Α. 16 Are the training that you referred to as O. OD A. Andy Q. 17 he is /HRAEUGS who was that offered to /-FRPLT /PHAO*EU understanding is they were pro /* rotating 18 19 entire staff through those training programs. They 20 started with the management /TOEPL but then they were doing that along with the back to basic program for 21 everybody I /THOEUTD. Whether they had got that done 22 23 I don't know. I didn't track on attendance or 24 /KPHRAOEGSZ? 25 To the /TKAOE he is calls for speculation training and Q.

1		back to basic frank are those one time /TRAEUPBGS that
2		are /HOFRD to all staff?
3	Α.	Why answer that. He /THOFLD me those were training
4		program they were going to do during this calendar
5		year, last calendar year so I don't know if they were
6		repeating it or not to tell you the truth.
7	Q.	Your understanding of the did he he is collision
8		training pack to basic training /-PGS that they were
9		going to offer it at least in the last calendar year
10		but that /PHEFB a one time only training?
11	Α.	It could have been but in addition I mean independent
12		regular in-service training module I reviewed there
13		were /TKAOE he is calls for speculation training
14		components included in that which is an annual
15		training program these were considered in addition to
16		the regular in-service training frames but I did not
17		confirm whether they were going to repeat that and.
18	Q.	When you say it was offered to all staff are you
19		talking about all staff at RJD or all staff on
20		facility C.?
21	Α.	It's my understanding it was going to be all staff at
22		RJD Can you talk a little bit more about the Stanford
23		training.
24	Α.	The stand thing is basically an it's a film that a
25		summary of a social experience that stand for did and

126

1 it's been represent electric student split some of 2 them staff and some into inmate and then they observe 3 the effect of that which is basically the standard student start acting like inmates when their isolated 4 5 in a confined marry so they showed that along with the 6 effects program to show that's fine line between doing 7 your job and going offer to basically the dark side is 8 the Lucifer effect thing says. I think it was just 9 part of their program to make people sensitive to your 10 roles and the impact of the role on the population and 11 how there is a fine lean that you can cross-coverage fairly easily there if you're not careful. 12 13 Is your understanding that this Stanford training and Q. 14 the Lucifer effect is a one team sensitivity traing 15 offered to staff at RJD. That was my sense. It was 16 one file that they were going to get everybody 17 involved in those two particular training curriculum. 18 I'm not sure they were going to adopt that as an annual refresher or not. 19 Was that going to be a mandatory training for RJD 20 Q. staff? 21 22 Α. I think the component that he was talking to me about 23 everybody was going to go through it, yes. 24 And then you mentioned one other training a monthly Q.

training. Can you explain what the monthly training

127

1 is? 2 women he toppled me there was they had implemented a three the day segment of time where they were going to 3 4 go to reduced schedule to relieve staff to go through 5 additional training component that were focused on 6 cultural change. He accepted they were doing that 7 monthly rotating people through that 8 Okay. Do you know whether that has started to occur? Q. 9 It had started to occur when I talk to him, yes, that Α. 10 had start. 11 And do you know whether that's continuing right now? Q. 12 No I do not. Α. 13 I want to ask a couple of questions about the unit Q. 14 management system. You mentioned in your report that 15 the unit management system has opinion abandon by 16 other jurisdiction due to cost. Do you recall saying 17 that? 18 Yes, I did abandon it, among others. 19 Okay. And cost was the reason that you abandoned it? Q. 20 I think cost was a factor. It was also just a change 21 in philosophy. I mean unit management system I go 22 back to working in press on independent 70 so he mine 23 it kind of evolved. My first exposure to it was in when I did bureau prison but it was involving and 24

implemented there and became part of tear career

1

2

3 4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19 20

21

2223

24

25

Q.

128

structure. You became at that officer you bile sergeant you became will the you became captain and then you became unit manager so its still in the owe of prison. Other systems tried to implement this not tying it to the career ladder but tying it more their put I can community type situations and those kind of very intense program where it still exists to a certain extent in therapy community in place like that. Many people it of cost and switching away their. Your to a different approach for treatment. You mentioned earlier that you understood that RJD has have I high needs population in including a lot of people with disability and a lot of the people with mental health issues. Do you think that they could benefit from the unit management medical malpractice system given what you had said about the therapy put I can nature of that system MR. MAIORINO objection vague and ambiguous not necessary. I me you know for those programs these use his pretty intense mental health profession alleges around in those. Typically I didn't do a staffing study. Typically when you as lots of mental professionals to supplement the staff.

You had see concentration of medical staff you know,

when I lock at up management system I sure what the

1	goal or the objective
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1	TABLE OF CONTENTS	
2		
3	Witness	PAGE
4	KENNETH MCGINNIS	
5		
6		
7		
8		
9	EXHIBITS	
10		
11	EXHIBIT	PAGE
12	(Exhibits attached to transcript.)	
13		
14	DEPOSITION EXHIBIT 1	4
15	DEPOSITION EXHIBIT 2	7
16	DEPOSITION EXHIBIT 3	52
17	DEPOSITION EXHIBITS 5 and 6	61
18	DEPOSITION EXHIBIT 7	70
19	DEPOSITION EXHIBIT 8	71
20	DEPOSITION EXHIBIT 9	79
21	DEPOSITION EXHIBIT 10	82
22		
23		
24		
25		

EXHIBIT ZZ

Exhibit BB

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 853 of 858 Case 4:94-cv-02307-CW Document 2922-1 Filed 02/28/20 Page 416 of 483

STATE OF CALIFORNIA UNANTICIPATED COST FUNDING RE UEST DF-580 RE 04 11 Department of Finance 915 – L Street Sacramento, CA 95814

I. APPROPRIATION FUND TO BE ADJUSTED		
DEPARTMENT	ITEM NUMBER	
FUND	AMOUNT OF FUNDING RE UESTED	FISCAL YEAR
II. JUSTIFICATION FOR REQUEST (Please provide the follo expense is needed.) DOF may not approve re uests for a calenacted ithout an appropriation, distartup costs of programs in May Revision, and if costs that the Administration has the discrete	pital outlay funding, b prior year expenses, c not yet authori ed by the Legislature, e costs th	expenses related to legislation at could have been included in
III. EMERGENCY NOTIFICATION		
Is this an emergency re uest for funding unanticipated costs Adisaster or extreme peril that threaten the immediate heath or sa		n response to conditions of
NO		
YES If yes, please provide reason for expense and basis for	determining this an emergency. Use attachmen	its if additional space is needed.
IV. PROVIDE A DETAILED EXPLANATION OF ALL LEGALLY COSTS, (e.g., reduce spending, etc.) (Add attachments if add		A EN TO AVOID ADDITIONAL
V. WAS THIS NEED FOR FUNDING PREVIOUSLY DENIED IN additional space is needed.)	A LEGISLATIVE BUDGET COMMITTEE ACTI	ON (Use attachments if
NO YES (hen and hy)		
VI. MONTH AND YEAR WHEN SPENDING AUTHORITY TO O	BLIGATE FUNDS (not make cash payment) W	/ILL BE NEEDED.
Month Year		
VII. REQUESTING DEPARTMENT		
Approved By	Title D	ate
VIII. AGENCY SECRETARY (IF APPROPRIATE)		
Approved By	Date	

Case 4:94-cv-02307-CW Document 3024-1 Filed 07/29/20 Page 854 of 858 Case 4:94-cv-02307-CW Document 2922-1 Filed 02/28/20 Page 417 of 483

IX. DEPARTMENT OF FINANCE		
Date Received	Date of Notice to Legislature	

EXHIBIT AAA

Percentage of adult offenders convicted within one, two, and three years of release

Supplemental Report of the 2018-19 Budget Package Annual Performance Measures

(a) Overall Outcome Measures

from prison.			
One Year: 20.4%	Two Year: 36.6%	Three Year: 46.5%	
	nders returned to custody withi	n one, two, and three years of	
release from prison.1			
One Year: 6.2%	Two Year: 16.1%	Three Year: 24.1%	
Percentage of juvenile offenders arrested within one, two, and three years of release			
from a juvenile facility. ^{2, 3}			
One Year: 57.7%	Two Year: 69.5%	Three Year: 76.4%	
Percentage of juvenile of	fenders returned or recommitt	ad to state custody (either the	

Percentage of juvenile offenders returned or recommitted to state custody (either the
Division of Juvenile Justice or the Division of Adult Institutions) within one, two, and
three years of release from a juvenile facility. ²³
- 1/ - 1/ - 1/ - 1/ - 1/ - 1/ - 1/ - 1/

One Year: 8.2%	Two Year: 17.7%	Three Year: 28.6%

Percentage of adult offenders arrested within one, two, and three years of release from			
prison. ¹			
One Year: 51.4%	Two Year: 63.9%	Three Year: 69.5%	

Percentage of juvenile offenders convicted within one, two, and three years of release			
from a juvenile facility. ^{2, 3}			
One Year: 23.2%	Two Year: 37.7%	Three Year: 50.5%	

Number of inmate deaths and inmate deaths as	a percentage of the inmate population.
Inmate deaths: 416	Percent of population: .3%

Number of juvenile youth deaths and juvenile youth deaths as a percentage of the youth population. ³		
Youth deaths: In-custody youth (in facilities) =	Percent of population: = 0	

¹Most recent data available for adult offenders from the Recidivism Report for Offenders Released from the California Department of Corrections and Rehabilitation (CDCR) in Fiscal Year 2014-15. This report tracks offenders convicted of any crime, not necessarily new crimes.

²Most recent data available for juvenile offenders (released in fiscal year 2014-15) from the 2019 Division of Juvenile Justice (DJJ) Recidivism Report.

³Once DJJ transitions to California Health and Human Services (CHHS), CDCR will no longer report these figures. Any reports pertaining to juvenile figures will be completed through CHHS.

Supplemental Report of the 2018-19 Budget Package Annual Performance Measures

Institution Name: Rid Correctional Facility	chard J. Donovan	Security Levels: 1, 2	2, 3, & 4
Special Missions: FH, WC, EOP, GP, SNY, ASU, CTC, MCB			
	FY 16/17	FY 17/18	FY 18/19
ADP	3,340	3,893	3,876
Final Allotment	\$308,274,786	\$344,352,678	\$374,874,826
Actual Expenditures	\$315,129,642	\$354,760,004	\$384,381,094
Difference	(\$6,854,856)	(\$10,407,326)	(\$9,506,268)
Average per inmate	\$94,350	\$91,128	\$99,170

Institution Name: Ca Sacramento	alifornia State Prison,	Security Levels: 1 &	4
Special Missions: W	C, EOP, GP, ASU, CT	C, LRH, MCB, NDS, C	HU, PSU, SRH
	FY 16/17	FY 17/18	FY 18/19
ADP	2,285	2,160	2,087
Final Allotment	\$266,830,272	\$284,277,180	\$292,819,702
Actual Expenditures	\$273,177,309	\$283,827,031	\$292,072,645
Difference	(\$6,347,037)	\$450,149	\$747,057
Average per inmate	\$119,552	\$131,402	\$139,949

Institution Name: Su		Security Levels: 2, 3	, & 4
Treatment Facility at			
Special Missions: EOP, GP, SNY, CTC, MCB, SRH			
	FY 16/17	FY 17/18	FY 18/19
ADP	5,462	5,780	5,635
Final Allotment	\$275,371,542	\$299,764,428	\$317,829,776
Actual Expenditures	\$277,070,160	\$299,042,163	\$315,730,513
Difference	(\$1,698,618)	\$722,265	\$2,099,263
Average per inmate	\$50,727	\$51,738	\$56,030

Supplemental Report of the 2018-19 Budget Package Annual Performance Measures

d) Program 10 (4500) (Administration)

List of all information technology projects reportable to the State Chief Information Officer, including the project cost and the current status of each project.

Inf	ormation Technology Pr	rojects Reportable to State CIO
Project Name	Project Cost (Total Project Cost, which is planned development costs and a full year of maintenance from the approved FSR)	Current Status
Automated Reentry Management System (ARMS)	Total Project Cost: \$62,929,901 Projected total cost (Actuals through 6/30/2019): \$30,400,000 Note: Some of the work was completed by State Staff so a portion of the vendor budget was not expended. ARMS business objectives were met with phase II so Management made a business decision not to expand to phase III (Non- contracted service providers and counties).	The ARMS project was successfully completed on October 31, 2018. Prior to fiscal year 2018-2019, the project completed training and roll out of basic and full functionality of the ARMS case management system to over 400 Community Contract providers with over 2,500 rehabilitative program types such as Substance Use Disorder Treatment, Anger Management, Criminal Thinking and Family Relationships for up to 4,000 unique end-users. Currently, ARMS collects data on over 750 contract providers within the institutions and community.
Statewide Correctional Video Surveillance	Total Project Cost: \$385,896,040 Actuals through 6/30/2019: \$13,496,426 Note: The remainder of the project beyond the scope described on the right has not been funded beyond a small installation at San Quentin.	During FY 2018-19, CDCR installed the system with 178 cameras in designated areas at CSP-SAC. The areas of implementation included at the Psychiatric Services Unit, Treatment Centers, and Administrative Segregation Units and Enhanced Out Patient Units. Previous installations included an audio/video surveillance system which included over 700 cameras at High Desert State Prison and 500 cameras at the Central California Women's Facility. CDCR also installed 74 cameras in the housing units at the Valley State Prison, an effort funded by a federal Prison Rape Elimination Act grant.