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Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19

20 JOHN ARMSTRONG, et al.,

21 Plaintiffs,

22 v.

23 GAVIN NEWSOM, et al.,

24 Defendants.  
25

Case No. C94 2307 CW

**[REDACTED] SUR-REBUTTAL  
DECLARATION OF GAY  
CROSTHWAIT GRUNFELD IN  
SUPPORT OF PLAINTIFFS' MOTION  
TO STOP DEFENDANTS FROM  
ASSAULTING, ABUSING, AND  
RETLIATING AGAINST PEOPLE  
WITH DISABILITIES**

Judge: Hon. Claudia Wilken  
Date: December 8, 2020  
Time: 2:30 p.m.  
Crtrm.: Remote

28 **REDACTED**

Case No. C94 2307 CW

1 I, Gay Crosthwait Grunfeld, declare:

2 1. I am an attorney duly admitted to practice before this Court. I am a partner  
3 in the law firm of Rosen Bien Galvan & Grunfeld LLP, counsel of record for Plaintiffs. I  
4 have personal knowledge of the facts set forth herein, and if called as a witness, I could  
5 competently so testify. I make this sur-rebuttal declaration in support of Plaintiffs' Motion  
6 to Stop Defendants from Assaulting, Abusing, and Retaliating Against People With  
7 Disabilities.

8 2. I incorporate by reference the following pleadings: my declaration filed  
9 February 28, 2020, Docket No. 2922-1 ("Grunfeld RJD Decl."), in support of Plaintiffs'  
10 Motion to Stop Defendants from Assaulting, Abusing and Retaliating Against People with  
11 Disabilities at R.J. Donovan Correctional Facility ("RJD Motion"), Docket No. 2922; my  
12 declaration filed June 3, 2020, Docket No. 2948-1 ("Grunfeld Statewide Decl."), in  
13 support of Plaintiffs' Motion to Stop Defendants from Assaulting, Abusing and Retaliating  
14 Against Persons with Disabilities ("Statewide Motion," and collectively, with the RJD  
15 Motion, "the Motions"), Docket No. 2948; my declaration filed July 15, 2020, Docket  
16 No. 2999-2 ("Grunfeld PI Decl."), in support of Plaintiffs' Response in Support of  
17 Preliminary Injunction ("PI Resp."), Docket No. 2999; my declaration filed July 29, 2020,  
18 Docket No. 3024-1 ("Grunfeld Reply Decl."), in support of Plaintiffs' Reply in Support of  
19 the RJD Motion, Docket No. 3024 ("RJD Reply"); my declaration filed August 25, 2020,  
20 Docket No. 3052-1 ("Grunfeld New Material Reply Decl."), in support of Plaintiffs' Reply  
21 to Defendants' Response to New Material in Plaintiffs' Reply in support of RJD Motion  
22 and Renewed Request to Rescind RVRs Against Inmate 2 ("New Material Reply"); my  
23 declaration filed September 10, 2020, Docket No. 3074-4 ("Grunfeld Protective Order  
24 Decl."), in support of Plaintiffs' Motion for Protective Order regarding Depositions of  
25 Armstrong Class Members ("Protective Order Motion"); and my declaration filed  
26 September 25, 2020, Docket Nos. 3110-3, 3110-4 ("Grunfeld Statewide Reply Decl."), in  
27 support of Plaintiffs' Reply in Support of the Statewide Motion, Docket No. 3110  
28 ("Statewide Reply"). Attached hereto as an Appendix is an Index of the Exhibits attached

1 to this declaration.

2 **Defendants Produced a PMK Deponent on November 19, 2020 and Responded**  
3 **Substantively to Half of the Interrogatories After the Reply Deadline**

4 3. As described in my Statewide Reply Declaration, ¶¶ 116-124, Plaintiffs have  
5 been seeking Statewide Discovery since April 2, 2020. As of the filing of this declaration,  
6 Defendants just began producing electronically stored information for LAC in November  
7 and still have provided no date for completion of the LAC document production.

8 4. From September 25, 2020 when I filed my reply declaration to now,  
9 Plaintiffs’ counsel requested a date for the Person Most Knowledgeable (“PMK”)  
10 deposition six times. On September 25 2020, Deputy Attorney General Trace Maiorino  
11 contacted us to ask whether we would agree to a verified spreadsheet of information in lieu  
12 producing a deponent for PMK Topics 2 and 3. Topic 2 covers all staff misconduct  
13 incidents at California State Prison—Los Angeles County (“LAC”), California State  
14 Prison—Corcoran (“COR”), Kern Valley State Prison (“KVSP”), and California  
15 Correctional Institution (“CCI”) raised in any of the declarations filed in support of  
16 Plaintiffs’ Statewide Motion, including investigations, findings of misconduct, and  
17 discipline imposed. Topic 3 covers all staff misconduct incidents at LAC, COR, CCI, and  
18 KVSP raised in any of the tour reports issued by Plaintiffs’ counsel in this case between  
19 January 1, 2019 and the present, including investigations, findings of misconduct, and  
20 discipline imposed. We agreed to this procedure on October 1, 2020.

21 5. On October 14, 2020, we sent Defendants two spreadsheets, one for  
22 Topic 2 and one for Topic 3. On the Topic 2 spreadsheet, we listed each distinct allegation  
23 of misconduct contained in the declarations submitted in support of the Statewide Motion  
24 related to misconduct at LAC, COR, KVSP, and CCI, with specific citations to the  
25 paragraphs of the declarations where the allegations appeared. On the Topic 3 spreadsheet,  
26 we listed each distinct allegation of misconduct contained in Plaintiffs’ tour reports for  
27 LAC, COR, KVSP, and CCI, with specific citations to the location in the tour reports  
28 where the allegations appeared. For each of the spreadsheets, we indicated in the column

1 headers the information that we requested that Defendants provide for each of the  
2 allegations. Defendants did not object to any of the information we requested.

3         6.       On November 13, 2020 Defendants emailed us partially completed responses  
4 to the two spreadsheets, true and correct copies of which are attached hereto as **Exhibits 1**  
5 **and 2**, along with the cover email, a true and correct copy of which is attached hereto as  
6 **Exhibit 3**. As Defendants acknowledged at the time, the spreadsheets were incomplete  
7 because “staff are working to collect the information...” Ex. 3. Defendants have  
8 provided no date on which they will complete the spreadsheets. Attached hereto as  
9 **Exhibit 4** is a true and correct copy of a November 19, 2020 email from Deputy Attorney  
10 General Sean Lodholz to my colleague Michael Freedman stating that “CDCR did not  
11 have any further updates and are waiting for the institutions to send documents to complete  
12 the spreadsheet.”

13         7.       The Topic 2 spreadsheet contains 168 rows, each of which corresponds to a  
14 specific staff misconduct allegation at LAC, COR, KVSP, or CCI described in the class  
15 member declarations filed with the Statewide Motion on June 3, 2020 and the Statewide  
16 Reply filed on September 25, 2020. *See* Ex. 1. Defendants provided information about 98  
17 of the 168 allegations in the class member declarations, leaving the remaining 70 rows  
18 incomplete. *Id.* Of the 98 allegations about which Defendants produced information,  
19 Defendants failed to conduct any investigation into 7 incidents (7.1%), referred only 4  
20 allegations (4.1%) to the Office of Internal Affairs (“OIA”) for investigation (meaning that  
21 87 allegations (88.8%) were closed at the prisons without OIA involvement), opened only  
22 2 OIA investigations (1.2%), found only a single officer to have engaged in misconduct,  
23 and punished that officer with the third lowest penalty level under the Matrix (Level 3  
24 penalty of 5% salary reduction for six months). *Id.*

25         8.       On November 11, 2020, Mr. Maiorino stated Defendants would produce a  
26 PMK deponent on November 19, 2020 in response to Plaintiffs’ August 6, 2020 notice of  
27 deposition. Attached hereto as **Exhibit 5** is a true and correct copy of Volume I and II,  
28 separated by a blank slip-sheet, of the transcript of the November 19, 2020 deposition of

1 Defendants' Person Most Knowledgeable, Associate Director Jared Lozano.

2 9. On October 30, 2020, Defendants served responses to Plaintiffs' fifth request  
3 for production of documents, a true and correct copy of which is attached hereto as  
4 **Exhibit 6**. This request sought, *inter alia*, documents relating to investigations conducted  
5 by CDCR into staff misconduct described in the declarations filed in support of the RJD  
6 and Statewide Motions. Defendants produced the first set of responsive documents on  
7 November 2, 2020. Defendants have provided no date for completion of this production.

8 **Defendants' Responses to Plaintiffs' Special Interrogatories**

9 10. On August 6, 2020, Plaintiffs served four sets of Special Interrogatories  
10 related to investigations into and discipline resulting from allegations of staff misconduct  
11 against people with disabilities at LAC, COR, KVSP, and CCI. On September 23, 2020,  
12 Defendants served their substantive responses to the Special Interrogatories concerning  
13 two of the four institutions: LAC and COR. *See* Grunfeld Statewide Reply Decl.,  
14 Exs. 94-95. Defendants did not serve substantive responses to the remaining two sets of  
15 Special Interrogatories until after Plaintiffs' Reply due date of September 25, 2020.

16 11. On October 14, 2020, Defendants served their response, a true and correct  
17 copy of which is attached hereto as **Exhibit 7**, to the Special Interrogatories concerning  
18 CCI. On October 21, 2020, Defendants served their response, a true and correct copy of  
19 which is attached hereto as **Exhibit 8**, to the Special Interrogatories concerning KVSP.

20 12. In Exhibit A to each of their Responses, Defendants listed every instance of  
21 discipline imposed against officers for misconduct involving incarcerated people at each of  
22 the four prisons, whether the misconduct involved people with disabilities, and information  
23 about the status of the appeals process and the finality of the discipline imposed, during the  
24 time period 2017 to 2020.

25 13. Working under my direction and supervision, paralegal Jack Rhein  
26 Gleiberman reviewed Defendants' Responses to the four sets of Special Interrogatories in  
27 order to determine how many discrete staff misconduct incidents involving incarcerated  
28 people resulted in discipline and whether each incident involved staff misconduct toward

1 people with disabilities in particular. To determine the number of incidents, I directed  
 2 Mr. Gleiberman to count each case number listed in Defendants' responses (Column 1 of  
 3 Exhibit A to Defendants' Responses) as one discrete incident, even if multiple officers  
 4 were disciplined for their involvement in the same case. I directed Mr. Gleiberman to  
 5 count each case number as one discrete incident because, in my experience reviewing these  
 6 types of cases, each discrete case revolves around the same set of facts that allegedly  
 7 involve misconduct. For each case number, Mr. Gleiberman used data contained in  
 8 Defendants' Responses (Column 3 of Exhibit A to Defendants' Responses) to determine  
 9 whether the victim of the alleged misconduct was an *Armstrong*-only class member,  
 10 *Coleman*-only class member, a member of both classes, or a non-class member.

11 14. At LAC, six discrete staff misconduct incidents involving incarcerated  
 12 people resulted in discipline from 2017 to 2020. Three of these cases (50%) involved  
 13 misconduct directed at incarcerated people with disabilities.

Case Number	Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i> . or Non-class-member
S-LAC-216-17-A	Non-class-member
S-LAC-057-18-A	Non-class-member
S-LAC-015-19-A	<i>Coleman</i> class member
S-LAC-231-19-A	Non-class-member
S-LAC-369-19-A	<i>Coleman</i> class member
S-LAC-1515-19-A	<i>Coleman</i> class member

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 24 15. At COR, eighteen discrete staff misconduct incidents involving incarcerated  
 25 people resulted in discipline from 2017 to 2020, all of which involved misconduct directed  
 26 at incarcerated people with disabilities.

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<b>Case Number</b>	<b>Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i>. or Non-class-member</b>
C-COR-014-17-D	Both
C-COR-211-17-A	<i>Coleman</i> class member
C-COR-287-17-D	<i>Coleman</i> class member
C-COR-359-17-D	<i>Coleman</i> class member
C-COR-458-17-A	<i>Coleman</i> class member
C-COR-542-17-A	<i>Coleman</i> class member
C-COR-143-18-A	<i>Coleman</i> class member
C-COR-161-18-A	<i>Coleman</i> class member
C-COR-196-18-A	<i>Coleman</i> class member
C-COR-217-18-D	<i>Coleman</i> class member
C-COR-243-18-C/A	<i>Coleman</i> class member
C-COR-276-18-D	<i>Coleman</i> class member
C-COR-364-18-D	Both
C-COR-452-18-A	<i>Coleman</i> class member
C-COR-107-19-A	<i>Coleman</i> class member
C-COR-223-19-D	<i>Coleman</i> class member
C-COR-103-19-A	<i>Coleman</i> class member
C-COR-124-19-A	<i>Coleman</i> class member

16. At CCI, ten discrete staff misconduct incidents resulted in discipline from 2017 to 2020, eight of which (80%) involved misconduct directed at incarcerated people with disabilities.

<b>Case Number</b>	<b>Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i>. or Non-class-member</b>
C-CCI-094-17-D	<i>Coleman</i> class member
C-CCI-305-17-A	<i>Coleman</i> class member
C-CCI-401-17-A	Non-class-member
C-CCI-032-18-A	<i>Coleman</i> class member
C-CCI-141-18-A	<i>Coleman</i> class member
C-CCI-256-18-A	<i>Coleman</i> class member
C-CCI-224-19-D	Non-class-member
C-CCI-433-19-D	<i>Coleman</i> class member
C-CCI-436-19-A	<i>Coleman</i> class member
C-CCI-187-20-S	<i>Coleman</i> class member

17. At KVSP, twenty-four discrete staff misconduct incidents involving incarcerated people resulted in discipline from 2017 to 2020, sixteen of which (66.6%) involved misconduct directed at incarcerated people with disabilities.

<b>Case Number</b>	<b>Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i>. or Non-class-member</b>
C-KVSP-013-17-D	Non-class-member
C-KVSP-049-17-D	Non-class-member
C-KVSP-272-17-D	<i>Coleman</i> class member
C-KVSP-355-17-D	Non-class-member
C-KVSP-447-17-D	<i>Coleman</i> class member
C-KVSP-544-17-D	<i>Coleman</i> class member
C-KVSP-069-18-D	Non-class-member



Case Number	Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i> . or Non-class-member
C-KVSP-132-18-A	<i>Coleman</i> class member
C-KVSP-254-18-D	Non-class-member
C-KVSP-267-18-D	<i>Coleman</i> class member
C-KVSP-295-18-D	<i>Coleman</i> class member
C-KVSP-357-18-D	<i>Coleman</i> class member
C-KVSP-409-18-D	Non-class-member
C-KVSP-421-18-D	Non-class-member
C-KVSP-447-18-A	<i>Coleman</i> class member
C-KVSP-453-18-D	<i>Coleman</i> class member
C-KVSP-521-18-D	<i>Coleman</i> class member
C-KVSP-004-19-D	<i>Coleman</i> class member
C-KVSP-066-19-D	Both
C-KVSP-125-19-D	<i>Coleman</i> class member
C-KVSP-165-19-D	<i>Coleman</i> class member
C-KVSP-197-19-D	<i>Coleman</i> class member
C-KVSP-206-19-C/A	<i>Coleman</i> class member
C-KVSP-185-20-D	Non-class-member

18. In total, of the fifty-eight discrete staff misconduct incidents involving incarcerated people and resulting in discipline at LAC, COR, CCI, and KVSP during the time period, forty-five incidents (77.6%) involved misconduct directed toward incarcerated people with disabilities.

19. Mr. Gleiberman also reviewed Defendants' Responses to the Special Interrogatories to determine the frequency with which the initial penalty imposed by the Warden for misconduct against incarcerated people was greater than the final adverse

1 action imposed. Mr. Gleiberman reviewed the level of initial penalty imposed (Column 4  
 2 of Exhibit A to Defendants' Responses) and compared it against the final adverse action  
 3 imposed (Column 10 of Exhibit A to Defendants' Responses). Mr. Gleiberman  
 4 determined the level of the final adverse action imposed by reviewing CDCR's Employee  
 5 Disciplinary Matrix, Department Operations Manual § 33030.16, to determine the Matrix  
 6 level of each final adverse action (Column 10 of Exhibit A to Defendants' Responses).  
 7 See Grunfeld RJD Decl., Ex. LL, at 246. The Employee Disciplinary Matrix sets out nine  
 8 levels of penalty, described below:

9 10 11 12	1 Official Reprimand	4 Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days	7 Suspension w/o pay for 49-60 work days
13 14 15 16	2 Suspension w/o pay for 1-2 work days	5 Salary Reduction 5% for 13-36 months <i>or</i> Suspension w/o pay for 13-36 work days	8 Demotion to a lower class
17 18	3 Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days	6 Salary Reduction 10% for 13-24 months <i>or</i> Suspension w/o pay for 26-48 work days	9 Dismissal

19 20. In total, the fifty-eight discrete staff misconduct incidents involved 102  
 20 *initial* adverse actions during the time period. In thirty of these 102 instances (29.4%), the  
 21 *final* adverse action imposed was at least one Matrix level lower than the initial adverse  
 22 action imposed, the adverse action was rescinded altogether, or the adverse action had  
 23 been converted into corrective action.<sup>1</sup> In four instances, officers who had initially been  
 24 \_\_\_\_\_

25 <sup>1</sup> It is likely that the number of penalty reductions exceeds thirty. For many instances of  
 26 discipline listed in Defendants' Responses, the discipline has not yet been finalized  
 27 because appeals are still underway. Mr. Gleiberman only counted instances where the  
 28 discipline was reduced by at least one full Matrix level, the discipline was rescinded  
 altogether, or the discipline was converted into corrective action. Defendants' Responses  
 did not provide sufficient data to determine whether there was an ultimate reduction in  
 (footnote continued)

1 terminated were instead reinstated after having been suspended without pay. In one of  
 2 these cases, the termination was ultimately reduced to a nine day suspension without pay.  
 3 Below is a table summarizing the thirty reductions in penalties from 2017-2020, with  
 4 terminations that were subsequently reduced to suspensions in bold:

Case Number	Initial Penaltv Matrix Level (Column 4)	Final Penaltv Description (Column 10)	Final Penaltv Corresponding Matrix Level
<b>LAC</b>			
S-LAC-216-17-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action
S-LAC-057-18-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Reprimand	1
S-LAC-015-19-A	2 (Suspension w/o pay for 1-2 work days)	Letter of Reprimand	1
S-LAC-231-19-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action

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 27 penalty *within* a given Matrix level (e.g., a 5% salary reduction for 12 months being lowered to a 5% salary reduction for only 6 months, both of which fall into Matrix Level 3).  
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Case Number	Initial Penalty Matrix Level (Column 4)	Final Penalty Description (Column 10)	Final Penalty Corresponding Matrix Level
<b>COR</b>			
C-COR-196-18-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Action Withdrawn	No Penalty
C-COR-196-18-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Action Withdrawn	No Penalty
C-COR-217-18-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Revoked at SPB	No Penalty
C-COR-364-18-D	1 (Letter of Reprimand)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action
C-COR-364-18-D	1 (Letter of Reprimand)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action
C-COR-223-19-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Reprimand	1
C-COR-124-19-A	9 (Dismissal)	Suspension Without Pay for 9 Months	No Corresponding Matrix Level

Case Number	Initial Penalty Matrix Level (Column 4)	Final Penalty Description (Column 10)	Final Penalty Corresponding Matrix Level
<b>CCI</b>			
C-CCI-436-19-A <sup>2</sup>	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	Suspension Without Pay for 6 Days	3
C-CCI-401-17-A	<b>9 (Dismissal)</b>	<b>Suspension Without Pay for 233 Days</b>	<b>No Corresponding Matrix Level</b>
C-CCI-256-18-A	<b>9 (Dismissal)</b>	<b>Suspension Without Pay for 63 Days</b>	<b>No Corresponding Matrix Level</b>
C-CCI-433-19-D	1 (Letter of Reprimand)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action
<b>KVSP</b>			
C-KVSP-272-17-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	Suspension Without Pay for 3 Days	3
C-KVSP-355-17-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Reprimand	1
C-KVSP-447-17-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	5% for 3 Months	3

<sup>2</sup> Defendants erroneously included this case in their Response to the Special Interrogatory concerning KVSP; the case number indicates that it should have been included in the Response concerning CCI.

Case Number	Initial Penalty Matrix Level (Column 4)	Final Penalty Description (Column 10)	Final Penalty Corresponding Matrix Level
C-KVSP-447-17-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	5% for 3 Months	3
C-KVSP-544-17-D	5 (Salary Reduction 5% for 13-36 months <i>or</i> Suspension w/o pay for 13-36 work days)	5% for 9 Months	3
C-KVSP-132-18-A	9 <b>(Dismissal)</b>	<b>Suspension without Pay for 9 Days</b>	3
C-KVSP-254-18-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	Action Withdrawn	No Penalty
C-KVSP-409-18-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Action Withdrawn	No Penalty
C-KVSP-453-18-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	5% for 2 Months	No Corresponding Matrix Level

Case Number	Initial Penalty Matrix Level (Column 4)	Final Penalty Description (Column 10)	Final Penalty Corresponding Matrix Level
C-KVSP-521-18-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Corrective Action	Penalty Reduced to Corrective, not Adverse, Action
C-KVSP-004-19-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	Letter of Reprimand	1
C-KVSP-004-19-D	4 (Salary Reduction 10% for 3-12 months <i>or</i> Suspension w/o pay for 6-24 work days)	Letter of Reprimand	1
C-KVSP-066-19-A	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action
C-KVSP-165-19-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Reprimand	1
C-KVSP-197-19-D	3 (Salary Reduction 5% for 3-12 months <i>or</i> Suspension w/o pay for 3-12 work days)	Letter of Instruction	Penalty Reduced to Corrective, not Adverse, Action

21. Mr. Gleiberman also reviewed Defendants’ Responses to the Special

1 Interrogatories to determine how many officers had been terminated for staff misconduct  
 2 against incarcerated people generally and toward people with disabilities in particular. To  
 3 do so, Mr. Gleiberman counted the number of “Level 9” penalties (Column 4 of Exhibit A  
 4 to Defendants’ Responses) to determine the number of terminations imposed. The  
 5 terminations Mr. Gleiberman previously identified as having ultimately been reduced to  
 6 suspensions without pay are excluded from this table because the officers involved were  
 7 not terminated. Mr. Gleiberman also excluded “double terminations,” where termination  
 8 was issued to an officer who had already been terminated for prior misconduct; in those  
 9 cases, Mr. Gleiberman only counted the initial, effective termination, not the second  
 10 termination, provided that the initial termination fell within the time period.  
 11 Mr. Gleiberman also excluded terminations which were not yet finalized (Column 10 of  
 12 Exhibit A to Defendants’ Responses). Only one officer was effectively and ultimately  
 13 terminated in each of the cases that appear in the table below:

Case Number	Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i> . or Non-class-member
LAC	
S-LAC-369-19-A	<i>Coleman</i> class member
COR <sup>3</sup>	
C-COR-211-17-A	<i>Coleman</i> class member
C-COR-458-17-A <sup>4</sup>	<i>Coleman</i> class member

23 <sup>3</sup> In an additional case at COR (C-COR-124-19-A), an initial Level 9 penalty levied against  
 24 one officer was ultimately reduced to suspension without pay for 9 months. *See* Grunfeld  
 Reply Decl., Ex. 95 (Interrogatory Response, Exhibit A).

25 <sup>4</sup> According to Defendants, the officer who had been terminated in this case received an  
 26 additional Level 9 penalty in case C-COR-143-18-A. *See* Grunfeld Reply Decl., Ex. 95  
 27 (Interrogatory Response, Exhibit A). This double termination never became effective  
 28 because the implicated officer had already been terminated by the Department in  
 connection with C-COR-458-17-A, and is therefore excluded from the number of ultimate  
 terminations.



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Case Number	Victim Class Status: <i>Armstrong</i> only. <i>Coleman</i> only. Both <i>Armstrong</i> and <i>Coleman</i> . or Non-class-member
C-COR-542-17-A	<i>Coleman</i> class member
C-COR-243-18-C/A	<i>Coleman</i> class member
C-COR-452-18-A	<i>Coleman</i> class member
C-COR-103-19-A	<i>Coleman</i> class member
<b>KVSP</b>	
C-KVSP-132-18-A <sup>5</sup>	<i>Coleman</i> class member
<b>CCI<sup>6</sup></b>	
C-CCI-305-17-A	<i>Coleman</i> class member
C-CCI-032-18-A	<i>Coleman</i> class member
C-CCI-141-18-A	<i>Coleman</i> class member
C-CCI-187-20-S	<i>Coleman</i> class member

22. Defendants’ Responses to the Special Interrogatories show that, in the time

<sup>5</sup> A second Level 9 penalty initially imposed in this case was reduced to suspension without pay for 9 days. *See* Ex. 8 (Interrogatory Response, Ex. A).

<sup>6</sup> In an additional case at CCI (C-CCI-256-18-A), an initial Level 9 penalty levied against one officer was reduced to suspension without pay for 63 days. *See* Ex. 7 (Interrogatory Response, Ex. A).

Further, according to Defendants, one of the four officers who initially received a Level 9 penalty in another case (C-CCI-401-17-A) had already been terminated in Case Number C-CCI-442-16-A. *See* Ex. 7 (Interrogatory Response, Exhibit A). A second officer initially terminated in case C-CCI-401-17-A had resigned in lieu of being terminated in a previous case, Case Number C-CCI-569-16-A. *Id.* Therefore, because these two double terminations never became effective, Plaintiffs have excluded these two double terminations from the number of ultimate terminations. An additional Level 9 penalty imposed in case C-CCI-401-17-A was ultimately reduced to suspension without pay for 233 days. Lastly, the final penalty imposed for a fourth officer who initially received a Level 9 penalty in case C-CCI-401-17-A is pending appeal before the State Personnel Board. Therefore, as of the filing of this declaration, none of the four officers who initially received Level 9 penalties in case C-CCI-401-17-A were effectively and ultimately terminated. *Id.*

1 period 2017-2020 at LAC, COR, CCI, and KVSP, only twelve officers were ultimately  
 2 terminated in connection with twelve incidents involving staff misconduct toward  
 3 incarcerated people. At LAC, where Plaintiffs have presented dozens of declarations and  
 4 substantial additional evidence regarding misconduct, only one staff misconduct incident  
 5 involving incarcerated people resulted in a termination. In all of the twelve incidents that  
 6 ultimately resulted in termination, incarcerated people with disabilities were the target of  
 7 the misconduct that led to termination.

8       23. Defendants' Responses to the Special Interrogatories also show that, from  
 9 2017-2020, at LAC, COR, CCI, and KVSP, Defendants have initiated only two criminal  
 10 investigations into allegations of staff misconduct against incarcerated people:  
 11 C-KVSP-206-19-C/A and C-COR-243-18-C/A. Both cases involved people with  
 12 disabilities as the victims of the alleged misconduct. In the KVSP case, Defendants noted  
 13 that the investigation had been referred to the District Attorney, where the case was  
 14 pending the District Attorney's determination as to whether to prosecute. *See* Ex. 8  
 15 (Interrogatory Response, Ex. A). In the COR case, Defendants noted that there was "no  
 16 criminal prosecution." *See* Grunfeld Statewide Reply Decl., Ex. 95 (Interrogatory  
 17 Response, Ex. A).

18       **Defendants' Data Shows that Uses of Force, Including Rubber Bullets and Pepper**  
 19       **Spray, is Increasing at Virtually All the Statewide Prisons**

20       24. CDCR regularly publishes to its website COMPSTAT data related to use of  
 21 force at its prisons, including LAC, COR, KVSP, CCI, the Substance Abuse and Treatment  
 22 Facility ("SATF"), Salinas Valley State Prison ("SVSP"), and the California Institution for  
 23 Women ("CIW"). CDCR publishes its COMPSTAT data in 13-month increments. *See*  
 24 <https://www.cdcr.ca.gov/research/compstat/> (last accessed November 22, 2020). Although  
 25 CDCR's website states that 13-month COMPSTAT reports are "published monthly," the  
 26 most recent COMPSTAT data available on CDCR's website spans from May 2018  
 27 through May 2019. *See* [https://www.cdcr.ca.gov/research/wp-](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2019/10/DAI-High-)  
 28 [17](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2019/10/DAI-High-</a></p>
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1 Security.pdf?label=High%20Security&from=https://www.cdcr.ca.gov/research/compstat/  
2 (last accessed November 22, 2020). CDCR’s website states that COMPSTAT reports may  
3 be requested by email. *See* <https://www.cdcr.ca.gov/research/compstat/> (last accessed  
4 November 22, 2020).

5 25. In order to examine data spanning 2017 through 2019, paralegal Jack Rhein  
6 Gleiberman sent an email, a true and correct copy of which is attached hereto as **Exhibit 9**,  
7 to CDCR’s Office of Research requesting the 13-month COMPSTAT reports that do not  
8 appear on CDCR’s website. On June 24, 2020, CDCR produced COMPSTAT data from  
9 2017 through 2019 for the High Security Mission, to which LAC, COR, KVSP, CCI,  
10 SATF, and SVSP belong. *See* Ex. 9. On September 11, 2020, Defendants sent  
11 Mr. Gleiberman an email, a true and correct copy of which is attached hereto as  
12 **Exhibit 10**, attaching an additional 13-month COMPSTAT report to cover a gap in the  
13 data previously produced on June 24, 2020. On September 11, 2020, Mr. Gleiberman sent  
14 another email, a true and correct copy of which is attached hereto as **Exhibit 11**,  
15 requesting COMPSTAT data for the Female Offenders Mission, to which CIW belongs.  
16 Defendants responded by email on September 14, 2020 by producing a link and credentials  
17 to a file sharing service ostensibly containing the requested data, although Mr. Gleiberman  
18 could not access the documents using the credentials supplied by Defendants. *See* Ex. 11.  
19 Defendants provided updated credentials to access the requested data on November 23,  
20 2020.

21 26. On July 28, 2020, upon Plaintiffs’ request, Katie Riley with the CDCR  
22 Office of Legal Affairs sent an email producing data covering incidents across CDCR from  
23 January through June of 2020. *See* Grunfeld RJD Reply Decl., Ex. BB. Ms. Riley  
24 represented in her email that CDCR was in the midst of migrating data systems, and the  
25 2020 data produced was a “little different” from COMPSTAT data and “not a one-for-one  
26 match with prior [i.e., COMPSTAT] reports.” *Id.* Although some of the data produced by  
27 Defendants on July 28, 2020 overlapped with data included in the 13-month COMPSTAT  
28 reports, Plaintiffs elected not to include the 2020 data because: (1) Defendants represented

1 that the data is not entirely analogous to the data reported in 13-month COMPSTAT  
 2 reports and (2) the first two quarters of 2020 data could not be meaningfully compared to  
 3 the full-year data available for 2017 through 2019.

4 27. Under my direction and supervision, Mr. Gleiberman prepared graphs, true  
 5 and correct copies of which are attached hereto as **Exhibit 12, Exhibit 13, and Exhibit 14,**  
 6 using the data contained in the 2017-2019 COMPSTAT reports. These graphs represent  
 7 trends in documented uses of force, uses of oleoresin capsicum (“OC” or “pepper”) spray,  
 8 and uses of 37/40mm less-lethal weapons (also known as “block guns”) at LAC, COR,  
 9 CCI, KVSP, SATF, SVSP, and CIW from 2017 to 2019. Similar graphs prepared by  
 10 Mr. Gleiberman were used as exhibits in the November 19, 2020 deposition of CDCR’s  
 11 Person Most Knowledgeable, Jared Lozano.

#### 12 **Defendants Failed to Meet the Court’s Criteria for Taking Depositions**

13 28. At the October 6, 2020 oral argument, the Court allowed Defendants to take  
 14 depositions of no more than 10 of the declarants whose declarations were filed with the  
 15 Statewide reply. Reporter’s Transcript at 17:11-17, Dkt. No. 3131. The Court described  
 16 the criteria for these depositions:

17 People whose deposition was necessary in the sense that there was no other  
 18 source for information about it. And by which I mean if there were witnesses  
 19 under the control of defendants, those would need to file their declarations  
 20 first so that we would know that there was an issue, that the facts were  
 21 joined. And that there be some articulable reason to do the deposition.... [I]  
 would like there to be some reason to do it, some inconsistency -- internal  
 inconsistency within the declaration. Some inconsistency with medical  
 records. Something other than I just don't believe this and I think if I had my  
 chance to ask him a lot of questions, he would recant.

22 *Id.* 35:20-36:17. The Court also ordered the Parties to negotiate COVID-19 safety  
 23 protocols for the depositions and a further briefing schedule. *Id.* at 34: 9-13.

24 29. On October 12, 2020 at 12:48 p.m., Defendants sent Plaintiffs an email, a  
 25 true and correct copy of which is attached hereto as **Exhibit 15,** listing the ten declarants  
 26 they wished to depose. That same day, Plaintiffs responded to the email in advance of a  
 27 telephonic meet and confer with Edward Swanson, the Court Expert, scheduled for 5:00  
 28 pm. Plaintiffs wrote:

1 Defendants' explanations for why they wish to take the deposition of the ten  
2 identified people do not comply with the Court's instructions from the  
3 October 6, 2020 hearing. Accordingly, we request that Defendants provide  
4 additional detail regarding their reasons for wishing to take the depositions,  
5 including the specific contentions in the declarations that Defendants dispute  
6 and Defendants' basis for disputing the contention.

7 *Id.*

8 30. During the telephonic meet and confer conducted later that day,  
9 Mr. Swanson stated that he agreed that Defendants' justifications for the depositions did  
10 not comply with the Court's instructions. Defendants requested that Plaintiffs agree to  
11 permit Defendants to take at least some of the depositions even though Defendants had not  
12 complied with the Court's instructions.

13 31. On October 13, 2020, the following day, Plaintiffs informed Defendants that,  
14 notwithstanding Defendants' failure to comply with the Court's instructions, Plaintiffs  
15 would agree to permit Defendants to take the depositions of five declarants from the initial  
16 list of ten declarants provided by Defendants. *See Ex. 15.*

17 32. On October 14, 2020 we filed with the Court a Stipulation regarding the  
18 protocols for preparation for the depositions and for attempting to prevent retaliation  
19 during and after those depositions. On October 14, 2020 this Court ordered the Stipulation  
20 into effect. *See Dkt. No. 3135.*

21 33. At no point after October 13, 2020 have Defendants requested that they be  
22 permitted to depose more than the five deponents to which the parties have agreed.  
23 Defendants have also not provided any additional justification for deposing any of the  
24 declarants in an effort to satisfy the Court's criteria so as to be able to take additional  
25 depositions. Instead, Defendants chose to only depose five declarants.

26 34. To date, Defendants have taken four of the five depositions. Defendants  
27 sought to take the deposition of ██████████, CDCR number ██████████, but he was exposed  
28 to COVID-19 at Mule Creek State Prison ("MCSP") on or around October 30, 2020.  
Defendants notified us on October 30, 2020 that Mr. ██████████ had been put in quarantine  
status and could not prepare for or participate in a deposition. The parties informally

1 agreed that Defendants could take the deposition on November 30, 2020. On  
2 November 23, 2020, Defendants’ counsel emailed us to cancel the deposition because “the  
3 litigation office at MCSP has been exposed to COVID-19 and is remote working until  
4 12/3.” Attached hereto as **Exhibit 16** is a true and correct copy of the November 23, 2020  
5 email from Deputy Attorney General Namrata Kotwani to Michael Freedman.

6 35. Attached hereto as **Exhibit 17** is a true and correct copy of the full certified  
7 transcript of the deposition of [REDACTED], CDCR number [REDACTED], without its  
8 exhibits, taken by Defendants on October 28, 2020.

9 36. Attached hereto as **Exhibit 18** is a true and correct copy of the full certified  
10 transcript of the deposition of [REDACTED], CDCR number [REDACTED] without its  
11 exhibits, taken by Defendants on October 30, 2020.

12 37. Attached hereto as **Exhibit 19** is a true and correct copy of the full certified  
13 transcript of the deposition of [REDACTED], CDCR number [REDACTED], without its  
14 exhibits, taken by Defendants on November 2, 2020.

15 38. Attached hereto as **Exhibit 20** is a true and correct copy of the full certified  
16 transcript of the deposition of [REDACTED], CDCR number [REDACTED], without its exhibits,  
17 taken by Defendants on November 12, 2020.

18 39. Attached hereto as **Exhibit 21** are true and correct copies of California  
19 Correctional Health Care Services and Adventist Health Hanford Hospital records, with  
20 highlights added by Plaintiffs’ counsel, showing that Mr. [REDACTED] was taken from SATF  
21 to the hospital and from there transferred to Corcoran, where he informed a mental health  
22 clinician that he attempted suicide at SATF after learning of the death of his daughter. The  
23 records in Exhibit 21 include a negative toxicology report.

24 **The OIG Report on AIMS Has Been Delayed by CDCR’s Lack of Staff Misconduct**  
25 **Record Keeping**

26 40. On November 20, 2020, I spoke with the Inspector General of California  
27 Roy Wesley. As reflected in prior declarations, Mr. Wesley is attempting to monitor  
28 Defendants’ rollout of AIMS. Grunfeld Statewide Reply Decl., ¶¶ 204-205. Mr. Wesley

1 is also attempting to answer questions posed to him by the Court Expert.

2 41. In our November 20 conversation, Mr. Wesley informed me that gathering  
3 data on AIMS for his upcoming report and to share with the Court Expert is difficult  
4 because CDCR does not track electronically when grievances against correctional officers  
5 are filed by incarcerated people. It also does not track the screening processes for these  
6 grievances. Mr. Wesley and his team are having to sort through spreadsheets to determine  
7 how many grievances have been sent to AIMS and how many have been blocked from  
8 AIMS by Wardens at the prisons.

9 42. Attached hereto as **Exhibit 22** is a true and correct copy of an article  
10 published on November 19, 2020 by the Los Angeles Times entitled “Two former  
11 California prison guards charged in cover-up of inmate’s death in 2016.”

12 43. Attached hereto as **Exhibit 23** is a true and correct copy of an email I  
13 received from Mr. Wesley indicating that the victim in the incident described in the Los  
14 Angeles Times article was a *Coleman* class member.

15 44. Attached hereto as **Exhibit 24** is a true and correct excerpted copy of  
16 COMPSTAT data produced by Defendants from 2017 to 2019, separated by blank slip-  
17 sheets, for LAC, COR, CCI, KVSP, SATF, SVSP, and CIW, which Mr. Gleiberman used  
18 to create the graphs at Exhibits 12-14.

19  
20 I declare under penalty of perjury under the laws of the United States of America  
21 that the foregoing is true and correct, and that this declaration is executed at San Francisco,  
22 California this 24th day of November, 2020.

23  
24   
25 Gay Crosthwait Grunfeld





INDEX OF EXHIBITS TO SUR-REBUTTAL DECLARATION OF GAY CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING, AND RETALIATING AGAINST PEOPLE WITH DISABILITIES Redacted and Under Seal versions filed on November 24, 2020	
<b>Exhibit</b>	<b>Description</b>
1	Defendants' Partially Completed Spreadsheet in Response to Topic 2 of PMK Request, sent on November 13, 2020
2	Defendants' Partially Completed Spreadsheet in Response to Topic 3 of PMK Request, sent on November 13, 2020
3	Cover email from Defendants regarding responses to Topics 2 and 3 of PMK Request, dated November 13, 2020
4	Email from Deputy Attorney General Sean Lodholz to Michael Freedman regarding incomplete responses to PMK Topics 2 and 3, dated November 19, 2020
5	Volumes I and II of the Transcript of the deposition of Defendants' Person Most Knowledgeable, Associate Director Jared Lozano, dated November 19, 2020
6	Defendants' responses to Plaintiffs' fifth request for production of documents, served on October 30, 2020
7	Defendants' responses to Special Interrogatories concerning CCI, served on October 14, 2020
8	Defendants' responses to Special Interrogatories concerning KVSP, served on October 21, 2020
9	Email from Paralegal Jack Gleiberman to CDCR's Office of Research regarding the 13-month COMPSTAT reports, sent on June 18, 2020
10	Email from Defendants to Jack Gleiberman attaching an additional 13 month COMPSTAT, sent on September 11, 2020
11	Email from Jack Gleiberman to CDCR's Office of Research requesting COMPSTAT data for the Female Offenders Mission, sent on September 11, 2020
12	Graph showing trend in documented uses of force from 2017-2019 at LAC, COR, CCI, KVSP, SATF, SVSP, and CIW
13	Graph showing trend in documented uses of OC spray from 2017-2019 at LAC, COR, CCI, KVSP, SATF, SVSP, and CIW
14	Graph showing trend in documented use of 37/40mm less-lethal weapons from 2017-2019 at LAC, COR, CCI, KVSP, SATF, SVSP, and CIW
15	Email from Deputy Attorney General Anthony Tartaglio to Plaintiffs' Counsel regarding a list of ten potential class member deponents, sent on October 12, 2020

INDEX OF EXHIBITS TO SUR-REBUTTAL DECLARATION OF GAY CROSTHWAIT GRUNFELD IN SUPPORT OF PLAINTIFFS' MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING, AND RETALIATING AGAINST PEOPLE WITH DISABILITIES Redacted and Under Seal versions filed on November 24, 2020	
Exhibit	Description
16	Email from Deputy Attorney General Namrata Kotwani to Michael Freedman regarding the cancellation of one class member deposition, sent on November 23, 2020
17	Full certified transcript of the deposition of [REDACTED], [REDACTED], taken by Defendants on October 28, 2020
18	Full certified transcript of the deposition of [REDACTED], [REDACTED], taken by Defendants on October 30, 2020
19	Full certified transcript of the deposition of [REDACTED], [REDACTED], taken by Defendants on November 2, 2020
20	Full certified transcript of the deposition of [REDACTED], [REDACTED], taken by Defendants on November 12, 2020
21	Copies of Mr. [REDACTED]'s California Correctional Health Care Services and Adventist Health Hanford Hospital records, with highlights added by Plaintiffs' counsel
22	Los Angeles Times Article entitled "Two Former California prison guards charged in cover-up of inmate's death in 2016," published on November 19, 2020
23	Email from Inspector General Roy Wesley to Gay Crosthwait Grunfeld regarding LA Times Article, sent on November 20, 2020
24	Excerpted 2017-2019 COMPSTAT data produced by Defendants for LAC, COR, CCI, KVSP, SATF, SVSP, and CIW

# **Exhibit 1**































# **Exhibit 2**





# **Exhibit 3**

**From:** [Sean Lodholz](#)  
**To:** [Gay C. Grunfeld](#); [Michael Freedman](#); [Penny Godbold](#); [Armstrong Team - RBG only](#)  
**Cc:** [Joanna Hood](#); [Trace Maiorino](#); [Jeremy Duggan](#); [Anthony Tartaglio](#); [Namrata Kotwani](#); [Alicia Bower](#)  
**Subject:** Armstrong - Plaintiff PMK Topic  
**Date:** Friday, November 13, 2020 4:28:05 PM  
**Attachments:** [Plaintiffs' PMK Topic 2 Spreadsheet.XLSX](#)  
[Plaintiffs' PMK Topic 3 Spreadsheet.XLSX](#)

---

Good evening,

We are still working on collecting information for PMK topics 2 and 3. Attached is the information we have collected thus far. As previously noted, because of the substantial overlap between the requested information and Plaintiffs' Fifth Request for Production of Documents, staff are working to collect the information and documents together. We should have the document portion of the identified information completed for production sometime next week. We will also continue to gather information to complete the requested spreadsheets. Once we have gathered all requested information, we will also provide a verification.

Please let me know if you have any questions or wish to discuss anything as it relates to these spreadsheets or the forthcoming document production.

Thank you,

**Sean W. Lodholz | Deputy Attorney General | California Department of Justice**

Correctional Law Section | 1300 I Street | Sacramento, CA 95814

 | e [sean.lodholz@doj.ca.gov](mailto:sean.lodholz@doj.ca.gov)

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# **Exhibit 4**

---

**From:** Sean Lodholz <Sean.Lodholz@doj.ca.gov>  
**Sent:** Thursday, November 19, 2020 9:01 AM  
**To:** Michael Freedman; Gay C. Grunfeld; Penny Godbold; Armstrong Team - RBG only  
**Cc:** Joanna Hood; Trace Maiorino; Jeremy Duggan; Anthony Tartaglio; Namrata Kotwani; Alicia Bower  
**Subject:** RE: Armstrong - Plaintiff PMK Topic [IWOV-DMS.FID3579]

I apologize Mike. CDCR did not have any further updates and are waiting for the institutions to send documents to complete the spreadsheet.

---

**From:** Michael Freedman <MFreedman@rbgg.com>  
**Sent:** Wednesday, November 18, 2020 10:11 PM  
**To:** Sean Lodholz <Sean.Lodholz@doj.ca.gov>; Gay C. Grunfeld <GGrunfeld@rbgg.com>; Penny Godbold <PGodbold@rbgg.com>; Armstrong Team - RBG only <ArmstrongTeam@rbgg.com>  
**Cc:** Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Jeremy Duggan <Jeremy.Duggan@doj.ca.gov>; Anthony Tartaglio <Anthony.Tartaglio@doj.ca.gov>; Namrata Kotwani <Namrata.Kotwani@doj.ca.gov>; Alicia Bower <Alicia.Bower@doj.ca.gov>  
**Subject:** RE: Armstrong - Plaintiff PMK Topic [IWOV-DMS.FID3579]

Sean,

Consistent with our phone call from a few days ago, are Defendants still intending to send updated spreadsheets tonight? As you know, the PMK deposition is tomorrow at 9 a.m.

Best,

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

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**From:** Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>  
**Sent:** Friday, November 13, 2020 4:28 PM  
**To:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Armstrong Team - RBG only <[ArmstrongTeam@rbgg.com](mailto:ArmstrongTeam@rbgg.com)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Namrata Kotwani

<[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>

**Subject:** Armstrong - Plaintiff PMK Topic

Good evening,

We are still working on collecting information for PMK topics 2 and 3. Attached is the information we have collected thus far. As previously noted, because of the substantial overlap between the requested information and Plaintiffs' Fifth Request for Production of Documents, staff are working to collect the information and documents together. We should have the document portion of the identified information completed for production sometime next week. We will also continue to gather information to complete the requested spreadsheets. Once we have gathered all requested information, we will also provide a verification.

Please let me know if you have any questions or wish to discuss anything as it relates to these spreadsheets or the forthcoming document production.

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](mailto:sean.lodholz@doj.ca.gov)

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# **Exhibit 5**

Jared Lozano  
November 19, 2020

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

Case No.:

C94 2307 CW

GAVIN NEWSOM, et al.,

Defendants.

---

DEPOSITION OF JARED LOZANO

APPEARING REMOTELY FROM SACRAMENTO, CALIFORNIA

November 19, 2020

9:34 a.m.

REPORTED BY:

Siew G. Ung

CSR No. 13994, RPR, CSR

APPEARING REMOTELY FROM MARIN COUNTY, CALIFORNIA

Uared Lozano  
November 19, 2020

1 REMOTE APPEARANCES:

2

3 For Plaintiffs

4 ROSEN BIEN GALVAN & GRUNFELD LLP  
5 MICHAEL FREEDMAN, ESQ.  
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San Francisco, California 94105  
mfreedman@rbgg.com

7 For Defendants

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9 REHABILITATION  
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JARED LOZANO

John Armstrong v. Gavin Newsom

THURSDAY, NOVEMBER 19, 2020

Siew G. Ung CSR No. 13994, RPR

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(Exhibits Continued)

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Exhibit 19	Defendants' Supplemental Responses to Plaintiffs' Special Interrogatories, Set One (Lozano Ex (19) 001 to Lozano Ex (19) 070)	10

1 REPORTED REMOTELY FROM MARIN COUNTY, CALIFORNIA

2 THURSDAY, NOVEMBER 19, 2020, 9:34 A.M.

3 \*\*\*

4 (Whereupon, Exhibits 1 to 19 were  
5 premarked for identification.)

6 THE REPORTER: The attorneys participating in  
7 this deposition acknowledge that I'm not physically  
8 present in the deposition room and that I will be  
9 reporting this deposition remotely. They further  
10 acknowledge that, in lieu of an oath administered in  
11 person, the witness will verbally declare his or her  
12 testimony in this matter is under penalty of perjury.  
13 The parties and their counsel consent to this  
14 arrangement and waive any objection to this manner of  
15 reporting. Please indicate your agreement by stating  
16 your name and your agreement on the record.

17 MR. FREEDMAN: I agree. My name is Michael  
18 Freedman. I represent plaintiffs.

19 MR. MAIORINO: I agree. Trace Maiorino,  
20 Attorney General's Office.

21 (Discussion held off the record.)

22 THE REPORTER: Do both parties stipulate that  
23 our witness today is Jared Lozano?

24 MR. FREEDMAN: Yes.

25 MR. MAIORINO: Yes.

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JARED LOZANO,

having been first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. FREEDMAN

Q. All right. Good morning, Mr. Lozano. My name is Michael Freedman. I am an attorney from a law firm called Rosen Bien Galvan & Grunfeld, and we represent the plaintiffs in the Armstrong v. Newsom lawsuit. I'll be taking your deposition today. Could you please state your full name for the record?

A. Yes, Jared, J-A-R-E-D, Gale, G-A-L-E, Lozano, L-O-Z-A-N-O.

Q. Great. Thank you. So have you ever had your deposition taken before?

A. I have, yes.

Q. And about how many times have you had your deposition taken?

A. One time.

Q. And when was that?

A. Approximately two years ago.

Q. Could you briefly describe for me the -- the context in which that deposition was taken -- the case in which that was taken?

A. The case in which I was deposed in was a -- a case that was in -- in an inmate appeals branch when I

1 was the chief and responded to a third-level appeal,  
2 which was --

3 THE REPORTER: Sorry, you are cutting out.

4 THE WITNESS: So the -- it was a third-level  
5 appeal case in which I was chief of the inmate appeals  
6 branch, and I was deposed in -- after the case had  
7 reached court. And the case was specific regarding  
8 religious accommodations within one of the prisons in  
9 the State of California.

10 BY MR. FREEDMAN:

11 Q. And so you were -- were you a  
12 persons-most-knowlegeable deponent in that case or a  
13 percipient witness, if you know?

14 A. I was not the person most knowledgeable.

15 Q. Great. Well, since you have had your  
16 deposition taken, you're -- you're probably somewhat  
17 familiar with how this works. But I'm going to go over  
18 just a few ground rules so that we are both on the same  
19 page today, okay?

20 A. Great. Thank you.

21 Q. Okay. So I will be asking you a series of  
22 questions here today. My questions and your answers  
23 will be recorded by the court reporter, who is -- would  
24 typically be sitting in the same room with us and we'd  
25 all be in the same room, but today this is happening

1 remotely.

2           This is a reminder, especially in light of  
3 what we've just heard with both of us having a little  
4 bit of trouble hearing you, that it is very important  
5 for you to speak loudly and clearly and in a manner that  
6 can be easily understood and recorded by the court  
7 reporter. Do you understand that?

8           A. Yes, sir.

9           Q. That means that it's important to give verbal  
10 answers to my questions and to -- to speak in words, if  
11 we can, rather than saying "uh-huh" or "hmm" or nodding  
12 your head. Do you understand that?

13          A. Yes.

14          Q. You have just taken an oath that requires you  
15 to tell the truth, the whole truth and nothing but the  
16 truth under penalty of perjury. Do you understand what  
17 that oath means?

18          A. Yes.

19          Q. Now, today, when I ask my questions, I don't  
20 want you to guess about things that you don't know  
21 anything about, but if you can make an estimate about  
22 something that you are familiar with, based on your  
23 knowledge, you should do that. Does that make sense?

24          A. Yes.

25          Q. As we are going along today, please let me

1 know if you don't understand a question. I will do my  
2 best to ask it in a way that you can understand, and if  
3 you do answer my question, I'm going to presume that you  
4 did understand the question. Do you understand that?

5 A. Yes.

6 Q. Please, as we go along today, let me know if  
7 you need a break for any reason, although if there is a  
8 question pending, unless there's a question of privilege  
9 with your counsel about whether you should answer the  
10 question at all, I'd like you to answer the question  
11 before we take a break. Does that make sense?

12 A. It does.

13 Q. Have you taken any medications or drugs today  
14 or at any time in the recent past that would make it  
15 difficult for you to understand and answer my questions  
16 today?

17 A. No.

18 Q. Is there any reason that you would not be able  
19 to answer my questions fully and truthfully today?

20 A. No.

21 Q. Excellent. Okay. So in advance of the  
22 deposition today, we provided a number of exhibits to  
23 your counsel this morning. Do you have those exhibits  
24 in front of you?

25 A. I do, yes.

1 Q. Okay. If you could, please -- you'll note  
2 that at the bottom of the exhibits, there is a Bates  
3 stamp, some -- some writing at the bottom. And the  
4 first one should say, "Lozano Exhibit 1001." Do you see  
5 that?

6 A. Yes.

7 Q. And then for each of the documents as you go  
8 through that stack, it goes "Lozano Exhibit 2, Lozano  
9 Exhibit 3, Lozano Exhibit 4." Do you see that?

10 A. Yes.

11 Q. Okay. So today when we are talking about  
12 documents, I'll use that Lozano exhibit nomenclature to  
13 make sure we are looking at the same thing today since  
14 we can't be in the same room together. Does that make  
15 sense?

16 A. Yes.

17 Q. Okay. If you could please pick up Lozano  
18 Exhibit 1, which we'll -- we'll mark as Exhibit 1.

19 (Whereupon, Exhibit 1 was marked for  
20 identification.)

21 BY MR. FREEDMAN:

22 Q. Have you seen this document before?

23 A. Yes, I have.

24 Q. And when -- when did you first see this  
25 document?



1 A. I believe it was in the last week or two.

2 Q. Was this something that was sent to you?

3 A. Yes, I believe it was.

4 Q. And who sent it to you?

5 A. Our attorneys.

6 Q. Great. Have you -- so let's see. If you  
7 could turn to page -- Lozano Exhibit 1, pages -- pages 2  
8 to 4. Do you see the ten topics that are listed there?

9 A. Yes, I do.

10 Q. Have you been designated by the California  
11 Department of Corrections and Rehabilitation, which  
12 we'll refer to today as CDCR, as the person most  
13 knowledgeable on all ten of these topics?

14 MR. MAIORINO: Objection. Overbroad.

15 THE WITNESS: No.

16 BY MR. FREEDMAN:

17 Q. Which of the topics have you been designated  
18 as a person most knowledgeable by CDCR?

19 A. Topic 1, specifically on how we gathered the  
20 information in which we responded to the  
21 interrogatories; topic 4; topic 5; topic 6; topic 7;  
22 topic 8; topic 9; topic 10.

23 Q. So you've been designated as CDCR's person  
24 most knowledgeable on all of these topics with the  
25 exception of topics 2 and 3; is that right?

1 MR. MAIORINO: Misstates prior testimony.

2 THE WITNESS: No, that's not correct. Topic  
3 1, specifically as how the information was gathered it's  
4 in how we completed the interrogatory, so how we  
5 collected that information is the part of -- of topic 1.

6 BY MR. FREEDMAN:

7 Q. So you have been designated as the person most  
8 knowledgeable on topics 4 through 10, correct?

9 A. Yes.

10 Q. And you have been designated as the person  
11 most knowledgeable on topic 1 in a limited fashion  
12 related to how CDCR collected the information that was  
13 communicated in interrogatory responses, correct?

14 A. Yes, correct.

15 Q. And you have not been designated, at least  
16 pursuant to your understanding, as the person most  
17 knowledgeable on topics 2 or 3; is that correct?

18 A. Yes, correct.

19 Q. What is your understanding of what it means to  
20 be designated as a person most knowledgeable?

21 A. My understanding is that the department has  
22 determined that I'm the most fit person, having the most  
23 knowledge of that subject matter, in order to respond.

24 Q. Do you understand that are you speaking on  
25 behalf of CDCR, the organization?

1 A. Yes.

2 Q. Do you understand that your answers to my  
3 questions today, to the extent they are on the topics  
4 that you have been designated as a person most  
5 knowledgeable, will bind CDCR?

6 A. Yes.

7 Q. What did you do to prepare to be CDCR's person  
8 most knowledgeable on topics 4 through 10 and on topic 1  
9 to the limited extent that we have previously discussed?

10 THE REPORTER: Was there an objection? I  
11 heard something.

12 MR. MAIORINO: Can you hear me?

13 MR. FREEDMAN: No.

14 MR. MAIORINO: Let me adjust the table. Can  
15 you hear me? Can you hear me, Madam Court Reporter?

16 THE REPORTER: I can hear you now, but if you  
17 said something, it didn't come through earlier.

18 MR. MAIORINO: Objection. Vague and  
19 ambiguous. Did you hear that?

20 THE REPORTER: I didn't. Do you want to --  
21 could we take a moment to fix the sound because,  
22 otherwise, I'm scared I may not hear the objections.  
23 I'm sorry.

24 MR. FREEDMAN: Can we go off the record for --  
25 for a second.

1 (Discussion held off the record.)

2 BY MR. FREEDMAN:

3 Q. And let me just clarify. I'm not asking for  
4 any contents of any conversations that you may have had  
5 with your attorneys when you are answering this. That's  
6 a -- that's a -- those -- those conversations are  
7 privileged, attorney-client. But I am asking for  
8 whatever preparation you did outside of conversations  
9 with your attorneys.

10 A. Okay. So first and foremost, I reviewed our  
11 listing in which we tracked the information for  
12 collecting data from the four institutions in order to  
13 respond to the interrogatories [sic]. I met with the  
14 team that continued with that data that was -- the team  
15 in which -- that collected the data. I reviewed ex- --  
16 excerpts out of declarations from Mr. Diaz, Ms. Miller,  
17 Mr. Macomber, I believe there were two of those.  
18 Mr. Cate. I reviewed department policy to include  
19 employee discipline and discussions with various people  
20 from the chief of the AIMS unit to our risk management  
21 unit; communication with our office of internal affairs;  
22 reviewed more DOM sections; reviewed our listing for the  
23 data that we collected. And that's all I can remember  
24 right now.

25 Q. Sure. Okay. So I'm going to go through each

1 of those and ask you some questions about what some --  
2 what some of them mean.

3           So I think you mentioned twice, as the first  
4 one and the last one that you reviewed, a -- a listing  
5 about data. When you say "a listing," what are you  
6 talking about there?

7           A. The depart- -- when we received the request  
8 for information on -- I want to say it was topic 1, the  
9 way we compile the information on a listing -- so what  
10 it was is, it was our process within headquarters unit  
11 that collected that data to identify what information we  
12 had, all the items in which we collected. So it kind --  
13 that listing takes me through data collection and how it  
14 was done in order to respond to item No. 1.

15           Q. And were you involved in the process of  
16 responding to item No. 1?

17           MR. MAIORINO: Objection. Vague and  
18 ambiguous.

19           THE WITNESS: So yes, I was part of that  
20 process, but I did not -- I was not part of every part  
21 of that process.

22 BY MR. FREEDMAN:

23           Q. When you referenced "collecting data," were  
24 you talking about data collected to respond to topic No.  
25 1 and to the interrogatory responses that CDCR provided

1 to plaintiffs?

2 A. Yes. It was how that information, in order to  
3 respond, was collected.

4 Q. Correct. Now, you mentioned that you met with  
5 the data team, I believe. What data team did you meet  
6 with?

7 MR. MAIORINO: Objection. Misstates prior  
8 testimony.

9 THE WITNESS: So I mentioned that I met with  
10 the team that collected the data and the team is a -- a  
11 group of two individuals at our headquarters unit that  
12 was collecting the information in order to respond to  
13 the question or interrogatories.

14 BY MR. FREEDMAN:

15 Q. And -- and who were those two people?

16 A. The two people that are doing that are Chris  
17 Siino and Paul Hail.

18 Q. And is Siino spelled S-I-I-N-O?

19 A. I believe so, yes.

20 Q. And the other person was Paul Hail; is that  
21 correct?

22 A. Yes, that is correct.

23 Q. And is that last name H-A-L-E?

24 A. No. I believe it's H-A-I-L.

25 Q. Now, I -- I believe you stated that you

1 reviewed excerpts from the declarations of Mr. Diaz,  
2 Ms. Miller, Mr. Cate, and from two of Mr. Macomber's  
3 declarations; is that correct?

4 MR. MAIORINO: Misstates prior testimony.

5 THE WITNESS: I reviewed parts of those  
6 declarations.

7 BY MR. FREEDMAN:

8 Q. So you did not re- -- review all of all of  
9 [sic] those declarations; is that correct?

10 A. That is correct.

11 Q. Why didn't you review those declarations in  
12 their entirety?

13 A. I didn't review their dec- -- the delec- --  
14 declarations in their entirety because I was reviewing a  
15 bunch of items, and it was a time management decision.

16 Q. Now, I believe you said you reviewed  
17 department policy regarding discipline. What policies  
18 did you review regarding discipline?

19 A. Specifically the policies outlined in our  
20 department operations manual.

21 Q. Is there a specific article or title of the  
22 department's operation manual -- and -- and we can both  
23 refer to that as "the DOM" today -- that you reviewed?

24 A. Yes. Part of the DOM. I believe it's article  
25 22, if I'm not mistaken.

1 Q. And is that title 3, article 22?

2 A. I -- I don't know. I'm sorry.

3 Q. And I believe you mentioned you spoke with the  
4 chief of AIMS, correct?

5 A. Yes, the chief deputy administrator of the  
6 AIMS unit, yes.

7 Q. And what does AIMS stand for?

8 A. We love our -- I am going to give my best  
9 guesstimate of allegation inquiry management system.

10 Q. Might it be the allegation inquiry management  
11 section?

12 A. That sounds more accurate, yes, sir.

13 Q. And so just to be clear, you spoke with the  
14 chief deputy administrator who is in charge of the  
15 allegation inquiry management section; is that correct?

16 A. Yes. That is correct.

17 Q. Now, I believe you said you spoke to someone  
18 from -- and -- I'm sorry, who -- who is that?

19 A. Paul Edwards.

20 Q. What did you two discuss?

21 MR. MAIORINO: Objection. To the extent it  
22 calls for privileged information or confidential  
23 information, I lodge an objection. But to the extent it  
24 refers to his PMK deposition, he can answer.

25 THE WITNESS: We discussed the training



1 provided to the AIMS lieutenants, the training provided  
2 to supervisors at the institutions that handle  
3 institution allegations, and we discussed the tracking  
4 systems that AIMS uses -- or system, rather. I'm sorry.

5 BY MR. FREEDMAN:

6 Q. Did the two of you discuss anything else  
7 related to the topics of this PMK deposition?

8 A. No. That is all I remember.

9 Q. You -- you mentioned supervisors at the  
10 institutions that handle institution allegations.  
11 Who -- who are those supervisors? What roles do they  
12 fill?

13 A. So the supervisors at the institutions that  
14 handle allegations at the allegation inquiry level or  
15 supervisorial level of review are lieutenants assigned  
16 to that institution that normally perform within a  
17 normal post position -- or posted position and -- and  
18 assignment but are also -- have also received training  
19 in order to conduct institution allegation inquiries.

20 Q. These lieutenants, are they posted in the  
21 investigative services unit?

22 A. Not all of them are posted in the  
23 investigative services unit. They could be. That could  
24 be their assignment, but that's just one of many  
25 lieutenants' assignments throughout the institution. So

1 they don't necessarily have to be.

2 Q. I believe you mentioned that you also spoke to  
3 someone from risk management. Who -- who did you speak  
4 to from risk management?

5 A. I am trying to remember her name. She's  
6 our -- our risk management officer.

7 Q. And it's a -- it was a female?

8 A. Yes.

9 Q. But at this time, you can't remember her name;  
10 is that right?

11 A. No. It would just be a guess. I apologize.

12 Q. That's okay. As I said, I don't want you to  
13 guess. I want you to estimate if you have some  
14 knowledge of it, but I don't want you to guess.

15 What did you and this person from risk  
16 management talk about?

17 MR. MAIORINO: Objection to the extent it  
18 calls for privileged information or confidential  
19 information, but you can answer to the extent it's --

20 MR. FREEDMAN: Before you answer,  
21 Mr. Lozano -- Trace, I think you are going to need to  
22 speak up a bit more when you do the objections. I  
23 couldn't hear that.

24 (Discussion held off the record.)

25 MR. MAIORINO: Answer to the extent it's

1 responsive to the PMK topics.

2 BY MR. FREEDMAN:

3 Q. Do you understand the question, Mr. Lozano?

4 A. I apologize. Can we --

5 Q. I can ask it again.

6 A. Okay.

7 Q. The question is: What did you speak to this  
8 person from risk management about?

9 MR. MAIORINO: Same objection, Madam Court  
10 Reporter.

11 THE WITNESS: So I spoke with the risk  
12 management chief about the executive report that -- that  
13 is sent out where that information is gathered and early  
14 alert report where that information is gathered.

15 BY MR. FREEDMAN:

16 Q. When you say "that information," what are you  
17 referring to?

18 A. The information in which -- where the data is  
19 retrieved in order to create our early action report.

20 Q. And what is an "early action report"?

21 A. It's a report that the executive team receives  
22 from the office of risk management that shows increases  
23 or decreases in different sections of the report.

24 Q. And when you say "the report," what are you  
25 referring to?

1 A. I -- I apologize. The early action report.

2 Q. Could you give me an example of something that  
3 would be in an early action report?

4 A. Different in- -- increases or decreases in  
5 grievance filings at different institutions.

6 Q. Anything else?

7 A. I -- I think that's basic -- the basic  
8 umbrella of that report --

9 Q. Does the report also include things about, for  
10 example, increases or decreases in use of force?

11 A. So I -- I believe that that report shows  
12 increases or decreases in grievance -- grievances filed  
13 due to uses of force.

14 Q. So this -- is the early action report limited  
15 only to information about increases or decreases related  
16 to grievances?

17 MR. MAIORINO: Objection. Misstates prior  
18 testimony.

19 THE WITNESS: So, yes. The primary data  
20 collector for the early action report is the grievance  
21 tracking -- the offender grievance tracker, so, yes.  
22 That's where the -- the -- the information is received  
23 from.

24 BY MR. FREEDMAN:

25 Q. So might the early action report include

1 information about increases in grievances about uses of  
2 force?

3 A. Yes, the early action report will show  
4 increases and decreases in grievances regarding multiple  
5 topics for multiple institutions.

6 Q. Could you -- to the extent you know, could you  
7 tell me the topics that -- within the grievances that  
8 might be covered by the early action report?

9 A. Yes. The most common one that I -- the one  
10 that I see more often is the staff complaint allegation.  
11 And at the high level, that's -- we are showing that at  
12 all the institutions, not just one specific institution.

13 Q. So we've now mentioned staff complaints and  
14 uses of force as types of grievances that are tracked in  
15 this early action report. Are there any other types of  
16 grievances that are tracked in this early action report?

17 A. Those -- those are the two that I know of.

18 Q. Did you talk to the risk management person  
19 about anything other than this early action report?

20 A. I spoke with the risk management person about  
21 where that data, in order to populate that report, was  
22 gathered and an overview of our risk management team.  
23 And that is all I remember.

24 Q. This early action report, who was that  
25 distributed to?

1           A. I believe it's distributed to all of the  
2 department's executive team.

3           Q. And who is on the executive team?

4           A. All the way from our secretary, all of our  
5 directors, deputy directors, associate directors are --

6           Q. Is it --

7                   I'm sorry. I didn't mean to cut you off. You  
8 can finish that answer.

9           A. -- is -- are -- are all part of our executive  
10 team.

11          Q. Is it distributed to wardens?

12          A. I'm unsure if it is distributed to wardens.

13 Wardens are part of our extended executive team. So  
14 sometimes the wardens are considered part of the  
15 executive team, but we call it the "extended executive  
16 team."

17          Q. Did you review any early action reports as  
18 part of your preparation for today?

19          A. No specific reviewing of early action reports,  
20 just my knowledge from receiving them as part of the  
21 extended -- or, I'm sorry, I -- just as my part as  
22 the -- receiving them as the executive -- as part of the  
23 executive team.

24          Q. How frequently are these early action reports  
25 distributed?

1 A. I believe these are distributed once a month,  
2 every month.

3 Q. And as a member of the executive team, you  
4 receive a copy of the early action report when it's  
5 distributed?

6 A. Yes, I receive it via electronic mail.

7 Q. So I think you mentioned you also spoke to  
8 someone from OIA; is that correct?

9 A. That is correct.

10 Q. What does OIA stand for?

11 A. The office of internal affairs.

12 Q. Who did you speak to from the office of  
13 internal affairs?

14 A. In -- I just want to clarify. Speak --  
15 "speaking," I used, but I inaccurately used that. I  
16 corresponded via email with the deputy director  
17 Ms. Crowding, Brenda Crowding.

18 Q. Now, is -- is Ms. Crowding in charge of OIA?

19 MR. MAIORINO: Objection. Vague and  
20 ambiguous.

21 THE WITNESS: Ms. Crowding is the deputy  
22 director for the office of internal affairs.

23 BY MR. FREEDMAN:

24 Q. Is there a director of the office of internal  
25 affairs?

1 A. Not specific -- no, not specific director of  
2 the office of internal affairs [sic.]

3 Q. Is it accurate to say that Ms. Crowding is the  
4 highest-ranking department official within the office of  
5 internal affairs?

6 A. Yes, I would say that's accurate.

7 Q. This correspondence with Ms. Crowding, what  
8 was it about?

9 MR. MAIORINO: Objection to the extent it  
10 calls for confidential information or privileged  
11 information. You can answer to the extent it refers to  
12 the PMK topics designated.

13 THE WITNESS: Our correspondence was regarding  
14 training of the -- or training requirements for the  
15 special agents within the office of internal affairs as  
16 well as lieutenants within the AIMS unit.

17 BY MR. FREEDMAN:

18 Q. Did you correspond with her about anything  
19 else?

20 MR. MAIORINO: Objection. Vague and ambiguous  
21 as to time.

22 THE WITNESS: No. That was all that I recall  
23 corresponding about, was the training.

24 BY MR. FREEDMAN:

25 Q. So you have mentioned now three people who you



1 either spoke with or corresponded with. That would be  
2 the -- Paul Edwards from AIMS, a female from the office  
3 of risk management, and Brenda Crowding, the deputy  
4 director of the office of internal affairs. Did you  
5 speak with anyone else in preparation for this  
6 deposition -- or correspond?

7 MR. MAIORINO: Objection. Misstates prior  
8 testimony.

9 THE WITNESS: Yes, I also spoke with  
10 Lieutenant Chris Siino in preparation for this as -- as  
11 well as Captain Paul Hail.

12 BY MR. FREEDMAN:

13 Q. And is it accurate to say that both of those  
14 people are from the data team and were involved in  
15 collecting information to respond to the interrogatories  
16 served by plaintiffs in this case?

17 MR. MAIORINO: Misstates prior testimony.

18 THE WITNESS: So both of those individuals are  
19 part of -- we don't have that actual data team. They  
20 have other functions that they perform as well, but they  
21 were the two individuals that were heading up data  
22 collection in order to respond to the interrogatories.

23 BY MR. FREEDMAN:

24 Q. What did you speak with -- did you speak with  
25 those two people at the same time?

1 A. No.

2 Q. So it's two separate conversations?

3 A. Yes.

4 Q. When you spoke to Lieutenant Siino, what did  
5 you talk about?

6 MR. MAIORINO: Objection to the extent it  
7 calls for confidential or privileged information. You  
8 can answer to the extent it's relevant to the topics in  
9 which you are designated as a PMK.

10 THE WITNESS: My discussion with Lieutenant  
11 Siino was regarding the listing in which we created at  
12 the headquarters level as part of the data collection,  
13 and reviewing the process we went through in order to  
14 refresh myself on the data collection, and how we came  
15 up with the answers we did for the interrogatories.

16 BY MR. FREEDMAN:

17 Q. And the conversation with Captain Hail, what  
18 did you two discuss?

19 MR. MAIORINO: Same objection.

20 THE WITNESS: The discussion I had with  
21 Captain Hail was more generalized and where that  
22 information was received from.

23 BY MR. FREEDMAN:

24 Q. Other than the people you have already  
25 mentioned, who you either spoke to to prepare for this

1 deposition or you corresponded with to prepare for this  
2 deposition, is there anyone else who you spoke to or  
3 corresponded with to prepare for this deposition?

4 A. I'm -- I'm taking a moment to recollect. I  
5 apologize.

6 Q. Of course. Take your time. The -- it's  
7 important for us to be as accurate as we can today, and  
8 if you need time to do that, go ahead.

9 A. Thank you.

10 Those are -- the ones I -- I stated earlier  
11 are the only ones I recall corresponding with or  
12 speaking to in preparation of this deposition.

13 Q. Now, you previously testified about reviewing  
14 article 22 or parts of article 22 of the department  
15 operations manual. Did you review any other sections of  
16 the department operations manual to prepare for your  
17 test- -- to testify today?

18 A. I believe I did.

19 Yes, I believe I did.

20 Q. And -- and which -- which sections of the DOM  
21 did you review? And I'm more interested in the -- the  
22 topic -- you know, the subject matters of those DOM  
23 sections than whether you have the exact number of the  
24 DOM section right.

25 A. Thank you. It was the section of the DOM or

1 excerpts of the section of the DOM that discuss the  
2 office of internal affairs and how that's organized and  
3 basic process on how items are handled within the office  
4 of internal affairs.

5 Q. Any other sections of the DOM that you  
6 reviewed?

7 Again, for -- to prepare for your testimony --  
8 testimony today.

9 A. No, none that I can recall.

10 Q. Other than the items that we have already  
11 discussed that you did to prepare for your testimony  
12 today, is there anything else that you did to prepare?

13 A. I reviewed previous trainings in -- in  
14 employee discipline, if I haven't said that already.

15 Q. Anything else?

16 A. No. That's all I can recall.

17 Q. Did you speak to anyone from California State  
18 Prison, Los Angeles County, to prepare for your  
19 testimony today?

20 A. I do not believe I spoke with anyone from  
21 California State Prison, Los Angeles County.

22 Q. Did you speak to anyone from California State  
23 Prison, Corcoran, to prepare for your testimony today?

24 A. I believe I did speak with someone from  
25 California State Prison, Corcoran.

1 Q. And who did you speak to?

2 A. I believe I spoke with the warden, the chief  
3 deputy warden, and an associate warden.

4 Q. Were those three separate conversations?

5 A. No.

6 Q. And did you speak to all of them at the same  
7 time?

8 A. Yes.

9 Q. And what did you talk about with them?

10 A. We discussed cameras they had on grounds at  
11 California State Prison, Corcoran, what kind of re- --  
12 recording. And when I say "what kind of," are the  
13 cameras there able to be recorded; a general scope of  
14 the cameras they had on grounds; what they captured --  
15 what type items they captured and the recording  
16 capabilities of those as -- in general.

17 Q. Did you discuss anything else with them?

18 A. No. That's the only items I remember  
19 discussing with anyone at CS Corcoran [sic].

20 Q. And when was that conversation?

21 A. I believe it was Monday.

22 Q. Was it by telephone?

23 A. No. I was on grounds at CSP Cocoran on  
24 Monday.

25 Q. So you met with them in person?

1 A. I did.

2 Q. About how long did the meeting go for?

3 A. So the meeting regarding preparation of this,  
4 or the questions about their cameras, was five minutes  
5 -- approximately five minutes in length.

6 Q. Did you meet with them about other topics as  
7 well?

8 A. Yes.

9 Q. Were those topics related to your preparation  
10 for this deposition?

11 A. No.

12 Q. What were they about?

13 MR. MAIORINO: Objection to the extent it  
14 calls for confidential or privileged information.

15 THE WITNESS: The conversation was about  
16 COVID-19 expectations, compliance, what we are doing at  
17 that institution to ensure that we are following the  
18 policies, procedures and expectations of the department.

19 BY MR. FREEDMAN:

20 Q. While you were at Corcoran, did you go on the  
21 grounds of the prisons -- I'm sorry, go on the grounds  
22 of the prison to examine any of the surveillance cameras  
23 there?

24 A. While I was at Corcoran, I was -- I did walk  
25 through the institution to manage compliance with our

1 COVID-19 -- not specifically for cameras or viewing  
2 those. It was a compliance check to ensure that the  
3 incarcerated persons, our staff members and our managers  
4 are all followings those expectations. That was the  
5 reason for the visit.

6 Q. In preparation for this deposition, did you  
7 speak to anyone from Kern Valley State Prison?

8 A. Yes. I believe I had that same conversation  
9 with Kern Valley.

10 Q. And when you say "that same conversation," do  
11 you mean about the types and placements of cameras at  
12 Kern Valley?

13 A. No. I mean the part of if it's -- if that  
14 footage is recorded versus not recorded and if it is  
15 recorded, the general length of time that that footage  
16 is -- the loop -- the length of the loop of that  
17 footage.

18 Q. Okay.

19 And -- and by "the loop," do you mean how long  
20 the video footage, if it is recorded, is able to be  
21 retained before it's recorded over again?

22 A. Yes. The general -- what they have  
23 experienced as the length of their loop, yes.

24 Q. Who did you speak to about that topic?

25 A. I believe I spoke with the acting chief deputy

1 warden.

2 Q. Anyone else?

3 A. I believe an investigative services  
4 supervisor. I'm not quite sure if it was a lieutenant  
5 or a sergeant. It was just in passing.

6 Q. This conversation, was it in person or by some  
7 other means?

8 A. It was in person.

9 Q. And -- and how long did the conversation take?

10 A. That conversation was approximately two to  
11 three minutes in total.

12 Q. Was this conversation about the surveillance  
13 cameras the only reason that you were at KVSP that day?

14 A. No.

15 Q. What other purpose was -- did you have for  
16 your visit to KVSP that day?

17 A. The purpose for the visit was COVID compliance  
18 and ensuring that Kern Valley State Prison was in  
19 compliance with the policies, procedures and  
20 expectations in regards to COVID-19 response.

21 Q. To prepare for this deposition today, did you  
22 speak to anyone from the California Correctional  
23 Institution?

24 A. No, I do not believe so.

25 Q. So in telling me about your conversations at



1 Corcoran and KVSP, we've added a few additional people  
2 who you spoke to to prepare for this deposition. Is  
3 there anyone else who we haven't mentioned yet who you  
4 spoke to to prepare for this deposition?

5 A. No, I believe those are the only individuals I  
6 spoke with regarding preparation for this deposition.

7 Q. Is there anyone else who you communicated with  
8 in some other means -- email, letter, fax -- to prepare  
9 for this deposition?

10 A. If -- if I haven't already acknowledged  
11 correspondence with the wardens or chief deputy wardens  
12 in regards to that same type of camera, how many, where  
13 are they located, a general concept, if they are  
14 recordable or not, then that would include those  
15 individuals as well.

16 Q. I'm sorry. I didn't quite understand that --  
17 that answer. Are you saying there -- there are some  
18 additional people who you corresponded with, or are you  
19 just referring to the people at Corcoran and KVSP who  
20 you communicated with about the cameras?

21 A. So to clarify, there were [sic] correspondence  
22 in preparation with the chief deputy wardens and the  
23 wardens at all four of the institutions regarding  
24 cameras, placement of the cameras, the general  
25 information on their experience with their loop

1 extent -- or the extents -- the extent -- their time  
2 that they are experiencing with their loop. So that  
3 would be additional people.

4 Q. So you did correspond -- you did communicate  
5 with people at LAC about surveillance cameras; is that  
6 correct?

7 A. Yes, that is correct. I communicated them --  
8 with them either via my team or myself in emails with  
9 California State Prison, Lancaster, as well as  
10 California Correctional Institution in Tehachapi.

11 THE REPORTER: What was the last part you  
12 said, "California Correctional Institution in" --

13 THE WITNESS: In Tehachapi.

14 THE REPORTER: Thank you.

15 BY MR. FREEDMAN:

16 Q. Now, did you also correspond with or  
17 communicate with -- other than in person -- people from  
18 Corcoran and KVSP about cameras?

19 In other words, were there written  
20 communications with people from those prisons about  
21 cameras there?

22 A. Yes.

23 Q. So you communicated in writing with staff from  
24 Corcoran, KVSP, CCI and LAC about surveillance cameras;  
25 is that correct?

1           A.  Either myself and/or my team on behalf of me  
2 in preparation.  Yes.

3           Q.  Is there anything -- well -- well, we've  
4 discussed a number of things that you did to prepare  
5 for -- for your testimony today.  Could you estimate how  
6 much time you spent preparing for the -- the deposition?

7           A.  I would say approximately 50 or so hours.

8           Q.  And that was 5-0, 50?

9           A.  Yes.

10          Q.  I'm going to ask you a couple of questions  
11 about meetings or -- either virtual or telephonic or  
12 in-person with your attorneys.  I'm not asking for any  
13 of the substance about what you talked about, so -- so  
14 don't -- if you are thinking about giving that in  
15 answer, please don't do that.

16                   Have you met with your attorneys at all to  
17 prepare for your deposition today?

18           MR. MAIORINO:  Objection to the extent it  
19 calls for --

20           THE REPORTER:  I'm sorry.  Can you repeat your  
21 objection?

22           MR. MAIORINO:  Sure.  Objection to the extent  
23 it calls for attorney-client communications that are  
24 privileged information or work product --

25           THE REPORTER:  Objection to the extent -- I am

1 sorry.

2 MR. MAIORINO: Yes -- I'll move.

3 THE REPORTER: Just move closer and just  
4 objection?

5 MR. MAIORINO: Can you hear me?

6 THE REPORTER: Yes.

7 MR. MAIORINO: Okay. Which part did you  
8 get --

9 THE REPORTER: Maybe just start over.

10 MR. MAIORINO: Objection to the extent it  
11 calls for attorney-client communications or work  
12 product. You can respond to the extent that it does  
13 not.

14 BY MR. FREEDMAN:

15 Q. Do you -- do you recall the question now?

16 A. Yes, I do. And the answer is yes.

17 Q. How many times did you meet with your  
18 attorneys?

19 MR. MAIORINO: Same objections.

20 THE WITNESS: I believe four.

21 BY MR. FREEDMAN:

22 Q. Do you recall the dates that you met with your  
23 attorneys, those four meetings?

24 MR. MAIORINO: Same objections.

25 THE WITNESS: I believe it's in the dates

1 I'm -- would have to figure out -- but --

2 BY MR. FREEDMAN:

3 Q. When -- when was the first meeting?

4 MR. MAIORINO: Same objections.

5 THE WITNESS: I believe it was last Saturday.

6 BY MR. FREEDMAN:

7 Q. And are you referring to November 14th? Is  
8 that right?

9 A. Yes, that sounds right.

10 Q. And so between November 14th and today, you  
11 have met with your attorneys four times to prepare for  
12 this deposition; is that correct?

13 MR. MAIORINO: Same objections.

14 THE WITNESS: I apologize. All my days are  
15 running together. Yes, I believe that's accurate.

16 BY MR. FREEDMAN:

17 Q. And in total, with the four meetings, could  
18 you estimate how much time you spent with your attorneys  
19 preparing for this deposition?

20 MR. MAIORINO: Same objections.

21 THE WITNESS: Approximately 10 to 11 hours.

22 BY MR. FREEDMAN:

23 Q. At any of these four meetings, were there any  
24 non-attorneys other than you?

25 MR. MAIORINO: Objection. Calls for

1 attorney-client communication, privileged work product.

2 THE WITNESS: I was the only non-attorney.

3 BY MR. FREEDMAN:

4 Q. When -- for this next question, I'm not asking  
5 about the conversations with your attorneys. I'm  
6 talking about the -- the conversations and  
7 communications that you had with other people to prepare  
8 for this deposition. Did you take any notes in any  
9 format related to your conversations that you had to  
10 prepare for this deposition?

11 MR. MAIORINO: Objection to the extent it  
12 calls for confidential information and privileged  
13 information. It's beyond the scope of his PMK desig- --  
14 designation.

15 THE WITNESS: When speaking with people other  
16 than my attorneys, it was no specific handwritten notes  
17 taken by myself. No, I didn't take any notes.

18 BY MR. FREEDMAN:

19 Q. Did someone else take notes?

20 MR. MAIORINO: Same objections.

21 Calls for speculation.

22 THE WITNESS: None that I know of.

23 BY MR. FREEDMAN:

24 Q. Did you bring any documents with you here  
25 today for -- to testify?

1 A. No, I did not.

2 Q. Okay. What is your current job title?

3 A. My current job title is associate director of  
4 the High Security Mission, Male Institution.

5 Q. How long have you been in that position?

6 A. I started acting in this position as the  
7 acting associate director in January of this year, 2020.  
8 And I was appointed by the governor in March of this  
9 year to this position.

10 Q. As the associate director for the High  
11 Security Mission at male prisons, what are your job  
12 duties?

13 A. I have so many job duties, but a -- a general  
14 outline of my duties and responsibilities are the  
15 day-to-day operations overview of the ten prisons  
16 assigned within my mission; to perform in the department  
17 executive review committee as the chair of cases that  
18 review -- that are reviewed at the department executive  
19 review committee, the DERC; approving time off; general  
20 supervision of the wardens assigned to the prisons  
21 within my mission; exchanging information or  
22 expectations from the director's office; doing  
23 operations reviews; mentorship; budget overview and any  
24 other duties as assigned by my supervisor.

25 Q. Sounds like a pretty big portfolio. So you

1 said there are ten prisons in the High Security Mission;  
2 is that correct?

3 A. Yes, that is correct.

4 Q. Could you tell me what those ten prisons are?

5 A. High Desert State Prison; Pelican Bay State  
6 Prison; Salinas Valley State Prison; California State  
7 Prison, Sacramento County; Kern Valley State Prison;  
8 California State Prison, Corcoran; Substance Abuse  
9 Treatment Facility at Corcoran, also known as SATA;  
10 California State Prison, Los Angeles County; California  
11 City Correctional Facility and California Correctional  
12 Institution in Tehachapi. I believe I hit all ten.

13 Q. Is there a definition of what a -- a "high  
14 security prison" is?

15 A. The general understanding of a high security  
16 prison is a level 4 institution.

17 Q. Do all of the institutions that you just  
18 listed have at least one level 4 yard?

19 No.

20 Q. And which ones do not have a level 4 yard?

21 A. California City is not an institution with a  
22 level 4 yard, and I believe the other nine do.

23 Q. What responsibilities do you have with respect  
24 to LAC prison?

25 A. I apologize. Can you rephrase that question?



1 Q. Well, so you said there are ten prisons in the  
2 High Security Mission, correct?

3 A. Yes.

4 Q. And LAC prison is one of those ten prisons,  
5 right?

6 A. Correct. Yes.

7 Q. So on a day-to-day basis, what are your job  
8 responsibilities as they relate to LAC prison?

9 A. The overall operation of the day-to-day is run  
10 by the warden. My function is more oversight, support,  
11 if something comes up where they need additional  
12 resources. Items like that is the primary day-to-day  
13 review, reviewing reports, reviewing requests for  
14 overtime, hiring requests, things of that nature.

15 Q. Is it fair to say that you're responsible for  
16 supervising the operation of LAC prison?

17 MR. MAIORINO: Objection. Vague and  
18 ambiguous. Overbroad. Calls for speculation.

19 THE WITNESS: I would say that it's my job,  
20 the day-to-day supervision of the warden, who is  
21 responsible for the operations of that prison.

22 BY MR. FREEDMAN:

23 Q. And is -- is that same responsibility true for  
24 all ten of the institutions in the High Security  
25 Mission?

1 A. Yes.

2 Q. For the prisons in the High Security Mission,  
3 do you communicate frequently with the wardens at those  
4 prisons?

5 MR. MAIORINO: Objection. Vague and  
6 ambiguous.

7 THE WITNESS: I communicate on a regular basis  
8 with the -- the wardens at the -- my assigned  
9 institutions.

10 BY MR. FREEDMAN:

11 Q. And when you say "regular basis," what do you  
12 mean?

13 A. We have standing calls that we discuss what is  
14 going on in the mission. Whenever there is information  
15 that needs to be passed down to the institutions, I  
16 communicate with them. Any time that they request  
17 communication or asking a question or general  
18 assignments come up that are specific to institutions,  
19 then I will be speaking with or communicating with those  
20 wardens and/or chief deputy wardens [sic].

21 Q. Who do you report to?

22 A. My direct supervisor's the Deputy Director Kim  
23 Seibel.

24 Q. And who reports to you?

25 A. The direct reports to me are the wardens at

1 the institutions, are the wardens that are at each one  
2 of the institutions in the High Security Mission. I  
3 have an associate warden in charge of our mission. I  
4 have an executive assistant that is a -- in our mission.  
5 I believe those are all my direct reports.

6 Q. And -- and the last -- actually let's just say  
7 in -- in 2020, how many times have you been to LAC,  
8 approximately?

9 A. Myself, personally?

10 Q. Yourself, personally.

11 And actually, let -- let me clarify that  
12 question a little bit more. I believe you said you were  
13 appointed as the acting director in January 2020, and  
14 then you were made the -- the -- formally appointed to  
15 the position in March 2020; is that right?

16 A. Yes. I started acting in this role January of  
17 2020 and I was appointed in March of 2020 to this  
18 assignment, yes.

19 Q. Okay. So let me rephrase my question to be:  
20 Since you were appointed as the acting associate  
21 director for the High Security Mission, how many times  
22 have you personally been to LAC?

23 A. I would say approximately four times.

24 Q. And I'll ask the same question about KVSP.  
25 How many times have you been there since you were

1 appointed acting director of the High Security Mission?

2           Sorry, acting associate director of the High  
3 Security Mission.

4           A. I would say approximately two times.

5           Q. Since you were appointed acting associate  
6 director of the high security mission, how many times  
7 have you been to Corcoran state prison?

8           A. Approximately three times.

9           Q. And since you were appointed acting associate  
10 director of the High Security Mission, how many times  
11 have you been to CCI?

12           A. I would say approximately four times.

13           Q. Now, before you were appointed into this  
14 position, what other jobs did -- if any, did you have in  
15 CDCR, let's say in the last ten years?

16           A. Previous to my appointment in this position, I  
17 was the warden at the California Medical Facility. I  
18 held a position as a chief deputy warden at Folsom State  
19 Prison. I was the associate warden of the High Security  
20 Mission, the DAI headquarters. I was the acting chief  
21 deputy warden at the California Health Care Facility in  
22 Stockton. I was the acting chief deputy warden at  
23 California State Prison, Solano County. I was the chief  
24 of the inmate -- correction. I was the chief of the  
25 office of appeals. And I was a facility captain

1 assigned to dual vocational institution. I believe that  
2 covers assignments that I have had over the last ten  
3 years.

4 Q. Did you start in the department as -- an  
5 officer?

6 A. Yes, I did.

7 Q. And when was that?

8 A. My hire date is November 1st, 1997.

9 Q. And so you have worked your way up, all the  
10 way from officer to now an associate director; is that  
11 correct?

12 A. Yes, sir.

13 Q. When you worked in the prisons, you already  
14 said you worked as an officer. Did you work as a  
15 sergeant in the prison?

16 A. I did.

17 Q. Have you worked as a lieutenant in the prison?

18 A. I did.

19 Q. And I believe you already mentioned that you  
20 worked as a captain in the prison, is that correct, at  
21 DBI?

22 A. Yes, sir. I apologize. Can we take a break?

23 MR. FREEDMAN: Absolutely. Let's go off the  
24 record.

25 (Brief recess.)

1 BY MR. FREEDMAN:

2 Q. All right. Could you please pull up Lozano

3 EX 2?

4 A. Okay.

5 Q. Do you know what this document is?

6 A. Yes.

7 Q. And what is it?

8 A. It's the Armstrong remedial plan.

9 Q. Are you aware that the Armstrong remedial plan  
10 requires CDCR to provide reasonable accommodations to  
11 incarcerated people with disabilities to ensure that  
12 they can participate in CDCR program services and  
13 activities?

14 A. Yes, I believe that's accurate.

15 Q. Are you aware that the Armstrong remedial plan  
16 requires CDCR to make a grievance process available for  
17 incarcerated people to request disability  
18 accommodations?

19 A. Yes. I believe that's accurate.

20 Q. Do you know what an 1824 is?

21 A. Yes, I do.

22 Q. And what is it?

23 A. It's a reasonable accommodation request form.

24 Q. And what is that form used for?

25 A. It's used for incarcerated persons that are

1 requesting a reasonable accommodation to document that  
2 reasonable accommodation request.

3 Q. Do you know what the abbreviation "DPW" means?

4 A. I know what it stands for. Yes.

5 Q. What does it stand for?

6 A. I believe it's disability placement in a  
7 wheelchair.

8 Q. And if someone has a DPW code, what does that  
9 signify?

10 MR. MAIORINO: Objection. Vague and  
11 ambiguous. Overbroad. Beyond the scope of his  
12 designation --

13 THE REPORTER: I have "beyond the scope of his  
14 designation." Was there any more?

15 MR. MAIORINO: Designation as a PMK.

16 THE WITNESS: For me, it signifies somebody --  
17 an incarcerated person that needs a wheelchair.

18 BY MR. FREEDMAN:

19 Q. Do you know what the -- the abbreviation "DPH"  
20 means?

21 A. Yes, I believe I do.

22 Q. And what does it mean?

23 A. Disabilities placement due to hearing.

24 Q. And if someone has a DPH designation, what  
25 does that signify?

1 MR. MAIORINO: Objection. Vague and  
2 ambiguous. Beyond the scope of his designation as a  
3 PMK.

4 THE WITNESS: For me, it signifies that the  
5 incarcerated person will need some assistance in  
6 hearing.

7 BY MR. FREEDMAN:

8 Q. I should have asked you this earlier. In any  
9 of your -- were you ever an ADA coordinator in any of  
10 the institutions that you worked?

11 A. No.

12 Q. Did you ever fill in -- in for that role in  
13 any period of time, when perhaps the ADA coordinator was  
14 on vacation or something like that?

15 MR. MAIORINO: Objection. Vague and  
16 ambiguous.

17 THE WITNESS: No.

18 BY MR. FREEDMAN:

19 Q. Are you aware of CDCR's obligation, pursuant  
20 to an order of the Court in Armstrong, to log  
21 allegations that a staff member was responsible for an  
22 incarcerated person with a disability not receiving  
23 access to services, programs or activity that CDCR is  
24 required to provide?

25 MR. MAIORINO: Objection. Beyond the scope of



1 his designation as a PMK in this deposition.

2 THE WITNESS: So I am aware that the  
3 department is obligated to log in allegations of  
4 noncompliance.

5 BY MR. FREEDMAN:

6 Q. And that log is -- is that log commonly  
7 referred to as "the noncompliance log"?

8 A. It is, yes.

9 Q. Does CDCR consider mental illness to be a  
10 disability?

11 MR. MAIORINO: Objection. Vague and  
12 ambiguous. Assumes facts. Goes beyond scope of his  
13 designation as a PMK for this deposition.

14 THE WITNESS: I don't know if CDCR considers  
15 mental health a disability.

16 BY MR. FREEDMAN:

17 Q. Do you consider mental illness to be a  
18 disability?

19 MR. MAIORINO: Objection. Goes beyond the  
20 scope of his designation as a PMK for this deposition.  
21 He's not here to give his personal opinions.

22 THE WITNESS: In my opinion, it may or may not  
23 be disability.

24 BY MR. FREEDMAN:

25 Q. And again, this is in your opinion, but what

1 would determine for you whether or not someone's mental  
2 illness was or was not a disability -- a disability?

3 MR. MAIORINO: Objection. Overbroad. Vague  
4 and ambiguous. Calls for an incomplete hypothetical.  
5 Goes beyond the scope of his designation as the PMK for  
6 this deposition. He's not here to give his personal  
7 opinions.

8 THE WITNESS: My opinion, the difference would  
9 be if -- an incarcerated person's mental health can be  
10 managed where he or she or they could function at a high  
11 enough level within our system.

12 BY MR. FREEDMAN:

13 Q. And if they couldn't function at a high enough  
14 level within the system, would you then consider that  
15 their mental illness would be a disability?

16 MR. MAIORINO: Objection.

17 BY MR. FREEDMAN:

18 Q. If that inability function was because of  
19 that mental illness.

20 MR. MAIORINO: Objection. Vague and  
21 ambiguous. Incomplete hypothetical. Goes beyond the  
22 scope of his designation as a PMK for this deposition.  
23 He's not here to give his personal opinions.

24 THE WITNESS: I would say, my person opinion,  
25 that if they are mentally incapable of caring for

1 themselves, then they would be -- that would be a  
2 disability.

3 BY MR. FREEDMAN:

4 Q. Are you aware of ongoing and pending  
5 litigation in the Armstrong case about staff misconduct  
6 against people with disabilities?

7 MR. MAIORINO: Objection. Vague and  
8 ambiguous.

9 THE WITNESS: I am aware that there is  
10 allegations -- correction. I am aware that there are --  
11 there is litigation in the court. I'm unaware of the  
12 exact litigation.

13 BY MR. FREEDMAN:

14 Q. Okay. I believe you -- you previously  
15 mentioned that you reviewed parts of a declaration from  
16 Secretary Diaz, correct?

17 A. That is correct.

18 Q. And as far as you are aware, was that a  
19 declaration that was filed as part of the staff  
20 misconduct litigation?

21 MR. MAIORINO: Objection. Vague and  
22 ambiguous. Calls for speculation.

23 THE WITNESS: I don't know why it was  
24 submitted -- talk about --

25 THE REPORTER: Okay, wait. I'm sorry. My

1 audio just cut out for a second. I got "I don't know  
2 why it was submitted."

3 THE WITNESS: Yeah. I don't know why it was  
4 submitted. However, I believe it was regarding, in a  
5 general sense, allegations of staff misconduct.

6 BY MR. FREEDMAN:

7 Q. Are -- are you aware that in February 2020,  
8 plaintiffs in Armstrong filed a motion about staff  
9 misconduct against people with disabilities at  
10 RJ Donavon correction -- Correctional Facility?

11 MR. MAIORINO: Objection. Goes beyond the  
12 scope of his designation as a PMK for this deposition.

13 THE WITNESS: I'm aware that the  
14 allegations -- or the -- I'm aware that something  
15 occurred of that nature. I'm not aware of the details  
16 of that or when it actually occurred.

17 BY MR. FREEDMAN:

18 Q. Are you aware that on September 8th, 2020, the  
19 Court granted that motion?

20 MR. MAIORINO: Objection. Misstates facts.  
21 Goes beyond the scope of his designation as a PMK for  
22 this deposition.

23 THE WITNESS: I'm not aware if that motion was  
24 granted as I don't know the specifics of the actual  
25 motion that was requested to the Court. However, I am

1 aware that the Court is requiring the department to  
2 do -- has ordered the department to do items at  
3 RJ Donovan.

4 BY MR. FREEDMAN:

5 Q. Have you read the court order requiring the  
6 department do those things at RJ Donovan Correctional  
7 Facility?

8 MR. MAIORINO: Objection. Beyond the scope of  
9 his designation as a PMK for this deposition.

10 THE WITNESS: I have not.

11 BY MR. FREEDMAN:

12 Q. Have you read any of the materials that  
13 plaintiffs have filed in court about staff misconduct at  
14 RJ Donovan Correctional Facility?

15 MR. MAIORINO: Objection. Vague and  
16 ambiguous. Overbroad. Calls for speculation.

17 THE WITNESS: I have not reviewed any items  
18 or -- that the plaintiff submitted as re- -- regarding  
19 RJ Donovan or those court documents.

20 BY MR. FREEDMAN:

21 Q. Are you aware that on June 3rd, 2020,  
22 plaintiffs in Armstrong filed another motion and that  
23 this motion was about staff misconduct against people  
24 with disabilities at other prisons within CDCR, not  
25 RJ Donovan?

1           A. I am aware that there was a submission to the  
2 Court. I don't know specifically what it said or when  
3 it was actually completed.

4           Q. Have you read any of the materials that  
5 plaintiffs have filed in support of the second motion  
6 about prisons other than RJD?

7           MR. MAIORINO: Objection. Vague and  
8 ambiguous. Calls for speculation. Overbroad.

9           THE WITNESS: Not to my knowledge.

10 BY MR. FREEDMAN:

11           Q. Have you read any of the declarations  
12 submitted by incarcerated people with disabilities about  
13 staff misconduct that they experienced or witnessed?

14           MR. MAIORINO: Objection. Vague and  
15 ambiguous. Overbroad. Calls for speculation.

16           THE WITNESS: I've read declarations made by  
17 incarcerated persons. I don't know if those were  
18 supporting documents in any filings. I've only read  
19 them as part of my normal job duties.

20 BY MR. FREEDMAN:

21           Q. And -- and how did those -- let me back up.  
22 About how many declarations did you review from  
23 incarcerated people about staff misconduct?

24           MR. MAIORINO: Objection. Vague and  
25 ambiguous. Overbroad. Calls for speculation.

1 THE WITNESS: Two or three maybe.

2 BY MR. FREEDMAN:

3 Q. And -- and what part -- how are those  
4 declarations relevant to your job duties?

5 MR. MAIORINO: Objection. Vague and  
6 ambiguous. Overbroad. Calls for a legal conclusion.

7 THE WITNESS: As part of my normal job  
8 assignment or duties, if there are allegations of staff  
9 misconduct by advocacy groups, incarcerated persons  
10 by -- via handwritten notice, those are items that  
11 potentially I would review.

12 BY MR. FREEDMAN:

13 Q. If you recall, who provided those declarations  
14 to you?

15 MR. MAIORINO: Objection. Vague and  
16 ambiguous. Overbroad.

17 THE WITNESS: I don't recall.

18 BY MR. FREEDMAN:

19 Q. Do you recall the names of the individuals --  
20 the declarants?

21 A. I do not.

22 Q. Do you recall what -- do you recall the  
23 prisons at which their declarations described  
24 misconduct?

25 A. I do not exactly remember the prison or

1 prisons that it involved.

2 Q. Were they High Security Mission prisons?

3 MR. MAIORINO: Objection. Vague and  
4 ambiguous. Calls for speculation.

5 THE WITNESS: My guess -- my best guess would  
6 be yes.

7 BY MR. FREEDMAN:

8 Q. And is that because you are in charge of the  
9 High Security Mission and it would make sense for you to  
10 see them in that context?

11 A. Yes.

12 Q. Other than those two or three declarations  
13 from incarcerated people about staff misconduct at high  
14 security prisons, have you reviewed any other  
15 declarations from incarcerated people about staff  
16 misconduct in CDCR?

17 MR. MAIORINO: Objection. Vague and  
18 ambiguous. Overbroad as to time. Calls for  
19 speculation.

20 THE WITNESS: In preparing for this  
21 deposition, I would say no.

22 BY MR. FREEDMAN:

23 Q. Have you -- have you reviewed either of 'the  
24 declarations from plaintiffs' expert Jeffrey Schwartz?

25 A. No.



1 Q. Have you reviewed either of the declarations  
2 from plaintiffs' expert Eldon Vale?

3 A. No.

4 Q. Have you reviewed any of the declarations, in  
5 context of this staff misconduct litigation, of any  
6 declarations by Michael Freedman?

7 A. None that I know of, no.

8 Q. Have you reviewed any declarations filed by  
9 A. Grunfeld in the context of the staff misconduct  
10 litigation?

11 A. No.

12 Q. Have you -- have you reviewed any of the --  
13 the briefs that the plaintiffs have filed in support of  
14 the motion about RJ Donovan Correctional Facility?

15 MR. MAIORINO: Objection. Goes beyond the  
16 scope of his designation as a PMK for this deposition.

17 THE WITNESS: No, not to my knowledge.

18 BY MR. FREEDMAN:

19 Q. Have you reviewed any of the briefs that  
20 defendants have filed in the context of the litigation  
21 about RJ Donovan Correctional Facility?

22 MR. MAIORINO: Same objection.

23 THE WITNESS: Not that I'm aware of, no.

24 BY MR. FREEDMAN:

25 Q. Have you reviewed any of plaintiffs' briefs

1 filed in -- related to the staff misconduct litigation  
2 about prisons other than RJ Donovan Correctional  
3 Facility?

4 A. No, not that I'm aware of.

5 Q. Have you reviewed any of the briefs filed by  
6 defendants related to the staff misconduct litigation  
7 about prisons other than RJ Donovan Correctional  
8 Facility?,

9 A. No, not that I'm aware of.

10 Q. What was your reaction to the two or three  
11 declarations you read from incarcerated people about  
12 staff misconduct?

13 MR. MAIORINO: Objection. Overbroad. Goes  
14 beyond the scope of this deposition. He's not here to  
15 give his personal opinions or reactions.

16 THE WITNESS: My reaction was there was an  
17 allegation and we needed to review it.

18 BY MR. FREEDMAN:

19 Q. Does the CDCR have an obligation to review  
20 allegations of misconduct?

21 A. Yes.

22 Q. Do you know if there has been any  
23 investigation into the allegations of misconduct  
24 contained in the two or three declarations you reviewed?

25 MR. MAIORINO: Objection. Vague and

1 ambiguous. Overbroad. Goes beyond the scope of his  
2 designation as a PMK to this deposition.

3 THE WITNESS: I apologize. Your audio started  
4 cutting out at the end of that question.

5 BY MR. FREEDMAN:

6 Q. Sure. I'm happy to repeat it.

7 A. Please.

8 Q. Do you know if any investigation has been  
9 conducted into the allegations of staff misconduct  
10 contained in the two or three declarations that you  
11 reviewed?

12 MR. MAIORINO: Same objection.

13 THE WITNESS: I believe inquiries and/or  
14 investigations were completed into those allegations of  
15 staff misconduct.

16 BY MR. FREEDMAN:

17 Q. Did you review the results of those  
18 investigations or inquiries?

19 MR. MAIORINO: Objection. Goes beyond the  
20 scope of his designation for this PMK deposition.

21 THE WITNESS: I don't remember whether or not  
22 I actually personally reviewed those.

23 BY MR. FREEDMAN:

24 Q. Do you know if any staff members were  
25 disciplined related to the allegations of misconduct

1 contained in any of those declarations?

2 MR. MAIORINO: Objection. Goes beyond the  
3 scope of his designation for this deposition. Vague and  
4 ambiguous.

5 THE WITNESS: No, I do not know.

6 BY MR. FREEDMAN:

7 Q. I just want to be clear. You have not read  
8 the Court's September 8th, 2020, orders regarding RJ  
9 Donovan Correctional Facility; is that correct?

10 A. That is correct. I do not believe I have read  
11 that.

12 Q. When was the last time that you received  
13 training related to the Armstrong litigation and  
14 accommodations --

15 THE REPORTER: The end of the question got cut  
16 off again.

17 MR. FREEDMAN: Fair.

18 BY MR. FREEDMAN:

19 Q. When was the last time that you received  
20 training about Armstrong and accommodations for people  
21 with disabilities?

22 MR. MAIORINO: Vague and ambiguous, goes  
23 beyond the scope of his designation as a PMK for this  
24 deposition.

25 THE WITNESS: I believe this year.

1 BY MR. FREEDMAN:

2 Q. Do you recall when?

3 MR. MAIORINO: Same objections.

4 THE WITNESS: I do not.

5 BY MR. FREEDMAN:

6 Q. All right. I'd like to ask you some questions  
7 about cameras. And it probably makes sense just to go  
8 facility by facility. So are there any functional  
9 surveillance cameras at LAC?

10 A. I'm sorry. Your audio broke up.

11 Q. Gosh, I'm sorry, guys. Am I -- let me -- let  
12 me get a little bit closer.

13 Are there any functional surveillance cameras  
14 at LAC?

15 A. Yes, I believe there are.

16 Q. And where are those functional surveillance  
17 cameras located?

18 A. The functional cameras at California State  
19 Prison, Los Angeles County reside in our visiting areas  
20 for incarcerated-person visiting. There are some  
21 cameras in sally port areas.

22 THE REPORTER: In sally port?

23 THE WITNESS: In sally port areas.

24 BY MR. FREEDMAN:

25 Q. It's S-A-L-L-Y P-O-R-T, correct?

1 A. I believe so, yes.

2 THE REPORTER: Thank you.

3 THE WITNESS: There are cameras in their PIA  
4 warehouse area, and there are -- I believe there are  
5 cameras in their EOP treatment center.

6 Q. Do those cameras have the capability to record  
7 video?

8 A. I believe some do and some don't.

9 Q. Which ones do have the ability to record  
10 video?

11 A. I believe the PIA warehouse area cameras, the  
12 visiting cameras, and I believe the EOP treatment  
13 cameras have recording capabilities.

14 Q. And the sally port video cameras do not have  
15 the ability to record; is that correct?

16 A. That is my understanding, yes.

17 Q. And how long -- for the cameras that do  
18 record, how long is -- does LAC --

19 MR. MAIORINO: Objection. Vague and  
20 ambiguous. Overbroad.

21 THE REPORTER: My audio cut out. I don't know  
22 the --

23 MR. MAIORINO: Objection. Vague and  
24 ambiguous. Overbroad.

25 THE REPORTER: The end of the question. "And

1 how long -- for the cameras that do record, how long" --

2 MR. FREEDMAN: How long does LAC retain the  
3 video?

4 THE WITNESS: So the initial retention of  
5 video for LAC is around -- around three to four weeks  
6 for their cameras that are -- for the custody component  
7 of it. The PIA, I believe those -- the initial  
8 retention for those cameras are [sic] around 90 days.  
9 However, during the initial retention period, if there's  
10 a need to download or save parts of that video that they  
11 have access to, then that's what they would do.

12 BY MR. FREEDMAN:

13 Q. So in the visiting area and the EOP treatment  
14 center, video is retained in the ordinary course for  
15 three to four weeks; is that correct?

16 A. Yes, I believe that's the case.

17 Q. And in the PIA warehouse, the video is  
18 retained in the ordinary course for 90 days; is that  
19 correct?

20 A. Yes, I believe that to be the understanding as  
21 well, that that's the -- the "length of the loop," for  
22 lack of a better term.

23 Q. And the -- the sally ports that you discussed  
24 that do not have the ability to record video, where are  
25 those sally ports located?

1 A. My understanding is those sally ports are the  
2 institution pedestrian and vehicle sally port areas.

3 Q. So those are not sally ports, for example,  
4 into or out of housing units; is that correct?

5 A. Yes, that's correct.

6 Q. And the EOP treatment center that you referred  
7 to, is that a clinical building where people go into and  
8 out of to receive care, or is that a housing unit?

9 A. That's a clinical building where incarcerated  
10 persons receive care.

11 Q. Are there any other places with cameras at LAC  
12 that you have not already mentioned?

13 A. Those are the ones I -- I know of.

14 Q. So at LAC, there are no surveillance cameras  
15 in any housing units, right?

16 A. I am not aware of any surveillance cameras  
17 inside any housing units at LAC.

18 Q. There's no housing -- there's no surveillance  
19 cameras on any yards at LAC, right?

20 And by "yards," I mean the exer- -- covering  
21 the exercise yard, not -- does that make sense?

22 A. Yes, it does. So the incarcerated person  
23 exercise yards.

24 Q. Correct. And there's no cameras, surveillance  
25 cameras on -- in those areas, are there?



1 A. None that I'm aware of.

2 Q. And there's no surveillance cameras in any  
3 program areas such as classrooms, correct?

4 MR. MAIORINO: Objection. Vague and  
5 ambiguous. Overbroad.

6 THE WITNESS: Inside classrooms -- just  
7 specific to the EOP treatment center that I have  
8 discussed already, that's the only -- those are the only  
9 ones that I know of.

10 BY MR. FREEDMAN:

11 Q. But outside of that EOP treatment center,  
12 there would not be any cameras in any program areas such  
13 as classrooms, correct?

14 A. I'm not aware of any, correct.

15 Q. As far as you are aware, there's no  
16 surveillance cameras in any dining halls at LAC, right?

17 A. That's correct. I'm not aware of any cameras  
18 inside dining halls at LAC.

19 Q. Why hasn't CDCR installed surveillance cameras  
20 in more areas at LAC?

21 A. I don't know why the -- the Department of  
22 Corrections and Rehabilitations hasn't already placed  
23 more cameras in LAC.

24 Q. I'm sorry. Can you -- can you say that again?  
25 I'm not sure I quite caught it.

1           A. Yeah. So I'm -- I don't know why the local  
2 institution, LAC, doesn't have cameras in other areas.

3           Q. Do you know if the warden at LAC would like  
4 for more surveillance cameras to be installed in the  
5 prison?

6           MR. MAIORINO: It's vague and ambiguous,  
7 overbroad.

8           THE WITNESS: I don't know what the warden's  
9 likes or dislikes in regards to cameras are at LAC.

10 BY MR. FREEDMAN:

11           Q. In your communications with the staff at LAC  
12 about cameras, did you -- you didn't -- did you ask them  
13 whether they would like more cameras to be installed  
14 there?

15           A. No, I didn't specifically ask if they wanted  
16 more cameras there at LAC.

17           Q. Did you ask them whether they thought the  
18 number of cameras at LAC were sufficient?

19           A. No, I did not.

20           Q. Does CDCR have any plans to install additional  
21 surveillance cameras at LAC?

22           MR. MAIORINO: Objection. Vague and  
23 ambiguous.

24           THE WITNESS: Yes, I believe we do.

25 ///

1 BY MR. FREEDMAN:

2 Q. And what are those plans?

3 A. LAC was a part of our multiyear plan in order  
4 to procure and dispatch audio-visual surveillance  
5 solutions throughout multiple institutions of the state,  
6 LAC specifically. My understanding is that the priority  
7 at LAC right now are two other facilities located at  
8 LAC.

9 Q. And what are those two facilities?

10 A. I believe they are ■ as in ■ facility and  
11 ■ as in ■ facility.

12 Q. Is there any current timeline for when  
13 surveillance cameras will be installed in those two  
14 facilities?

15 MR. MAIORINO: Objection. Vague and  
16 ambiguous.

17 THE WITNESS: I don't have an actual timeline  
18 when audio-visual surveillances or solutions would be  
19 dispatched to those two facilities at LAC. But I know  
20 they are a priority and the department's currently  
21 working on it.

22 Q. Does the department currently have funding for  
23 installing surveillance cameras on facilities B and D?

24 A. So I'm not exactly sure what the funding  
25 status is on any of our solutions, audio-visual

1 solutions. I know that the department is working hard  
2 with stakeholders to procure a plan, funding, so that  
3 all of this stuff can be dis- -- dispatched.

4 BY MR. FREEDMAN:

5 Q. Has CDCR submitted a budget change proposal to  
6 the legislature for funding to install cameras on  
7 facilities ■ and ■ at LAC?

8 MR. MAIORINO: Objection. Vague and  
9 ambiguous.

10 THE WITNESS: I don't know if there is a  
11 budget change proposal specifically for Lancaster's  
12 ■ yard and ■ yard.

13 BY MR. FREEDMAN:

14 Q. As far as you are aware, is there any budget  
15 change proposal that would obtain funding that could be  
16 used on that project involving facilities ■ and ■ at  
17 LAC?

18 A. I don't know of a current status of any budget  
19 change proposal that may or may not include funding to  
20 provide that AVSS to Lancaster, ■ and ■  
21 facility.

22 Q. So as you sit here today, you don't know of a  
23 timeline by which cameras would be installed on those  
24 two facilities, correct?

25 MR. MAIORINO: Objection. Asked and answered.

1 THE WITNESS: Yes. Because as I stated  
2 before, that is a priority of the department, and I know  
3 that there are a lot of people working very hard to make  
4 these things happen, but I do not, as we sit here today,  
5 have a personal timeline in which everything is going to  
6 be dispatched or activated, I guess.

7 BY MR. FREEDMAN:

8 Q. Are you one of the people who are working  
9 to -- on the project of getting surveillance cameras  
10 installed on facilities ■ and ■

11 MR. MAIORINO: Objection. Vague and  
12 ambiguous. Overbroad.

13 THE WITNESS: Can you re-ask that question?  
14 Sorry --

15 BY MR. FREEDMAN:

16 Q. Of course. You said there are lots of people  
17 working to try to obtain surveillance cameras for  
18 facilities ■ and ■ at LAC, right?

19 A. Yes, that's correct.

20 Q. Are you one of the people involved in that  
21 project?

22 A. No.

23 Q. And you are not involved, even though LAC is  
24 one of the prisons that falls under your portfolio?

25 A. Yes, that's correct. I'm not involved in the

1 work group that is going out and walking with the  
2 contractor or writing BCPs or trying to obtain funding.  
3 None of that. I'm not involved in any of that.

4 Q. Do you know if there have been any -- I  
5 believe they are referred to as "RFOs," which are  
6 essentially statements -- you know, a bidding process  
7 for someone to do any work to install surveillance  
8 cameras at LAC?

9 MR. MAIORINO: Objection. Vague and  
10 ambiguous. Calls for speculation. Overbroad.

11 THE WITNESS: I don't know.

12 BY MR. FREEDMAN:

13 Q. Who -- who would know?

14 MR. MAIORINO: Objection. Calls for  
15 speculation.

16 THE WITNESS: Who would know -- I'm sorry, I'm  
17 asking for clarification of the question, sorry.

18 BY MR. FREEDMAN:

19 Q. Who are the people who are involved in this  
20 project regarding obtaining and installing surveillance  
21 cameras on facilities ■ and ■ at LAC?

22 A. My understanding is individuals from our  
23 budget branch, budget management branch, would play a  
24 role in that as well as our facilities management branch  
25 would also play a role in that.

1 Q. Do you know the names of any of the people who  
2 are specifically involved in this project?

3 A. No, I don't know the specific names of  
4 individuals that are specifically involved in this --  
5 the project of providing cameras to Bravo and Delta  
6 facility at Lancaster.

7 Q. But it's your understanding that there are  
8 people currently working on a project to get  
9 surveillance cameras on facilities ■ and ■ at LAC; is  
10 that right?

11 A. Yes. It's the department's priority to  
12 continue a rollout of AVSS, and Lancaster is one of  
13 those priorities.

14 Q. But again, you don't know when that project  
15 would be finished, correct?

16 MR. MAIORINO: Objection. Vague and ambiguous  
17 as to "finish."

18 THE REPORTER: "Objection. Vague and  
19 ambiguous." And that's it?

20 MR. MAIORINO: Objection. Vague and ambiguous  
21 as to "finish." Yes.

22 THE REPORTER: The last thing, something,  
23 something yes.

24 MR. MAIORINO: Oh. Objection. Vague and  
25 ambiguous as to finish.

1 THE REPORTER: Thank you.

2 THE WITNESS: I apologize. Can you repeat the  
3 question?

4 BY MR. FREEDMAN:

5 Q. Sure. The question is: You -- isn't it true  
6 that you do not know when the project to install  
7 surveillance cameras on facilities ■ and ■ will be  
8 completed?

9 MR. MAIORINO: Objection. Vague and  
10 ambiguous.

11 THE WITNESS: It is true I do not know the  
12 exact timeline of procurement and activation and all of  
13 that. All -- all the steps that it would take for that  
14 project to be completed, I do not have a timeline for  
15 that, that is correct.

16 BY MR. FREEDMAN:

17 Q. Do you know at what stage of the project it  
18 currently is? For example, are they starting -- have  
19 they started to procure hardware?

20 MR. MAIORINO: Objection. Vague and  
21 ambiguous.

22 THE WITNESS: I don't know if they started to  
23 procure hardware.

24 BY MR. FREEDMAN:

25 Q. Do you know if there's a -- a contract in



1 place for someone to run cabling?

2 MR. MAIORINO: Objection. Vague and  
3 ambiguous. Overbroad.

4 THE WITNESS: I do not know if there is a  
5 contract in place for somebody to provide cabling.

6 BY MR. FREEDMAN:

7 Q. Do you know if there is a contract in place  
8 for data storage?

9 A. I do not know if there is a contract in place  
10 for data storage.

11 Q. So as you are sitting here today, you can't  
12 tell me when there will be operational surveillance  
13 cameras on facilities ■ and ■ at LAC; is that correct?

14 A. That is correct. I don't have any -- a time  
15 line this project would be completed. However, I do  
16 know that it's the department's priority and will -- is  
17 continuing to be our priority as well.

18 Q. Does CDCR require officers to use body-worn  
19 cameras at LAC?

20 A. No.

21 Q. Why not?

22 A. So CDCR, regarding body cameras, there's  
23 really not data out there that shows that they are  
24 extremely effective within a correctional institution.  
25 As a department, we have really been focused on our

1 fixed cameras, our audio-visual surveillance solutions  
2 and rolling those out as a -- throughout the state as  
3 part of our multiyear plan.

4 Q. Has CDCR ever tried using body-worn cameras at  
5 any institution?

6 MR. MAIORINO: Objection. Vague and  
7 ambiguous. Overbroad. Goes beyond the scope of his  
8 deposition for this PMK deposition.

9 THE WITNESS: I don't know of any institution  
10 that currently has body-worn cameras.

11 BY MR. FREEDMAN:

12 Q. And I believe in -- in a previous answer, you  
13 stated that there wasn't data to support the use of body  
14 worn cameras in correctional institutions. Do I have  
15 that right?

16 A. So, partially right. I -- I don't know of any  
17 data that would show that it's as advantageous, I guess,  
18 as the audio-visual surveillance solutions that we are  
19 currently working on. So the department's priority has  
20 really been focused on the AVSS.

21 Q. Has CDCR ever discussed requiring officers to  
22 use body-worn cameras at LAC?

23 MR. MAIORINO: Objection. Vague and  
24 ambiguous. Overbroad.

25 THE WITNESS: Not to my knowledge.

1 BY MR. FREEDMAN:

2 Q. Do you know if the warden at LAC would like to  
3 implement body-worn cameras in the prison?

4 MR. MAIORINO: Objection. Vague and  
5 ambiguous. Goes beyond the scope of his designation as  
6 a PMK for this deposition.

7 THE WITNESS: I do not know whether or not the  
8 warden would like or dislike the use of body cameras.

9 BY MR. FREEDMAN:

10 Q. Does CDCR have any plans to require officers  
11 to use body-worn cameras at LAC?

12 MR. MAIORINO: Objection. Vague and  
13 ambiguous. Overbroad.

14 THE WITNESS: I don't know of any plans to  
15 require officers at LAC to wear body-worn cameras. Our  
16 plans as a department are focused on audio-visual  
17 surveillance solutions in the fixed cameras in a rollout  
18 to multiple institutions within the state.

19 BY MR. FREEDMAN:

20 Q. When you were the -- give me one second here.

21 So you have previously been warden at CMF,  
22 right?

23 A. Yes, that is correct.

24 Q. And the acting deputy chief warden at CHCF,  
25 right?

1 A. That is correct, yes.

2 Q. And the acting chief deputy warden at Solano,  
3 correct?

4 A. That is correct, yes.

5 Q. Were there any surveillance cameras at CMF?

6 MR. MAIORINO: Objection. Goes beyond the  
7 scope of his designation as a PMK for this deposition.

8 THE WITNESS: Yes.

9 BY MR. FREEDMAN:

10 Q. I don't want to go into great detail on this,  
11 but can you just give me a general sense of where some  
12 of those cameras were located?

13 MR. MAIORINO: Objection. Goes beyond the  
14 scope of his designation as a PMK for this deposition.

15 THE WITNESS: Yes. Some of the areas in which  
16 it had cameras are within stairwells, with- -- within  
17 units. They had -- we had cameras there. We had  
18 cameras on the main recreation yard. And some of our  
19 segregation -- administrative segregation yards also had  
20 cameras, to name a few.

21 BY MR. FREEDMAN:

22 Q. Was the camera coverage at CMS -- sorry, CMF,  
23 less than full coverage?

24 MR. MAIORINO: Objection. Vague and  
25 ambiguous. Goes beyond the scope of his designation as

1 PMK for this deposition.

2 THE WITNESS: I don't know what you mean by  
3 "full coverage."

4 BY MR. FREEDMAN:

5 Q. Were there areas in which incarcerated people  
6 had access at CMF that were not covered by surveillance  
7 cameras?

8 A. Yes.

9 Q. Were there significant areas where  
10 incarcerated people had access where they were not  
11 covered by surveillance cameras?

12 MR. MAIORINO: Vague and ambiguous, goes  
13 beyond the scope of his designation as a PMK for this  
14 deposition.

15 A. I don't know if I would say significant areas.  
16 But there were areas in which incarcerated persons had  
17 access to that did not have camera coverage, yes [sic].

18 Q. Was there camera coverage in housing units at  
19 CMF?

20 MR. MAIORINO: Objection. Goes beyond the  
21 scope of his designation as a PMK for this deposition.

22 THE WITNESS: I believe inside some of our  
23 housing units, we did have camera coverage.

24 BY MR. FREEDMAN:

25 Q. Were there some housing units where there

1 wasn't any camera coverage?

2 MR. MAIORINO: Same objection.

3 THE WITNESS: Yes, I believe that is true.

4 BY MR. FREEDMAN:

5 Q. Now, CHCF has more -- is a newer facility,  
6 correct, than CMF?

7 A. Yes, that is correct.

8 Q. And isn't it true that CHCF has quite robust  
9 camera -- surveillance camera coverage of areas in which  
10 incarcerated people have access?

11 MR. MAIORINO: Objection. Vague and  
12 ambiguous. Goes beyond the scope of his designation as  
13 PMK for this deposition.

14 THE WITNESS: Yes. There are more cameras at  
15 CHCF than at CM [sic].

16 BY MR. FREEDMAN:

17 Q. So you have had experience at a prison that  
18 had -- that -- strike that.

19 The more robust camera coverage at CHCF, did  
20 you find that helpful in terms of operating that prison  
21 and serving as the chief deputy warden?

22 MR. MAIORINO: Vague and ambiguous. Goes  
23 beyond the scope of his designation as a PMK for this  
24 deposition. He's not here to give personal opinion.

25 THE WITNESS: So in my personal opinion, the

1 cameras were a tool in which we utilized to operate the  
2 prison, like many of the other tools that we have.

3 BY MR. FREEDMAN:

4 Q. Was it a helpful tool?

5 MR. MAIORINO: Objection. Vague and  
6 ambiguous. Beyond the scope of his designation as a PMK  
7 for this deposition. He's not here to give personal  
8 testimony.

9 THE WITNESS: In my opinion, every tool that  
10 the administration has is helpful.

11 MR. FREEDMAN: Let's just go off the record  
12 for a second. I notice that we're at -- we're at 12:00  
13 o'clock. I think the court reporter needs to leave; is  
14 that correct?

15 THE REPORTER: I do. And I wanted to check.  
16 I have a note that we need the transcript, the final,  
17 tomorrow; is that correct?

18 MR. FREEDMAN: Yeah. We need it as fast as  
19 possible, yeah. We need the simplest order. We don't  
20 need -- you know, just an electronic copy. Just -- no  
21 bells and whistles, just a straight electronic copy.

22 THE REPORTER: Mr. Maiorino, do you need a  
23 copy too?

24 MR. MAIORINO: Yes, please.

25 THE REPORTER: And do you also need it

1 expedited?

2 MR. MAIORINO: When you deliver it to  
3 plaintiffs, if you could give it to us too.

4 (Deposition concluded at 12:01 p.m.

5 Declaration under penalty of perjury on  
6 the following page hereof.)

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DEPOSITION OFFICER'S CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [ ] was [X] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: 11/20/2020



\_\_\_\_\_  
Siew Ung, RPR, CSR No. 13994

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

Case No.:  
C94 2307 CW

GAVIN NEWSOM, et al.,

Defendants.

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VOLUME II

DEPOSITION OF JARED LOZANO  
APPEARING REMOTELY FROM SACRAMENTO, CALIFORNIA

November 19, 2020

12:45 P.M.

REPORTED BY:

Kimberley Richardson

RPR, CCRR, AA, CSR No. 5915



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THURSDAY, NOVEMBER 19, 2020

12:45 P.M.

(Kimberley Richardson, Certified Shorthand Reporter, RPR, CCRR, AA, CSR No. 5915, took over and reported the following portion of the deposition.)

EXAMINATION

BY MR. FREEDMAN:

Q. We're now back from lunch. When we broke for lunch, we were talking about video surveillance cameras, and I believe you had testified that video surveillance cameras at CHCF when you were chief deputy warden there were an important tool; is that right?

A. Yes. They were a tool -- one of the tools that we used to operate the prison, and I believe all tools are important.

Q. And why were cameras an important tool for operating a prison?

MR. MAIORINO: Objection. Vague and ambiguous. Overbroad. Goes beyond the scope of his designation as a PMK for this deposition.

THE WITNESS: So in my opinion every tool is important, reports, photographs, video, all tools are important to operate in prison.

BY MR. FREEDMAN:

1 Q. But why are surveillance cameras an important  
2 tool?

3 MR. MAIORINO: Same objection.

4 THE WITNESS: It's another source of  
5 information to consider.

6 BY MR. FREEDMAN:

7 Q. Did you find it easier to operate a prison,  
8 CHCF, where there was more cameras than a prison like  
9 CMF where there were less cameras?

10 MR. MAIORINO: Objection. Vague and ambiguous.  
11 Overbroad. Goes beyond the designation of the PMK  
12 deposition.

13 THE WITNESS: So I would say that operating a  
14 prison isn't affected by whether or not there is more  
15 video cameras or less video cameras. There were  
16 challenges to both prisons as I was operating them.

17 BY MR. FREEDMAN:

18 Q. When you were warden at CMF and -- was it  
19 acting chief deputy ward at CHCF? I just wanted to get  
20 that right.

21 A. Yes.

22 Q. As acting chief deputy ward at CHCF, were you  
23 involved at all in reviewing inquiries into staff  
24 complaints?

25 MR. MAIORINO: Vague and ambiguous. Beyond the

1 scope of his designation as PMK for this deposition.

2 THE WITNESS: Yes.

3 BY MR. FREEDMAN:

4 Q. When you were investigating inquiries related  
5 to staff complaints at CHCF, were they sometimes able to  
6 pull relevant video evidence related to the staff  
7 complaint?

8 MR. MAIORINO: Same objection. Vague and  
9 ambiguous.

10 THE WITNESS: Yes, at times video surveillance  
11 was part of the review, yes.

12 BY MR. FREEDMAN:

13 Q. When video surveillance was available, was that  
14 sometimes helpful in evaluating the staff complaint?

15 MR. MAIORINO: Objection. Goes beyond the  
16 scope of the designation of PMK for this deposition.

17 THE WITNESS: I think it would be speculation  
18 to say in general either -- whether it was valuable or  
19 not. Depending on the situation, I guess, would  
20 determine whether or not it was valuable.

21 But from my perspective any information you  
22 have surrounding an incident or an alleged incident is  
23 important to review.

24 BY MR. FREEDMAN:

25 Q. So is it fair to say that when you were

1 evaluating staff complaint inquiries more information is  
2 better than less information?

3 MR. MAIORINO: Objection. Vague and ambiguous.  
4 Calls for speculation. Goes beyond the scope of  
5 designated PMK for this deposition.

6 THE WITNESS: I wouldn't -- in my opinion, I  
7 wouldn't agree with that. I would state that more  
8 valuable information is the best.

9 BY MR. FREEDMAN:

10 Q. Are there some -- did you ever review staff  
11 complaint inquiry where there was video evidence  
12 available -- strike that.

13 All right. Are there any functional  
14 surveillance cameras at California State Prison  
15 Corcoran?

16 A. Yes.

17 Q. Where are those functional surveillance cameras  
18 located?

19 A. The functional surveillance cameras at  
20 California State Prison Corcoran are located in their  
21 visiting rooms. There are some function cameras on  
22 administrative segregation exercise yards. There are  
23 some that are at pedestrian sally ports. There are some  
24 at vehicle sally ports, and some within their Prison  
25 Industry Authority industry, and I believe there are

1 some in the administration building or outside the  
2 administration building.

3 Q. Other than those areas you've named, are there  
4 cameras in other locations at Corcoran State Prison?

5 A. None that I know of.

6 Q. Do the cameras at all of those -- are the  
7 cameras at all of those locations capable of recording  
8 video?

9 A. Yes, I believe they all record video.

10 Q. And how long is Corcoran able to retain the  
11 video in the ordinary course?

12 A. My understanding is the cameras in which or on  
13 the Prison Industry Authority are 60- to 90-day expected  
14 loop for the initial retention, and cameras from the  
15 custody perspective are three to four weeks, depending.

16 Q. So at Corcoran there are no surveillance  
17 cameras in housing units; right?

18 A. None that I know of.

19 Q. There are none in dining halls; right?

20 A. None that I know of.

21 Q. There are none in program areas like  
22 classrooms; right?

23 A. That's correct. Not that I know.

24 Q. There are no surveillance cameras in the  
25 program offices; correct?

1 A. That is correct, none that I know of.

2 Q. There are no surveillance cameras covering  
3 exercise yards with the exception of the administrative  
4 segregation unit exercise yards; correct?

5 A. In addition to the administrative segregation  
6 yards, I just want to be clear, I'm speaking of not only  
7 administrative segregation but also our security housing  
8 unit, all of the segregation type small management yards  
9 just to be clear.

10 Q. And those special management -- I'm sorry, did  
11 you call them special management yards? Did I get that  
12 right?

13 A. I referred to them as small management yards.

14 Q. My apologies.

15 Those small management yards are exercise yards  
16 for people housed in administrative segregation or  
17 secured housing units to exercise in; correct?

18 A. Yes, that is correct.

19 Q. And they are not exercise yards for general  
20 population incarcerated people to exercise on; correct?

21 A. That is correct.

22 Q. And to be clear, there are no surveillance  
23 cameras with coverage of the exercise yards other than  
24 for the secured housing unit and administrative  
25 segregation; correct?

1 A. That is my understanding, yes.

2 Q. Why hasn't CDCR installed more surveillance  
3 cameras in other areas at Corcoran?

4 A. So CDCR Corcoran is part of our rollout program  
5 of our AVSS activation that is a multiyear program, and  
6 so Corcoran is part of that plan.

7 Q. I'm talking about looking backwards, though.  
8 Why hasn't CDCR installed surveillance cameras in more  
9 areas of Corcoran as of today?

10 MR. MAIORINO: Vague and ambiguous.

11 THE WITNESS: I do not know why those decisions  
12 were made.

13 BY MR. FREEDMAN:

14 Q. Do you know if the warden at Corcoran would  
15 like for more surveillance cameras to be installed in  
16 the prisons?

17 MR. MAIORINO: Objection. Calls for  
18 speculation.

19 THE WITNESS: I do not know if the warden at  
20 CSP Corcoran would like additional cameras. I've never  
21 discussed that with him.

22 BY MR. FREEDMAN:

23 Q. So in the correspondence -- in the  
24 communications that you've had with the warden to  
25 prepare for this deposition, you didn't ask whether they



1 would like additional security cameras; is that right?

2 A. That is correct; I did not ask that question.

3 Q. Now, I believe you mentioned that Corcoran is  
4 part of the rollout of the AVSS system throughout CDCR;  
5 is that correct?

6 A. Yes. It is identified in our activation --  
7 multiunit activation of where the department has  
8 identified we want to continue to roll out Audiovisual  
9 Surveillance Solution.

10 Q. You previously testified that rolling out AVSS  
11 at LAC was a priority. Is it also a priority to roll  
12 out AVSS at Corcoran?

13 MR. MAIORINO: Objection. Misstates the prior  
14 testimony.

15 THE WITNESS: So the two facilities at LAC  
16 [REDACTED] and [REDACTED] I know are on the top of the priority  
17 list. Any time we can -- so those two facilities, [REDACTED]  
18 and [REDACTED] I know are a priority to the department.

19 The rest of the AVSS rollout that have been  
20 identified are in the bigger plan.

21 BY MR. FREEDMAN:

22 Q. So is it fair to say that Corcoran is a  
23 lower -- sorry.

24 Is it fair to say that installing surveillance  
25 cameras at Corcoran is a lower priority than installing

1 surveillance cameras on facilities at LAC?

2 MR. MAIORINO: Argumentative. Vague and  
3 ambiguous.

4 THE WITNESS: I would say for the department  
5 there is a priority for LAC facilities [REDACTED] and [REDACTED]  
6 over the conclusion of LAC and/or the rest of the AVSS  
7 solutions.

8 BY MR. FREEDMAN:

9 Q. Is there a timeline for completing the  
10 installation of surveillance cameras at Corcoran?

11 A. I do not know of any specific timeline for the  
12 completion of Audiovisual Surveillance Solutions at  
13 Corcoran State Prison.

14 Q. Are you aware of any concrete steps that have  
15 been taken to move the project of installing and  
16 implementing surveillance cameras at Corcoran State  
17 Prison?

18 MR. MAIORINO: Vague and ambiguous. Calls for  
19 speculation.

20 THE WITNESS: I don't understand what you mean  
21 by "concrete steps."

22 BY MR. FREEDMAN:

23 Q. Has anything been done to facilitate the  
24 installation of an AVSS system at Corcoran?

25 MR. MAIORINO: Vague and ambiguous.

1 THE WITNESS: So my understanding is that CSP  
2 Corcoran has been identified as part of the project.

3 BY MR. FREEDMAN:

4 Q. Who has identified them as part of the project?

5 A. The department.

6 Q. Is there a document that sets forth this  
7 project?

8 A. I don't know of any specific document that sets  
9 forth this project. I do know that the department has  
10 identified institutions throughout the state including  
11 these four institutions that we're speaking about today,  
12 meaning Corcoran, Lancaster, Kern Valley and CCI  
13 Tehachapi as being part of that -- our goals to roll  
14 those out.

15 Q. So how do you know that they've been identified  
16 as part of that project?

17 A. I believe I read something of that nature.

18 Q. So there is a document somewhere that sets  
19 forth the parameters of this project; is that right?

20 MR. MAIORINO: Objection. Mischaracterizes.  
21 Misstates.

22 THE WITNESS: I don't know of any specific  
23 document or if there were e-mails or where I read it,  
24 but I believe I read something of that nature.

25 BY MR. FREEDMAN:

1 Q. And to best of your recollection, what did the  
2 e-mail or document say about this project?

3 MR. MAIORINO: Objection to the extent it calls  
4 for confidential or privileged information in response.

5 THE WITNESS: I'm sorry. Can you repeat the  
6 question, please?

7 BY MR. FREEDMAN:

8 Q. The question was to the best of your  
9 recollection, what did the document or e-mail that you  
10 read about this AVSS project in CDC say?

11 MR. MAIORINO: Same objections.

12 THE WITNESS: To the best of my recollection,  
13 the document talked about a multiyear program and in  
14 rolling out Audiovisual Surveillance Solution, and these  
15 were -- these four institutions were in that plan.

16 BY MR. FREEDMAN:

17 Q. Do you remember how many institutions overall  
18 were in the plan?

19 A. I do not.

20 Q. Was it more than just Corcoran, LAC, CCI and  
21 KVSP?

22 A. I believe it was more than just those four.

23 Q. Do you remember any of the other institutions  
24 that were part of the project that aren't LAC, Corcoran,  
25 KVSP and CCI?

1 A. I believe RJD was one of them.

2 Q. Was Salinas Valley State Prison one of them?

3 A. Yes, I believe that was one of them as well.

4 Q. What about the California Institution For  
5 Women, was that one of them?

6 A. Yes, I believe that was one of them as well.

7 Q. Is there -- can you remember any other  
8 institutions that were included as part of this -- in  
9 this document as part of the long-term plan for AVSS  
10 systems at CDCR?

11 A. No more than the ones we spoke about.

12 Q. Are you saying that you can't remember any more  
13 or you believe that the list that we've discussed is  
14 complete?

15 A. I can't remember any more.

16 Q. Now, this document, did it include any time  
17 frames or deadlines by which the camera installations  
18 would be completed?

19 A. To be clear, I'm not speaking of a specific  
20 document. I'm just -- oh, my overall knowledge and I  
21 believe where I received this information is from  
22 e-mails or something other than a specific document.

23 Q. In any of the communications or documents that  
24 you've read about this project, did they include  
25 timelines or deadlines by which the project would be

1 complete?

2 A. No timelines or deadlines that the projects  
3 would be complete, no.

4 Q. Do you know if California's current budget  
5 shortfall has had any impact on the timelines or  
6 deadlines by which this project would be complete?

7 A. I don't know if the budget has had any impacts  
8 on specific rollouts of AVSS. However, I would assume  
9 that budget constraints are -- like any other resource  
10 would be challenging in all of our operations, not just  
11 our video or audio-video surveillance solution.

12 Q. All right. Are you aware that in January 2019  
13 the budget included a budget change proposal to install  
14 surveillance cameras at RJD, CIW and Salinas Valley  
15 State Prison?

16 MR. MAIORINO: Objection to the extent it goes  
17 beyond his designation of PMK for this deposition.

18 THE WITNESS: I understand that the Audiovisual  
19 Surveillance Solutions at those three institutions to be  
20 in the governor's proposed budget.

21 BY MR. FREEDMAN:

22 Q. And are you aware that in the May 2020 revise  
23 of the governor's proposed budget, the budget change  
24 proposal related to cameras at RJD, CIW and Salinas  
25 Valley State Prison was withdrawn?

1 MR. MAIORINO: Same objection.

2 THE WITNESS: Yes, I am aware that that was  
3 withdrawn.

4 BY MR. FREEDMAN:

5 Q. And are you aware that they were -- that it was  
6 explicitly withdrawn because of budget shortfalls  
7 related to COVID-19?

8 MR. MAIORINO: Same objections.

9 THE WITNESS: I don't know why it was  
10 explicitly withdrawn, but I know that there was a budget  
11 shortfall due to our pandemic that we're in.

12 BY MR. FREEDMAN:

13 Q. So is it fair to say that the budget shortfall  
14 has already delayed the project for installing  
15 surveillance cameras at these prisons that CDCR is  
16 prioritizing?

17 MR. MAIORINO: Objection. Vague and ambiguous.  
18 Goes beyond the scope of his designation as a PMK for  
19 this deposition.

20 THE WITNESS: I don't know if budget shortfall  
21 has delayed any of these projects.

22 BY MR. FREEDMAN:

23 Q. Well, I think you just said that the budget  
24 change proposal was withdrawn because of a budget  
25 shortfall; is that right?

1 MR. MAIORINO: Objection. Mischaracterizes  
2 prior testimony.

3 THE WITNESS: No, I didn't say that it was  
4 explicitly withdrawn due to the budget shortfall. I  
5 know it was withdrawn, and I know there is a budget  
6 shortfall, but I'm unsure of why explicitly it was  
7 withdrawn.

8 BY MR. FREEDMAN:

9 Q. Well, I can represent to you that in the  
10 governor's May revise it explicitly stated that they  
11 were being withdrawn because of the budget shortfall.

12 With that information -- I know I'm  
13 communicating that to you, and you're not seeing it  
14 firsthand, but with that information in mind, would you  
15 agree that if what I'm telling you is true that the  
16 budget shortfall has already delayed CDCR's project to  
17 install AVSS systems?

18 MR. MAIORINO: Objection. Vague and ambiguous.  
19 Assumes facts. Goes beyond the scope of his designation  
20 as PMK for this deposition.

21 THE WITNESS: So if the assumption of what you  
22 are providing me is true, I don't know if it was delayed  
23 because I don't know what the rollout time frame was  
24 included in that budget change proposal as well as if it  
25 was a multiyear plan. So I'm unsure if it delayed it.



1 BY MR. FREEDMAN:

2 Q. So as you're sitting here today, though, with  
3 respect to Corcoran State Prison, does the CDCR know  
4 when it will install surveillance cameras there?

5 A. I have no set time frame for the installation  
6 of cameras at Corcoran State Prison. I do know that  
7 it's part of our AVSS multiyear rollout.

8 Q. Does CDCR require officers to wear body-worn  
9 cameras at Corcoran?

10 A. No.

11 Q. Why not?

12 A. I would say that the department finds more  
13 value in the Audiovisual Surveillance Solutions project,  
14 and our focus is on rolling out more Audiovisual  
15 Surveillance Solution at the project.

16 Q. Has CDCR ever considered officers to use  
17 body-worn cameras at Corcoran?

18 MR. MAIORINO: Vague and ambiguous. Overbroad.

19 THE WITNESS: Not to my knowledge.

20 BY MR. FREEDMAN:

21 Q. Are you aware that the warden at Corcoran told  
22 one of defendant's experts in this case, Mr. Baldwin,  
23 who previously filed an expert declaration, that he  
24 wanted to implement body-worn cameras with audio at  
25 Corcoran?

1 MR. MAIORINO: Objection. Assumes facts.  
2 Calls for speculation.

3 THE WITNESS: I'm not aware of that discussion,  
4 no.

5 BY MR. FREEDMAN:

6 Q. Did you communicate with the warden at Corcoran  
7 at all about body-worn cameras?

8 A. No.

9 Q. Did you ask him whether he would like to have  
10 body-worn cameras at the prison?

11 A. I did not, no.

12 Q. Are there any functional surveillance -- does  
13 CDCR have any plans to require officers to use body-worn  
14 cameras at Corcoran?

15 MR. MAIORINO: Objection. Vague and ambiguous.  
16 Overbroad.

17 THE WITNESS: Not to my knowledge.

18 BY MR. FREEDMAN:

19 Q. Are there any functional surveillance cameras  
20 at CCI?

21 A. Yes, there are.

22 Q. And where are they located?

23 A. They're located in administrative segregation  
24 small management yards. They're located at sally ports,  
25 pedestrian and vehicle sally ports.

1 I believe on one of the facilities that -- at  
2 California Correctional Institution they have cameras  
3 within some housing units, and I believe they also have  
4 some functional cameras in their Prison Industry  
5 Authority area.

6 Q. The ASU -- are there cameras inside the  
7 administrative segregation unit itself or just inside  
8 the administrative segregation small management yard?

9 A. My understanding is the small management yards.

10 Q. So not in those housing units themselves?

11 A. That is correct. That's my understanding of  
12 it.

13 Q. And the sally ports you referenced, those are  
14 not sally ports into and out of housing units; correct?

15 A. That is correct.

16 Q. Are those sally ports into and out of the  
17 boundaries of the prison itself?

18 A. Yes. So inside and outside of the facility  
19 which is part of the prison, yes.

20 Q. I recall now that CCI has a very atypical  
21 layout, so I understand why you were hesitating there  
22 for a second.

23 A. Yeah, I appreciate it. Yeah, I was thinking  
24 it's very different out at CCI than other facilities.

25 Q. Now, you did state that there were cameras

1 within some housing units. What housing units have  
2 cameras?

3 A. I believe some of the dorms inside the delta  
4 facility have cameras within.

5 Q. Is it just some of the dorms, not all of the  
6 dorms?

7 A. I don't recall if it was every single dorm or  
8 if it was just some of the dorms.

9 Q. What level security is █ facility at CCI?

10 A. █ facility at CCI is a level 2  
11 non-designated programming facility.

12 Q. And am I correct that as you enter the  
13 facility -- the prison and drive up the hill those are  
14 two -- facility █ is on the left-hand side sort of down  
15 towards the bottom of the hill; is that correct?

16 A. Yes, that is correct.

17 Q. What are the recording capabilities of the  
18 existing functional surveillance cameras at CCI?

19 MR. MAIORINO: Objection. Vague and ambiguous.

20 THE WITNESS: Within the cameras at CCI  
21 recording capabilities vary from three to four weeks to  
22 two to three months.

23 BY MR. FREEDMAN:

24 Q. With the exception of the cameras inside some  
25 of the dorm housing units on facility █ are there any

1 functional surveillance cameras inside housing units at  
2 CCI?

3 A. My understanding those cameras on [REDACTED]  
4 facility are the only housing units to have cameras.

5 Q. Are there any cameras in housing unit sally  
6 ports at CCI?

7 A. Not to my knowledge.

8 Q. In dining halls at CCI?

9 A. Not to my knowledge.

10 Q. In program areas other than the PIA areas?

11 A. Not to my knowledge.

12 Q. In program offices?

13 A. Not to my knowledge.

14 Q. On exercise and recreation yards other than the  
15 administrative segregation small management yard?

16 A. There may be some that are on the yards on  
17 facility D, but I don't remember exactly if that was the  
18 case or not.

19 Q. Do you know why there are some cameras on  
20 facility [REDACTED] at CCI?

21 A. No, I do not know why they were placed up  
22 there.

23 Q. Do you know when they were installed there?

24 A. No, I don't know originally when they were  
25 installed there.

1 Q. Why hasn't CDCR installed surveillance cameras  
2 in all areas at CCI where incarcerated people have  
3 access?

4 A. I don't know specifically why that decision was  
5 made. However, I do know that CCI is part of our  
6 Audiovisual Surveillance Solution multiyear project.

7 Q. Do you know if the warden at CCI would like for  
8 additional surveillance cameras to be installed at the  
9 prison?

10 MR. MAIORINO: Goes beyond the scope of his  
11 designation as a PMK for this deposition.

12 THE WITNESS: I do not know.

13 BY MR. FREEDMAN:

14 Q. Are you aware that the warden at CCI told  
15 defendant's expert Mr. John Baldwin that the warden  
16 wanted to have additional surveillance cameras installed  
17 at CCI?

18 MR. MAIORINO: Goes beyond the scope of his  
19 designation as PMK for this deposition.

20 THE WITNESS: I was not aware of a conversation  
21 like that.

22 BY MR. FREEDMAN:

23 Q. Did you talk to the warden at CCI or anyone at  
24 CCI about wanting more surveillance cameras there?

25 A. No, I have not.

1 Q. I believe you said that CCI was part of this  
2 multiyear plan to install AVSS systems at some CDCR  
3 prisons; is that correct?

4 A. Yes, that is my understanding.

5 Q. As far as you're aware, is there any timeline  
6 by which CDCR intends to install surveillance cameras --  
7 additional surveillance cameras at CCI?

8 A. You know, I don't know of any specific timeline  
9 for installation of additional cameras.

10 Q. Is there anyone within CDCR who would know  
11 whether there was a timeline?

12 MR. MAIORINO: Vague and ambiguous. Calls for  
13 speculation.

14 THE WITNESS: I don't know if there would be  
15 anyone else specifically that would know.

16 BY MR. FREEDMAN:

17 Q. As the associate director for CCI, if there was  
18 a timeline by which cameras would be installed at CCI,  
19 would you know?

20 A. I may or may not know.

21 Q. What about for Corcoran? If there was a  
22 timeline for installing surveillance cameras at  
23 Corcoran, is that something that you would know about?

24 A. I may or may not know.

25 Q. And when you say you may or may not know, why

1 wouldn't you know?

2 A. So as the associate director of high security  
3 mission that covers both Corcoran and CCI, I'm involved  
4 in the operation, so I may or may not know because  
5 there -- all the pre-work, you know, coming up before  
6 the institution gets involved, I may or may not be privy  
7 to it.

8 Q. Would a project that involved installing, you  
9 know, hundreds of surveillance cameras throughout a  
10 prison be considered a big project?

11 MR. MAIORINO: Vague and ambiguous. Calls for  
12 speculation.

13 THE WITNESS: I would -- I would say my opinion  
14 it's a big project, yeah.

15 BY MR. FREEDMAN:

16 Q. And at the prisons for which you're responsible  
17 as the associate director, are you typically aware of  
18 big projects that are going on at your prison?

19 MR. MAIORINO: Objection. Vague and ambiguous.  
20 Overbroad. Calls for speculation.

21 THE WITNESS: I'm aware of some and not of  
22 others.

23 BY MR. FREEDMAN:

24 Q. But there are some big projects that happen at  
25 the prison for which you're responsible about which you



1 don't know anything?

2 MR. MAIORINO: Objection. Vague and ambiguous.  
3 Overbroad. Calls for speculation.

4 THE WITNESS: Yes, that's true.

5 BY MR. FREEDMAN:

6 Q. This is a little bit of a weird question  
7 because if you don't know about it I'm not sure how you  
8 would answer it, but can you give me an example of a big  
9 project that happened at one of your prisons that you  
10 didn't know anything about until it was done?

11 MR. MAIORINO: Vague and overbroad.

12 THE WITNESS: I would say in general the types  
13 of projects that I may or may not know about that  
14 happened at prisons in general, not that I've personally  
15 experienced this, but projects that are multiyear funded  
16 that are planned out way in advance, projects like water  
17 treatment plant improvements as an example.

18 BY MR. FREEDMAN:

19 Q. Now, that's something that you would know about  
20 or would not know about?

21 A. Would not necessarily know about.

22 Q. And why wouldn't you know about something like  
23 that potentially?

24 MR. MAIORINO: Vague and ambiguous. Calls for  
25 speculation.

1 THE WITNESS: So a couple of reasons I may or  
2 may not know about it is those types of projects started  
3 long before 11 months ago that I've been sitting in the  
4 seat.

5 BY MR. FREEDMAN:

6 Q. So you might not know about a project if it  
7 predated your appointment as associate director; is that  
8 correct?

9 A. Yes, that's one example.

10 Q. If one of the prisons in your mission was  
11 undertaking a project to install surveillance cameras  
12 throughout the prison, is that something that as  
13 associate director you think you should know about?

14 MR. MAIORINO: Objection. Vague and ambiguous.  
15 Overbroad. Incomplete hypothetical. It goes beyond the  
16 scope of his designation as a PMK.

17 THE WITNESS: It just depends on the impact to  
18 the institution or any assistance that I need to  
19 provide.

20 BY MR. FREEDMAN:

21 Q. Does CDCR require officers to use body-worn  
22 cameras at CCI?

23 A. No.

24 Q. Why not?

25 A. CDCR finds more value in the Audiovisual

1 Surveillance Solution project in still cameras, so our  
2 focus has really been continuing that multiyear project.

3 Q. And why is the department more focused on the  
4 AVSS fixed camera system as opposed to the body-worn  
5 camera?

6 A. It's my belief that the department holds more  
7 value in the AVSS project.

8 Q. Do you know how much it costs to install  
9 surveillance cameras coverage -- fixed surveillance  
10 camera coverage throughout an institution?

11 A. Exact numbers of every institution, no. I  
12 would assume it would differ depending on the layout of  
13 the prison and the amount of camera coverage needed.

14 Q. Do you have any knowledge about what it would  
15 cost to install full camera coverage at LAC or Corcoran  
16 or CCI or KVSP?

17 A. Not off the top of my head, no.

18 Q. Do you know how much it would cost to implement  
19 body-worn cameras at an institution, let's say LAC or  
20 Corcoran or CCI or KVSP?

21 A. No, not off the top of my head.

22 Q. Do you know if the warden at CCI would like to  
23 implement body-worn cameras?

24 MR. MAIORINO: Objection. Calls for  
25 speculation. Goes beyond the scope of his designation

1 as a PMK for the deposition.

2 THE WITNESS: I don't know if the warden at CCI  
3 would like to implement body-worn cameras.

4 BY MR. FREEDMAN:

5 Q. Did you talk to the warden at CCI at all about  
6 body-worn cameras?

7 A. No, I did not.

8 Q. Did you communicate with the warden at CCI  
9 about body-worn cameras through any means?

10 A. No, not to my knowledge.

11 Q. Have you communicated with anyone at CCI about  
12 body-worn cameras?

13 A. No, not to my knowledge.

14 Q. Does CDCR have any plans to require officers to  
15 wear body-worn cameras at CCI?

16 MR. MAIORINO: Vague and ambiguous.

17 THE WITNESS: No, not to my knowledge.

18 BY MR. FREEDMAN:

19 Q. Are there any functional surveillance cameras  
20 at KVSP?

21 A. Yes, there are cameras at KVSP.

22 Q. And where -- are those functional cameras?

23 A. I believe they are, yes.

24 Q. And where are they located?

25 A. I believe the cameras are located within our

1 facility incarcerated person visiting areas as well as  
2 the pedestrian sally port and the vehicle sally port.

3 Q. Any other areas at KVSP where there is  
4 functional surveillance cameras?

5 A. Those are the only three areas that I know.

6 Q. Are those -- are the surveillance video cameras  
7 capable of recording video?

8 A. Yes.

9 Q. And how long does -- how long is KVSP able to  
10 retain that video in the ordinary course?

11 A. My understanding is the initial retention  
12 period or the loop of those cameras are approximately 30  
13 days.

14 Q. So at KVSP there are no surveillance in any  
15 housing units; correct?

16 A. That is correct. That's my understanding.

17 Q. And no surveillance cameras in any internal  
18 sally port such as sally ports into and out of housing  
19 units; is that correct?

20 A. Yes, that's my understanding.

21 Q. There's no surveillance cameras in dining  
22 halls; right?

23 A. That's correct. That's my understandings.

24 Q. There is no surveillance cameras in program  
25 areas; correct?

1 A. Yes, that's my understanding.

2 Q. There is no surveillance cameras in program  
3 offices; correct?

4 A. Yes, that's correct. That's my understanding.

5 Q. There are no surveillance cameras on any  
6 exercise yards; is that correct?

7 A. That's correct. That's my understanding.

8 Q. Why hasn't CDCR installed more surveillance  
9 cameras at KVSP?

10 A. I don't know why the department has not  
11 installed more cameras at KVSP. However, I do  
12 understand that KVSP is part of our Audiovisual  
13 Surveillance Solution project, and that's a multiyear  
14 rollout project.

15 Q. Are there any timelines -- is there any  
16 timeline by which surveillance cameras will be installed  
17 at KVSP?

18 A. I do not know of any timelines specific to KVSP  
19 rollout.

20 Q. Do you know if the warden at KVSP would like  
21 for additional surveillance cameras to be installed at  
22 the prison?

23 MR. MAIORINO: Objection. Calls for  
24 speculation. Goes beyond his designation as a PMK for  
25 this deposition.

1 THE WITNESS: I do not know if the warden would  
2 like additional cameras.

3 BY MR. FREEDMAN:

4 Q. In your communications with staff at KVSP to  
5 prepare for this deposition, did you ask whether they  
6 would like more surveillance cameras at the prison?

7 A. I did not.

8 Q. In your roll as associate director, have you  
9 ever spoken with anyone at KVSP about whether they would  
10 like more surveillance cameras there?

11 MR. MAIORINO: It goes beyond the scope of his  
12 designation as PMK for this deposition.

13 THE WITNESS: I have not.

14 BY MR. FREEDMAN:

15 Q. As you sit here today, do you know a date by  
16 when the department intends to have additional  
17 surveillance cameras installed at KVSP?

18 A. I don't know of any date for installation or  
19 rollout of cameras at KVSP.

20 Q. Does CDCR require officers to use body-worn  
21 cameras at KVSP?

22 A. No, they do not.

23 Q. Why not?

24 A. I don't know specifically why CDCR doesn't. I  
25 know that we as a department are focused on our

1 Audiovisual Surveillance Solution rollout which is fixed  
2 cameras.

3 Q. Have you ever talked to anyone at KVSP about  
4 whether to use body-worn cameras?

5 A. I'm sorry. Your audio cut out.

6 Q. Have you ever spoken with anyone at KVSP about  
7 whether to use body-worn cameras at the prison?

8 A. I have not spoken with anybody at KVSP  
9 regarding wearing body-worn cameras.

10 Q. Does CDCR have any plans to require officers to  
11 use body-worn cameras at KVSP?

12 MR. MAIORINO: Objection. Vague and ambiguous.

13 THE WITNESS: Not to my knowledge.

14 BY MR. FREEDMAN:

15 Q. When you were warden at CMF, would you have  
16 liked there to have been additional surveillance cameras  
17 at the prison?

18 MR. MAIORINO: Objection. Goes beyond the  
19 scope of his designation as a PMK for this deposition.

20 THE WITNESS: I don't know if I would have  
21 liked more surveillance cameras. I think it just  
22 depends on where they were and what kind of resource  
23 they provided the department.

24 BY MR. FREEDMAN:

25 Q. Did you feel like there were enough



1 surveillance cameras at CMF when you were there?

2 MR. MAIORINO: Same objection.

3 THE WITNESS: My opinion of whether or not  
4 there were enough really would differentiate in  
5 hypotheticals about what happened, where it happened, so  
6 on and so forth.

7 BY MR. FREEDMAN:

8 Q. I'm going to switch gears a little bit to talk  
9 about topics 5 and 6 from the PMK deposition notice.

10 A. Okay.

11 Q. Why don't you just read those two topics over.  
12 Take a second and read those topics over to situate  
13 yourself.

14 A. Okay. Okay.

15 Q. Let's talk about LAC first.

16 Since January 1, 2017, has CDCR made any  
17 changes to policies or practices at LAC intended to  
18 reduce that misconduct against incarcerated people  
19 there?

20 A. Yes.

21 Q. And what changes has CDCR made?

22 A. The CDCR has added training or continued to do  
23 training or update training to include MILO realtime  
24 interactive training which is headed not only by our  
25 custody team but also our mental health professionals.

1 They provide that at LAC.

2 We've done the inmate/staff relations. We have  
3 implemented a new grievance process to include our AIMS  
4 unit.

5 Q. Anything else?

6 A. Training provided to the LAC supervisors on  
7 allegation or institutional allegation training. Those  
8 are some of the examples.

9 Q. Are there any other changes to policies or  
10 practices since January 1, 2017, intended to reduce  
11 staff misconduct against incarcerated people at LAC?

12 A. Those are ones I can think of right now.

13 Q. Okay. The first one you mentioned was I  
14 believe updated training to include MILO which is  
15 realtime interactive training. What does MILO stand  
16 for?

17 A. I apologize. I don't know exactly what it  
18 stands for.

19 Q. And can you describe what that realtime  
20 interactive training consists of?

21 A. Yeah. Yes, I can. It's an interactive program  
22 that is both our medical -- or, I'm sorry, our mental  
23 health professional as well as a custody supervisor is  
24 interacting with the simulator, and so the individual  
25 that's getting the training is interacting with the

1 simulator, and based on their responses, the  
2 simulator -- the mental health and the custody  
3 facilitate the next section of that interaction of the  
4 simulation.

5 Q. Is this training that takes place on a  
6 computer?

7 A. Yes. Part of it is a computer-generated  
8 training, but the actual training is the employee  
9 interacting -- the computer part is how it's maneuvered  
10 through -- based on the responses that the employee's  
11 given.

12 Q. And who is the employee receiving the training  
13 interacting with?

14 A. It's predesignated scenarios that are in the  
15 computer.

16 Q. Can you give me an example of some of the  
17 scenarios?

18 A. One example would be an incarcerated person in  
19 a dining hall that wants a new tray or doesn't feel he  
20 or she received their full serving of a certain food,  
21 those types of training or scenarios.

22 Q. Can you give me another example of a scenario?

23 A. Yeah. A scenario where an inmate or  
24 incarcerated person is agitated at a situation, and we  
25 work through that in the MILO scenario.

1 Q. So in each training is someone playing the role  
2 of the incarcerated person?

3 A. So, yes. There are role players that are --  
4 the scenarios are already uploaded into the computer, so  
5 they're not playing the role live.

6 Q. Is it sort of like an adventure where you're  
7 provided with options of how to respond to the person's  
8 behavior and that triggers the progression of the  
9 scenario?

10 MR. MAIORINO: Vague and ambiguous.

11 THE WITNESS: I would say that based on the  
12 trainee's reaction deescalation of the scenario or lack  
13 of deescalation of the scenario, then it prompts our  
14 mental health and/or custody facilitators based on the  
15 trainee's responses to move to the next part of the  
16 training.

17 BY MR. FREEDMAN:

18 Q. Now, the MILO training, this is something new  
19 since January 1, 2017?

20 A. I apologize. I'm trying to remember the exact  
21 date we rolled the MILO training out, and there's been  
22 many updates since the rollout with the additional  
23 scenarios.

24 Q. So is this a system that's being updated  
25 regularly?

1           A. It's a system that was initially sent out and  
2 is updated as the department sees additional needs for  
3 it.

4           Q. Where is MILO available?

5           MR. MAIORINO: Objection. Vague and ambiguous.

6           THE WITNESS: My understanding is MILO is  
7 available at every institution and in the academy as  
8 well.

9 BY MR. FREEDMAN:

10          Q. So MILO is not something specially available to  
11 staff at LAC; is that correct?

12          A. So it is available to staff at LAC, not  
13 specific only to LAC.

14          Q. I didn't ask that question great.

15                 It's not exclusively available to staff at LAC;  
16 is that correct?

17          A. That's correct. That's my understanding.

18          Q. And, in fact, it's training that any officer in  
19 the department can access; correct?

20          A. Yes. It's in our training schedule.

21          Q. Now, I think you mentioned inmate/staff  
22 relations as a change in policy and practice since  
23 January 1, 2017, intended to reduce staff misconduct  
24 against incarcerated people at LAC.

25                 What did you mean by "inmate/staff relations"?

1           A. So, we have a training in the department  
2 that -- actually, I think it has a new name. It used to  
3 be inmate/staff relations. It's called something else  
4 now, but it's essentially a training in order to assist  
5 staff in communicating with the incarcerated person.

6           Q. So when you said inmate/staff relations, that  
7 was referring to training available to staff about how  
8 to communicate with incarcerated people; is that  
9 correct?

10          A. That is correct, yes.

11          Q. Is that inmate/staff relations training --  
12 well, let me say this a different way.

13                 Where is that inmate/staff relations training  
14 available?

15          A. To my knowledge it's available at every  
16 institution and the training academy as well.

17          Q. It's not a training exclusively available to  
18 officers at LAC; is that correct?

19          A. Yes, that is correct.

20          Q. Now, I think you also mentioned a new grievance  
21 process and AIMS as changes to policies and practices  
22 intended to reduce staff misconduct against incarcerated  
23 people at LAC.

24                 What is the new grievance process?

25          A. So the new grievance process replaced our

1 inmate appeals process.

2 Q. And how does that differ from the old process?

3 A. Some of the main differences between the old  
4 inmate appeals process and the new grievance process are  
5 the old inmate appeals process had two levels of review  
6 at the institution called the first formal level of  
7 appeal, second level of appeal, and then for the third  
8 level appeal it would go to the Office of Appeals.

9 Part of that process included different --  
10 categorizing the appeal in different categories and then  
11 processing those appeals.

12 The difference with the grievance, some of  
13 those main ones are it's now referred to as a grievance  
14 at the institution level. There's one level of review  
15 on the grievance, and then if they want to appeal the  
16 response to that grievance, then that goes to the Office  
17 of Appeals.

18 So part of that is also we have our AIMS  
19 process that was implemented at the time, too.

20 Q. And what is the AIMS process?

21 A. So the AIMS process predominantly is when  
22 there's an allegation of staff misconduct that does not  
23 rise to the level of the Hiring Authority having a  
24 reasonable belief that this occurred.

25 However, if the allegations were true, it would

1 result in adverse action, disciplinary action. We have  
2 a unit in which the Hiring Authority can submit these  
3 allegations to a unit outside of the institution that  
4 they work at, and the unit would look into the  
5 allegation from -- and not being part of the  
6 institution.

7 Q. The new grievance process that you described,  
8 why does CDCR think that will lead to a reduction in  
9 staff misconduct against incarcerated people?

10 A. I think the biggest thing is that additional  
11 tools for the Hiring Authority to have somebody outside  
12 the institution look at it I think will assist as well  
13 as going from two levels of review at the institution to  
14 three levels of review the department will also more  
15 timely hear about concerns of our incarcerated person.

16 Q. And when you said the part where the Hiring  
17 Authority now have this resource to have someone outside  
18 of the prison look at the allegation, you're referring  
19 to AIMS; correct?

20 A. Yes. Yeah. AIMS is the additional process  
21 that we've added in that's outside of the institution.

22 Q. The new grievance process, where is that  
23 available?

24 A. At every institution in the state.

25 Q. And so that's not --



1 A. I'm sorry. Your audio.

2 Q. The new grievance process is not an exclusive  
3 change made at LAC; correct?

4 A. No, it is not singular to LAC, no.

5 Q. And this new AIMS unit for conducting inquiries  
6 into staff complaints, where is that available?

7 A. That is a resource that wardens throughout the  
8 state have.

9 Q. That's not a change exclusively available at  
10 LAC; is that correct?

11 A. That is correct. It's not exclusive to LAC.

12 Q. Now, I think the last thing -- the last change  
13 in policy and practice that you listed was training  
14 provided to supervisors on allegations -- I'm not a  
15 hundred percent certain I got that entirely right.

16 So if you could just clarify what you were  
17 talking about if you understand what I'm referring to.

18 A. Sure. So the wardens were able to identify  
19 supervisors that work within their institution to be  
20 trained by the chief deputy administrator and the office  
21 of -- chief deputy administrator in charge of AIMS as  
22 well as the Office of Appeals to specifically to  
23 allegation -- or institution allegation inquiries.

24 Q. Now, this is additional training provided to  
25 supervisors at institutions to conduct local inquiries;

1 is that correct?

2 A. Yes, that is correct.

3 Q. And what does the training consist of?

4 A. The training, from my understanding, is an  
5 overview of the new grievance process by the Office of  
6 Appeals highlighted with regulation, policy changes that  
7 are different from all the system.

8 It also includes pieces of training from  
9 different courses that -- that's been decided upon by  
10 the AIMS chief deputy administrator in order to help  
11 supervisors at the institution do more thorough  
12 allegation in court.

13 Q. This training to supervisors with respect to  
14 allegation inquiries and the grievance process, where  
15 was that available?

16 A. Every institution had supervisors that were  
17 trained.

18 Q. So this training was not a training exclusive  
19 to supervisors at LAC; is that correct?

20 A. Yes, that is correct.

21 Q. Are there any other changes to policies or  
22 practices since January 1, 2017, intended to reduce that  
23 misconduct against incarcerated people at LAC?

24 A. No. Those are the ones that I can remember  
25 right now.

1 Q. Now, the five changes that you discussed, those  
2 are all changes made on a statewide basis; correct?

3 A. Yes, they were all statewide.

4 Q. Were there any changes made to policy or  
5 practice at LAC that were specific to LAC and were  
6 intended to reduce staff misconduct against  
7 incarcerated?

8 A. No specific to or inclusive to LAC.

9 Q. I'm sorry. Could you say that last part again?  
10 I didn't quite catch it.

11 A. Nothing specific or exclusively at LAC.

12 Q. Okay. Was there any increases in staffing at  
13 LAC intended to reduce staff misconduct?

14 A. I don't know of any long-term staffing  
15 increases outside our normal standardized staffing  
16 process at LAC.

17 Q. Were there any short-term staffing increases at  
18 LAC intended to reduce staff misconduct?

19 A. There were some special assignments that were  
20 put at LAC to -- in order to do allegation inquiries.

21 Q. And tell me about those special assignments.  
22 How many were there?

23 A. I believe a handful, five or so assignments.

24 Q. And how long were those five or so short-term  
25 special assignments in place at LAC?

1           A. If I remember correctly, all of them were a  
2 different length of time, and I don't recall the exact  
3 time frames of when each one of them, having the length  
4 of each one of them.

5           Q. What was the range of the people who were on  
6 those special assignments?

7           A. My understanding is a vast majority, if not all  
8 of them, were lieutenants.

9           Q. And I believe you said that they were on  
10 special assignment to assist with allegation inquiries;  
11 is that correct?

12           A. Yes. Those posts or positions were allotted to  
13 assist LAC in allegations of staff misconduct.

14           Q. And were they -- the allegations in which those  
15 people on special assignment were conducting inquiries,  
16 were those allegations made through plaintiff's counsel  
17 in Armstrong litigation?

18           MR. MAIORINO: Overbroad. Vague and ambiguous.

19           THE WITNESS: I don't know exactly where all  
20 the allegations came from, but I do know that some were  
21 from counsel. I just don't know what case it involved.

22 BY MR. FREEDMAN:

23           Q. Are there any people currently on special  
24 assignment at LAC --

25           THE REPORTER: You faded out at the end.

1 BY MR. FREEDMAN:

2 Q. Are there any people currently on special  
3 assignment at LAC to assist with these allegation  
4 inquiries?

5 A. From the circumstance that I'm talking about,  
6 no. Those have all been -- those individuals were back  
7 at their assignments.

8 Q. Is there some other circumstance in which  
9 people are on special assignment at LAC?

10 A. My understanding is the warden has requested  
11 resources to assist with allegation inquiries.

12 Q. And -- I'm sorry. I didn't mean to cut you  
13 off. What was the last part that you said there?

14 A. And that request was being reviewed.

15 Q. Has there been a decision made on that request  
16 yet?

17 A. I'm not sure if there has been a final decision  
18 on that request.

19 Q. Were you involved in the decisionmaking in that  
20 request?

21 A. Those requests I had some dialogue with the --  
22 a correction. I had some e-mail correspondence with the  
23 warden on it, and I requested that he submit his request  
24 up, and it would be reviewed.

25 And I'm unsure exactly if it's been finally

1 approved or not.

2 Q. Did you make a recommendation on whether it  
3 should be approved or not?

4 MR. MAIORINO: Objection. Goes beyond the  
5 scope of the designation of the PMK for this deposition.

6 THE WITNESS: Yes, not under my signature, but  
7 I believe I instructed my associate warden to sign on my  
8 behalf recommending the approval of.

9 BY MR. FREEDMAN:

10 Q. Is the request currently on your desk or is it  
11 on someone else's desk?

12 MR. MAIORINO: Same objection.

13 THE WITNESS: I don't know. My desk is quite  
14 full right now. I would love to be able to tell you  
15 that. I believe it is past my desk, and it may have  
16 already been approved. I'm not sure.

17 BY MR. FREEDMAN:

18 Q. Do you know how many positions the warden was  
19 requesting?

20 A. Not specifically how many positions or the  
21 resources that he was requesting.

22 Q. What was the warden's request?

23 MR. MAIORINO: Objection. Goes beyond the  
24 scope of the designation of the PMK for this deposition.

25 THE WITNESS: His request in general when our

1 e-mails went back and forth was that he be allowed to  
2 put people in special assignment to resolve allegations  
3 of staff misconduct claims.

4 BY MR. FREEDMAN:

5 Q. And the formal request that he then made after  
6 you told him to make a request, did that include any  
7 specifics for the number of people he would like to be  
8 placed on special assignment to help with allegation  
9 inquiries?

10 A. I did not see that, personally see that on my  
11 desk.

12 Q. Is that because it was reviewed and approved in  
13 the past by your associate warden?

14 A. I'm sorry. Your audio cut out.

15 Q. My apologies. Why didn't you see the request  
16 itself?

17 A. So the request went through my unit while I was  
18 visiting institutions, so I was not physically in my  
19 office at the time.

20 Q. So did someone else in your office review the  
21 request?

22 A. Yes. It would have been my associate warden.

23 Q. And did -- but you do not know how many  
24 positions the warden at LAC is requesting to be provided  
25 on special assignment?

1           A. No, not this specific amount of special  
2 assignment position. I did not -- I do not know of the  
3 exact.

4           Q. So you testified that there were approximately  
5 five people who have already served on special  
6 assignment at LAC to help with allegation inquiries;  
7 correct?

8           A. Yes, approximately five.

9           Q. And there's now a request for some additional  
10 assignment to help with allegation inquiries; correct?

11          A. Yes.

12          Q. And that request is currently pending; correct?

13          A. No. What I stated was I was unsure if it had  
14 already been approved or not, but I know there was a  
15 request.

16          Q. It may have been -- I'm sorry. You're  
17 absolutely correct.

18                 You testified that it may have already been  
19 approved, but it's possible that it is still pending; is  
20 that correct?

21          A. Yes, that's correct.

22          Q. Okay. Other than those -- the things we've  
23 just discussed, you know, the already special assignment  
24 and the request for special assignment, has there been  
25 any other increases in staffing at LAC since January 1,



1 2017, intended to reduce staff misconduct against  
2 incarcerated people?

3 A. Those are the only ones I know.

4 Q. Okay. Has there been any training delivered to  
5 staff at LAC -- any exclusive training delivered to  
6 staff at LAC intended to reduce staff misconduct against  
7 incarcerated people?

8 A. No official department approved specific  
9 training.

10 Q. Have there been any changes to use of force  
11 policies at LAC that are specific to LAC?

12 A. No, none specific to LAC that I know of.

13 Q. Has the department offered any -- since January  
14 1, 2017, any offered -- sorry. Let me start again with  
15 that.

16 Has the department since January 1, 2017,  
17 offered any increased mentoring to managers at LAC?

18 A. None outside the normal department mentoring  
19 program.

20 Q. So there's been no special mentoring for anyone  
21 at LAC since January 1, 2017?

22 MR. MAIORINO: Objection. Vague and ambiguous.

23 THE WITNESS: If by "special" you mean  
24 exclusive to LAC for only LAC, no.

25 BY MR. FREEDMAN:

1 Q. So of all the changes to policies and practices  
2 that we've discussed, is it correct to say that the only  
3 change that was exclusive to LAC were these special  
4 assignment staff to assist with allegation inquiries?

5 MR. MAIORINO: Object. Misstates prior  
6 testimony.

7 THE WITNESS: No. Those weren't exclusive to  
8 LAC. Those resources were provided to LAC.

9 BY MR. FREEDMAN:

10 Q. Were similar resources provided to other  
11 institutions to assist with allegation inquiries?

12 A. Yes.

13 Q. What institutions were those -- were other  
14 special assignment staff provided to help with  
15 allegation inquiries?

16 A. Another institution within the high security  
17 mission that received resources to assist with  
18 allegations of staff misconduct it was High Desert State  
19 Prison.

20 Q. And when were those additional resources  
21 provided to High Desert State Prison?

22 A. I don't know exactly when.

23 Q. Could you estimate the year?

24 A. Oh, it was this year. I was in this seat.

25 Q. It was while you were the associate director?

1 A. Yes.

2 Q. Are those additional staff on special  
3 assignment still at High Desert State Prison?

4 A. I'm sorry. Your audio --

5 Q. Are those additional staff assignment at High  
6 Desert State Prison still in place?

7 A. No, they are not.

8 Q. And why were those additional staff assignments  
9 sent -- excuse me. We're probably all getting a little  
10 bit tired. We're getting to that witching hour, and I  
11 think we'll probably take a break in five minutes just  
12 to give each other a breath.

13 Why did the department send staff on special  
14 assignment to High Desert State Prison?

15 MR. MAIORINO: Objection. Beyond the scope of  
16 his designation as the PMK in this deposition.

17 THE WITNESS: The acting warden at the time  
18 requested resource to me, and I supported it.

19 BY MR. FREEDMAN:

20 Q. And what was the justification for that  
21 request?

22 MR. MAIORINO: Same objections.

23 THE WITNESS: In order to do -- the  
24 justifications were in order to complete institution  
25 allegation inquiries and the catch up of work so he did

1 not fall behind.

2 BY MR. FREEDMAN:

3 Q. Was that intended to conduct allegation  
4 inquiries into staff complaints?

5 A. I'm sorry. You broke up again.

6 Q. Was that intended to conduct allegation  
7 inquiries into staff complaints?

8 MR. MAIORINO: Objection. Beyond the scope of  
9 his designation as PMK for this deposition.

10 THE WITNESS: So I'm unsure exactly where those  
11 allegations came from, whether it was a staff complaint  
12 process of the appeals or if it was just allegations of  
13 staff misconduct from other sources.

14 BY MR. FREEDMAN:

15 Q. Okay. At LAC, what was the justification for  
16 sending those staff on special assignment to conduct  
17 allegation inquiry?

18 A. The first request or the second request?

19 Q. The first request, let's start with that.

20 A. So the first request the justification was that  
21 there were allegations of staff misconduct, and there  
22 were quite a few allegations, and the request  
23 justification was to assist with catching up.

24 Q. When you say there was quite a few allegations,  
25 what does that mean?

1           A. There were many allegations of staff  
2 misconduct.

3           Q. Were there more allegations of staff misconduct  
4 than there typically were?

5           MR. MAIORINO: Objection. Vague. Ambiguous.  
6 Calls for speculation.

7           THE WITNESS: I don't know if there were more  
8 than there typically were because I don't know what the  
9 typical standard is, but, yeah, I think that's the best  
10 answer.

11           MR. FREEDMAN: Why don't we take a quick break,  
12 maybe a ten-minute break.

13           THE WITNESS: Thank you.

14           (Brief recess taken at 2:23 p.m. to 2:37 p.m.)

15 BY MR. FREEDMAN:

16           Q. Let's talk about Corcoran now. I want to try  
17 to speed this up a little bit if we can.

18           So, when you -- when we were discussing LAC,  
19 you mentioned five statewide changes to policies and  
20 practices that were intended to reduce staff misconduct  
21 there, and if I'm correct, those were MILO training, the  
22 inmate/staff relations training, the new grievance  
23 process, AIMS and training provided to supervisors about  
24 allegation inquiries.

25           A. Yes, that sounds correct.

1 Q. Did all five of those changes to policy and  
2 practice apply to Corcoran as well?

3 A. Yes. All of those took effect in California  
4 State Prison Corcoran as well, yes.

5 Q. Now, since January 1, 2017, has CDCR made any  
6 other changes to policies or practices at Corcoran  
7 intended to reduce staff misconduct against  
8 incarcerated?

9 A. None at -- the department did not make any  
10 other changes to policies, procedures at Corcoran.

11 Q. Was there any increases in staffing at  
12 Corcoran --

13 A. I'm sorry. Your audio went crazy again.

14 Q. I'm sorry.

15 Were there any increases in staffing at  
16 Corcoran since January 1, 2017, intended to reduce staff  
17 misconduct against incarcerated?

18 A. I don't know of any changes or staffing levels  
19 at CSP Corcoran outside of our normal standardized  
20 staffing program.

21 Q. Were there any staff provided to Corcoran on  
22 special assignment with the intention of reducing staff  
23 misconduct against incarcerated people?

24 A. No special assignments assigned to CSP Corcoran  
25 that I know of.

1 Q. Were there any special trainings provided at  
2 Corcoran other than the ones we've previously discussed  
3 that were intended to reduce staff misconduct?

4 A. No. Those are the only ones that I know of.

5 Q. Was there any additional mentoring of  
6 managerial staff at Corcoran above and beyond ordinary  
7 mentoring that occurs intended to reduce staff  
8 misconduct there?

9 A. No, none that I know of.

10 Q. As far as you're aware, from January 1, 2017,  
11 to the present, were any steps other than the ones we've  
12 already discussed taken at Corcoran with the intention  
13 of reducing staff misconduct against incarcerated?

14 MR. MAIORINO: Objection. Vague and ambiguous.

15 THE WITNESS: None that I know of.

16 BY MR. FREEDMAN:

17 Q. Let's talk about CCI.

18 Again, the five statewide changes that we've  
19 previously discussed, MILO training, inmate/staff  
20 relations training, new grievance process, AIMS, and the  
21 training for supervisor on allegation inquiries, did  
22 those all occur at CCI as well?

23 A. Yes.

24 Q. Beyond those five statewide changes to policies  
25 and practices, since January 1, 2017, has CDCR made any

1 changes to policies or practices at CCI intended to  
2 remove staff misconduct against incarcerated?

3 A. Those are the ones that I know of.

4 Q. Has there been any increases in staffing at CCI  
5 since January 1, 2017, intended to reduce staff  
6 misconduct against incarcerated?

7 A. I'm sorry, increases in --

8 Q. Staffing.

9 A. I'm sorry?

10 Q. Staffing.

11 A. Staffing?

12 Q. Staffing, yes.

13 A. No increases in staffing by the department at  
14 CCI with the exception of our normal standardized  
15 staffing process.

16 Q. Were any staff assigned on special assignment  
17 to CCI with the intention of reducing staff misconduct?

18 A. None that I know of.

19 Q. Were there any trainings specifically targeted  
20 for CCI with the intention of reducing staff misconduct  
21 there?

22 A. No trainings targeting CCI or exclusive to CCI.  
23 Just the department training that we spoke of earlier.

24 Q. Since January 1, 2017, have managers at CCI  
25 received any increase mentoring above and beyond the



1 ordinary monitoring that occurs with the intention of  
2 reducing staff misconduct?

3 A. CCI did have a mentor for the warden assigned  
4 to it from January 2017 to present.

5 Q. Has it been the same warden for that whole  
6 time?

7 A. No.

8 Q. Who were the wardens during that time period?

9 A. I believe Warden Sullivan. I would have to  
10 verify the date he took over at CCI, but William Joe  
11 Sullivan. When I started in my acting capacity here, he  
12 was the warden at CCI. He retired, and our current  
13 acting warden there is Brian Cates.

14 Q. How do you spell Cates?

15 A. C-a-t-e-s.

16 Q. But since January 1, 2017, all the way up to  
17 the present there has been a mentor for the warden at  
18 CCI; is that correct?

19 A. There has not been a mentor for the warden for  
20 the duration of that time. From January 2017 to  
21 present, there was not a mentor that whole time.

22 Q. For what part of that time period was there a  
23 mentor for the warden?

24 A. So a mentor for acting Warden Cates was there I  
25 believe August and September, somewhere around those --

1 those months.

2 Q. And was there ever a mentor for former Warden  
3 Sullivan?

4 A. Not that I am aware of.

5 Q. Okay. And why did the department provide  
6 acting Warden Cates with a mentor in August and  
7 September 2020?

8 A. Providing a mentor for newly seated wardens  
9 while they're in the acting role is another resource,  
10 another tool for that acting warden to be able to talk  
11 about ideas, recommendations, those types of things,  
12 mentoring types of things.

13 Q. Was the provision of a mentor to acting Warden  
14 Cates related to staff misconduct at CCI in any way?

15 A. So mentoring assignments provide resources for  
16 all different types of operations of the prison, so how  
17 you address all items during the day-to-day operations  
18 are always up for discussion between the acting warden  
19 and the mentor.

20 Q. So it's possible that the mentorship may have  
21 addressed that misconduct; is that correct?

22 MR. MAIORINO: Vague and ambiguous.  
23 Mischaracterizes prior testimony. Calls for  
24 speculation.

25 THE WITNESS: Yes, I don't know exactly what

1 that mentorship covered because I'm not privy to their  
2 conversations. I'm not there all of the time, but a  
3 resource for newly assigned wardens for the purposes of  
4 having somebody with experience to provide the acting  
5 warden recommendations, for the acting warden to  
6 discuss, "Hey, I want to go this way with this thing or  
7 this way with this other item" is always open to that  
8 mentor -- mentor/mentee type relationship.

9 BY MR. FREEDMAN:

10 Q. But I believe you said the provision of the  
11 mentor was because acting Warden Cates was in the acting  
12 warden -- was recently appointed as an acting warden; is  
13 that correct?

14 A. I'm sorry. Your audio cut at the beginning.

15 Q. I believe you said, though, that the reason  
16 that a mentor was provided to acting Warden Cates was  
17 because -- I don't know if that's a man or a woman, but  
18 the person was recently appointed as an acting warden;  
19 is that correct?

20 A. Yes. It's -- Warden Cates is a male, and he  
21 started acting in that role I believe the beginning of  
22 July of 2020, and the mentor was provided to Warden  
23 Cates as he had been newly appointed to the acting role  
24 there, yes.

25 Q. Are all newly appointed acting wardens provided

1 with mentors?

2 MR. MAIORINO: Objection. It goes beyond the  
3 scope of the witness' designation as a PMK for this  
4 deposition.

5 THE WITNESS: In my experience, not all acting  
6 wardens have mentors assigned to them. However, there  
7 is always an option for the director to provide  
8 assistance to acting wardens.

9 BY MR. FREEDMAN:

10 Q. Are there any other changes to policy or  
11 practice at CCI intended to reduce staff misconduct that  
12 you haven't told me about?

13 A. None that I know.

14 Q. All right. Now, let's talk about KVSP.

15 The five statewide changes that we discussed  
16 earlier, the MILO training, inmate/staff relations  
17 training, the new grievance process, AIMS and the  
18 training provided to supervisors regarding allegation  
19 inquiries, did all of those changes to policy and  
20 practice take effect at Kern Valley State Prison as  
21 well?

22 A. Yes, Kern Valley was affected by those changes  
23 as well.

24 Q. Beyond those changes, did CDCR make any changes  
25 to KVSP from January 1, 2017, to the present intending

1 to reduce staff misconduct there?

2 MR. MAIORINO: Objection. Overbroad.

3 THE WITNESS: None that I know of.

4 BY MR. FREEDMAN:

5 Q. Was there any increases to staffing at KVSP?

6 A. No increases to staffing outside of our normal  
7 standardized staffing process.

8 Q. Were there any special training other than the  
9 ones we've discussed that were provided to staff at  
10 KVSP?

11 MR. MAIORINO: Objection. Vague and ambiguous.

12 THE WITNESS: None that I know of.

13 BY MR. FREEDMAN:

14 Q. Were there any staff placed on special  
15 assignment at KVSP with the intention of reducing staff  
16 misconduct there?

17 A. None that I know of.

18 Q. Was there any mentoring of managerial staff at  
19 KVSP intended to reduce staff misconduct against  
20 incarcerated people there?

21 A. None that I know of.

22 Q. In the last three years -- well, since January  
23 1, 2017, has CDCR made any changes to the processes or  
24 investigating staff misconduct claims at LAC, Corcoran,  
25 CCI --

1 A. I'm sorry. Your audio cut out at the end  
2 there.

3 Q. My apologies.

4 A. No problem.

5 Q. Since January 1, 2017, has CDCR made any  
6 changes to the processes for investigating staff  
7 misconduct claims at LAC, Corcoran, CCI and KVSP?

8 MR. MAIORINO: Objection. Overbroad.

9 THE WITNESS: So changes made by the department  
10 in those institutions include the AIMS section of our  
11 grievance process. In addition to that, supervisors  
12 assigned to those institutions are now trained by our  
13 AIMS chief deputy administrator.

14 BY MR. FREEDMAN:

15 Q. The changes to AIMS, those were made on a  
16 statewide basis; correct?

17 A. Yes. It impacts the whole state, that's  
18 correct.

19 Q. And the training provided to supervisors by  
20 AIMS regarding how to conduct allegation inquiries,  
21 those were also done on a statewide basis; correct?

22 A. Yes, that is correct. Every institution has  
23 supervisors that have been trained by the AIMS chief  
24 deputy administrator.

25 Q. So beyond the changes to the grievance process,

1 AIMS and the trainings, has CDCR done anything else to  
2 change the processes for investigating staff misconduct  
3 claims at LAC, Corcoran, CCI --

4 MR. MAIORINO: Objection. Overbroad. Vague  
5 and ambiguous.

6 THE WITNESS: Those are the ones that I know  
7 of.

8 BY MR. FREEDMAN:

9 Q. Is CDCR planning to make any changes to the  
10 processes for investigating staff misconduct claims at  
11 LAC, Corcoran, CCI --

12 MR. MAIORINO: Vague and ambiguous. Overbroad.

13 THE WITNESS: It's my belief that CDCR is  
14 always looking to improve our processes and continuing  
15 to pursue -- improve our procedures as well as well as  
16 policies, and so we're always looking to improve to do  
17 stuff better, do things better.

18 BY MR. FREEDMAN:

19 Q. As far as you're aware, are there any specific  
20 changes contemplated by the department for -- to the  
21 processes for investigating staff misconduct claims at  
22 LAC, Corcoron, CCI and --

23 MR. MAIORINO: Objection. Vague and ambiguous.  
24 Overbroad.

25 THE REPORTER: When you say the initials, can

1 you say them a little louder. At the end of them, I'm  
2 losing it.

3 MR. FREEDMAN: In that last question, it was  
4 LAC, Corcoran, CCI and KVSP.

5 THE WITNESS: So outside our normal continued  
6 evaluation of our policies, procedures, there are no  
7 specific changes that I am aware of scheduled for  
8 rollout.

9 BY MR. FREEDMAN:

10 Q. You've worked in high ranking positions at a  
11 number of prisons; correct?

12 MR. MAIORINO: Objection. Vague and ambiguous.

13 THE WITNESS: Yes. I've worked in -- I don't  
14 know if I would consider my ranking, but chief deputy  
15 administrator and warden at four different institutions  
16 throughout my career in one of those two seats.

17 BY MR. FREEDMAN:

18 Q. And you now oversee the ten institutions;  
19 correct?

20 A. Yes. I oversee ten institutions.

21 Q. And I believe you mentioned at the beginning  
22 that you are responsible for chairing the executive  
23 review committee; is that correct?

24 A. Chairing the -- yeah, the Department Executive  
25 Review Committee.



1 Q. What is the Department Executive Review  
2 Committee or DERC?

3 A. The Department Executive Review Committee also  
4 known as DERC is the department's way of evaluating  
5 use-of-force incidents that meet the criteria that it  
6 must be reviewed by the -- at the director's level.

7 Q. Okay. Given the different roles that you  
8 filled in the department, is it fair to say that you're  
9 familiar with the policies related to investigating  
10 staff complaints?

11 MR. MAIORINO: Objection. Vague and ambiguous.  
12 Overbroad.

13 THE WITNESS: Yes, I'm familiar with the  
14 policies on staff investigations.

15 BY MR. FREEDMAN:

16 Q. Do the policies for investigating staff  
17 complaints differ among prisons?

18 A. No. Policies from my perspective are statewide  
19 department imposed policies, so those would be  
20 standardized throughout the state.

21 Q. Do the practices for investigating staff  
22 complaints differ among prisons?

23 MR. MAIORINO: Objection. Vague and ambiguous.  
24 Overbroad.

25 THE WITNESS: I think that would differ

1 depending on the situation.

2 BY MR. FREEDMAN:

3 Q. What do you mean by that?

4 A. How an institution reviews staff misconduct  
5 depending on the situation could differ based on the  
6 training or expectations of the warden, the training of  
7 the individual providing allegation inquiry as well as  
8 what I call warden's expectation or institution  
9 expectation, so that could be different.

10 Q. What do you mean when you say "warden  
11 expectations"? How could those differ?

12 A. So warden-specific institutions could differ  
13 from other institutions based on format of how the  
14 allegation is documented. The warden's expectations on  
15 what he, she or they would want their institution to do.  
16 Formatting is probably the easiest way of explaining it.

17 Q. Is there much substantive differences in  
18 practices for conducting inquiries --

19 A. I'm sorry. Your audio cut out.

20 Q. Are there substantive differences between the  
21 way inquiries are conducted at different institutions?

22 MR. MAIORINO: Objection. Vague and ambiguous.  
23 Overbroad.

24 THE WITNESS: I guess I would ask what you mean  
25 by substantive.

1 BY MR. FREEDMAN:

2 Q. To me the formatting of an inquiry report is  
3 procedural or non-substantive distinction. In terms of  
4 substantive distinctions, I would -- I mean differences  
5 in quality, thoroughness. I think those would probably  
6 be the main types of things I was thinking.

7 Can there be a difference among institutions in  
8 terms of the substantive quality of inquiry?

9 MR. MAIORINO: Objection. Vague and ambiguous.  
10 Calls for speculation. Overbroad.

11 THE WITNESS: So I haven't seen obviously every  
12 inquiry done at every institution, but I understand that  
13 the expectation of the quality of review is the same for  
14 every institution.

15 BY MR. FREEDMAN:

16 Q. Why did CDCR decide to implement AIMS?

17 MR. MAIORINO: Objection. Overbroad. Beyond  
18 the scope of the designation of the PMK.

19 THE WITNESS: I don't know exactly why that  
20 decision was made.

21 BY MR. FREEDMAN:

22 Q. Do you have any sense of why it was made?

23 MR. MAIORINO: Same objection. Asked and  
24 answered.

25 THE WITNESS: I don't know exactly why that

1 decision was made.

2 BY MR. FREEDMAN:

3 Q. Do you know any reasons why it was made if you  
4 don't know the exact ones?

5 A. I'm sorry. You broke up again.

6 Q. Do you know any reason why it was implemented,  
7 not necessarily the exact ones?

8 MR. MAIORINO: Objection. Asked and answered.  
9 Beyond the scope of the designation of the PMK?

10 THE WITNESS: No, I don't know any reason  
11 specifically why AIMS was created.

12 BY MR. FREEDMAN:

13 Q. Do you think AIMS is an improvement over the  
14 old system?

15 MR. MAIORINO: Objection. Goes beyond the  
16 scope as the designation of the PMK of this deposition  
17 and asks for personal opinion.

18 THE WITNESS: So I think my personal opinion is  
19 that transparency to processes with the hope that it  
20 assists our incarcerated persons to have faith in our  
21 process is always a good thing.

22 BY MR. FREEDMAN:

23 Q. Why would AIMS make it such that incarcerated  
24 people would have more faith in the staff complaint  
25 investigation process?

1           A. In my opinion, some incarcerated people believe  
2 that individuals from outside of the department --  
3 correction, outside of the assigned institution that  
4 they are at reviewing it would provide a better feel for  
5 them.

6           Q. Do you think that having people from outside  
7 the institution conduct inquiries will result in better  
8 inquiries?

9           MR. MAIORINO: Objection. Vague and ambiguous.  
10 Goes beyond the scope of his designation as a PMK for  
11 this deposition. He's not here to give personal  
12 opinion.

13           THE WITNESS: So can you repeat that question?  
14 You broke up on the very beginning of it.

15 BY MR. FREEDMAN:

16           Q. I'm so sorry. I'm sorry I'm having these audio  
17 problems. It hasn't been a problem with my Zoom  
18 previously.

19           Do you think that having people from outside  
20 the prison institution to conduct allegation inquiries  
21 will improve the inquiries?

22           MR. MAIORINO: Objection. Goes beyond the  
23 scope of the designation as the PMK designation. He's  
24 not here to give his personal opinion.

25           THE WITNESS: So in my opinion it could or it

1 could not depending on the quality of the reviews done  
2 at the institution, the quality of reviews done by our  
3 AIMS unit.

4 BY MR. FREEDMAN:

5 Q. Have you reviewed any AIMS inquiry reports?

6 MR. MAIORINO: Objection. Vague and ambiguous.  
7 Goes beyond the scope of his designation of the PMK.

8 THE WITNESS: I do not recall specifically  
9 reviewing any AIMS generated staff allegation reports or  
10 inquiries.

11 BY MR. FREEDMAN:

12 Q. Does CDCR have a system for tracking  
13 allegations of staff misconduct at LAC, Corcoran, CCI  
14 and KVSP?

15 A. So CDCR does have tracking programs of staff  
16 misconduct at those institutions, yes.

17 Q. And what -- how do they track that misconduct?

18 A. So if the staff misconduct is done in alignment  
19 with the grievance process, it was -- it's tracked by  
20 the offender grievance tracking I believe is what it's  
21 called.

22 If the allegation is done via through a normal  
23 program-type process, whether the incarcerated person is  
24 receiving a medical evaluation or different  
25 opportunities there, there's a 3013, 3014 process that

1 we have that is tracked in our use of force office.

2 If the allegation of staff misconduct rises to  
3 the level of reasonable belief that these allegations  
4 occurred and as a result of them occurring would result  
5 in adverse disciplinary action, then those are tracked  
6 via a 989 log at the institution. Those are a few of  
7 the ways in which allegations are tracked at those  
8 institutions.

9 Q. Is there any system available at LAC, Corcoran,  
10 CCI or KVSP to search to see how many allegations of  
11 staff misconduct have been made against a particular  
12 officer?

13 A. Can you rephrase that question?

14 Q. Sure. Let's do it as a hypothetical. Let's  
15 say I'm at LAC. There is an Officer Smith. You receive  
16 a grievance saying that Officer Smith used excessive  
17 force against an incarcerated person, and we're looking  
18 into that, and we want to see if Officer Smith has been  
19 accused or found to have engaged in any misconduct  
20 previously that harmed incarcerated people.

21 Is there any place to search to see whether  
22 Mr. -- Officer Smith had been previously accused of  
23 misconduct or had been found to have engaged in  
24 misconduct?

25 MR. MAIORINO: Objection. Incomplete

1 hypothetical. Calls for speculation. Vague and  
2 ambiguous.

3 THE WITNESS: So my opinion if that scenario  
4 occurred the way I would identify that at those  
5 institutions or if Officer Smith in this case had any  
6 previous allegations would be to communicate with our  
7 employees relations officer, our investigative services  
8 unit lieutenant with our grievance coordinator, review  
9 the 2140 log, and then we also for employee discipline  
10 have a signed vertical advocate at every institution, so  
11 that would be another resource in which as a Hiring  
12 Authority I could speak with those individuals.

13 BY MR. FREEDMAN:

14 Q. And what tracking systems or sources of  
15 information would they have to determine whether Officer  
16 Smith had been previously accused of misconduct or found  
17 to have engaged in misconduct?

18 MR. MAIORINO: Objection. Vague and ambiguous.  
19 Overbroad.

20 THE WITNESS: So every institution varies a  
21 little bit.

22 My experience has been that the ERO has access  
23 to our case management system which is a system out of  
24 OIA to track formalized investigations.

25 Of course, our vertical advocate would have



1 that same access to the CMS system.

2 Our grievance coordinator should have access to  
3 our offender grievance tracking system, or investigative  
4 services lieutenant in those institutions would have  
5 access to the 2140 log at their institution, 989 log at  
6 their institution as well as all of them would have  
7 working information that -- of what they've experienced  
8 and usually history with the institution.

9 BY MR. FREEDMAN:

10 Q. What information is kept on the 2140 log?

11 A. Some of the information on the 2140 log is the  
12 date of an allegation received, who the allegation is  
13 against. Some have short descriptions of that  
14 allegation. And then tracking that allegation through  
15 to the end.

16 Q. Does the 2140 log track the location of the  
17 incident?

18 MR. MAIORINO: Objection. Vague and ambiguous.

19 THE WITNESS: I don't know if every  
20 institution's 2140 log tracks the specific location of  
21 the allegation.

22 BY MR. FREEDMAN:

23 Q. Does it track the name of the person making the  
24 complaint?

25 A. I don't know if each one of the four 2140 logs

1 at the institution tracks the specific name of the  
2 person making the allegation.

3 Q. Do you know if any of them do?

4 A. I don't know if any of them do.

5 Q. Is the 2140 log a standardized log or is it  
6 something that differs from institution to institution?

7 A. So the 2140 log by definition is a standardized  
8 log. It's an official department standardized form.

9 Q. Okay. Does the 2140 log track whether the  
10 alleged victim of the misconduct is --

11 THE REPORTER: We lost you at the end.

12 THE WITNESS: You broke up.

13 BY MR. FREEDMAN:

14 Q. Does the 2140 log track whether the alleged  
15 victim of the misconduct is an Armstrong class member?

16 A. I'm unsure if it tracks specifically that the  
17 individual alleging the complaint or making the  
18 allegations is specific to an Armstrong class member.

19 Q. Does it track the alleged victim's race?

20 A. I'm unsure if it tracks the alleged victim's  
21 race.

22 Q. The offender grievance tracking system, what  
23 information is kept there?

24 A. Examples of items that are kept in the offender  
25 grievance tracking system is to track the grievances,

1 grievance number all the way from the start when they  
2 receive the grievance through the completion of the  
3 grievance.

4 Q. Does it contain -- if the grievance is a staff  
5 complaint does it contain information about against whom  
6 the staff complaint was made?

7 A. I'm unsure if the exact staff member's name is  
8 placed in the grievance tracking system.

9 Q. Does it track whether the grievance is a staff  
10 complaint?

11 A. My understanding is the grievance tracking  
12 system does identify what type of grievance it is.

13 Q. Do you know what an early warning system is?

14 MR. MAIORINO: It's vague and ambiguous.

15 Overbroad.

16 THE WITNESS: Yes. I've heard of early warning  
17 system.

18 BY MR. FREEDMAN:

19 Q. What's your understanding of what an early  
20 warning system is?

21 A. My understanding of an early warning system  
22 within our department is an executive dashboard type  
23 report that is generated through our risk management  
24 team.

25 Q. Does CDCR have an early warning system?

1           A. So we receive I believe a monthly report from  
2 our office of risk management that identifies increases  
3 and/or decreases in grievance.

4           Q. Is this the early action report that you  
5 referenced earlier?

6           A. Yes. That's what I believe it is.

7           Q. And I believe you testified earlier it provides  
8 information about increases and decreases in types of  
9 grievances as well; is that correct?

10          A. Yes. It identifies types of grievances,  
11 institutions. It's more of a high level picture of our  
12 grievances.

13          Q. Other than the early action report which looks  
14 at grievances, does CDCR have any other early warning  
15 system?

16          A. That is the one I know about.

17          Q. I believe you testified earlier that it is your  
18 understanding that you were not designated to testify on  
19 topics 2 or 3 of the deposition notice; is that correct?

20          A. Yes, that is my understanding.

21          Q. Would you pull up Lozano Exhibit 14.

22          A. You said Exhibit 14, one four?

23          Q. One four.

24          A. Okay.

25          Q. Have you ever seen this document before?

1           A. No, I don't recall ever seeing this exhibit  
2 document before.

3           Q. Did you have any discussions -- strike that.

4           I don't want to ask about your conversations  
5 with counsel.

6           MR. FREEDMAN: I would just like to state an  
7 objection for the record here. Plaintiffs agreed to  
8 permit defendants to not have to produce a person most  
9 knowledgeable on topic 2 if defendants produced certain  
10 information in lieu of testimony.

11           Lozano Exhibit 14 is a partial provision of  
12 that information, but it is incomplete, and so  
13 plaintiffs reserve the right to have defendants  
14 designate someone on topic number 2 as the person most  
15 knowledgeable to provide this information and to be  
16 available to testify on topic 2 because the response  
17 that we received to date is incomplete and does not  
18 satisfy the parties' agreement.

19           MR. MAIORINO: Sure. I'm certain that we will  
20 be producing, to the extent you claim this is  
21 incomplete, we'll be producing whatever it is that will  
22 make it complete.

23           And I know we did have an agreement that we  
24 would produce some of these interrogatory-type  
25 responses. I think that information is forthcoming.

1 I note that one of the reasons for the meet and  
2 confer was because the topics were so incredibly  
3 overbroad. We did not think a person could be prepared  
4 to provide testimony, and I think that's how we got to  
5 this agreement was that the interrogatory responses  
6 would be the best way to do it.

7 MR. FREEDMAN: We did have an agreement, but  
8 our understanding is they would be produced in time for  
9 us to ask a person most knowledgeable about how they  
10 were produced just like with topic number 1, and so the  
11 fact that Mr. Lozano has not been designated to even  
12 discuss how topic -- you know, this chart has been  
13 completed is inadequate, and as the chart itself is  
14 incomplete is also inadequate.

15 I'm just stating this for the record. I don't  
16 need to argue about it here, Trace. I understand that  
17 defendants have indicated that production of a complete  
18 chart is forthcoming.

19 MR. MAIORINO: Okay. And noted. I do note  
20 that it seems like the witness testifying as to the  
21 formulation of tables for number 2 and 3 seems to be you  
22 coming from plaintiff, but I didn't know that was a part  
23 of our agreement.

24 MR. FREEDMAN: Okay.

25 BY MR. FREEDMAN:

1 Q. Could you please pull up Lozano 15.

2 A. 15, one five?

3 Q. One five.

4 Have you ever seen this document before?

5 A. No, I have never seen this specific document  
6 before.

7 Q. And am I correct that you also have not been  
8 designated to be a person most knowledgeable on topic  
9 number 3 of the deposition notice?

10 A. That is correct. That's my understanding.

11 MR. FREEDMAN: I'm going to state another  
12 objection for the record. Plaintiffs are reserving the  
13 right to keep this person most knowledgeable deposition  
14 open. The parties have an agreement that defendants  
15 would provide certain information in lieu of presenting  
16 a person most knowledgeable deponent on topic 3 to date.

17 Defendants have not provided all of that  
18 information and have, in fact, only provided a very  
19 small fraction of that information, and so defendants  
20 have not satisfied their part of that agreement, and,  
21 therefore, plaintiffs are reserving their right to  
22 depose the person most knowledgeable on topic number 3.

23 That's all I have to say on that.

24 MR. MAIORINO: And I'll just echo my earlier  
25 statement in regards to Exhibit 14 same responses as to

1 Exhibit 15.

2 MR. FREEDMAN: Why don't we take a ten-minute  
3 break. Would that be all right with everyone?

4 THE WITNESS: Absolutely. Thank you.

5 (Brief recess taken from 3:31 p.m. to 3:49 p.m.)

6 BY MR. FREEDMAN:

7 Q. Now, I know you haven't read all but except two  
8 or three of the declarations from incarcerated people  
9 about staff misconduct in this case, but I'm going to  
10 represent to you that plaintiffs in this case have  
11 submitted 40 declarations from incarcerated people with  
12 disabilities describing misconduct that they experienced  
13 or witnessed at LAC.

14 As far as you know, has CDCR made any changes  
15 at LAC in response to the declarations?

16 MR. MAIORINO: Vague and ambiguous. Overbroad.

17 THE WITNESS: I don't know of the declarations  
18 that you speak of, so I would not know if any changes  
19 were made in response to those declarations.

20 BY MR. FREEDMAN:

21 Q. If you could pick up -- let's see -- Lozano  
22 Exhibit 6.

23 A. Okay.

24 Q. Have you ever seen this document before?

25 A. I don't recall ever seeing this specific



1 document.

2 Q. I'm going to represent to you that this is a  
3 March 27, 2020 letter sent from Tom Nolan, who's an  
4 attorney at my office, to a variety of recipients at  
5 CDCR regarding staff misconduct allegations at LAC.

6 Now, on March 27, 2020, you were the acting  
7 director of the high security mission; correct?

8 A. I was either acting or appointed by that time.

9 Q. Regarding whether you were in an acting  
10 capacity at that point, you were functioning as the  
11 associate director of the high security mission on March  
12 27, 2020; correct?

13 A. Yes, that's correct.

14 Q. This letter was never -- about many allegations  
15 of staff misconduct at one of the high security prisons  
16 was never forwarded to you; is that correct?

17 MR. MAIORINO: Misstates prior testimony.

18 THE WITNESS: No. What I said was I've  
19 never -- I don't remember ever reviewing this document.  
20 It does not mean that it wasn't forwarded to me or I  
21 have. I just don't remember the document.

22 BY MR. FREEDMAN:

23 Q. Do you know whether or not you ever received  
24 it?

25 MR. MAIORINO: Asked and answered.

1 THE WITNESS: As I stated before, I don't  
2 remember exactly ever receiving this specific document.

3 BY MR. FREEDMAN:

4 Q. But you do know that you haven't seen it  
5 before; is that correct?

6 MR. MAIORINO: Mischaracterizes prior  
7 testimony.

8 THE WITNESS: What I stated was I don't  
9 remember whether or not I've seen this before.

10 BY MR. FREEDMAN:

11 Q. I'm sorry. And I'm not trying to be difficult.  
12 I misstated what you said. You're right. You said you  
13 didn't remember seeing it. So it's possible that you've  
14 seen it; is that correct?

15 A. It's always possible. I don't remember,  
16 though.

17 Q. Understood.

18 Could you turn to the last I believe it's five  
19 pages which are pages 9, 10, 11, 12 and 13.

20 Do you see that chart there?

21 A. Yes.

22 Q. Now, I know you haven't seen this before, but  
23 I'm going to represent to you that the spreadsheet lists  
24 88 discrete instances of staff misconduct at LAC about  
25 which plaintiff's counsel had notified defendants in

1 2019 and 2020. I won't make you count them up one by  
2 one. You can take my word for it for now.

3 As far as you're aware, did CDCR make any  
4 changes at LAC in response to this March 27, 2020  
5 letter?

6 MR. MAIORINO: Objection. Overbroad. Vague  
7 and ambiguous. It goes beyond the designation of this  
8 witness as a PMK.

9 THE WITNESS: So I don't know if the department  
10 changed any policy or procedures as a response to this.

11 BY MR. FREEDMAN:

12 Q. Did the department do anything in response to  
13 this as far as you know?

14 MR. MAIORINO: It's vague and ambiguous.  
15 Overbroad. It's beyond the scope of this witness'  
16 designation as a PMK at this deposition.

17 THE WITNESS: So I don't know if the department  
18 did anything as a response to this.

19 I do know as we discussed earlier there was  
20 some special assignments in order to inquire into staff  
21 misconduct allegations.

22 However, I'm unsure if these were the actual  
23 allegations in which they were responding to.

24 BY MR. FREEDMAN:

25 Q. Now, I just can't remember. I'm not trying to

1 ask a question twice.

2 You said there was approximately five people  
3 placed on special assignment at LAC to assist with  
4 allegation inquiries; correct?

5 A. Yes. Approximately five people removed from  
6 other duties that they would normally be assigned to in  
7 order to complete staff misconduct allegations at the  
8 request of the warden.

9 Q. Now, do you know -- sorry.

10 When those people were placed on special  
11 assignment, was that during the time that you were --  
12 you'd been the associate director for the high security  
13 mission?

14 A. Yes.

15 Q. And do you recall if the placement of those  
16 staff members on special assignment was before or after  
17 March 27, 2020, the date of this letter?

18 MR. MAIORINO: Objection. Goes beyond the  
19 scope of this witness' designation as PMK for this  
20 deposition.

21 THE WITNESS: I do not recall the specific date  
22 that the approximately five individuals were put on that  
23 special assignment to respond to staff misconduct  
24 allegations at the request of the warden.

25 BY MR. FREEDMAN:

1 Q. Would you please pull up Lozano Exhibit 7.

2 Actually, put that down for a second. We'll come back  
3 to that in just a second. Sorry.

4 Okay, again, I know you testified earlier that  
5 you haven't reviewed more than two or three of the  
6 declarations from incarcerated people about misconduct  
7 they experienced in CDCR, but I'm going to represent to  
8 you that plaintiffs in this case submitted 20  
9 declarations from incarcerated people with disabilities  
10 describing misconduct they experienced or witnessed at  
11 Corcoran State Prison.

12 As far as you know, has CDCR made any changes  
13 at Corcoran in response to those declarations?

14 MR. MAIORINO: Overbroad. Vague and ambiguous.  
15 Goes beyond the scope of the designation of this witness  
16 as the PMK for today's deposition.

17 THE WITNESS: So, to my knowledge, because I  
18 don't know any time frames or when those allegations  
19 occurred, I don't know of anything the department did  
20 specifically in response to those allegations of staff  
21 misconduct.

22 BY MR. FREEDMAN:

23 Q. Now you can pick up Exhibit 7, please.

24 I'm going to represent to you that this is an  
25 Armstrong monitoring tour report related to a November

1 2019 monitoring tour at Corcoran State Prison.

2 Have you ever seen this document before?

3 A. I don't recall ever seeing this specific  
4 document.

5 Q. And just to be perfectly clear, I should have  
6 said these were excerpts from the tour report, not the  
7 entire report itself.

8 Take a minute and quickly review pages 28 to 31  
9 which there is pagination at the top. It would be pages  
10 3, 4, 5 and 6 for the Bates stamping at the bottom.

11 Page 6 you only need to read up to requests and  
12 recommendation. You don't need to read the part below  
13 that.

14 A. Okay.

15 Q. Have you finished reviewing?

16 A. Yes, sir.

17 Q. So these pages of the tour report describe a  
18 number of staff misconduct incidents at Corcoran;  
19 correct?

20 A. That I don't know. These pages, the ones that  
21 I read, reflect allegations of staff misconduct.

22 Q. That's right. I'm just saying they describe  
23 staff misconduct. I'm not saying that they establish  
24 that that misconduct, in fact, occurred. Okay?

25 A. Yes.

1 Q. And I want to clarify although this says  
2 "November 2019" at the top of it, I'm representing to  
3 you that that's when the monitoring tour took place and  
4 that this report was actually issued in June of 2020  
5 following the monitoring tour.

6 Do you understand that?

7 A. Yes, I understand.

8 Q. Okay. As far as you're aware, has CDCR made  
9 any changes at Corcoran in response to the allegations  
10 of misconduct contained in this tour report?

11 MR. MAIORINO: Objection. Vague and ambiguous.  
12 Overbroad. It's beyond the scope of this witness'  
13 designation of the PMK for this deposition.

14 THE WITNESS: As far as I'm aware, there have  
15 been no changes at Corcoran in response to this specific  
16 report.

17 BY MR. FREEDMAN:

18 Q. All right. Would you please -- when you were a  
19 warden at CMF, would you receive copies of the Armstrong  
20 monitoring tours that were issued about CMF?

21 MR. MAIORINO: Objection. This goes beyond the  
22 scope of this witness' designation as the PMK for this  
23 deposition.

24 THE WITNESS: Yes. I would -- a normal  
25 practice would be that the warden would receive those

1 reports.

2 BY MR. FREEDMAN:

3 Q. Now -- I'm sorry. I didn't mean to cut you  
4 off.

5 Now that you're associate director of the high  
6 security mission, do you receive copies of any Armstrong  
7 monitoring reports for the 10 prisons that fall within  
8 your mission?

9 MR. MAIORINO: Objection. Goes beyond the  
10 scope of the designation for this witness.

11 THE WITNESS: Yes. As associate director of  
12 the high security mission, I do receive -- it's a normal  
13 practice for the associate directors to receive the tour  
14 reports.

15 BY MR. FREEDMAN:

16 Q. The Armstrong -- when you say "the tour  
17 reports," you mean the Armstrong monitoring tour  
18 reports; is that correct?

19 A. Yes, that is what I mean.

20 Q. Do you recall if you received this Armstrong  
21 monitoring tour report in approximately June 2020?

22 MR. MAIORINO: It goes beyond the scope of his  
23 designation as the PMK witness for this deposition.

24 THE WITNESS: I do not recall specifically if I  
25 received this Armstrong monitoring tour report before.



1 BY MR. FREEDMAN:

2 Q. And you testified and you didn't -- well, I'll  
3 just ask it. Before I presented this document to you  
4 today, had you ever seen it before?

5 A. I don't recall specifically seeing this report.

6 Q. Let's go to -- let's see. That was Lozano 7.  
7 Let's go to Lozano Exhibit 8, please.

8 Now, I'm going to represent to you that this is  
9 a letter from the prison law office who are also  
10 plaintiff's counsel in Armstrong to defendants -- I'm  
11 sorry, to the secretary of CDCR, Ralph Diaz, the former  
12 secretary dated June 8, 2020.

13 Have you seen this letter before?

14 A. I don't remember seeing this exact letter  
15 before.

16 Q. Do you remember hearing about information  
17 potentially contained in this letter?

18 MR. MAIORINO: It's vague and ambiguous. Calls  
19 for speculation.

20 THE WITNESS: Yeah, I don't remember -- I don't  
21 know what's in this letter, so I wouldn't know if I  
22 heard anything about it.

23 BY MR. FREEDMAN:

24 Q. Why don't you take a second and read the  
25 introduction of the letter from the start of it down to

1 the first heading and see if that refreshes your memory.

2 So does reading those introductory paragraphs  
3 refresh your memory at all as to whether you received a  
4 copy of this letter?

5 A. No, it does not.

6 Q. And, again, I'm sorry if I asked this already,  
7 but have you ever seen this letter before?

8 A. I don't remember seeing this specific letter  
9 before.

10 Q. So I'm going to represent to you that this  
11 letter describes a number of staff misconduct incidents  
12 at Corcoran including officers assaulting incarcerated  
13 people, destroying incarcerated people's property,  
14 threatening incarcerated people who filed 602s about  
15 misconduct, officers operating an illegal cell phone  
16 trade at Corcoran, and officers forcing incarcerated  
17 people to fight in gladiator-style battles.

18 As far as you're aware, has CDCR made any  
19 changes at Corcoran in response to this letter?

20 MR. MAIORINO: Objection. Vague and ambiguous.  
21 Assumes facts. Beyond the scope of the designation of  
22 this PMK for this deposition.

23 THE WITNESS: So I don't know what's exactly in  
24 all of this letter, in the totality of the letter.

25 However, there have not been any changes to my

1 knowledge in response specifically to this letter.

2 BY MR. FREEDMAN:

3 Q. I'm going to represent to you that plaintiff in  
4 this case have submitted four declarations from  
5 incarcerated people with disabilities describing  
6 misconduct they've experienced or witnessed at CCI, and  
7 that those declarations were submitted to the court in  
8 June and September of 2020.

9 As far as you're aware, has CDCR made any  
10 changes at CCI in response to those declarations?

11 MR. MAIORINO: Objection. Vague and ambiguous.  
12 Assumes facts. Goes beyond the scope of this witness'  
13 designation as a PMK for this deposition.

14 THE WITNESS: So I haven't reviewed those  
15 allegations in which you speak of, so I can't answer  
16 that question.

17 However, there are no -- there have been no  
18 changes to my knowledge in response to any of the  
19 allegations that you speak.

20 BY MR. FREEDMAN:

21 Q. Let's go to Lozano Exhibit 9.

22 Have you ever seen this document before?

23 A. I don't recall ever seeing this specific  
24 document, Exhibit 9.

25 Q. Okay. I'm going to represent to you that it's

1 a Sentinel Report issued by the Office of the Inspector  
2 General dated January 10, 2020.

3 Have you ever read any Sentinel reports issued  
4 by the Office of the Inspector General?

5 A. Yes, I have.

6 Q. Do you know if you've read this one?

7 A. I don't know if I've read this one.

8 Q. Okay. Well, I'll represent to you that this  
9 Sentinel Report describes an investigation and  
10 discipline imposed against four officers at CCI for  
11 conspiring to provide incarcerated people with weapons  
12 to assault sex offenders.

13 As far as you're aware, has CDCR made any  
14 changes to -- at CCI in response to this report?

15 MR. MAIORINO: Objection. Vague and ambiguous.  
16 It assumes facts. It's beyond the scope of this  
17 witness' designation as a PMK for this deposition.

18 THE WITNESS: So as far as I'm aware, no  
19 changes have been implemented at CCI specific to this  
20 report.

21 BY MR. FREEDMAN:

22 Q. I'll represent to you that plaintiffs in this  
23 case have submitted 10 declarations from incarcerated  
24 people with disabilities describing misconduct they  
25 experienced or witnessed at KVSP and that those

1 declarations were filed with the court in June and  
2 September of 2020.

3 As far as you're aware, has CDCR made any  
4 changes at KVSP in response to the declaration?

5 MR. MAIORINO: Vague and ambiguous. Assumes  
6 facts. Goes beyond the scope of this witness'  
7 designation as a PMK for this deposition.

8 THE WITNESS: So similar to my answer to the  
9 question previously, I haven't reviewed those  
10 allegations of staff misconduct, so I can't answer that  
11 question.

12 However, I don't know of any changes  
13 specific -- specifically made at Kern Valley State  
14 Prison as a result of allegations -- for specific  
15 allegations.

16 BY MR. FREEDMAN:

17 Q. All right. Let's skip to Lozano Exhibit 11.  
18 We'll skip Exhibit 10.

19 Do you see that document?

20 A. I do.

21 Q. And it's a one-page chart; correct?

22 A. Yes, that's correct.

23 Q. I'll represent to you that this is a chart  
24 created by my office using data from CDCR's CompStat  
25 system, and this chart shows the number of reported uses

1 of force by LAC, Corcoran, CCI and KVSP for 2017, 2018  
2 and 2019.

3 According to this chart, use of force increased  
4 at LAC from 2017 to 2019; correct?

5 MR. MAIORINO: Objection. Assumes facts.  
6 Vague and ambiguous. Calls for speculation.

7 THE WITNESS: I'm sorry. It's not in color on  
8 my print, so I'm looking.

9 BY MR. FREEDMAN:

10 Q. Oh, gosh. I'm sorry. I can tell you which  
11 one's which. Give me a second.

12 LAC is the line that starts at the highest  
13 level on the left and finishes at the third highest  
14 level on the right.

15 A. Okay. Yes, there appears to be an increase.

16 Q. Has CDCR made any changes at LAC in response to  
17 this increase in reported uses of force?

18 MR. MAIORINO: Objection. Vague and ambiguous.  
19 Assumes facts.

20 THE WITNESS: So I don't know of any changes  
21 specific at LAC as a result of an increase in uses of  
22 force as it's identified on this chart.

23 BY MR. FREEDMAN:

24 Q. Okay. I'd like you to look at the line for  
25 Corcoran now which is the line that ends up on the right

1 as the second highest line.

2 Do you see what I'm talking about?

3 A. Yes, thank you.

4 Q. According to this chart, use of force increased  
5 at Corcoran from 2017 to 2019; correct?

6 MR. MAIORINO: Objection. Vague and ambiguous.  
7 Calls for speculation. Assumes facts.

8 THE WITNESS: So based on looking at this, yes,  
9 it's showing an increase in the uses of force at  
10 Corcoran from 2017 to 2019.

11 BY MR. FREEDMAN:

12 Q. As far as you're aware, has CDCR made any  
13 changes at Corcoran in response to this increase in  
14 reported uses of force?

15 MR. MAIORINO: Vague and ambiguous. Assumes  
16 facts. Calls for speculation.

17 THE WITNESS: I don't know of any changes at  
18 Corcoran in response specifically to the increased use  
19 of force as displayed in this diagram.

20 BY MR. FREEDMAN:

21 Q. All right. I would like you to look at the CCI  
22 line now which is the bottom line.

23 Do you see that there?

24 A. Yes, I do. Thank you.

25 Q. According to this chart, use of force increased

1 at CCI from 2017 to 2019; correct?

2 MR. MAIORINO: Vague and ambiguous. Assumes  
3 facts. Calls for speculation.

4 THE WITNESS: Yes, according to this diagram,  
5 there was an increase in reported uses of force at CCI  
6 from 2017 to 2019.

7 BY MR. FREEDMAN:

8 Q. Has CDCR made any changes at CDCR in response  
9 to these increases in reported uses of force?

10 MR. MAIORINO: Vague and ambiguous. Assumes  
11 facts. Calls for speculation.

12 THE WITNESS: I don't know personally of any  
13 changes at CCI as it's specifically responding to the  
14 information as described in this diagram.

15 BY MR. FREEDMAN:

16 Q. The last line I would like you to look at on  
17 this one is the KVSP data which is the line that  
18 finishes up at the highest level.

19 According to this chart, reported uses of force  
20 increased at KVSP from 2017 to 2019; correct?

21 MR. MAIORINO: Vague and ambiguous. Assumes  
22 facts. Calls for speculation.

23 THE WITNESS: So I do see an increase in KVSP  
24 if I'm looking at the correct line for 2017 to 2018 and  
25 then a decrease from 2018 to 2019.



1 Am I looking at the right one?

2 BY MR. FREEDMAN:

3 Q. Correct, yes. But for the total period from  
4 2017 to 2019, reported uses of force increased at KVSP;  
5 correct?

6 MR. MAIORINO: That's been asked and answered.  
7 Calls for speculation. Assumes facts. Vague and  
8 ambiguous. The document speaks for itself.

9 THE WITNESS: Yes, as I said before, there was  
10 an increase in '18, a decrease in '19 -- from '18 to  
11 '19, I'm sorry.

12 BY MR. FREEDMAN:

13 Q. Has CDCR made any changes at KVSP in response  
14 to these increases and reported uses of force from 2017  
15 to 2019?

16 MR. MAIORINO: Vague and ambiguous. Assumes  
17 facts. Calls for speculation.

18 THE WITNESS: So to my knowledge there's been  
19 no specific changes to Kern Valley State Prison as a  
20 direct result of the increases in uses of force from '17  
21 to '18 or the decrease between '18 and '19 specific to  
22 the reported uses of force.

23 BY MR. FREEDMAN:

24 Q. All right. Let's move on to Lozano Exhibit 12.  
25 I'm going to represent to you that this is a

1 chart created by my office using data from CDCR's  
2 CompStat system, and this chart shows the number of  
3 instances of O C spray at LAC, Corcoran, CCI and KVSP  
4 for 2017, 2018 and 2019.

5 What is OC spray?

6 A. OC spray a commonly referred to as pepper  
7 spray.

8 Q. And how is OC spray used in CDCR institutions?

9 A. It's used commonly like other chemical agents  
10 in order to gain compliance in stop threat immediacy.

11 Q. Let's take a look at the LAC line, and I'll  
12 help you find it again. It starts at the highest one on  
13 the left, and it ends at the second highest one on the  
14 right.

15 A. Okay.

16 Q. According to this chart, use of OC spray  
17 increased at LAC from 2017 to 2019; correct?

18 MR. MAIORINO: Objection. Vague and ambiguous.  
19 Assumes facts. Calls for speculation.

20 THE WITNESS: Yes, according to this chart,  
21 there was an increase from 2017 to 2019.

22 BY MR. FREEDMAN:

23 Q. Has CDCR made any changes at LAC in response to  
24 this increase in use of OC spray?

25 MR. MAIORINO: Vague and ambiguous. Assumes

1 facts. Calls for speculation.

2 THE WITNESS: To my knowledge, CDCR has not  
3 changed any policies at LAC in response to specifically  
4 more uses of OC pepper spray.

5 BY MR. FREEDMAN:

6 Q. Now, let's look at the Corcoran line which is  
7 the one that starts at the lowest level on the left and  
8 ends at the third lowest on the right.

9 A. Okay.

10 Q. According to this chart, the amount of OC  
11 sprayed in -- OC spray used -- let me back up.

12 According to this chart, the number of  
13 instances of OC spray at Corcoran in 2019 was greater  
14 than the number of instances of OC spray used at  
15 Corcoran in 2017; correct?

16 MR. MAIORINO: Vague and ambiguous. Assumes  
17 facts. Calls for speculation.

18 THE WITNESS: So according to this chart, there  
19 was an increase from '17 to '18 and then a decrease from  
20 '18 to '19.

21 BY MR. FREEDMAN:

22 Q. But the number of incidents of use of OC spray  
23 was greater in 2019 than it was in 2017; correct?

24 MR. MAIORINO: Vague and ambiguous. Assumes  
25 facts. Calls for speculation.

1 THE WITNESS: Yes, according to this chart, the  
2 number that's represented as the use in 2019 is greater  
3 than the use in 2017, that's correct.

4 BY MR. FREEDMAN:

5 Q. Has CDCR made any changes at Corcoran in  
6 response to this increase in use of OC spray?

7 MR. MAIORINO: Vague and ambiguous. Assumes  
8 facts. Calls for speculation.

9 THE WITNESS: I don't know of any specific  
10 changes that the department's made at Corcoran as a  
11 specific response to additional uses of OC pepper spray.

12 BY MR. FREEDMAN:

13 Q. I'd like to look at the CCI line which is the  
14 third from the top on the left and the lowest one on the  
15 right.

16 According to this chart, use of OC pepper spray  
17 in 2019 at CCI was greater than the use of OC spray at  
18 CCI in 2017; correct?

19 MR. MAIORINO: Objection. Vague and ambiguous.  
20 Assumes facts. Calls for speculation.

21 THE WITNESS: Yes, according to this chart, the  
22 amount of uses of OC pepper spray was greater in 2019  
23 than it was in 2017.

24 BY MR. FREEDMAN:

25 Q. Has CDCR made any changes at CCI to this

1 increase in use of OC spray?

2 MR. MAIORINO: Objection. Vague and ambiguous.  
3 Assumes facts. Calls for speculation.

4 THE WITNESS: To my knowledge, no changes to  
5 CCI have been made as a specific response to the  
6 information detailed on this chart which is an increased  
7 use of OC pepper spray.

8 BY MR. FREEDMAN:

9 Q. And then I would like to go to the last line  
10 which is the KVSP line. It's the second from the top on  
11 the left and the top on the right.

12 According to this chart, use of OC spray in  
13 2019 at KVSP was higher than the use of OC spray in 2017  
14 at KVSP; is that right?

15 MR. MAIORINO: Vague and ambiguous. Assumes  
16 facts. Calls for speculation.

17 THE WITNESS: Yes, that's accurate. According  
18 to this document, this graph, there was an increase in  
19 the use of OC pepper spray from 2017 to 2018 and then a  
20 decrease from '18 to 2019.

21 BY MR. FREEDMAN:

22 Q. But, again, the number of instances of use in  
23 2019 is greater than the number of instances of use in  
24 2017 at KVSP; correct?

25 MR. MAIORINO: Vague and ambiguous. Assumes

1 facts. Calls for speculation.

2 THE WITNESS: Yes, according to this diagram,  
3 that is correct.

4 BY MR. FREEDMAN:

5 Q. Has CDCR made any changes at KVSP in response  
6 to this increase in use of OC spray?

7 MR. MAIORINO: Vague and ambiguous. Assumes  
8 facts. Calls for speculation.

9 THE WITNESS: To my knowledge, the department  
10 has not made any specific changes at Kern Valley State  
11 Prison in response specifically to the additional uses  
12 of OC pepper spray at Kern Valley State Prison.

13 BY MR. FREEDMAN:

14 Q. As the associate director for the high security  
15 mission, is it part of your job to have a sense of how  
16 the prisons for which you're responsible are operating?

17 MR. MAIORINO: Vague and ambiguous. Calls for  
18 speculation. It's beyond the designation of this  
19 witness as a PMK for this deposition.

20 THE WITNESS: So can you define "a sense of"?

21 BY MR. FREEDMAN:

22 Q. Sure. Let me put it a different way.

23 As the associate director for the high security  
24 mission, is it part of your job to know if there are --  
25 is a serious problem regarding the operations at one of

1 your prisons for which you're responsible?

2 MR. MAIORINO: Objection. Vague and ambiguous.  
3 Overbroad. Goes beyond the scope of this witness'  
4 designation as the PMK for the deposition.

5 THE WITNESS: So it's always my intent as the  
6 associate director of the high security mission to know  
7 if we have any serious issues at the institutions within  
8 my mission.

9 BY MR. FREEDMAN:

10 Q. Do you believe that there's currently a serious  
11 problem at LAC with staff misconduct against  
12 incarcerated people?

13 MR. MAIORINO: Vague and ambiguous. Goes  
14 beyond the scope of the PMK designation for this  
15 deposition. He's not here to give his personal opinion.

16 THE WITNESS: So my opinion of if we have a big  
17 problem, is that what you asked?

18 BY MR. FREEDMAN:

19 Q. A serious problem is the language I used, yes.

20 MR. MAIORINO: Same objections.

21 THE WITNESS: So my opinion is I don't have any  
22 information that would lead me to conclude that there is  
23 a serious problem of misconduct at LAC.

24 BY MR. FREEDMAN:

25 Q. In your opinion, do you believe that there is

1 currently a serious problem at Corcoran with staff  
2 misconduct against incarcerated people?

3 MR. MAIORINO: Vague and ambiguous. It's  
4 beyond the scope of this witness' designation as the PMK  
5 for this deposition. He's not here to give personal  
6 opinions.

7 THE WITNESS: So in my opinion we do not have a  
8 serious problem of staff misconduct at Corcoran State  
9 Prison based on my information.

10 BY MR. FREEDMAN:

11 Q. In your opinion, do you believe there's  
12 currently a serious problem with staff misconduct at  
13 CCI?

14 MR. MAIORINO: Vague and ambiguous. Goes  
15 beyond the scope of this witness' designation as PMK for  
16 this deposition. He's not here to give his personal  
17 opinion.

18 THE WITNESS: Based on my personal opinion, I  
19 don't know of any serious staff misconduct issues at  
20 CCI.

21 BY MR. FREEDMAN:

22 Q. In your opinion, is there currently a serious  
23 problem at KVSP with staff misconduct against  
24 incarcerated people?

25 MR. MAIORINO: Vague and ambiguous. Goes



1 beyond the scope of this witness' designation as PMK for  
2 this deposition. He's not here to give his personal  
3 opinion.

4 THE WITNESS: In my personal opinion, we do not  
5 have a serious staff misconduct issue at Kern Valley  
6 State Prison.

7 BY MR. FREEDMAN:

8 Q. In your opinion, do you believe there is  
9 currently a serious problem at LAC, Corcoran, CCI or  
10 KVSP with respect to staff culture?

11 MR. MAIORINO: Objection. Vague and ambiguous.  
12 Overbroad. Compound. Goes beyond the scope of this  
13 witness' designation as PMK for this deposition. He's  
14 not here to give personal opinion.

15 THE WITNESS: Can you explain or define  
16 "culture," "staff culture"?

17 BY MR. FREEDMAN:

18 Q. Sure. Well, as someone who runs prisons, maybe  
19 I will ask you about it.

20 Can there be a good staff culture at a prison?

21 MR. MAIORINO: Objection. Vague and ambiguous.  
22 Overbroad. Calls for speculation.

23 THE WITNESS: In my opinion, yes, there can be  
24 positive culture.

25 BY MR. FREEDMAN:

1 Q. Can there be bad culture?

2 MR. MAIORINO: Vague and ambiguous. Calls for  
3 speculation.

4 THE WITNESS: In my opinion, there could be  
5 culture that is negative in nature.

6 BY MR. FREEDMAN:

7 Q. And when there is a negative or a bad culture,  
8 what might that look like?

9 MR. MAIORINO: Objection. Vague and ambiguous.  
10 Calls for speculation. Incomplete hypothetical.

11 THE WITNESS: Everyone -- every culture, both  
12 positive and negative, are very, very different.

13 An example of a negative culture at an  
14 institution would be not following policies, procedures,  
15 not meeting the expectations of the department or the  
16 warden of that institution.

17 BY MR. FREEDMAN:

18 Q. In your opinion, is there a negative culture at  
19 LAC, Corcoran, CCI or KVSP?

20 MR. MAIORINO: Objection. Vague and ambiguous.  
21 Overbroad. Assumes facts. Compound. Goes beyond the  
22 scope of this witness' designation of PMK for this  
23 deposition. He's not here to give his personal opinion.

24 THE WITNESS: In my opinion, at CCI, Corcoran  
25 and KVSP -- those are the three you said?

1 BY MR. FREEDMAN:

2 Q. You know, let me ask them one at a time so we  
3 get a good record here, so that will make it easier for  
4 all of us.

5 In your opinion, is there currently a serious  
6 problem at LAC with staff culture?

7 MR. MAIORINO: Objection. Vague and ambiguous.  
8 Assumes facts. Goes beyond the scope of this witness'  
9 designation as PMK for this deposition. He's not here  
10 to give his personal opinion.

11 THE WITNESS: So my opinion there is not a  
12 serious negative staff culture at LAC.

13 BY MR. FREEDMAN:

14 Q. In your opinion, is there currently a serious  
15 problem at Corcoran with staff culture?

16 MR. FREEDMAN: Objection. Vague and ambiguous.  
17 Assumes facts. Goes beyond the scope of this witness'  
18 designation as PMK for this deposition. He's not here  
19 to give personal opinion.

20 THE WITNESS: In my opinion, there is not a  
21 serious negative culture or a serious problem with  
22 negative culture at California State Prison at Corcoran.

23 BY MR. FREEDMAN:

24 Q. In your opinion, is there currently a serious  
25 problem at CCI with staff culture?

1 MR. MAIORINO: Objection. Vague and ambiguous.  
2 Calls for speculation. Goes beyond the scope of this  
3 witness' designation as a PMK for this deposition. He's  
4 not here to give personal opinion.

5 THE WITNESS: In my opinion, there is not a  
6 serious negative culture of staff misconduct at CCI  
7 Tehachapi.

8 BY MR. FREEDMAN:

9 Q. In your opinion, is there currently a serious  
10 problem at KVSP with staff culture?

11 MR. MAIORINO: Goes beyond the scope of this  
12 witness' designation as PMK at this deposition.

13 THE WITNESS: In my opinion, there is not a  
14 serious issue with negative culture at Kern Valley State  
15 Prison.

16 BY MR. FREEDMAN:

17 Q. You were a Hiring Authority when you were  
18 warden at CMF; right?

19 A. Yes, I was.

20 Q. And you're a Hiring Authority now; correct?

21 A. Yes, I am.

22 Q. As a Hiring Authority, have you ever submitted  
23 a 989 referral to OIA?

24 A. Yes, I have.

25 Q. Has OIA ever rejected any of your referrals?

1           A. I do not recall of any of my 989 requests being  
2 rejected. I just don't remember if it did.

3           Q. As a Hiring Authority, have you ever imposed  
4 adverse action against a staff member?

5           A. Yes, I have.

6           Q. After imposing adverse action against a staff  
7 member, have you ever negotiated with the staff member  
8 to impose a lower penalty?

9           MR. MAIORINO: Vague and ambiguous. Assumes  
10 facts.

11           THE WITNESS: Yes, I've entered into stipulated  
12 agreements.

13 BY MR. FREEDMAN:

14           Q. Approximately how many times have you entered  
15 into an agreement like that?

16           MR. MAIORINO: Objection. Goes beyond the  
17 scope of this witness' designation as the PMK for this  
18 deposition.

19           THE WITNESS: I'm really unsure even a ballpark  
20 assumption or belief of how many times that occurred.

21 BY MR. FREEDMAN:

22           Q. As I said at the very beginning, I'm entitled  
23 to an estimate if you have one, but if you don't, I  
24 don't want you to guess, and it sounds like you would be  
25 guessing here; is that right?

1 A. Yes. I would be totally guessing.

2 Q. Okay. Could you provide an example of a  
3 situation in which you negotiated down a penalty?

4 MR. MAIORINO: Objection. Vague and ambiguous.  
5 Assumes facts. Beyond the scope of this witness'  
6 designation as a PMK for this deposition.

7 THE WITNESS: Are you asking an example of a  
8 type of case that it included?

9 BY MR. FREEDMAN:

10 Q. I don't -- I'm asking for an example of a  
11 situation where you imposed an adverse action and then  
12 negotiated to impose a lower penalty.

13 MR. MAIORINO: Same objections.

14 THE WITNESS: So I'm unclear if you're asking  
15 the reasons I would do that or the types of cases.

16 BY MR. FREEDMAN:

17 Q. I was going to ask why as the next question. I  
18 guess I can ask that now.

19 So in the cases where you've negotiated a lower  
20 penalty than the discipline you initially imposed, why  
21 did you do that?

22 MR. MAIORINO: Vague and ambiguous. Assumes  
23 facts. Goes beyond the scope of his designation as a  
24 PMK for this deposition. To the extent it calls for  
25 potential or privileged information.

1 THE WITNESS: So my experience has been through  
2 the Skelly process that additional mitigators or reasons  
3 the conduct occurred were being considered.

4 BY MR. FREEDMAN:

5 Q. I just want to make sure I understand that.

6 So, you're saying that in some of the cases at  
7 least information would come out at a Skelly hearing  
8 that you didn't previously have that suggested that  
9 mitigating the penalty would be appropriate; is that  
10 correct?

11 MR. MAIORINO: Vague and ambiguous. Assumes  
12 facts. Goes beyond the scope of his designation as a  
13 PMK for this deposition. Mischaracterize and misstates  
14 prior testimony.

15 THE WITNESS: So what I'm saying is additional  
16 mitigating factors of the incident were then --  
17 additional mitigators were considered after the initial  
18 determination of the penalty.

19 BY MR. FREEDMAN:

20 Q. And so the justification for negotiating a  
21 lower penalty was based on new information that came  
22 into your possession after you initially imposed the  
23 penalty; is that correct?

24 MR. MAIORINO: Objection. Mischaracterizes and  
25 misstates prior testimony. Assumes facts. Overbroad.

1 Goes beyond the scope of this witness' designation as  
2 PMK of the deposition.

3 THE WITNESS: So the case in which I'm  
4 referring to was a case in which additional mitigators  
5 from the time that the 402, 403 was done in --  
6 additional information was received that would mitigate  
7 it.

8 MR. FREEDMAN: We are really close to done. I  
9 just have a few more questions about one thing, and I  
10 just want to take a quick break to get my thoughts and  
11 make sure I've covered everything that I want to cover,  
12 and then we'll be all done.

13 MR. MAIORINO: How long do you want to take?

14 MR. FREEDMAN: Let me just do this one line of  
15 questioning which I don't think will take another couple  
16 of minutes and then another three- or four-minute break,  
17 and then I'll be done after that.

18 BY MR. FREEDMAN:

19 Q. In what areas -- when you were warden at CMF,  
20 in what areas of the prison was there camera coverage,  
21 surveillance camera coverage?

22 A. The most common area that we had camera  
23 coverage was on the recreation yard. There was some  
24 cameras in some of the housing units.

25 Q. Were there any areas of the prison where there



1 was not surveillance coverage?

2 A. Yes.

3 Q. What were those areas?

4 A. Housing units, gyms, offices -- staff offices,  
5 treatment areas, inmate cells, administration building,  
6 perimeter, as examples.

7 Q. Now, when you were warden, if you could have  
8 snapped your fingers and made it such that you had full  
9 surveillance coverage in all areas of the prison, would  
10 you have done that?

11 MR. MAIORINO: Vague and ambiguous. Incomplete  
12 hypothetical. Goes beyond the scope of this witness'  
13 designation as PMK for this deposition. He's not here  
14 to give his personal opinion.

15 THE WITNESS: So in my personal opinion, there  
16 were a lot of tools, a lot of improvements to our  
17 physical plant that I would have liked to see.

18 BY MR. FREEDMAN:

19 Q. And would installation of fuller surveillance  
20 camera coverage be one of those?

21 MR. MAIORINO: Same objection.

22 THE WITNESS: I would say roofs, as example of  
23 plant improvement, roofs was a real big one, road  
24 repairs. So it would be part of those plant  
25 improvements that I would liked to have seen improved.

1 BY MR. FREEDMAN:

2 Q. I'll ask the question I asked before, though,  
3 again.

4 If when you were warden at CMF you could have  
5 just snapped your fingers and for free had full  
6 surveillance camera coverage, would you have done that?

7 MR. MAIORINO: Asked and answered. Incomplete  
8 hypothetical. Beyond the scope of this witness'  
9 designation as a PMK. He is not here to give his  
10 personal opinions.

11 THE WITNESS: So if I could as a warden snap my  
12 fingers without costing me anything, I would have  
13 included the enhancement of surveillance cameras along  
14 with our other plant needs, and I would have never  
15 really thought of which ones I would do first, but it  
16 would definitely be a tool along with better roofs and  
17 all of that and road conditions, stuff like that.

18 MR. FREEDMAN: Let's just take a five-minute  
19 break, and we'll come back. I don't think I have any  
20 other questions, but I just want to look through my  
21 outline.

22 (Brief recess taken from 4:58 p.m. to 5:02 p.m.)

23 BY MR. FREEDMAN:

24 Q. I don't know that we need to pull the document  
25 out, but we can if we get too confused, but let's try to

1 do it without it.

2 In the interrogatory responses in a number of  
3 places they indicate that a criminal investigation was  
4 split to an administrative investigation.

5 What does that mean for a criminal  
6 investigation to be split to an administrative  
7 investigation?

8 A. So without knowing or referring to a specific,  
9 just in general, if there is an investigation that's  
10 criminal in nature, it stays criminal until the  
11 prosecuting District Attorney provides approval for us  
12 to do administrative investigation.

13 Q. And the splitting, does that mean that there is  
14 both a criminal investigation and an administrative  
15 investigation occurring at the same time?

16 A. Yeah. So, when there's a criminal  
17 investigation, individuals have the right not to  
18 incriminate themselves. However, they don't have the  
19 same exact rights in an administrative investigation,  
20 and so it distinguishes between the two.

21 MR. FREEDMAN: I think that is all I have for  
22 today. I don't have any further questions.

23 Trace, anything from you?

24 MR. MAIORINO: No. So you said that was  
25 concluded?

1 MR. FREEDMAN: Agreed. I just want to  
2 reiterate our objection with respect to PMK topics 2 and  
3 3 which I already have on the record for purposes of  
4 keeping the deposition open on those topics. I'm hoping  
5 that the parties will be able to reach agreement to  
6 defendants providing the information that they  
7 previously promised.

8 MR. MAIORINO: Just for the record, we're past  
9 six hours. I think it may be a few minutes past six  
10 hours.

11 MR. FREEDMAN: Well, we have seven so --

12 MR. MAIORINO: So there is less than one hour  
13 left.

14 MR. FREEDMAN: Oh, sure. Is that what you were  
15 talking about, Trace? I'm sorry. That sounds about  
16 right that we're probably about the six-hour mark.

17 MR. MAIORINO: Okay.

18 MR. FREEDMAN: Let's go off the record.

19 (Whereupon, the deposition was adjourned at  
20 5:06 p.m.)

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DECLARATION UNDER PENALTY OF PERJURY

I, JARED LOZANO, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on November 19, 2020; that I have made such corrections as appear on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020,  
at \_\_\_\_\_, California.

\_\_\_\_\_  
JARED LOZANO

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DEPOSITION ERRATA SHEET

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DEPOSITION OFFICER'S CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [ ] was [X] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: 11/20/2020



KIMBERLEY RICHARDSON, CSR No. 5915  
State of California

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# **Exhibit 6**



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10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12 OAKLAND DIVISION

<p>15 <b>JOHN ARMSTRONG, et al.,</b>    16 Plaintiffs,    17 v.    18 <b>GAVIN NEWSOM, et al.,</b>  19 Defendants.  20</p>	<p>Case No. 94-cv-02307 CW  <b>DEFENDANTS' OBJECTIONS TO  PLAINTIFFS' REQUEST FOR  PRODUCTION OF DOCUMENTS, SET  FIVE, REGARDING STAFF  MISCONDUCT</b></p>
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21  
22 **PROPOUNDING PARTY: PLAINTIFFS JOHN ARMSTRONG ET AL.**  
23 **RESPONDING PARTY: DEFENDANTS GAVIN NEWSOM ET AL.**  
24 **SET NO.: FIVE**

25 Defendants respond to Plaintiffs' fifth set of request for production of documents as  
26 follows:

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**PRELIMINARY STATEMENT**

The information provided in these responses is true and correct, according to Defendants’ 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.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:**

ALL DOCUMENTS and COMMUNICATIONS RELATING TO INVESTIGATIONS conducted by CDCR into ANY STAFF MISCONDUCT described in ANY DECLARATION.

**OBJECTIONS TO REQUEST FOR PRODUCTION NO. 1:**

Despite the definitions provided in Plaintiffs’ request for production of documents, Defendants object to this request. The request is vague, ambiguous, and overly broad with respect to the terms “relating” and “staff misconduct.” Defendants object to this request because the terms “documents” and “communications,” as defined, are oppressive and burdensome to the extent the request seeks items not in Defendants’ care, custody, and control. Defendants also object on the grounds that the documents and communications sought may violate the attorney-client privilege, the attorney-work product doctrine, or the deliberative-process privilege.

Defendants also object to Plaintiffs’ request for documents and communications related to declarations submitted by RJD and LAC declarants in support of Plaintiffs’ RJD Motion (ECF No. 2922) and Statewide Motion (ECF No. 2948) because they are duplicative of Plaintiffs’ Request for Production of Documents, Set One, Requests 1-11, and Set Two, Requests 1-9. Defendants have already produced responsive documents for these requests and, to the extent that additional responsive documents are located, they will be produced in response to Sets One and Two. Therefore, Defendants response to this request will focus on documents and communications related to allegations of staff misconduct by non-RJD and non-LAC declarants (some of which were already produced in response to expert deposition subpoenas), and all declarations submitted in support of Plaintiffs’ Statewide Motion Reply (ECF No. 3024), which

1 have not previously been produced.

2 Without waiving these objections, Defendants are searching for responsive documents and  
3 will produce them on a rolling basis, to the extent that any are discovered.

4 **REQUEST FOR PRODUCTION NO. 2:**

5 ALL DOCUMENTS and COMMUNICATIONS, including but not limited to audio  
6 recordings, video recordings, drawings, photographs, diagrams, investigator’s notes, OR  
7 memoranda, RELATING TO INVESTIGATIONS conducted by DART OR ANY TASK  
8 FORCE within OIA OR CDCR into ANY STAFF MISCONDUCT described in ANY  
9 DECLARATION.

10 **OBJECTIONS TO REQUEST FOR PRODUCTION NO. 2:**

11 Despite the definitions provided in Plaintiffs’ request for production of documents,  
12 Defendants object to this request. The request is vague, ambiguous, and overly broad with  
13 respect to the term “relating.” Defendants object to this request because the terms “documents”  
14 and “communications,” as defined, are oppressive and burdensome to the extent the request seeks  
15 items not in Defendants’ care, custody, and control. Defendants also object on the grounds that  
16 the documents and communications sought may violate the attorney-client privilege, the attorney-  
17 work product doctrine, investigatory-process privilege, or the deliberative-process privilege.

18 Without waiving these objections, Defendants are searching for responsive documents and  
19 will produce them on a rolling basis, to the extent that any are discovered.

20 **REQUEST FOR PRODUCTION NO. 3:**

21 ALL DOCUMENTS and COMMUNICATIONS RELATING TO INVESTIGATIONS  
22 conducted by CDCR into a written note retrieved from INMATE 2 on July 17, 2020 at California  
23 Men’s Colony.

24 **OBJECTIONS TO REQUEST FOR PRODUCTION NO. 3:**

25 Despite the definitions provided in Plaintiffs’ request for production of documents,  
26 Defendants object to this request. The request is vague, ambiguous, and overly broad with  
27 respect to the term “relating.” Defendants object to this request because the terms “documents”  
28 and “communications,” as defined, are oppressive and burdensome to the extent the request seeks

1 items not in Defendants' care, custody, and control. Defendants object to this request because it  
2 is not relevant to any party's claims or defenses or proportional to the needs of the case because  
3 Inmate 2 is not housed at the California Men's Colony and may only be transported from his  
4 current housing in accordance with the Court's permanent injunction order. Defendants also  
5 object on the grounds that the documents and communications sought may violate the attorney-  
6 client privilege, the attorney-work product doctrine, investigatory-process privilege, or the  
7 deliberative process privilege.

8 Without waiving these objections, Defendants are searching for responsive documents and  
9 will produce them on a rolling basis, to the extent that any are discovered.

10 Dated: October 30, 2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JOANNA B. HOOD  
Supervising Deputy Attorney General



SEAN W. LODHOLZ  
Deputy Attorney General  
*Attorneys for Defendants*

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**DECLARATION OF SERVICE BY U.S. MAIL**

**Case Name:** *John Armstrong, et al. v. Newsom, et al.*  
**Case 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 **October 30, 2020**, I served the attached

➤ **DEFENDANTS' OBJECTIONS TO PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS, SET FIVE, REGARDING STAFF MISCONDUCT**

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, Suite 314S  
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 **October 30, 2020**, at Sacramento, California.

D. Kulczyk  
Declarant

  
Signature

# **Exhibit 7**

1 XAVIER BECERRA  
 Attorney General of California  
 2 DAMON G. MCCLAIN  
 Supervising Deputy Attorney General  
 3 JOANNA B. HOOD  
 Supervising Deputy Attorney General  
 4 TRACE O. MAIORINO  
 Deputy Attorney General  
 5 SEAN W. LODHOLZ  
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 1300 I Street, Suite 125  
 7 P.O. Box 944255  
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 8 Telephone: (916) 210-7369  
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 9 E-mail: Sean.Lodholz@doj.ca.gov  
*Attorneys for Defendants*  
 10 *Gavin Newsom and California Department of*  
*Corrections and Rehabilitation*

11  
 12 IN THE UNITED STATES DISTRICT COURT  
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 14 OAKLAND DIVISION

<p>16 <b>JOHN ARMSTRONG, et al.,</b>          17          18 Plaintiffs,          19          20 <b>GAVIN NEWSOM, et al.,</b>          21 Defendants.</p>	<p>C 94-2307 CW  <b>DEFENDANTS' SUPPLEMENTAL          RESPONSES TO PLAINTIFFS'          SPECIAL INTERROGATORIES, SET          ONE</b>  <b>CALIFORNIA CORRECTIONAL          INSTITUTION</b></p>
---	--

22  
 23 **PROPOUNDING PARTY:** Plaintiffs BILLY BECK, et al.  
 24 **RESPONDING PARTY:** Defendants GAVIN NEWSOM, et al.  
 25 **SET NO.:** One (1)

26 Defendants respond to Plaintiffs' first set of special interrogatories to Defendants as  
 27 follows:  
 28

1 **PRELIMINARY STATEMENT**

2 The information provided in these responses is true and correct, according to Defendants’  
3 best knowledge at this time, but it is subject to future correction for omissions, errors, or  
4 mistakes. Defendants reserve the right to produce evidence of any subsequently discovered facts  
5 or interpretations thereof, and to amend, modify, or otherwise change the responses, in  
6 accordance with applicable discovery rules.

7 **CCI**

8 **INTERROGATORY NO. 1:**

9 For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT  
10 incidents that the CCI hiring authority referred to OIA.

11 **RESPONSE TO INTERROGATORY NO. 1:**

12 Defendants object to this interrogatory as not seeking information relevant to any party’s  
13 claims or defenses in this case. The request is also burdensome and not proportional to the needs  
14 of the case. The Department tracks allegations of staff misconduct by the subject of the  
15 allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed  
16 in order to determine whether the incident central to an allegation of staff misconduct involved an  
17 inmate. Defendants object to the definition of the term “STAFF MISCONDUCT incidents” as  
18 vague, ambiguous, and incomprehensible because the definition of “STAFF MISCONDUCT”  
19 Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither  
20 of which exist in the current versions of those documents. The definition of STAFF  
21 MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs’ definition of  
22 STAFF MISCONDUCT “includes [Plaintiffs’ definition of] EXCESSIVE USE OF FORCE.” It  
23 is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT  
24 there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an  
25 incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
26 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs’ definition of STAFF  
27 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
28 and ambiguous as to the phrase “harmed an incarcerated person” in the definition of “STAFF



1 MISCONDUCT” because it is not clear whether Plaintiffs are seeking only instances in which a  
2 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
3 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
4 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
5 only instances in which a finding of staff misconduct was sustained, as the term “STAFF  
6 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
7 sustained instances in which the hiring authority referred the matter to the OIA.

8 Subject to those objections, and without waiving them, Defendants respond as follows:

9 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
10 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
11 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.

12 Defendants are diligently searching all available sources for responsive information, but have not  
13 yet located the information Plaintiffs seek. Defendants will continue to search for such  
14 information and provide it to Plaintiffs once the information is located.

15 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

16 Subject to and incorporating all previously asserted objections, Defendants respond as  
17 follows:

18 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
19 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
20 regulation, or procedure, or appeared contrary to an ethical or professional standard.

21 INCIDENTS refers to the number of cases that the California Correctional Institution (CCI)  
22 hiring authority submitted to the Office of Internal Affairs (OIA) and ALLEGATIONS refers to  
23 the number of staff members referred. STAFF includes custody, non-custody, and medical  
24 classifications. If OIA added a staff member to a case, the allegation was counted as a referral by  
25 the CCI hiring authority. If OIA removed a staff member from the case, the allegation was  
26 counted as a referral by the CCI hiring authority. If OIA initiated the case, the case was counted  
27 as a referral by the CCI hiring authority.  
28

1 In 2017, the CCI hiring authority referred twenty-one (21) incidents of staff misconduct to  
2 OIA. Within the twenty-one (21) cases, there were sixty-eight (68) allegations.

3 2017 Incidents	2017 Allegations
4 21	68

5 In 2018, the CCI hiring authority referred twelve (12) incidents of staff misconduct to OIA.  
6 Within the twelve (12) cases, there were forty-five (45) allegations.

7 2018 Incidents	2018 Allegations
8 12	45

9 In 2019, the CCI hiring authority referred sixteen (16) incidents of staff misconduct to OIA.  
10 Within the sixteen (16) cases, there were thirty-four (34) allegations. Two (2) allegations were  
11 added by OIA to case S-CCI-436-19-A for employees at Kern Valley State Prison (KVSP). The  
12 two (2) allegations are reported below since the CCI hiring authority referred the incident and the  
13 subjects were added by OIA.

14 2019 Incidents	2019 Allegations
15 16	34

16 In 2020, the CCI hiring authority referred eleven (11) incidents of staff misconduct to OIA.  
17 Within the (11) cases, there were twenty-two (22) allegations.

18 2020 Incidents	2020 Allegations
19 11	22

20  
21 **INTERROGATORY NO. 2:**

22 For each year from 2017 to the present, indicate the OIA case number for all STAFF  
23 MISCONDUCT incidents that the CCI hiring authority referred to OIA that involved an  
24 *Armstrong* or *Coleman* class member.

25 **RESPONSE TO INTERROGATORY NO. 2:**

26 Defendants object to this interrogatory as not seeking information relevant to any party's  
27 claims or defenses in this case. Defendants specifically object to providing information regarding  
28 *Coleman* class members who are not parties to this case. The request is also burdensome and not

1 proportional to the needs of the case. The Department tracks allegations of staff misconduct by  
2 the subject of the allegations, not the reporting individual or alleged victim. Each file must be  
3 pulled and reviewed in order to determine whether the incident central to an allegation of staff  
4 misconduct involved an inmate. Once that determination is made, the Department can identify  
5 which allegations involved class members. Defendants object to the definition of the term  
6 “STAFF MISCONDUCT incidents” as vague, ambiguous, and incomprehensible because the  
7 definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and  
8 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
9 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
10 incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’  
11 definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order  
12 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
13 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
14 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
15 meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two  
16 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
17 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
18 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
19 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
20 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
21 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
22 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
23 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
24 referred the matter to the OIA.

25 Subject to those objections, and without waiving them, Defendants respond as follows:  
26 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
27 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
28 provide responsive information, which Defendants believe provide information Plaintiffs are

1 attempting to seek. Defendants are diligently searching all available sources for responsive  
 2 information, but have not yet located the information Plaintiffs are attempting to seek.  
 3 Defendants will continue to search for such information and provide it to Plaintiffs once the  
 4 information is located.

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

6 Subject to and incorporating all previously asserted objections, Defendants respond as  
 7 follows:

8 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
 9 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
 10 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
 11 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
 12 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
 13 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
 14 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
 15 case was counted as a referral by the CCI hiring authority.

16 In 2017, the CCI hiring authority referred fourteen (14) cases of staff misconduct involving  
 17 an *Armstrong* or *Coleman* class member to OIA. The fourteen (14) case numbers are:

2017 OIA Referral Case Numbers
C-CCI-023-17-A
C-CCI-045-17-R
C-CCI-043-17-R
C-CCI-109-17-D
C-CCI-094-17-D
C-CCI-144-17-D
C-CCI-291-17-A*
C-CCI-296-17-R
C-CCI-297-17-R
C-CCI-305-17-A*
C-CCI-377-17-R

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C-CCI-415-17-A*
C-CCI-498-17-R
C-CCI-497-17-A

\*Cases were later grouped together in a criminal case. The administrative investigation cases were tolled until the criminal investigation was completed.

In 2018, the CCI hiring authority referred ten (10) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The ten (10) cases are:

<b>2018 OIA Referral Case Numbers</b>
C-CCI-032-18-A
C-CCI-172-18-D
C-CCI-175-18-R
C-CCI-141-18-A
C-CCI-136-18-C/A
S-CCI-214-18-A
S-CCI-239-18-C
S-CCI-256-18-A
S-CCI-340-18-R
S-CCI-378-18-A

In 2019, CCI hiring authority referred thirteen (13) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The thirteen (13) cases are:

<b>2019 OIA Referral Case Numbers</b>
S-CCI-013-19-R
S-CCI-055-19-A
S-CCI-110-19-A
S-CCI-151-19-R
S-CCI-217-19-A
S-CCI-265-19-R
S-CCI-260-19-R
S-CCI-284-19-R

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S-CCI-433-19-D
S-CCI-436-19-A
S-CCI-1502-19-C
S-CCI-UNK-19-C*
S-CCI-1552-19-S

\*Case S-CCI-UNK-19-C has been opened by OIA as a Criminal Case but has not yet been assigned a number.

In 2020, CCI hiring authority referred eight (8) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The eight (8) cases are:

<b>2020 OIA Referral Case Numbers</b>
S-CCI-032-20-C
S-CCI-036-20-C/D
S-CCI-101-20-R
S-CCI-160-20-R
S-CCI-158-20-A
S-CCI-187-20-S
S-CCI-281-20-A
S-CCI-208-20-A

**INTERROGATORY NO. 3:**

For each year from 2017 to the present, indicate the number of referrals to OIA made by the CCI hiring authority in which OIA (a) rejected the referral, (b) approved direct adverse action, and (c) opened an investigation.

**RESPONSE TO INTERROGATORY NO. 3:**

Defendants object to this interrogatory as not seeking information relevant to any party’s claims or defenses in this case. Defendants specifically object that the interrogatory is not limited to on duty instances, and not limited to instances involving inmates. Requiring Defendants to review and categorize all such instances is overly burdensome and not proportional to the needs of the case. Defendants object that the interrogatory includes a total of three discrete subparts,

1 and should be counted toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure  
2 33(a)(1).

3 Subject to those objections, and without waiving them, Defendants respond as follows:  
4 Defendants are diligently searching all available sources for responsive information, but have not  
5 yet located the information Plaintiffs seek. Defendants will continue to search for such  
6 information and provide it to Plaintiffs once the information is located.

7 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

8 Subject to and incorporating all previously asserted objections, Defendants respond as  
9 follows:

10 For purposes of this response, number of cases includes custody, non-custody, and medical  
11 classifications. If the Office of Internal Affairs (OIA) added a staff member to a case, the  
12 allegation was counted as a referral by the California Correctional Institution (CCI) hiring  
13 authority. If OIA removed a staff member from the case, the allegation was counted as a referral  
14 by the CCI hiring authority. If OIA initiated the case, the case was counted as a referral by the  
15 CCI hiring authority. The numbers reflect the initial OIA determination for the case. If a case  
16 was initially opened as a criminal investigation and later split into an administrative investigation  
17 the case was only counted as one (1) investigation opened.

18 In 2017, the CCI hiring authority referred forty-seven (47) cases to OIA. Out of the forty-  
19 seven (47) cases, OIA rejected thirteen (13), approved direct action on sixteen (16), and opened  
20 an investigation on eighteen (18).

21 <b>2017 Total Cases</b>	<b>Cases</b>	<b>Approved for Direct</b>	<b>Investigations</b>
22 <b>Referred</b>	<b>Rejected</b>	<b>Action</b>	<b>Opened</b>
23 47	13	16	18

24  
25 In 2018, the CCI hiring authority referred forty-two (42) cases to OIA. Out of the forty-two  
26 (42) cases, OIA rejected three (3), approved direct action on sixteen (16) and opened an  
27 investigation on twenty-three (23).

<b>2018 Total Cases Referred</b>	<b>Cases Rejected</b>	<b>Approved for Direct Action</b>	<b>Investigations Opened</b>
42	3	16	23

In 2019, the CCI hiring authority referred forty-seven (47) cases to OIA. Out of the forty-seven (47) cases, OIA rejected five (5), approved direct action on twenty (20), and opened twenty-two (22) investigations.

<b>2019 Total Cases Referred</b>	<b>Cases Rejected</b>	<b>Approved for Direct Action</b>	<b>Investigations Opened</b>
47	5	20	22

In 2020, the CCI hiring authority referred twenty-three (23) cases to OIA. Out of the twenty-three (23) cases, OIA rejected four (4), approved direct action on six (6) and opened ten (10) investigations. Three (3) cases are pending.

<b>2020 Total Cases Referred</b>	<b>Cases Rejected</b>	<b>Approved for Direct Action</b>	<b>Investigations Opened</b>	<b>Cases Pending</b>
23	4	6	10	3

#### **INTERROGATORY NO. 4:**

For each year from 2017 to the present, indicate the OIA case numbers of all referrals of STAFF MISCONDUCT involving *Armstrong* or *Coleman* class members in which OIA (a) rejected the referral, (b) approved direct adverse action, and (c) opened an investigation.

#### **RESPONSE TO INTERROGATORY NO. 4:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants specifically object to providing information regarding *Coleman* class members who are not parties to this case. The request is also burdensome and not proportional to the needs of the case. 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



1 which allegations involved class members. Defendants object to the definition of the term  
2 “STAFF MISCONDUCT incidents” as vague, ambiguous, and incomprehensible because the  
3 definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and  
4 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
5 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
6 incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’  
7 definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order  
8 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
9 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
10 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
11 meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two  
12 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
13 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
14 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
15 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
16 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
17 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
18 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
19 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
20 referred the matter to the OIA. Defendants object that the interrogatory includes a total of three  
21 discrete subparts, and should be counted toward Plaintiffs’ limit in accordance with Federal Rule  
22 of Civil Procedure 33(a)(1).

23 Subject to those objections, and without waiving them, Defendants respond as follows:  
24 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
25 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
26 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
27 Defendants are diligently searching all available sources for responsive information, but have not  
28 yet located the information Plaintiffs seek. Defendants will continue to search for such

1 information and provide it to Plaintiffs once the information is located.

2 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

3 Subject to and incorporating all previously asserted objections, Defendants respond as  
4 follows:

5 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
6 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
7 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
8 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
9 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
10 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
11 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
12 case was counted as a referral by the CCI hiring authority.

13 In 2017, the CCI hiring authority referred fourteen (14) cases of staff misconduct involving  
14 an *Armstrong* or *Coleman* class member to OIA. The fourteen (14) case numbers and OIA action  
15 are:

17 <b>2017 OIA Referral Case Numbers</b>	<b>OIA Action</b>
18 C-CCI-023-17-A	Administrative Investigation
19 C-CCI-045-17-R	Rejected
20 C-CCI-043-17-R	Rejected
21 C-CCI-109-17-D	Direct Action
22 C-CCI-094-17-D	Direct Action
23 C-CCI-144-17-D	Direct Action
24 C-CCI-291-17-A*	Administrative Investigation Later Grouped 25 into a Criminal Investigation
26 C-CCI-296-17-R	Rejected

1	C-CCI-297-17-R	Rejected
2	C-CCI-305-17-A*	Administrative Investigation Later Grouped into a Criminal Investigation
3		
4	C-CCI-377-17-R	Rejected
5	C-CCI-415-17-A*	Administrative Investigation later Grouped into a Criminal Investigation
6		
7	C-CCI-498-17-R	Rejected
8	C-CCI-497-17-A	Administrative Investigation
9		

10 \*Cases were later grouped together in a criminal case. The administrative investigation  
11 cases were tolled until the criminal investigation was completed.

12 In 2018, the CCI hiring authority referred ten (10) cases of staff misconduct involving an  
13 *Armstrong* or *Coleman* class member to OIA. The ten (10) case numbers and OIA action are:

14	<b>2018 OIA Referral Case Numbers</b>	<b>OIA Action</b>
15	C-CCI-032-18-A	Administrative Investigation
16	C-CCI-172-18-D	Direct Action with Subject Only Interview
17	C-CCI-175-18-R	Rejected
18	C-CCI-141-18-A	Administrative Investigation
19	C-CCI-136-18-C/A	Criminal Investigation Later Split to an Administrative Investigation
20		
21	S-CCI-214-18-A	Administrative Investigation
22	S-CCI-239-18-C	Criminal Investigation
23		
24	S-CCI-256-18-A	Administrative Investigation
25	S-CCI-340-18-R	Rejected
26	S-CCI-378-18-A	Administrative Investigation
27		
28		

1 In 2019, the CCI hiring authority referred thirteen (13) cases of staff misconduct involving  
 2 an *Armstrong* or *Coleman* class member to OIA. The thirteen (13) case numbers are:

2019 OIA Referral Case Numbers	OIA Action
S-CCI-013-19-R	Rejected
S-CCI-055-19-A	Administrative Investigation
S-CCI-110-19-A	Administrative Investigation
S-CCI-151-19-R	Rejected
S-CCI-217-19-A	Administrative Investigation
S-CCI-265-19-R	Rejected
S-CCI-260-19-R	Rejected
S-CCI-284-19-R	Rejected
S-CCI-433-19-D	Direct Action
S-CCI-436-19-A	Administrative Investigation
S-CCI-1502-19-C	Criminal Investigation
S-CCI-UNK-19-C*	Criminal Investigation
S-CCI-1552-19-S	Subject Only Interview

15  
 16 \*Case S-CCI-UNK-19-C has been opened by OIA as a Criminal Case but has not yet been  
 17 assigned a number.

18 In 2020, the CCI hiring authority referred eight (8) cases of staff misconduct involving an  
 19 *Armstrong* or *Coleman* class member to OIA. The eight (8) case numbers are:

2020 OIA Referral Case Numbers	OIA Action
S-CCI-032-20-C	Criminal Investigation
S-CCI-036-20-C/D	Criminal Investigation Later Split to a Direct Action
S-CCI-101-20-R	Rejected
S-CCI-160-20-R	Rejected
S-CCI-158-20-A	Administrative Investigation
S-CCI-187-20-S	Subject Only Interview

1	S-CCI-281-20-A	Administrative Investigation
2	S-CCI-208-20-A	Administrative Investigation

3  
4 **INTERROGATORY NO. 5:**

5 For each year from 2017 to the present, indicate the number of (a) administrative  
6 investigations and (b) criminal investigations opened by OIA following a referral from the CCI  
7 hiring authority.

8 **RESPONSE TO INTERROGATORY NO. 5:**

9 Defendants object to this interrogatory as not seeking information relevant to any party's  
10 claims or defenses in this case. Defendants specifically object that the interrogatory is not limited  
11 to on duty instances, and not limited to instances involving inmates. Requiring Defendants to  
12 review and categorize all such instances is overly burdensome and not proportional to the needs  
13 of the case. Defendants object that the interrogatory includes a total of two discrete subparts, and  
14 should be counted toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure  
15 33(a)(1).

16 Subject to those objections, and without waiving them, Defendants respond as follows:  
17 Defendants are diligently searching all available sources for responsive information, but have not  
18 yet located the information Plaintiffs seek. Defendants will continue to search for such  
19 information and provide it to Plaintiffs once the information is located.

20 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:**

21 Subject to and incorporating all previously asserted objections, Defendants respond as  
22 follows:

23 For purposes of this response, the number of cases includes custody, non-custody, and  
24 medical classifications. Cases the Office of Internal Affairs (OIA) opened as subject only  
25 interviews were counted as administrative investigations. The numbers reflect the initial OIA  
26 determination for the case. If OIA initially opened a case as a criminal investigation and during  
27 the investigative process split it into an administrative investigation, the case was counted as a  
28 criminal case only. If OIA added a staff member to a case, the allegation was counted as a

1 referral by the California Correctional Institution (CCI) hiring authority. If OIA removed a staff  
 2 member from the case, the allegation was counted as a referral by the CCI hiring authority. If  
 3 OIA initiated the case, the case was counted as a referral by the CCI hiring authority.

4 In 2017, OIA opened eighteen (18) investigations for cases referred by the CCI hiring  
 5 authority. Out of the eighteen (18) cases, fifteen (15) cases were opened as administrative  
 6 investigations and three (3) were opened as criminal investigations.

<b>2017 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
18	15	3

10 In 2018, OIA opened twenty-three (23) investigations for cases referred by the CCI hiring  
 11 authority. Out of the twenty-three (23) cases, fifteen (15) were opened as administrative  
 12 investigations and eight (8) were opened as criminal investigations.

<b>2018 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
23	15	8

16 In 2019, OIA opened twenty-two (22) investigations for cases referred by the CCI hiring  
 17 authority. Out of the twenty-two (22) cases, fifteen (15) were opened as administrative  
 18 investigations and seven (7) were opened as criminal investigations.

<b>2019 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
22	15	7

22 In 2020, OIA opened ten (10) investigations for cases referred by the CCI hiring authority.  
 23 Out of the ten (10) cases, eight (8) were opened as administrative investigations and two (2) were  
 24 opened as criminal investigations.

<b>2020 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
10	8	2

**INTERROGATORY NO. 6:**

For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT incidents from CCI (a) for which the CCI hiring authority sustained the allegations, (b) for which the CCI hiring authority did not sustain the allegations, and (c) which remain open.

**RESPONSE TO INTERROGATORY NO. 6:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. The request is also burdensome and not proportional to the needs of the case. 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 involved class members. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an incarcerated person was made, but not sustained. The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff misconduct was sustained, as the term "STAFF

1 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
2 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
3 object that the interrogatory includes a total of three discrete subparts, and should be counted  
4 toward Plaintiffs’ limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

5 Subject to those objections, and without waiving them, Defendants respond as follows:  
6 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
7 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
8 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
9 Defendants are diligently searching all available sources for responsive information, but have not  
10 yet located the information Plaintiffs seek. Defendants will continue to search for such  
11 information and provide it to Plaintiffs once the information is located.

12 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:**

13 Subject to and incorporating all previously asserted objections, Defendants respond as  
14 follows:

15 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
16 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
17 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
18 includes custody, medical and non-custody classifications. If the Office of Internal Affairs (OIA)  
19 added a staff member to a case, the allegation was counted as a referral by the California  
20 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
21 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
22 case was counted as a referral by the CCI hiring authority. Cases rejected by OIA were counted  
23 not sustained by the hiring authority.

24 In 2017, the CCI hiring authority referred twenty-one (21) cases of staff misconduct to  
25 OIA. Within the twenty-one (21) cases, there were sixty-eight (68) allegations. Out of the sixty-  
26 eight (68) allegations, the CCI hiring authority sustained twelve (12) allegations and did not  
27 sustain fifty-six (56) allegations. No allegations are pending.  
28



<b>2017 Sustained Allegations</b>	<b>2017 Not Sustained Allegations</b>	<b>Allegations Pending OIA</b>
12	56	0

In 2018, the CCI hiring authority referred twelve (12) cases of staff misconduct to OIA. Within the twelve (12) cases, there were forty-five (45) allegations. Out of the forty-five (45) allegations, the CCI hiring authority sustained seven (7) allegations and did not sustain thirty-eight (38) allegations. No allegations are pending.

<b>2018 Sustained Allegations</b>	<b>2018 Not Sustained Allegations</b>	<b>Allegations Pending OIA</b>
7	38	0

In 2019, the CCI hiring authority referred sixteen (16) cases of staff misconduct to OIA. Within the sixteen (16) cases, there were thirty-four (34) allegations. Out of the thirty-four (34) allegations, the CCI hiring authority sustained three (3) allegations and did not sustain twenty-three (23) allegations. Six (6) allegations are pending. Two (2) subjects were added by OIA to case S-CCI-436-19-A who were employed at Kern Valley State Prison (KVSP). The KVSP hiring authority sustained one (1) of the allegations and did not sustain the other one (1). The KVSP hiring authority's decisions are not reflected below and will be reflected on the KVSP interrogatory responses.

<b>2019 Sustained Allegations</b>	<b>2019 Not Sustained Allegations</b>	<b>Allegations Pending OIA</b>	<b>Sustained/ Not Sustained Controlled by KVSP</b>
3	23	6	2

In 2020, the CCI hiring authority referred eleven (11) cases of staff misconduct to OIA. Within the eleven (11) cases, there were twenty-two (22) allegations. Out of the twenty-two (22) allegations the CCI hiring authority sustained one (1) allegation and did not sustain eleven (11) allegations. Ten (10) allegations are pending OIA to complete their investigations or intake process.

2020 Sustained Allegations	2020 Not Sustained Allegations	Allegations Pending OIA
1	11	10

**INTERROGATORY NO. 7:**

For each year from 2017 to the present, indicate the OIA case number for all STAFF MISCONDUCT incidents that involved an *Armstrong* or *Coleman* class member and (a) for which the CCI hiring authority sustained the allegations, (b) for which the CCI hiring authority did not sustain the allegations, and (c) which remain open.

**RESPONSE TO INTERROGATORY NO. 7:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants specifically object to providing information regarding *Coleman* class members who are not parties to this case. The request is also burdensome and not proportional to the needs of the case. 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 involved class members. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two

1 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
2 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
3 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
4 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
5 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
6 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
7 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
8 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
9 referred the matter to the OIA. Defendants object that the interrogatory includes a total of three  
10 discrete subparts, and should be counted toward Plaintiffs’ limit in accordance with Federal Rule  
11 of Civil Procedure 33(a)(1).

12 Subject to those objections, and without waiving them, Defendants respond as follows:  
13 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
14 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
15 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
16 Defendants are diligently searching all available sources for responsive information, but have not  
17 yet located the information Plaintiffs seek. Defendants will continue to search for such  
18 information and provide it to Plaintiffs once the information is located.

19 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

20 Subject to and incorporating all previously asserted objections, Defendants respond as  
21 follows:

22 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
23 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
24 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
25 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
26 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
27 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
28 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the

1 case was counted as a referral by the CCI hiring authority. Cases rejected by OIA were counted  
2 as not sustained by the hiring authority.

3 In 2017, the CCI hiring authority referred fourteen (14) cases of staff misconduct involving  
4 an *Armstrong* or *Coleman* class member to OIA. Within the fourteen (14) cases, there were forty-  
5 three (43) subjects. Below is a chart showing the OIA case number, the number of subjects, and  
6 if the allegation was sustained, not sustained or remains open.

2017 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
C-CCI-023-17-A	1	Administrative Investigation	Not Sustained
	2	Administrative Investigation	Not Sustained
	3	Administrative Investigation	Sustained
C-CCI-045-17-R	1	Rejected	Not Sustained
C-CCI-043-17-R	1	Rejected	Not Sustained
	2	Rejected	Not Sustained
	3	Rejected	Not Sustained
	4	Rejected	Not Sustained
	5	Rejected	Not Sustained
C-CCI-109-17-D	1	Direct Action	Not Sustained
C-CCI-094-17-D	1	Direct Action	Sustained
C-CCI-144-17-D	1	Direct Action	Not Sustained
	2	Direct Action (OIA Added Subject)	Not Sustained
	3	Direct Action (OIA Added Subject)	Not Sustained

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C-CCI-291-17-A*	1	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
	2	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
	3	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
	4	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the

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			District Attorney
	5	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
	6	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation - Not Sustained. Criminal Administrative Investigation - Not Sustained Criminal Investigation – Closed and Not Referred to the District Attorney
	7	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
	8	Administrative Investigation Later	Administrative Investigation - Not

1			Grouped into a	Sustained.
2			Criminal	Criminal
3			Investigation (OIA	Investigation –
4			Added)	Closed and Not
5				Referred to the
6				District Attorney
6	C-CCI-296-17-R	1	Rejected	Not Sustained
7	C-CCI-297-17-R	1	Rejected	Not Sustained
8		2	Rejected	Not Sustained
9	C-CCI-305-17-A*	1	Administrative	Administrative
10			Investigation Later	Investigation -
11			Grouped into a	Sustained.
12			Criminal	Criminal
13			Investigation	Investigation –
14				Closed and Not
15				Referred to the
16				District Attorney
16		2	Administrative	Administrative
17			Investigation Later	Investigation –
18			Grouped into a	Sustained.
19			Criminal	Criminal
20			Investigation	Investigation –
21				Closed and Not
22				Referred to the
23				District Attorney
23		3	Administrative	Administrative
24			Investigation Later	Investigation -
25			Grouped into a	Sustained.
26			Criminal	Criminal
27			Investigation	Investigation –
28				Closed and Not

1			Referred to the District Attorney
2			
3		4	Administrative Investigation Later Grouped into a Criminal Investigation
4			Administrative Investigation - Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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10		5	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)
11			Administrative Investigation – Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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17		6	Administrative Investigation Later Grouped into a Criminal Investigation
18			Administrative Investigation - Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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24	C-CCI-377-17-R	1	Rejected Not Sustained
25		2	Rejected Not Sustained
26		3	Rejected Not Sustained
27	C-CCI-415-17-A*	1	Administrative Investigation Later Investigation - Not
28			



1			grouped into a Criminal Investigation	Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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6		2	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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12				
13		3	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation – Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney
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19				
20	C-CCI-498-17-R	1	Rejected	Not Sustained
21		2	Rejected	Not Sustained
22	C-CCI-497-17-A	1	Administrative Investigation	Not Sustained
23				
24		2	Administrative Investigation	Not Sustained
25				
26		3	Administrative Investigation	Not Sustained
27				
28		4	Administrative	Not Sustained

		Investigation	
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\*Cases were later grouped together in a criminal case. The administrative investigation cases were tolled until the criminal investigation was completed.

In 2018, the CCI hiring authority referred ten (10) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. Within the ten (10) cases, there were thirty-seven (37) subjects. Below is a chart showing the OIA case number, the number of subjects, and if the allegation was sustained, not sustained or remains open.

2018 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
C-CCI-032-18-A	1	Administrative Investigation	Sustained
	2	Administrative Investigation	Not Sustained
	3	Administrative Investigation	Sustained
	4	Administrative Investigation	Not Sustained
	5	Administrative Investigation	Not Sustained
C-CCI-172-18-D	1	Direct Action with Subject Only Interview (OIA Removed Subject)	Not Sustained
	2	Direct Action with Subject Only Interview	Not Sustained
C-CCI-175-18-R	1	Rejected	Not Sustained
	2	Rejected	Not Sustained

1		3	Rejected	Not Sustained
2		4	Rejected	Not Sustained
3		5	Rejected	Not Sustained
4		5	Rejected	Not Sustained
5	C-CCI-141-18-A	1	Administrative Investigation (OIA Removed Subject)	Not Sustained
6		2	Administrative Investigation	Sustained
7		3	Administrative Investigation	Not Sustained
8		3	Administrative Investigation	Not Sustained
9		3	Administrative Investigation	Not Sustained
10		3	Administrative Investigation	Not Sustained
11		4	Administrative Investigation	Sustained
12		4	Administrative Investigation	Sustained
13		5	Administrative Investigation (OIA Removed Subject)	Not Sustained
14		5	Administrative Investigation (OIA Removed Subject)	Not Sustained
15		5	Administrative Investigation (OIA Removed Subject)	Not Sustained
16		6	Administrative Investigation (OIA Removed Subject)	Not Sustained
17		6	Administrative Investigation (OIA Removed Subject)	Not Sustained
18	C-CCI-136-18-C/A	1	Criminal Investigation Later Split to an Administrative Investigation	Criminal Investigation - Split to an Administrative Investigation Due to Clearing the Deadly Force Investigative Investigation (DFIT)
19				Administrative Investigation – Not Sustained
20				
21				
22				
23				
24				
25				
26				
27	S-CCI-214-18-A	1	Administrative Investigation	Not Sustained
28				

1		2	Administrative Investigation	Not Sustained
2				
3		3	Administrative Investigation (OIA Removed Subject)	Not Sustained
4				
5		4	Administrative Investigation (OIA Removed Subject)	Not Sustained
6				
7				
8		5	Administrative Investigation (OIA Removed Subject)	Not Sustained
9				
10				
11	S-CCI-239-18-C	1	Criminal Investigation	Closed and Not Referred to the District Attorney
12				
13		2	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney
14				
15				
16		3	Criminal Investigation	Closed and Not Referred to the District Attorney
17				
18				
19		4	Criminal Investigation	Closed and Not Referred to the District Attorney
20				
21		5	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney
22				
23				
24		6	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney
25				
26				
27	S-CCI-256-18-A	1	Administrative Investigation	Sustained
28				

1		2	Administrative Investigation	Sustained
2				
3	S-CCI-340-18-R	1	Rejected	Not Sustained
4	S-CCI-378-18-A	1	Administrative Investigation	Not Sustained
5				
6		2	Administrative Investigation	Not Sustained
7				
8		3	Administrative Investigation	Not Sustained
9				
10		4	Administrative Investigation	Not Sustained
11				

12 In 2019, the CCI hiring authority referred thirteen (13) cases of staff misconduct involving  
13 an *Armstrong* or *Coleman* class member to OIA. Within the thirteen (13) cases, there were thirty  
14 (30) subjects. Two (2) subjects were added by OIA to case S-CCI-436-19-A who were employed  
15 at Kern Valley State Prison (KVSP). The KVSP hiring authority sustained one (1) of the  
16 allegations and did not sustain the other one (1). Below is a chart showing the OIA case number,  
17 the number of subjects, and if the allegation was sustained, not sustained or remains open.

18	2019 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
19	S-CCI-013-19-R	1	Rejected	Not Sustained
20	S-CCI-055-19-A	1	Administrative Investigation	Not Sustained
21				
22		2	Administrative Investigation	Not Sustained
23				
24	S-CCI-110-19-A	1	Administrative Investigation	Not Sustained
25				
26		2	Administrative Investigation	Not Sustained
27				
28		3	Administrative	Not Sustained

1			Investigation	
2	S-CCI-151-19-R	1	Rejected	Not Sustained
3	S-CCI-217-19-A	1	Administrative Investigation	Not Sustained
4				
5	S-CCI-265-19-R	1	Rejected	Not Sustained
6		2	Rejected	Not Sustained
7		3	Rejected	Not Sustained
8		4	Rejected	Not Sustained
9	S-CCI-260-19-R	1	Rejected	Not Sustained
10		2	Rejected	Not Sustained
11	S-CCI-284-19-R	1	Rejected	Not Sustained
12		2	Rejected	Not Sustained
13	S-CCI-433-19-D	1	Direct Action	Not Sustained
14		2	Direct Action	Sustained
15	S-CCI-436-19-A	1	Administrative Investigation	Sustained
16		2	Administrative Investigation	Not Sustained
17		3	Administrative Investigation	Not Sustained
18		4	Administrative Investigation	Not Sustained
19		5	Administrative Investigation	Sustained (By the KVSP Hiring Authority)
20		6	Administrative Investigation	Not Sustained (By the KVSP Hiring Authority)
21	S-CCI-1502-19-C	1	Criminal Investigation	Pending OIA
22		2	Criminal Investigation	Pending OIA
23				
24				
25				
26				
27				
28				

	3	Criminal Investigation	Pending OIA
	4	Criminal Investigation	Pending OIA
S-CCI-UNK-19-C	1	Criminal Investigation	Pending OIA
S-CCI-1552-19-S	1	Subject Only Interview	Not Sustained

\*Case S-CCI-UNK-19-C has been opened by OIA as a Criminal Case but has not yet been assigned a number.

In 2020, the CCI hiring authority referred eight (8) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. Within the eight (8) cases, there were fifteen (15) subjects. Below is a chart showing the OIA case number, the number of subjects, and if the allegations was sustained, not sustained or remains open.

<b>2020 OIA Referral Case Numbers</b>	<b>Subject Number</b>	<b>OIA Action</b>	<b>Hiring Authority Decision</b>
S-CCI-032-20-C	1	Criminal Investigation	Pending OIA
S-CCI-036-20-C/D	1	Criminal Investigation Later Split to a Direct Action	Pending OIA
S-CCI-101-20-R	1	Rejected	Not Sustained
S-CCI-160-20-R	1	Rejected	Not Sustained
	2	Rejected	Not Sustained
	3	Rejected	Not Sustained
S-CCI-158-20-A	1	Administrative Investigation	Not Sustained
	2	Administrative Investigation	Not Sustained

1	S-CCI-187-20-S	1	Subject Only Interview	Sustained
2				
3	S-CCI-281-20-A	1	Administrative Investigation	Pending OIA
4				
5		2	Administrative Investigation	Pending OIA
6				
7		3	Administrative Investigation	Pending OIA
8	S-CCI-208-20-A	1	Administrative Investigation	Pending OIA
9				
10		2	Administrative Investigation	Pending OIA
11				
12		3	Administrative Investigation	Pending OIA
13				

**INTERROGATORY NO. 8:**

For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT incidents from CCI for which the CCI hiring authority sustained the allegations and imposed (a) adverse action and (b) corrective action.

**RESPONSE TO INTERROGATORY NO. 8:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. The request is also burdensome and not proportional to the needs of the case. 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 involved class members. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of



1 STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs’  
2 definition of STAFF MISCONDUCT “includes [Plaintiffs’ definition of] EXCESSIVE USE OF  
3 FORCE.” It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF  
4 MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements  
5 that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
6 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs’ definition of STAFF  
7 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
8 and ambiguous as to the phrase “harmed an incarcerated person” in the definition of “STAFF  
9 MISCONDUCT” because it is not clear whether Plaintiffs are seeking only instances in which a  
10 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
11 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
12 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
13 only instances in which a finding of staff misconduct was sustained, as the term “STAFF  
14 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
15 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
16 object that the interrogatory includes a total of two discrete subparts, and should be counted  
17 toward Plaintiffs’ limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

18 Subject to those objections, and without waiving them, Defendants respond as follows:  
19 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
20 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
21 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
22 Defendants are diligently searching all available sources for responsive information, but have not  
23 yet located the information Plaintiffs seek. Defendants will continue to search for such  
24 information and provide it to Plaintiffs once the information is located.

25 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:**

26 Subject to and incorporating all previously asserted objections, Defendants respond as  
27 follows:  
28

1 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
 2 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
 3 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
 4 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
 5 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
 6 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
 7 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
 8 case was counted as a referral by the CCI hiring authority. Cases rejected by OIA were counted as  
 9 not sustained by the hiring authority and no action imposed.

10 In 2017, the CCI hiring authority referred twenty-one (21) cases of staff misconduct to  
 11 OIA. Within the twenty-one (21) cases there were sixty-eight (68) allegations of staff  
 12 misconduct. The CCI hiring authority sustained twelve (12) of the staff misconduct allegations  
 13 and did not sustain fifty-six (56). Out of the twelve (12) sustained allegations adverse action was  
 14 imposed on twelve (12) and corrective action was imposed on zero (0).

2017 Sustained Allegations	Adverse Action Imposed	Corrective Action Imposed
12	12	0

17 In 2018, the CCI hiring authority referred twelve (12) cases of staff misconduct to OIA.  
 18 Within the twelve (12) cases, there were forty-five (45) allegations of staff misconduct. The CCI  
 19 hiring authority sustained seven (7) of the staff misconduct allegations and did not sustain thirty-  
 20 eight (38). Out of the seven (7) sustained allegations adverse action was imposed on six (6) and  
 21 corrective action was imposed on one (1).

2018 Sustained Allegations	Adverse Action Imposed	Corrective Action Imposed
7	6	1

24 In 2019, the CCI hiring authority referred sixteen (16) cases of staff misconduct to OIA.  
 25 Within the sixteen (16) cases, there were thirty-four (34) allegations of staff misconduct. The  
 26 hiring authority sustained three (3) of the staff misconduct allegations and did not sustain twenty-  
 27 three (23). Six (6) allegations are pending. Out of the three (3) sustained allegations adverse  
 28

1 action was imposed on three (3) and corrective action was imposed on none. Two (2) subjects  
 2 were added by OIA to case S-CCI-436-19-A who were employed at Kern Valley State Prison  
 3 (KVSP). The KVSP hiring authority sustained one (1) of the allegations and did not sustain the  
 4 other one (1). The one (1) sustained allegation had adverse action imposed. The KVSP hiring  
 5 authority's decisions are not reflected below and will be reflected on the KVSP interrogatory  
 6 responses.

2019 Sustained Allegations	Adverse Action Imposed	Corrective Action Imposed
3	3	0

9 In 2020, the CCI hiring authority referred eleven (11) cases of staff misconduct to OIA.  
 10 Within the eleven (11) cases, there were twenty-two (22) allegations of staff misconduct. The  
 11 hiring authority sustained one (1) of the staff misconduct allegations and did not sustain eleven  
 12 (11). Ten (10) allegations are pending. Adverse action was imposed on the one (1) sustained  
 13 allegation.

2020 Sustained Allegations	Adverse Action Imposed	Corrective Action Imposed
1	1	0

16 **INTERROGATORY NO. 9:**

17 For each year from 2017 to the present, indicate the OIA case number for all STAFF  
 18 MISCONDUCT incidents that involved an *Armstrong* or *Coleman* class member and for which  
 19 the CCI hiring authority sustained the allegations and imposed (a) adverse action and (b)  
 20 corrective action.

21 **RESPONSE TO INTERROGATORY NO. 9:**

22 Defendants object to this interrogatory as not seeking information relevant to any party's  
 23 claims or defenses in this case. Defendants specifically object to providing information regarding  
 24 *Coleman* class members who are not parties to this case. The request is also burdensome and not  
 25 proportional to the needs of the case. The Department tracks allegations of staff misconduct by  
 26 the subject of the allegations, not the reporting individual or alleged victim. Each file must be  
 27 pulled and reviewed in order to determine whether the incident central to an allegation of staff  
 28 misconduct involved an inmate. Once that determination is made, the Department can identify

1 which allegations involved class members. Defendants object to the definition of the term  
2 “STAFF MISCONDUCT incidents” as vague, ambiguous, and incomprehensible because the  
3 definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and  
4 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
5 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
6 incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’  
7 definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order  
8 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
9 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
10 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
11 meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two  
12 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
13 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
14 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
15 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
16 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
17 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
18 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
19 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
20 referred the matter to the OIA. Defendants object that the interrogatory includes a total of two  
21 discrete subparts, and should be counted toward Plaintiffs’ limit in accordance with Federal Rule  
22 of Civil Procedure 33(a)(1).

23 Subject to those objections, and without waiving them, Defendants respond as follows:  
24 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
25 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
26 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
27 Defendants are diligently searching all available sources for responsive information, but have not  
28 yet located the information Plaintiffs seek. Defendants will continue to search for such

1 information and provide it to Plaintiffs once the information is located.

2 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

3 Subject to and incorporating all previously asserted objections, Defendants respond as  
4 follows:

5 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
6 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
7 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
8 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
9 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
10 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
11 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
12 case was counted as a referral by the CCI hiring authority. Cases rejected by OIA were counted  
13 as not sustained by the hiring authority and no action imposed.

14 In 2017, the CCI hiring authority referred fourteen (14) cases of staff misconduct involving  
15 an *Armstrong* or *Coleman* class member to OIA. Within the fourteen (14) cases, there were forty-  
16 three (43) allegations. The hiring authority sustained eight (8) of the allegations. Below is a chart  
17 showing the OIA case number, the number of subjects, the hiring authority decision to sustain or  
18 not sustain the allegation, and the type of disciplinary action imposed.

19  
20  
21

22 <b>2017 OIA Referral Case Numbers</b>	<b>Subject Number</b>	<b>OIA Action</b>	<b>Hiring Authority Decision</b>	<b>Disciplinary Action Imposed</b>
24 C-CCI-023-17- 25 A	1	Administrative Investigation	Not Sustained	No Action
26	2	Administrative Investigation	Not Sustained	No Action

27  
28

1		3	Administrative Investigation	Sustained	Adverse Action
2					
3	C-CCI-045-17-	1	Rejected	Not Sustained	No Action
4	R				
5	C-CCI-043-17-	1	Rejected	Not Sustained	No Action
6	R				
7		2	Rejected	Not Sustained	No Action
8		3	Rejected	Not Sustained	No Action
9		4	Rejected	Not Sustained	No Action
10		5	Rejected	Not Sustained	No Action
11	C-CCI-109-17-	1	Direct Action	Not Sustained	No Action
12	D				
13	C-CCI-094-17-	1	Direct Action	Sustained	Adverse Action
14	D				
15	C-CCI-144-17-	1	Direct Action	Not Sustained	No Action
16	D				
17		2	Direct Action (OIA Added Subject)	Not Sustained	No Action
18		3	Direct Action (OIA Added Subject)	Not Sustained	No Action
19					
20					
21	C-CCI-291-17-	1	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
22	A*				
23					
24					
25					
26					
27		2	Administrative	Administrative	No Action
28					

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5  
6  
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8  
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		Investigation Later Grouped into a Criminal Investigation	Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	
	3	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
	4	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
	5	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action

1		6	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation - Not Sustained. Criminal Administrative Investigation - Not Sustained Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12		7	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
13					
14					
15					
16					
17					
18					
19		8	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
20					
21					
22					
23					
24					
25	C-CCI-296-17- R	1	Rejected	Not Sustained	No Action
26					
27	C-CCI-297-17-	1	Rejected	Not Sustained	No Action
28					



1	R			
2		2	Rejected	Not Sustained
3	C-CCI-305-17-	1	Administrative	Administrative
4	A*		Investigation	Investigation -
5			Later Grouped	Sustained.
6			into a Criminal	Criminal
7			Investigation	Investigation –
8				Closed and Not
9				Referred to the
10		2	Administrative	Administrative
11			Investigation	Investigation –
12			Later Grouped	Sustained.
13			into a Criminal	Criminal
14			Investigation	Investigation –
15				Closed and Not
16				Referred to the
17		3	Administrative	Administrative
18			Investigation	Investigation -
19			Later Grouped	Sustained.
20			into a Criminal	Criminal
21			Investigation	Investigation –
22				Closed and Not
23				Referred to the
24		4	Administrative	Administrative
25			Investigation	Investigation -
26			Later Grouped	Sustained.
27			into a Criminal	Criminal
28			Investigation	Investigation –

1				Closed and Not Referred to the District Attorney	
2					
3					
4		5	Administrative Investigation Later Grouped into a Criminal Investigation (OIA Added)	Administrative Investigation – Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	Adverse Action
5					
6					
7					
8					
9					
10					
11		6	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	Adverse Action
12					
13					
14					
15					
16					
17					
18	C-CCI-377-17-R	1	Rejected	Not Sustained	No Action
19					
20		2	Rejected	Not Sustained	No Action
21					
22		3	Rejected	Not Sustained	No Action
23					
24	C-CCI-415-17-A*	1	Administrative Investigation Later grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
25					
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1		2	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation - Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
2					
3					
4					
5					
6					
7					
8		3	Administrative Investigation Later Grouped into a Criminal Investigation	Administrative Investigation – Not Sustained. Criminal Investigation – Closed and Not Referred to the District Attorney	No Action
9					
10					
11					
12					
13					
14					
15	C-CCI-498-17-	1	Rejected	Not Sustained	No Action
16	R				
17		2	Rejected	Not Sustained	No Action
18	C-CCI-497-17-	1	Administrative Investigation	Not Sustained	No Action
19	A				
20		2	Administrative Investigation	Not Sustained	No Action
21		3	Administrative Investigation	Not Sustained	No Action
22					
23		4	Administrative Investigation	Not Sustained	No Action
24					

25 \*Cases were later grouped together in a criminal case. The administrative investigation  
26 cases were tolled until the criminal investigation was completed.

27  
28

1 In 2018, the CCI hiring authority referred ten (10) cases of staff misconduct involving an  
 2 *Armstrong* or *Coleman* class member to OIA. Within the ten (10) cases, there were thirty-seven  
 3 (37) allegations. The hiring authority sustained six (6) of the allegations. Below is a chart  
 4 showing the OIA case number, the number of subjects, the hiring authority decision, and the type  
 5 of disciplinary action imposed.

2018 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
C-CCI-032-18-A	1	Administrative Investigation	Sustained	Adverse Action
	2	Administrative Investigation	Not Sustained	No Action
	3	Administrative Investigation	Sustained	Adverse Action
	4	Administrative Investigation	Not Sustained	No Action
	5	Administrative Investigation	Not Sustained	No Action
C-CCI-172-18-D	1	Direct Action with Subject Only Interview (OIA Removed Subject)	Not Sustained	No Action
	2	Direct Action with Subject Only Interview	Not Sustained	No Action
C-CCI-175-18-R	1	Rejected	Not Sustained	No Action
	2	Rejected	Not Sustained	No Action
	3	Rejected	Not Sustained	No Action

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	4	Rejected	Not Sustained	No Action
	5	Rejected	Not Sustained	No Action
C-CCI-141-18-A	1	Administrative Investigation (OIA Removed Subject)	Not Sustained	No Action
	2	Administrative Investigation	Sustained	Corrective Action
	3	Administrative Investigation	Not Sustained	No Action
	4	Administrative Investigation	Sustained	Adverse Action
	5	Administrative Investigation (OIA Removed Subject)	Not Sustained	No Action
	6	Administrative Investigation (OIA Removed Subject)	Not Sustained	No Action
C-CCI-136-18-C/A	1	Criminal Investigation Later Split to an Administrative Investigation	Criminal Investigation - Split to an Administrative Investigation Due to Clearing the Deadly Force Investigative Investigation (DFIT)	No Action

1			Administrative Investigation – Not Sustained	
2				
3				
4	S-CCI-214-18-A	1	Administrative Investigation	Not Sustained No Action
5				
6		2	Administrative Investigation	Not Sustained No Action
7				
8		3	Administrative Investigation (OIA Removed Subject)	Not Sustained No Action
9				
10				
11		4	Administrative Investigation (OIA Removed Subject)	Not Sustained No Action
12				
13				
14		5	Administrative Investigation (OIA Removed Subject)	Not Sustained No Action
15				
16				
17				
18	S-CCI-239-18-C	1	Criminal Investigation	Closed and Not Referred to the District Attorney No Action
19				
20		2	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney No Action
21				
22				
23				
24		3	Criminal Investigation	Closed and Not Referred to the District Attorney No Action
25				
26				
27		4	Criminal Investigation	Closed and Not Referred to the No Action
28				

1			District Attorney	
2		5	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney
3				No Action
4				
5				
6		6	Criminal Investigation (OIA Removed Subject)	Closed and Not Referred to the District Attorney
7				No Action
8				
9	S-CCI-256-18-A	1	Administrative Investigation	Sustained
10				Adverse Action
11		2	Administrative Investigation	Sustained
12				Adverse Action
13	S-CCI-340-18-R	1	Rejected	Not Sustained
14				No Action
15	S-CCI-378-18-A	1	Administrative Investigation	Not Sustained
16				No Action
17		2	Administrative Investigation	Not Sustained
18				No Action
19		3	Administrative Investigation	Not Sustained
20				No Action
21		4	Administrative Investigation	Not Sustained
22				No Action

22 In 2019, the CCI hiring authority referred thirteen (13) cases of staff misconduct involving  
 23 an *Armstrong* or *Coleman* class member to OIA. Within the thirteen (13) cases, there were thirty  
 24 (30) allegations. The hiring authority sustained two (2) of the allegations. Two (2) subjects were  
 25 added by OIA to case S-CCI-436-19-A who were employed at Kern Valley State Prison (KVSP).  
 26 The KVSP hiring authority sustained one (1) allegation and imposed adverse action. Below is a  
 27 chart showing the OIA case number, the number of subjects, the hiring authority decision, and the  
 28 type of disciplinary action imposed.

2019 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
S-CCI-013-19-R	1	Rejected	Not Sustained	No Action
S-CCI-055-19-A	1	Administrative Investigation	Not Sustained	No Action
	2	Administrative Investigation	Not Sustained	No Action
S-CCI-110-19-A	1	Administrative Investigation	Not Sustained	No Action
	2	Administrative Investigation	Not Sustained	No Action
	3	Administrative Investigation	Not Sustained	No Action
S-CCI-151-19-R	1	Rejected	Not Sustained	No Action
S-CCI-217-19-A	1	Administrative Investigation	Not Sustained	No Action
S-CCI-265-19-R	1	Rejected	Not Sustained	No Action
	2	Rejected	Not Sustained	No Action
	3	Rejected	Not Sustained	No Action
	4	Rejected	Not Sustained	No Action
S-CCI-260-19-R	1	Rejected	Not Sustained	No Action
	2	Rejected	Not Sustained	No Action



1	S-CCI-284-19-R	1	Rejected	Not Sustained	No Action
2		2	Rejected	Not Sustained	No Action
3					
4					
5	S-CCI-433-19-D	1	Direct Action	Not Sustained	No Action
6		2	Direct Action	Sustained	Adverse Action
7					
8	S-CCI-436-19-A	1	Administrative Investigation	Sustained	Adverse Action
9					
10		2	Administrative Investigation	Not Sustained	No Action
11					
12		3	Administrative Investigation	Not Sustained	No Action
13					
14		4	Administrative Investigation	Not Sustained	No Action
15					
16		5	Administrative Investigation	Sustained (By the KVSP Hiring Authority)	Adverse Action (By the KVSP Hiring Authority)
17					
18					
19		6	Administrative Investigation	Not Sustained (By the KVSP Hiring Authority)	No Action (By the KVSP Hiring Authority)
20					
21	S-CCI-1502-19-C	1	Criminal Investigation	Pending OIA	Pending OIA
22					
23		2	Criminal Investigation	Pending OIA	Pending OIA
24					
25		3	Criminal Investigation	Pending OIA	Pending OIA
26					
27		4	Criminal Investigation	Pending OIA	Pending OIA
28					

1	S-CCI-UNK-19- C*	1	Criminal Investigation	Pending OIA	Pending OIA
2					
3	S-CCI-1552-19- S	1	Subject Only Interview	Not Sustained	No Action
4					

5 \*Case S-CCI-UNK-19-C has been opened by OIA as a Criminal Case but has not yet been  
6 assigned a number.

7 In 2020, the CCI hiring authority referred eight (8) cases of staff misconduct involving an  
8 *Armstrong* or *Coleman* class member to OIA. Within the eight (8) cases, there were fifteen (15)  
9 allegations. The CCI hiring authority sustained one (1) allegation. Eight (8) allegations are  
10 pending. Below is a chart showing the OIA case number, the number of subjects, the hiring  
11 authority decision, and the type of disciplinary action imposed.

12	2020 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
13	S-CCI-032-20-C	1	Criminal Investigation	Pending OIA	Pending OIA
14					
15	S-CCI-036-20- C/D	1	Criminal Investigation Later Split to a Direct Action	Pending OIA	Pending OIA
16					
17	S-CCI-101-20-R	1	Rejected	Not Sustained	No Action
18					
19	S-CCI-160-20-R	1	Rejected	Not Sustained	No Action
20					
21		2	Rejected	Not Sustained	No Action
22					
23					
24					
25					
26					
27					
28					

1		3	Rejected	Not Sustained	No Action
2					
3	S-CCI-158-20-A	1	Administrative Investigation	Not Sustained	No Action
4					
5		2	Administrative Investigation	Not Sustained	No Action
6					
7					
8	S-CCI-187-20-S	1	Subject Only Interview	Sustained	Adverse Action
9					
10	S-CCI-281-20-A	1	Administrative Investigation	Pending OIA	Pending OIA
11					
12		2	Administrative Investigation	Pending OIA	Pending OIA
13					
14		3	Administrative Investigation	Pending OIA	Pending OIA
15					
16	S-CCI-208-20-A	1	Administrative Investigation	Pending OIA	Pending OIA
17					
18		2	Administrative Investigation	Pending OIA	Pending OIA
19					
20		3	Administrative Investigation	Pending OIA	Pending OIA
21					
22					
23					
24					

**INTERROGATORY NO. 10:**

For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT incidents at CCI where the CCI 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 penalty

1 (5% salary reduction for 3-12 months or suspension without pay for 3-12 work days), (d) a Level  
2 4 penalty (salary reduction 10% for 3-12 months or suspension without pay for 6-24 work days),  
3 (e) a Level 5 penalty (salary reduction 5% for 13-36 months or suspension without pay for 13-36  
4 work days), (f) a Level 6 penalty (salary reduction 10% for 13-24 months or suspension without  
5 pay for 26-48 work days), (g) a Level 7 penalty (suspension without pay for 49-60 work days),  
6 (h) a Level 8 penalty (demotion to a lower class), or (e) a Level 9 penalty (dismissal), as those  
7 levels are defined in the Employee Disciplinary Matrix, Department of Operations Manual, §  
8 33030.16.

9 **RESPONSE TO INTERROGATORY NO. 10:**

10 Defendants object to this interrogatory as not seeking information relevant to any party's  
11 claims or defenses in this case. The request is also burdensome and not proportional to the needs  
12 of the case. The Department tracks allegations of staff misconduct by the subject of the  
13 allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed  
14 in order to determine whether the incident central to an allegation of staff misconduct involved an  
15 inmate. Once that determination is made, the Department can identify which allegations involved  
16 class members. Defendants object to the definition of the term "STAFF MISCONDUCT  
17 incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF  
18 MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual §  
19 54110.25, neither of which exist in the current versions of those documents. The definition of  
20 STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs'  
21 definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF  
22 FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF  
23 MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements  
24 that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
25 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF  
26 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
27 and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF  
28 MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a

1 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
2 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
3 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
4 only instances in which a finding of staff misconduct was sustained, as the term “STAFF  
5 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
6 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
7 object that the interrogatory includes a total of nine discrete subparts, and should be counted  
8 toward Plaintiffs’ limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

9 Subject to those objections, and without waiving them, Defendants respond as follows:  
10 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
11 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
12 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
13 Defendants are diligently searching all available sources for responsive information, but have not  
14 yet located the information Plaintiffs seek. Defendants will continue to search for such  
15 information and provide it to Plaintiffs once the information is located.

16 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**

17 Subject to and incorporating all previously asserted objections, Defendants respond as  
18 follows:

19 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
20 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
21 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
22 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
23 (OIA) added a staff member to a case, the allegation was counted as a referral by the California  
24 Correctional Institution (CCI) hiring authority. If OIA removed a staff member from the case, the  
25 allegation was counted as a referral by the CCI hiring authority. If OIA initiated the case, the  
26 case was counted as a referral by the CCI hiring authority. Cases rejected by OIA were counted  
27 as not sustained by the hiring authority and no action imposed.  
28

1 In 2017, the CCI hiring authority sustained twelve (12) allegations of staff misconduct. All  
2 twelve (12) sustained allegations resulted in adverse action being imposed by the hiring authority.

3 Below is a list of the Employee Disciplinary Matrix (EDM) from the California Department  
4 of Corrections and Rehabilitations (CDCR) Department Operations Manual (DOM) followed by  
5 how many times the adverse action penalty was imposed on sustained allegations of staff  
6 misconduct.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	1
2	0
3	1
4	3
5	0
6	1
7	0
8	0
9	6

16 In 2018, the CCI hiring authority sustained seven (7) allegations of staff misconduct. Six  
17 (6) of the sustained allegations resulted in adverse action being imposed by the hiring authority.  
18 One (1) of the sustained allegations resulted in corrective action being imposed by the hiring  
19 authority.

20 Below is a list of the EDM from the CDCR DOM followed by how many times the adverse  
21 action penalty was imposed on sustained allegations of staff misconduct.

Employee Disciplinary Matrix Code	Times Penalty Imposed
1	0
2	0
3	0
4	1
5	1
6	0

1	7	0
2	8	0
3	9	4

4 In 2019, the CCI hiring authority sustained all three (3) allegations of staff misconduct.  
5 Three (3) of the sustained allegations resulted in adverse action being imposed by the hiring  
6 authority. Six (6) allegations are pending. Two (2) subjects were added by OIA to case S-CCI-  
7 436-19-A who were employed at Kern Valley State Prison (KVSP). The KVSP hiring authority  
8 sustained one (1) allegation and imposed adverse action. The KVSP hiring authority's decision  
9 of the adverse action imposed is not reflected below and will be reflected on the KVSP  
10 interrogatory response.

11 Below is a list of the EDM from the CDCR DOM followed by how many times the adverse  
12 action penalty was imposed on sustained allegations of staff misconduct.

13	Employee Disciplinary Matrix Code	Times Penalty Imposed
14	1	1
15	2	0
16	3	1
17	4	1
18	5	0
19	6	0
20	7	0
21	8	0
22	9	0

23 In 2020, the CCI hiring authority sustained one (1) allegation of staff misconduct. The one  
24 (1) sustained allegation resulted in adverse action being imposed by the hiring authority. Ten  
25 (10) allegations are pending.

26	Employee Disciplinary Matrix Code	Times Penalty Imposed
27	1	0
28	2	0

1	3	0
2	4	0
3	5	0
4	6	0
5	7	0
6	8	0
7	9	1

**INTERROGATORY NO. 11:**

Indicate the names of all officers against whom a warden at CCI has, since January 1, 2017, imposed adverse action for STAFF MISCONDUCT.

**RESPONSE TO INTERROGATORY NO. 11:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants further object to this interrogatory as intended to harass non-party officers and former officers. Defendants further object to the interrogatory as unduly burdensome and disproportional to the needs of the case. Defendants further object to the interrogatory as seeking information that is protected from disclosure by official information privilege and California Penal Code section 832.7. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase "harmed an



1 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
2 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
3 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
4 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
5 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
6 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
7 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
8 referred the matter to the OIA.

9 Subject to those objections, and without waiving them, Defendants respond as follows:  
10 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
11 STAFF MISCONDUCT for this interrogatory. This interrogatory seeks confidential information  
12 contained in California Department of Corrections and Rehabilitation employee files, and is not  
13 limited to incidents involving class members. Because there is no demonstrated need for this  
14 confidential, protected information regarding incidents not involving *Coleman* and *Armstrong*  
15 class members, Defendants decline to produce it. Subject to that exclusion, Defendants will  
16 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
17 Defendants are diligently searching all available sources for responsive information, but have not  
18 yet located the information Plaintiffs seek. Defendants will continue to search for such  
19 information and provide it to Plaintiffs once the information is located.

20 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

21 Subject to and incorporating all previously asserted objections, Defendants respond as  
22 follows:

23 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
24 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
25 regulation, or procedure, or appeared contrary to an ethical or professional standard. The names  
26 of staff only include custody staff, including Officer, Sergeant, Lieutenant, and Captain. The staff  
27 members named were sourced from confidential records protected by the Court’s August 12,  
28

1 2020 Order at ECF No. 3039. These names are **HIGHLY CONFIDENTIAL** and  
2 **ATTORNEYS' EYES ONLY.**

3 In 2017 the California Correctional Institution (CCI) hiring authority imposed adverse  
4 action on the following custody staff members for sustained allegations of staff misconduct:

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 In 2018, the CCI hiring authority imposed adverse action on the following custody staff  
17 members for sustained allegations of staff misconduct:

18  
19  
20  
21  
22  
23

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

24 In 2019, the CCI hiring authority imposed adverse action on the following custody staff  
25 members for sustained allegations of staff misconduct:

26  
27  
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[REDACTED]
[REDACTED]

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Two (2) subjects were added by OIA to case S-CCI-436-19-A who were employed at Kern Valley State Prison (KVSP). The KVSP hiring authority sustained one (1) of the allegations and imposed adverse action. The custody staff members name will be on the KVSP interrogatory response.

In 2020, the CCI hiring authority imposed adverse action on the following custody staff members for sustained allegations of staff misconduct. Ten (10) allegations are pending.



**INTERROGATORY NO. 12:**

For each officer identified in response to Interrogatory 11, indicate:

1. The level of adverse action imposed by the hiring authority
2. Whether the incarcerated person involved in the incident that gave rise to the adverse action was a *Coleman* or *Armstrong* class member
3. The date the hiring authority imposed adverse action
4. The OIA case number associated with the adverse action
5. Whether the officer was placed on administrative time off for any time period before the adverse action was imposed, and, if yes, the dates on which the administrative time off began and ended
6. Whether the officer appealed the adverse action in any forum (e.g., *Skelly* hearing, State Personnel Board proceeding, or state court proceeding)
7. Whether the officer’s appeal of the adverse action, if any, is complete
8. If the officer is no longer appealing the adverse action, the final adverse action imposed on the officer
9. Whether the officer was permitted to retire in lieu of being dismissed
10. Whether the officer resigned in lieu of being dismissed
11. Whether the officer faced criminal prosecution for the conduct for which the warden

1           decided to impose adverse action

2           12. Whether the officer is still being paid by CDCR and, if not, when CDCR ceased  
3           paying the officer

4           **RESPONSE TO INTERROGATORY NO. 12:**

5           Defendants object to this interrogatory as not seeking information relevant to any party's  
6           claims or defenses in this case. Defendants further object to this interrogatory as intended to  
7           harass non-party officers and former officers. Defendants further object to the interrogatory as  
8           unduly burdensome and disproportional to the needs of the case. Defendants further object to the  
9           interrogatory as seeking information that is protected from disclosure by official information  
10          privilege and California Penal Code section 832.7. Defendants object to this interrogatory as  
11          seeking information regarding non-party *Coleman* class members. Defendants object that the  
12          interrogatory includes a total of twelve discrete subparts, which should be counted toward  
13          Plaintiffs' limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

14          Subject to those objections, and without waiving them, Defendants respond as follows:  
15          This interrogatory seeks confidential information contained in California Department of  
16          Corrections and Rehabilitation employee files, and is not limited to incidents involving class  
17          members. Because there is no demonstrated need for this confidential, protected information  
18          regarding incidents not involving *Coleman* and *Armstrong* class members, Defendants decline to  
19          produce it. Subject to that exclusion, Defendants will provide responsive information, which  
20          Defendants believe Plaintiffs are attempting to seek. Defendants are diligently searching all  
21          available sources for responsive information, but have not yet located the information Plaintiffs  
22          seek. Defendants will continue to search for such information and provide it to Plaintiffs once the  
23          information is located.

24          **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:**

25          Subject to and incorporating all previously asserted objections, Defendants respond as  
26          follows:

27          For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
28          duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,

1 regulation, or procedure, or appeared contrary to an ethical or professional standard. Cases  
2 rejected by the Office of Internal Affairs (OIA) were counted as not sustained and no disciplinary  
3 action imposed by the hiring authority. Staff only include custody staff to include Officer,  
4 Sergeant, and Lieutenant. The date reported for “the date the hiring authority imposed adverse  
5 action” is the date noted on the Notice of Adverse Action (NOAA).

6 For the information requested see Exhibit A.

7 **INTERROGATORY NO. 13:**

8 For each year from 2017 to the present, please indicate the number of STAFF  
9 MISCONDUCT allegations that were referred to OIA by the CCI hiring authority, where OIA  
10 conducted a criminal investigation and made a referral to a criminal prosecuting agency.

11 **RESPONSE TO INTERROGATORY NO. 13:**

12 Defendants object to this interrogatory as not seeking information relevant to any party’s  
13 claims or defenses in this case. Defendants further object to the interrogatory as unduly  
14 burdensome and disproportional to the needs of the case. Defendants further object to the  
15 interrogatory as seeking information that is protected from disclosure by official information  
16 privilege and California Penal Code section 832.7. Defendants object to the definition of the term  
17 “STAFF MISCONDUCT allegations” as vague, ambiguous, and incomprehensible because the  
18 definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and  
19 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
20 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
21 incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’  
22 definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order  
23 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
24 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
25 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
26 meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two  
27 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
28 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether

1 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
2 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
3 incarcerated person was made, but not sustained.

4 Subject to those objections, and without waiving them, Defendants respond as follows:  
5 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
6 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
7 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
8 Defendants are diligently searching all available sources for responsive information, but have not  
9 yet located the information Plaintiffs seek. Defendants will continue to search for such  
10 information and provide it to Plaintiffs once the information is located.

11 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:**

12 Subject to and incorporating all previously asserted objections, Defendants respond as  
13 follows:

14 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
15 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
16 regulation, or procedure, or appeared contrary to an ethical or professional standard. Staff include  
17 custody, medical and non-custody staff.

18 In 2017, the California Correctional Institution (CCI) hiring authority referred zero (0) staff  
19 misconduct allegations in which the Office of Internal Affairs (OIA) conducted a criminal  
20 investigation and made a referral to a criminal prosecuting agency.

21 In 2018, CCI hiring authority referred one (1) staff misconduct allegation in which OIA  
22 conducted a criminal investigation and made a referral to a criminal prosecuting agency.

23 In 2019, CCI hiring authority referred zero (0) staff misconduct allegations in which OIA  
24 conducted a criminal investigation and made a referral to a criminal prosecuting agency.  
25 However, two (2) criminal investigations that involved staff misconduct are pending.

26 In 2020, CCI hiring authority referred zero (0) staff misconduct allegations in which OIA  
27 conducted a criminal investigation and made a referral to a criminal prosecuting agency.  
28 However, two (2) criminal investigations that involved staff misconduct are pending.

**INTERROGATORY NO. 14:**

For each year from January 1, 2017 to the present, please indicate the number of STAFF MISCONDUCT allegations referred to OIA by the CCI hiring authority that were then referred by OIA to a criminal prosecuting agency and where the agency decided to prosecute the subject of the investigation.

**RESPONSE TO INTERROGATORY NO. 14:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants further object to the interrogatory as unduly burdensome and disproportional to the needs of the case. Defendants further object to the interrogatory as seeking information that is protected from disclosure by official information privilege and California Penal Code section 832.7. Defendants object to the definition of the term "STAFF MISCONDUCT allegations" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an incarcerated person was made, but not sustained. Defendants further object to this interrogatory because their records may be incomplete as they do not keep records of other agencies' decisions.

Subject to those objections, and without waiving them, Defendants respond as follows:

1 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
2 STAFF MISCONDUCT for this interrogatory. Defendants are diligently searching all available  
3 sources for responsive information, but have not yet located the information Plaintiffs seek.  
4 Defendants will continue to search for such information and provide it to Plaintiffs once the  
5 information is located.

6 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

7 Subject to and incorporating all previously asserted objections, Defendants respond as  
8 follows:

9 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
10 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
11 regulation, or procedure, or appeared contrary to an ethical or professional standard. Staff include  
12 custody, medical and non-custody staff.

13 In 2017, the California Correctional Institution (CCI) hiring authority referred zero (0) staff  
14 misconduct allegations in which the Office of Internal Affairs (OIA) referred the allegations to a  
15 criminal prosecuting agency and the agency decided to prosecute the subject.

16 In 2018, CCI hiring authority referred zero (0) staff misconduct allegations in which OIA  
17 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
18 subject.

19 In 2019, CCI hiring authority referred zero (0) staff misconduct allegations in which OIA  
20 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
21 subject. However, two (2) criminal investigations that involved staff misconduct are pending.

22 In 2020, CCI hiring authority referred zero (0) staff misconduct allegations in which OIA  
23 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
24 subject. However, two (2) criminal investigations that involved staff misconduct are pending.

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Dated: October 14, 2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JOANNA B. HOOD  
Supervising Deputy Attorney General



SEAN W. LODHOLZ  
Deputy Attorney General  
*Attorneys for Defendants Gavin Newsom and  
the California Department of Corrections  
and Rehabilitation*

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**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 supplemental response to Plaintiffs' Special Interrogatories, Set One, for California Correctional Institution, and that the response is true and correct based on my own knowledge, or based on information that is available to me.

Executed this 14th day of October, 2020, in Sacramento, California.



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Kimberly Seibel

# **EXHIBIT A**

Exhibit A - Interrogatory Number 12 for California Correctional Institution (CCI)														
HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY – ARMSTRONG V. NEWSOM (C 94-2307 CW)														
Case Number	Staff Name	Armstrong or Coleman Class Member Involved	Level Adverse Action Imposed	Effective Date of Adverse Action	Placed on Administrative Time (ATO) Off	Dates of ATO	Appealed Adverse Action	Appeal of Adverse Action Complete	Final Action Imposed	Retire in Lieu of Dismissal	Resign in Lieu of Dismissal	Criminal Prosecution	Staff Still Being Paid	Date CDCR Ceased Paying
<b>2017</b>														
C-CCI-094-17-D	██████	Coleman Class Member	1	February 1, 2018 (Beginning of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-CCI-305-17-A	██████	Coleman Class Member	9	August 1, 2019 (Close of Business)	No	N/A	Yes	Yes	Resigned before NOAA went into effect	No	Yes	No	No	Resigned on August 1, 2019
C-CCI-305-17-A	██████	Coleman Class Member	4	8/29/2019 (Close of Business)	Yes	September 1, 2017 to August 30, 2018	Yes	No	Pending SPB	N/A	N/A	No	Yes	N/A
C-CCI-305-17-A	██████	Coleman Class Member	4	No Action Imposed. ██████ Resigned in Lieu of being Dismissed in Case C-CCI-569-16-A	No	N/A	No	N/A	Resigned in Lieu of Dismissal on Case C-CCI-569-16-A	No	Yes on Case C-CCI-569-16-A	No	No	Resigned on February 1, 2018
C-CCI-305-17-A	██████	Coleman Class Member	4	September 30, 2019 (Close of Business)	No	N/A	Yes	No	Pending SPB	N/A	N/A	No	Yes	N/A
C-CCI-305-17-A	██████	Coleman Class Member	3	September 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 6 Months	N/A	N/A	No	Yes	N/A
C-CCI-401-17-A	██████	No Class Member Involved	9	June 4, 2020 (Close of Business)	Yes	September 10, 2017 to June 4, 2020	Yes	No	Pending SPB	Pending SPB	Pending SPB	No	No	Dismissed on June 4, 2020
C-CCI-401-17-A	██████	No Class Member Involved	9	No Action Imposed. ██████ is retired in Lieu of being Dismissed in Case C-CCI-569-16-A	No	N/A	No	No	Resigned in Lieu of Dismissal on Case C-CCI-569-16-A	No	Yes on Case C-CCI-569-16-A	No	No	Resigned on February 1, 2018
C-CCI-401-17-A	██████	No Class Member Involved	9	July 11, 2019 (Close of Business)	Yes	September 10, 2017 to June 11, 2019	Yes	Yes	Suspension Without Pay for 233 Days	No	No	No	Yes	N/A
C-CCI-401-17-A	██████	No Class Member Involved	9	No action Imposed. ██████ Resigned in Lieu of being Dismissed in Case C-CCI-442-16-A	No	N/A	No	N/A	Resigned in Lieu of Dismissal on Case C-CCI-442-16-A	No	Yes on Case C-CCI-442-16-A	No	No	Resigned on May 23, 2018
<b>2018</b>														
C-CCI-032-18-A	██████	Coleman Class Member	9	December 26, 2018 (Close of Business)	Yes	December 17, 2018 to December 26, 2018	Yes	Yes	Dismissal	No	No	No	No	Dismissed on December 26, 2018
C-CCI-032-18-A	██████	Coleman Class Member	5	January 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 24M	N/A	N/A	No	Yes	N/A
C-CCI-141-18-A	██████	Coleman Class Member	9	April 15, 2019 (Close of Business)	Yes	March 15, 2019 to April 15, 2019	Yes	Yes	Resign in Lieu of Dismissal	No	Yes	No	No	Resigned on April 15, 2019
C-CCI-256-18-A	██████	Coleman Class Member	9	April 30, 2019 (Close of Business)	Yes	July 20, 2018 to April 30, 2019	Yes	Yes	Suspension Without Pay for 63 Days	No	No	No	Yes	N/A
C-CCI-256-18-A	██████	Coleman Class Member	4	5/31/2019 (Close of Business)	Yes	April 23, 2019 to May 31, 2019	No	N/A	10% for 6 Months	N/A	N/A	No	Yes	N/A
<b>2019</b>														
C-CCI-224-19-D	██████	No Class Member Involved	3	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-CCI-433-19-D	██████	Coleman Class Member	1	July 30, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Instruction	N/A	N/A	No	Yes	N/A
C-CCI-436-19-A	██████	Coleman Class Member	4	July 30, 2020 (Close of Business)	No	N/A	Yes	Yes	10% for 12 Months	N/A	N/A	No	Yes	N/A
<b>2020</b>														
C-CCI-187-20-S	██████	Coleman Class Member	9	Retired Before NOAA	No	N/A	No	N/A	Retired Before NOAA	No	No	No	No	Retired on July 1, 2020

# **Exhibit 8**

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 2 DAMON G. MCCLAIN  
 Supervising Deputy Attorney General  
 3 JOANNA B. HOOD  
 Supervising Deputy Attorney General  
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 10 *Gavin Newsom and California Department of*  
*Corrections and Rehabilitation*

11  
 12 IN THE UNITED STATES DISTRICT COURT  
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 14 OAKLAND DIVISION

<p>16 <b>JOHN ARMSTRONG, et al.,</b>          17          18 Plaintiffs,          19          20 <b>GAVIN NEWSOM, et al.,</b>          21 Defendants.</p>	<p>C 94-2307 CW  <b>DEFENDANTS' SUPPLEMENTAL          RESPONSES TO PLAINTIFFS'          SPECIAL INTERROGATORIES, SET          ONE</b>  <b>KERN VALLEY STATE PRISON</b></p>
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22  
 23 **PROPOUNDING PARTY:** Plaintiffs DAVID BADILLO, et al.  
 24 **RESPONDING PARTY:** Defendants GAVIN NEWSOM, et al.  
 25 **SET NO.:** One (1)  
 26 Defendants respond to Plaintiffs' first set of special interrogatories to Defendants as  
 27 follows:  
 28

**PRELIMINARY STATEMENT**

The information provided in these responses is true and correct, according to Defendants’ 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.

**KVSP**

**INTERROGATORY NO. 1:**

For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT incidents that the KVSP hiring authority referred to OIA.

**RESPONSE TO INTERROGATORY NO. 1:**

Defendants object to this interrogatory as not seeking information relevant to any party’s claims or defenses in this case. The request is also burdensome and not proportional to the needs of the case. 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. Defendants object to the definition of the term “STAFF MISCONDUCT incidents” as vague, ambiguous, and incomprehensible because the definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’ definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase “harmed an incarcerated person” in the definition of “STAFF

1 MISCONDUCT” because it is not clear whether Plaintiffs are seeking only instances in which a  
2 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
3 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
4 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
5 only instances in which a finding of staff misconduct was sustained, as the term “STAFF  
6 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
7 sustained instances in which the hiring authority referred the matter to the OIA.

8 Subject to those objections, and without waiving them, Defendants respond as follows:  
9 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
10 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
11 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
12 Defendants are diligently searching all available sources for responsive information, but have not  
13 yet located the information Plaintiffs seek. Defendants will continue to search for such  
14 information and provide it to Plaintiffs once the information is located.

15 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

16 Subject to and incorporating all previously asserted objections, Defendants respond as  
17 follows:

18 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
19 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
20 regulation, or procedure, or appeared contrary to an ethical or professional standard.

21 INCIDENTS refers to the number of cases that the Kern Valley State Prison (KVSP) hiring  
22 authority submitted to the Office of Internal Affairs (OIA) and ALLEGATIONS refers to the  
23 number of staff members referred. STAFF includes custody, non-custody, and medical  
24 classifications. If OIA added a staff member to a case, the allegation was counted as a referral by  
25 the KVSP hiring authority. If OIA removed a staff member from the case, the allegation was  
26 counted as a referral by the KVSP hiring authority. If OIA initiated the case, the case was  
27 counted as a referral by the KVSP hiring authority.  
28



1 In 2017, the KVSP hiring authority referred eleven (11) incidents of staff misconduct to  
2 OIA. Within the eleven (11) cases, there were twenty-two (22) allegations.

3 2017 Incidents	2017 Allegations
4 11	22

5 In 2018, the KVSP hiring authority referred sixteen (16) incidents of staff misconduct to  
6 OIA. Within the sixteen (16) cases, there were twenty-five (25) allegations.

7 2018 Incidents	2018 Allegations
8 16	25

9 In 2019, the KVSP hiring authority referred eleven (11) incidents of staff misconduct to  
10 OIA. Within the eleven (11) cases, there were twenty-five (25) allegations. KVSP had two (2)  
11 subjects added by OIA to case S-CCI-436-19-A, which was referred by the California  
12 Correctional Institution (CCI) hiring authority. The case and allegations were reported in the CCI  
13 interrogatory responses since the CCI hiring authority referred the case. The two (2) allegations  
14 are not reflected in the KVSP response below.

15 2019 Incidents	2019 Allegations
16 11	25

17 In 2020, the KVSP hiring authority referred four (4) incidents of staff misconduct to OIA.  
18 Within the four (4) cases, there were eight (8) allegations.

19 2020 Incidents	2020 Allegations
20 4	8

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22  
23 **INTERROGATORY NO. 2:**

24 For each year from 2017 to the present, indicate the OIA case number for all STAFF  
25 MISCONDUCT incidents that the KVSP hiring authority referred to OIA that involved an  
26 *Armstrong* or *Coleman* class member.  
27  
28

**RESPONSE TO INTERROGATORY NO. 2:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants specifically object to providing information regarding *Coleman* class members who are not parties to this case. The request is also burdensome and not proportional to the needs of the case. 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 involved class members. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an incarcerated person was made, but not sustained. The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff misconduct was sustained, as the term "STAFF MISCONDUCT incidents" implies, or whether Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority referred the matter to the OIA.

1 Subject to those objections, and without waiving them, Defendants respond as follows:  
 2 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
 3 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
 4 provide responsive information, which Defendants believe provide information Plaintiffs are  
 5 attempting to seek. Defendants are diligently searching all available sources for responsive  
 6 information, but have not yet located the information Plaintiffs are attempting to seek.  
 7 Defendants will continue to search for such information and provide it to Plaintiffs once the  
 8 information is located.

9 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:**

10 Subject to and incorporating all previously asserted objections, Defendants respond as  
 11 follows:

12 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
 13 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
 14 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
 15 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
 16 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
 17 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
 18 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
 19 case was counted as a referral by the KVSP hiring authority.

20 In 2017, the KVSP hiring authority referred eight (8) cases of staff misconduct involving an  
 21 *Armstrong* or *Coleman* class member to OIA. The eight (8) case numbers are:

2017 OIA Referral Case Numbers
C-KVSP-035-17-A
C-KVSP-283-17-C
C-KVSP-272-17-D
C-KVSP-378-17-D
C-KVSP-445-17-D
C-KVSP-449-17-D
C-KVSP-447-17-D

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C-KVSP-544-17-D
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In 2018, the KVSP hiring authority referred ten (10) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The ten (10) cases are:

<b>2018 OIA Referral Case Numbers</b>
C-KVSP-132-18-A
C-KVSP-267-18-D
C-KVSP-295-18-D
C-KVSP-357-18-D
C-KVSP-420-18-A
C-KVSP-447-18-A
C-KVSP-453-18-D
C-KVSP-500-18-D
C-KVSP-521-18-D
C-KVSP-523-18-A

In 2019, KVSP referred eleven (11) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The eleven (11) cases are:

<b>2019 OIA Referral Case Numbers</b>
C-KVSP-004-19-D
C-KVSP-066-19-D
C-KVSP-084-19-A
C-KVSP-106-19-A
C-KVSP-109-19-R
C-KVSP-125-19-D
C-KVSP-165-19-D
C-KVSP-177-19-A
C-KVSP-197-19-D
C-KVSP-206-19-C/A
C-KVSP-1535-19-A

In 2020, KVSP referred three (3) cases of staff misconduct involving an *Armstrong* or *Coleman* class member to OIA. The three (3) cases are:

<b>2020 OIA Referral Case Numbers</b>
C-KVSP-025-20-R
C-KVSP-125-20-C

C-KVSP-260-20-A

**INTERROGATORY NO. 3:**

For each year from 2017 to the present, indicate the number of referrals to OIA made by the KVSP hiring authority in which OIA (a) rejected the referral, (b) approved direct adverse action, and (c) opened an investigation.

**RESPONSE TO INTERROGATORY NO. 3:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants specifically object that the interrogatory is not limited to on duty instances, and not limited to instances involving inmates. Requiring Defendants to review and categorize all such instances is overly burdensome and not proportional to the needs of the case. Defendants object that the interrogatory includes a total of three discrete subparts, and should be counted toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

Subject to those objections, and without waiving them, Defendants respond as follows: Defendants are diligently searching all available sources for responsive information, but have not yet located the information Plaintiffs seek. Defendants will continue to search for such information and provide it to Plaintiffs once the information is located.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

Subject to and incorporating all previously asserted objections, Defendants respond as follows:

For purposes of this response, number of cases includes custody, non-custody, and medical classifications. If the Office of Internal Affairs (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the case was counted as a referral by the KVSP hiring authority. The numbers reflect the initial OIA determination for the case. If a case was initially

1 opened as a criminal investigation and later split into an administrative investigation the case was  
2 only counted as one (1) investigation opened.

3 In 2017, the KVSP hiring authority referred fifty-two (52) cases to OIA. Out of the fifty-  
4 two (52) cases, OIA rejected three (3), approved direct action on thirty-eight (38), and opened an  
5 investigation on eleven (11).

2017 Total Cases Referred	Cases Rejected	Approved for Direct Action	Investigations Opened
52	3	38	11

6  
7  
8 In 2018, the KVSP hiring authority referred seventy (70) cases to OIA. Out of the seventy  
9 (70) cases, OIA rejected one (1), approved direct action on fifty (50), and opened an investigation  
10 on nineteen (19).

2018 Total Cases Referred	Cases Rejected	Approved for Direct Action	Investigations Opened
70	1	50	19

11  
12  
13 In 2019, the KVSP hiring authority referred seventy-three (73) cases to OIA. Out of the  
14 seventy-three (73) cases, OIA rejected two (2), approved direct action on sixty-two (62), and  
15 opened nine (9) investigations.

2019 Total Cases Referred	Cases Rejected	Approved for Direct Action	Investigations Opened
73	2	62	9

16  
17  
18 In 2020, the KVSP hiring authority referred twenty-six (26) cases to OIA. Out of the  
19 twenty-six (26) cases, OIA rejected two (2), approved direct action on thirteen (13) and opened  
20 eleven (11) investigations.

2020 Total Cases Referred	Cases Rejected	Approved for Direct Action	Investigations Opened
26	2	13	11

21  
22 **INTERROGATORY NO. 4:**

23 For each year from 2017 to the present, indicate the OIA case numbers of all referrals of  
24 STAFF MISCONDUCT involving *Armstrong* or *Coleman* class members in which OIA (a)  
25 rejected the referral, (b) approved direct adverse action, and (c) opened an investigation.  
26  
27  
28

**RESPONSE TO INTERROGATORY NO. 4:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants specifically object to providing information regarding *Coleman* class members who are not parties to this case. The request is also burdensome and not proportional to the needs of the case. 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 involved class members. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an incarcerated person was made, but not sustained. The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff misconduct was sustained, as the term "STAFF MISCONDUCT incidents" implies, or whether Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority referred the matter to the OIA. Defendants object that the interrogatory includes a total of three

1 discrete subparts, and should be counted toward Plaintiffs' limit in accordance with Federal Rule  
2 of Civil Procedure 33(a)(1).

3 Subject to those objections, and without waiving them, Defendants respond as follows:  
4 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
5 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
6 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
7 Defendants are diligently searching all available sources for responsive information, but have not  
8 yet located the information Plaintiffs seek. Defendants will continue to search for such  
9 information and provide it to Plaintiffs once the information is located.

10 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

11 Subject to and incorporating all previously asserted objections, Defendants respond as  
12 follows:

13 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
14 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
15 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
16 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
17 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
18 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
19 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
20 case was counted as a referral by the KVSP hiring authority.

21 In 2017, the KVSP hiring authority referred eight (8) cases of staff misconduct involving an  
22 *Armstrong* or *Coleman* class member to OIA. The eight (8) case numbers and OIA action are:

2017 OIA Referral Case Numbers	OIA Action
C-KVSP-035-17-A	Administrative Investigation
C-KVSP-283-17-C	Criminal Investigation
C-KVSP-272-17-D	Direct Action
C-KVSP-378-17-D	Direct Action



1	C-KVSP-445-17-D	Direct Action
2	C-KVSP-449-17-D	Direct Action
3	C-KVSP-447-17-D	Direct Action
4	C-KVSP-544-17-D	Direct Action

5  
6 In 2018, the KVSP hiring authority referred ten (10) cases of staff misconduct involving an  
7 *Armstrong* or *Coleman* class member to OIA. The ten (10) case numbers and OIA action are:

8	<b>2018 OIA Referral Case Numbers</b>	<b>OIA Action</b>
9	C-KVSP-132-18-A	Administrative Investigation
10	C-KVSP-267-18-D	Direct Action
11	C-KVSP-295-18-D	Direct Action
12	C-KVSP-357-18-D	Direct Action
13	C-KVSP-420-18-A	Administrative Investigation
14	C-KVSP-447-18-A	Administrative Investigation
15	C-KVSP-453-18-D	Direct Action
16	C-KVSP-500-18-D	Direct Action
17	C-KVSP-521-18-D	Direct Action
18	C-KVSP-523-18-A	Administrative Investigation

19 In 2019, the KVSP hiring authority referred eleven (11) cases of staff misconduct involving  
20 an *Armstrong* or *Coleman* class member to OIA. The eleven (11) case numbers and OIA action  
21 are:

22	<b>2019 OIA Referral Case Numbers</b>	<b>OIA Action</b>
23	C-KVSP-004-19-D	Direct Action
24	C-KVSP-066-19-D	Direct Action
25	C-KVSP-084-19-A	Administrative Investigation
26	C-KVSP-106-19-A	Administrative Investigation

1	C-KVSP-109-19-R	Rejected
2	C-KVSP-125-19-D	Direct Action
3	C-KVSP-165-19-D	Direct Action
4	C-KVSP-177-19-A	Administrative Investigation
5	C-KVSP-197-19-D	Direct Action
6	C-KVSP-206-19-C/A	Criminal Investigation Later Split to
7		Administrative investigation
8	C-KVSP-1535-19-A	Administrative Investigation
9		
10		

11 In 2020, the KVSP hiring authority referred three (3) cases of staff misconduct involving an  
12 *Armstrong* or *Coleman* class member to OIA. The three (3) case numbers and OIA action are:

13	2020 OIA Referral Case Numbers	OIA Action
14	C-KVSP-025-20-R	Rejected
15	C-KVSP-125-20-C	Criminal Investigation
16	C-KVSP-260-20-A	Administrative Investigation

17 **INTERROGATORY NO. 5:**

18 For each year from 2017 to the present, indicate the number of (a) administrative  
19 investigations and (b) criminal investigations opened by OIA following a referral from the KVSP  
20 hiring authority.

21 **RESPONSE TO INTERROGATORY NO. 5:**

22 Defendants object to this interrogatory as not seeking information relevant to any party's  
23 claims or defenses in this case. Defendants specifically object that the interrogatory is not limited  
24 to on duty instances, and not limited to instances involving inmates. Requiring Defendants to  
25 review and categorize all such instances is overly burdensome and not proportional to the needs  
26 of the case. Defendants object that the interrogatory includes a total of two discrete subparts, and  
27 should be counted toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure  
28 33(a)(1).

1 Subject to those objections, and without waiving them, Defendants respond as follows:  
 2 Defendants are diligently searching all available sources for responsive information, but have not  
 3 yet located the information Plaintiffs seek. Defendants will continue to search for such  
 4 information and provide it to Plaintiffs once the information is located.

5 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:**

6 Subject to and incorporating all previously asserted objections, Defendants respond as  
 7 follows:

8 For purposes of this response, the number of cases includes custody, non-custody, and  
 9 medical classifications. Cases the Office of Internal Affairs (OIA) opened as subject only  
 10 interviews were counted as administrative investigations. The numbers reflect the initial OIA  
 11 determination for the case. If OIA initially opened a case as a criminal investigation and during  
 12 the investigative process split it into an administrative investigation, the case was counted as a  
 13 criminal case only. If OIA added a staff member to a case, the allegation was counted as a  
 14 referral by the Kern Valley State Prison (KVSP) hiring authority. If OIA removed a staff member  
 15 from the case, the allegation was counted as a referral by the KVSP hiring authority. If OIA  
 16 initiated the case, the case was counted as a referral by the KVSP hiring authority.

17 In 2017, OIA opened eleven (11) investigations for cases referred by the KVSP hiring  
 18 authority. Out of the eleven (11) cases, eight (8) were opened as administrative investigations  
 19 and three (3) were opened as criminal investigations.

20 <b>2017 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
21 11	8	3

22 In 2018, OIA opened nineteen (19) investigations for cases referred by the KVSP hiring  
 23 authority. Out of the nineteen (19) cases, sixteen (16) were opened as administrative  
 24 investigations and three (3) were open as criminal investigations.

25 <b>2018 Investigations Open</b>	<b>Administrative Investigation</b>	<b>Criminal Investigation</b>
26 19	16	3

1 In 2019, OIA opened nine (9) investigations for cases referred by the KVSP hiring  
2 authority. Out of the nine (9) cases, eight (8) were opened as administrative investigations and  
3 one (1) was opened as a criminal investigation.

2019 Investigations Open	Administrative Investigation	Criminal Investigation
9	8	1

7 In 2020, OIA opened eleven (11) investigations for cases referred by the KVSP hiring  
8 authority. Out of the eleven (11) cases, seven (7) were opened as administrative investigations  
9 and four (4) were opened as criminal investigations.

2020 Investigations Open	Administrative Investigation	Criminal Investigation
11	7	4

13 **INTERROGATORY NO. 6:**

14 For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT  
15 incidents from KVSP (a) for which the KVSP hiring authority sustained the allegations, (b) for  
16 which the KVSP hiring authority did not sustain the allegations, and (c) which remain open.

17 **RESPONSE TO INTERROGATORY NO. 6:**

18 Defendants object to this interrogatory as not seeking information relevant to any party's  
19 claims or defenses in this case. The request is also burdensome and not proportional to the needs  
20 of the case. The Department tracks allegations of staff misconduct by the subject of the  
21 allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed  
22 in order to determine whether the incident central to an allegation of staff misconduct involved an  
23 inmate. Once that determination is made, the Department can identify which allegations involved  
24 class members. Defendants object to the definition of the term "STAFF MISCONDUCT  
25 incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF  
26 MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual §  
27 54110.25, neither of which exist in the current versions of those documents. The definition of  
28 STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs'

1 definition of STAFF MISCONDUCT “includes [Plaintiffs’ definition of] EXCESSIVE USE OF  
2 FORCE.” It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF  
3 MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements  
4 that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
5 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs’ definition of STAFF  
6 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
7 and ambiguous as to the phrase “harmed an incarcerated person” in the definition of “STAFF  
8 MISCONDUCT” because it is not clear whether Plaintiffs are seeking only instances in which a  
9 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
10 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
11 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
12 only instances in which a finding of staff misconduct was sustained, as the term “STAFF  
13 MISCONDUCT incidents” implies, or whether Plaintiffs are seeking both sustained and not  
14 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
15 object that the interrogatory includes a total of three discrete subparts, and should be counted  
16 toward Plaintiffs’ limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

17 Subject to those objections, and without waiving them, Defendants respond as follows:  
18 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
19 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
20 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
21 Defendants are diligently searching all available sources for responsive information, but have not  
22 yet located the information Plaintiffs seek. Defendants will continue to search for such  
23 information and provide it to Plaintiffs once the information is located.

24 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:**

25 Subject to and incorporating all previously asserted objections, Defendants respond as  
26 follows:

27 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
28 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,

1 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
 2 includes custody, medical and non-custody classifications. If the Office of Internal Affairs (OIA)  
 3 added a staff member to a case, the allegation was counted as a referral by the Kern Valley State  
 4 Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the allegation  
 5 was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the case was  
 6 counted as a referral by the KVSP hiring authority. Cases rejected by OIA were counted not  
 7 sustained by the hiring authority.

8 In 2017, the KVSP hiring authority referred eleven (11) cases of staff misconduct to OIA.  
 9 Within the eleven (11) cases, there were twenty-two (22) allegations. Out of the twenty-two (22)  
 10 allegations, the KVSP hiring authority sustained fourteen (14) allegations and did not sustain  
 11 eight (8) allegations. No allegations are pending.

<b>2017 Sustained Allegations</b>	<b>2017 Not Sustained Allegations</b>	<b>2017 Allegations Pending OIA</b>
14	8	0

14 In 2018, the KVSP hiring authority referred sixteen (16) cases of staff misconduct to OIA.  
 15 Within the sixteen (16) cases, there were twenty-five (25) allegations. Out of the twenty-five (25)  
 16 allegations, the KVSP hiring authority sustained sixteen (16) allegations and did not sustain eight  
 17 (8) allegations. Case C-KVSP-014-18-D had no findings since the subject retired during the  
 18 investigation. KVSP reserved the right to reopen the case shall the subject reinstate. No  
 19 allegations are pending.

<b>2018 Sustained Allegations</b>	<b>2018 Not Sustained Allegations</b>	<b>2018 Allegations Pending OIA</b>	<b>2018 No Findings</b>
16	8	0	1

23 In 2019, the KVSP hiring authority referred eleven (11) case of staff misconduct to OIA.  
 24 Within the eleven (11) cases, there were twenty-five (25) allegations. KVSP had two (2) subjects  
 25 added by OIA to case S-CCI-436-19-A, which was referred by the California Correctional  
 26 Institution (CCI) hiring authority. The case and allegations were reported in the CCI  
 27 interrogatory responses since the CCI hiring authority referred the case. The KVSP hiring  
 28 authority decision to sustain or not sustain the two (2) allegations are reflected in the response

1 below. Out of the twenty-seven (27) allegations, the KVSP hiring authority sustained eleven (11)  
 2 allegations and did not sustain sixteen (16) allegations. No allegations are pending.

3 <b>2019 Sustained Allegations</b>	<b>2019 Not Sustained Allegations</b>	<b>Allegations Pending OIA</b>
4 11	16	0

5 In 2020, the KVSP hiring authority referred four (4) cases of staff misconduct to OIA.  
 6 Within the four (4) cases, there were eight (8) allegations. Out of the eight (8) allegations, the  
 7 KVSP hiring authority sustained one (1) allegation and did not sustain one (1) allegation. Six (6)  
 8 allegations are pending.

9 <b>2020 Sustained Allegations</b>	<b>2020 Not Sustained Allegations</b>	<b>Allegations Pending OIA</b>
10 1	1	6

11 **INTERROGATORY NO. 7:**

12 For each year from 2017 to the present, indicate the OIA case number for all STAFF  
 13 MISCONDUCT incidents that involved an *Armstrong* or *Coleman* class member and (a) for  
 14 which the KVSP hiring authority sustained the allegations, (b) for which the KVSP hiring  
 15 authority did not sustain the allegations, and (c) which remain open.

16 **RESPONSE TO INTERROGATORY NO. 7:**

17 Defendants object to this interrogatory as not seeking information relevant to any party's  
 18 claims or defenses in this case. Defendants specifically object to providing information regarding  
 19 *Coleman* class members who are not parties to this case. The request is also burdensome and not  
 20 proportional to the needs of the case. The Department tracks allegations of staff misconduct by  
 21 the subject of the allegations, not the reporting individual or alleged victim. Each file must be  
 22 pulled and reviewed in order to determine whether the incident central to an allegation of staff  
 23 misconduct involved an inmate. Once that determination is made, the Department can identify  
 24 which allegations involved class members. Defendants object to the definition of the term  
 25 "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the  
 26 definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and  
 27 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
 28

1 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
2 incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs'  
3 definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order  
4 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
5 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
6 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
7 meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two  
8 criteria are met. The request is also vague and ambiguous as to the phrase "harmed an  
9 incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether  
10 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
11 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
12 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
13 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
14 misconduct was sustained, as the term "STAFF MISCONDUCT incidents" implies, or whether  
15 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
16 referred the matter to the OIA. Defendants object that the interrogatory includes a total of three  
17 discrete subparts, and should be counted toward Plaintiffs' limit in accordance with Federal Rule  
18 of Civil Procedure 33(a)(1).

19 Subject to those objections, and without waiving them, Defendants respond as follows:  
20 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
21 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
22 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
23 Defendants are diligently searching all available sources for responsive information, but have not  
24 yet located the information Plaintiffs seek. Defendants will continue to search for such  
25 information and provide it to Plaintiffs once the information is located.

26 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

27 Subject to and incorporating all previously asserted objections, Defendants respond as  
28 follows:



1 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
 2 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
 3 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
 4 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
 5 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
 6 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
 7 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
 8 case was counted as a referral by the KVSP hiring authority. Cases rejected by OIA were  
 9 counted as not sustained by the hiring authority.

10 In 2017, the KVSP hiring authority referred eight (8) cases of staff misconduct involving an  
 11 *Armstrong* or *Coleman* class member to OIA. Within the eight (8) cases, there were eighteen (18)  
 12 subjects. Below is a chart showing the OIA case number, the number of subjects, and if the  
 13 allegation was sustained, not sustained or remains open.

2017 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
C-KVSP-035-17-A	1	Administrative Investigation	Not Sustained
C-KVSP-283-17-C	1	Criminal Investigation	Referred to the District Attorney
C-KVSP-272-17-D	1	Direct Action	Sustained
	2	Direct Action	Sustained
	3	Direct Action	Sustained
	4	Direct Action	Sustained
C-KVSP-378-17-D	1	Direct Action	Not Sustained
	2	Direct Action	Not Sustained
	3	Direct Action	Not Sustained
C-KVSP-445-17-D	1	Direct Action	Not Sustained
	2	Direct Action	Sustained

1	C-KVSP-449-17-D	1	Direct Action	Not Sustained
2		2	Direct Action	Not Sustained
3	C-KVSP-447-17-D	1	Direct Action	Sustained
4		2	Direct Action	Sustained
5		2	Direct Action	Sustained
6	C-KVSP-544-17-D	1	Direct Action	Sustained
7		2	Direct Action	Sustained
8		3	Direct Action	Sustained
9				

10 In 2018, the KVSP hiring authority referred ten (10) cases of staff misconduct involving an  
 11 *Armstrong* or *Coleman* class member to OIA. Within the ten (10) cases, there were nineteen (19)  
 12 subjects. Below is a chart showing the OIA case number, the number of subjects, and if the  
 13 allegation was sustained, not sustained or remains open.

14	2018 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
15	C-KVSP-132-18-A	1	Administrative Investigation	Sustained
16		2	Administrative Investigation	Sustained
17				
18	C-KVSP-267-18-D	1	Direct Action	Sustained
19	C-KVSP-295-18-D	1	Direct Action (OIA Removed Subject)	Not Sustained
20		2	Direct Action	Sustained
21				
22		3	Direct Action	Sustained
23		4	Direct Action	Sustained
24				
25		5	Direct Action (OIA Removed Subject)	Not Sustained
26	C-KVSP-357-18-D	1	Direct Action	Sustained
27				
28				

1	C-KVSP-420-18-A	1	Administrative Investigation	Not Sustained
2		2	Administrative Investigation	Not Sustained
3				
4	C-KVSP-447-18-A	1	Administrative Investigation (OIA Added Subject)	Sustained
5		2	Administrative Investigation	Not Sustained
6				
7		3	Administrative Investigation	Sustained
8		4	Administrative Investigation	Not Sustained
9				
10	C-KVSP-453-18-D	1	Direct Action	Sustained
11	C-KVSP-500-18-D	1	Direct Action	Not Sustained
12				
13	C-KVSP-521-18-D	1	Direct Action	Sustained
14	C-KVSP-523-18-A	1	Administrative Investigation	Not Sustained

15  
16 In 2019, the KVSP hiring authority referred eleven (11) cases of staff misconduct involving  
17 an *Armstrong* or *Coleman* class member to OIA. Within the eleven (11) cases, there were  
18 twenty-five (25) subjects. KVSP had two (2) subjects added by OIA to case S-CCI-436-19-A,  
19 which was referred by the California Correctional Institution (CCI) hiring authority. The case  
20 and allegations were reported in the CCI interrogatory responses since the CCI hiring authority  
21 referred the case. The KVSP hiring authority decision to sustain or not sustain the two (2)  
22 allegations are reflected in the response below.

23 Below is a chart showing the OIA case number, the number of subjects, and if the  
24 allegation was sustained, not sustained or remains open.

25	2019 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
26				
27				
28				

1	C-KVSP-004-19-D	1	Direct Action	Sustained
2		2	Direct Action	Sustained
3	C-KVSP-066-19-D	1	Direct Action	Sustained
4		2	Direct Action	Sustained
5		3	Direct Action	Sustained
6	C-KVSP-084-19-A	1	Administrative Investigation	Not Sustained
7	C-KVSP-106-19-A	1	Administrative Investigation	Not Sustained
8		2	Administrative Investigation	Not Sustained
9		3	Administrative Investigation	Not Sustained
10		4	Administrative Investigation	Not Sustained
11		5	Administrative Investigation	Not Sustained
12		6	Administrative Investigation	Not Sustained
13				
14				
15	C-KVSP-109-19-R	1	Rejected	Not Sustained
16	C-KVSP-125-19-D	1	Direct Action	Sustained
17		2	Direct Action	Not Sustained
18		3	Direct Action	Sustained
19	C-KVSP-165-19-D	1	Direct Action	Sustained
20	C-KVSP-177-19-A	1	Administrative Investigation	Not Sustained
21		2	Administrative Investigation	Not Sustained
22		3	Administrative Investigation	Not Sustained
23		4	Administrative Investigation	Not Sustained
24				
25	C-KVSP-197-19-D	1	Direct Action	Sustained
26				
27				
28				

1	C-KVSP-206-19-C/A	1	Criminal Investigation Later Split to Administrative Investigation	Criminal Investigation – Referred to the District Attorney Administrative Investigation - Sustained
2				
3				
4	C-KVSP-1535-19-A	1	Administrative Investigation	Not Sustained
5				
6		2	Administrative Investigation	Not Sustained
7	S-CCI-436-19-A* (Case Submitted by CCI Hiring Authority)	1	Administrative Investigation	Sustained
8				
9		2	Administrative Investigation	Not Sustained
10				

11 \*Case was referred to OIA by the CCI hiring authority.

12 In 2020, the KVSP hiring authority referred three (3) cases of staff misconduct involving an  
13 *Armstrong* or *Coleman* class member to OIA. Within the three (3) cases, there were seven (7)  
14 subjects. Below is a chart showing the OIA case number, the number of subjects, and if the  
15 allegations was sustained, not sustained or remains open.

16	2020 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision
17	C-KVSP-025-20-R	1	Rejected	Not Sustained
18	C-KVSP-125-20-C	1	Criminal Investigation	Pending OIA
19	C-KVSP-260-20-A	1	Administrative Investigation	Pending OIA
20		2	Administrative Investigation	Pending OIA
21		3	Administrative Investigation	Pending OIA
22		4	Administrative Investigation	Pending OIA
23		5	Administrative Investigation	Pending OIA
24				
25				

26 **INTERROGATORY NO. 8:**

27 For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT  
28 incidents from KVSP for which the KVSP hiring authority sustained the allegations and imposed

1 (a) adverse action and (b) corrective action.

2 **RESPONSE TO INTERROGATORY NO. 8:**

3 Defendants object to this interrogatory as not seeking information relevant to any party's  
4 claims or defenses in this case. The request is also burdensome and not proportional to the needs  
5 of the case. The Department tracks allegations of staff misconduct by the subject of the  
6 allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed  
7 in order to determine whether the incident central to an allegation of staff misconduct involved an  
8 inmate. Once that determination is made, the Department can identify which allegations involved  
9 class members. Defendants object to the definition of the term "STAFF MISCONDUCT  
10 incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF  
11 MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual §  
12 54110.25, neither of which exist in the current versions of those documents. The definition of  
13 STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs'  
14 definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF  
15 FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF  
16 MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements  
17 that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
18 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF  
19 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
20 and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF  
21 MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a  
22 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
23 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
24 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
25 only instances in which a finding of staff misconduct was sustained, as the term "STAFF  
26 MISCONDUCT incidents" implies, or whether Plaintiffs are seeking both sustained and not  
27 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
28

1 object that the interrogatory includes a total of two discrete subparts, and should be counted  
2 toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

3 Subject to those objections, and without waiving them, Defendants respond as follows:

4 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
5 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
6 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.

7 Defendants are diligently searching all available sources for responsive information, but have not  
8 yet located the information Plaintiffs seek. Defendants will continue to search for such  
9 information and provide it to Plaintiffs once the information is located.

10 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:**

11 Subject to and incorporating all previously asserted objections, Defendants respond as  
12 follows:

13 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
14 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
15 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
16 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
17 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
18 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
19 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
20 case was counted as a referral by the KVSP hiring authority. Cases rejected by OIA were counted  
21 as not sustained by the hiring authority and no action imposed.

22 In 2017, the KVSP hiring authority referred eleven (11) cases of staff misconduct to OIA.  
23 Within the eleven (11) cases there were twenty-two (22) allegations of staff misconduct. The  
24 KVSP hiring authority sustained fourteen (14) of the staff misconduct allegations and did not  
25 sustain eight (8). Out of the fourteen (14) sustained allegations adverse action was imposed on  
26 thirteen (13) and corrective action was imposed on one (1).

27 <b>2017 Sustained Allegations</b>	<b>Adverse Action Imposed</b>	<b>Corrective Action Imposed</b>
28 14	13	1

1 In 2018, the KVSP hiring authority referred sixteen (16) cases of staff misconduct to OIA.  
 2 Within the sixteen (16) cases, there were twenty-five (25) allegations of staff misconduct. The  
 3 KVSP hiring authority sustained sixteen (16) of the staff misconduct allegations and did not  
 4 sustain eight (8). Case C-KVSP-014-18-D had no findings since the subject retired during the  
 5 investigation. KVSP reserved the right to reopen the case shall the subject reinstate. Out of the  
 6 sixteen (16) sustained allegations adverse action was imposed on fifteen (15), corrective action  
 7 was imposed on none, and no action was taken on one (1). The hiring authority sustained the  
 8 allegation on case C-KVSP-447-18-A; however, no disciplinary action was imposed since the  
 9 subject retired during the investigative process. It is unknown if the subjects retirement was  
 10 related to the investigation. No allegations are pending.

<b>2018 Sustained Allegations</b>	<b>Adverse Action Imposed</b>	<b>Corrective Action Imposed</b>	<b>No Action Imposed</b>
16	15	0	1

13 In 2019, the KVSP hiring authority referred eleven (11) case of staff misconduct to OIA.  
 14 Within the eleven (11) cases, there were twenty-five (25) allegations of staff misconduct. KVSP  
 15 had two (2) subjects added by OIA to case S-CCI-436-19-A, which was referred by the California  
 16 Correctional Institution (CCI) hiring authority. The case and allegations were reported in the CCI  
 17 interrogatory responses since the CCI hiring authority referred the case. The KVSP hiring  
 18 authority decision to impose adverse action on the sustained allegation is reflected in the response  
 19 below. The hiring authority sustained eleven (11) of the staff misconduct allegations and did not  
 20 sustain sixteen (16). Out of the eleven (11) sustained allegations, adverse action was imposed on  
 21 ten (10) and corrective action was imposed on one (1).

<b>2019 Sustained Allegations</b>	<b>Adverse Action Imposed</b>	<b>Corrective Action Imposed</b>
11	10	1

23 In 2020, the KVSP hiring authority referred four (4) cases of staff misconduct to OIA.  
 24 Within the four (4) cases, there were eight (8) allegations of staff misconduct. The hiring  
 25 authority sustained one (1) allegation and did not sustain one (1) allegation. The one (1)  
 26 sustained allegation resulted in adverse action being imposed. Six (6) allegations are pending.

<b>2020 Sustained Allegations</b>	<b>Adverse Action Imposed</b>	<b>Corrective Action Imposed</b>
1	1	0



1 **INTERROGATORY NO. 9:**

2 For each year from 2017 to the present, indicate the OIA case number for all STAFF  
3 MISCONDUCT incidents that involved an *Armstrong* or *Coleman* class member and for which  
4 the KVSP hiring authority sustained the allegations and imposed (a) adverse action and (b)  
5 corrective action.

6 **RESPONSE TO INTERROGATORY NO. 9:**

7 Defendants object to this interrogatory as not seeking information relevant to any party's  
8 claims or defenses in this case. Defendants specifically object to providing information regarding  
9 *Coleman* class members who are not parties to this case. The request is also burdensome and not  
10 proportional to the needs of the case. The Department tracks allegations of staff misconduct by  
11 the subject of the allegations, not the reporting individual or alleged victim. Each file must be  
12 pulled and reviewed in order to determine whether the incident central to an allegation of staff  
13 misconduct involved an inmate. Once that determination is made, the Department can identify  
14 which allegations involved class members. Defendants object to the definition of the term  
15 "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the  
16 definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and  
17 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
18 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
19 incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs'  
20 definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order  
21 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
22 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
23 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
24 meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two  
25 criteria are met. The request is also vague and ambiguous as to the phrase "harmed an  
26 incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether  
27 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
28 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an

1 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
2 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
3 misconduct was sustained, as the term “STAFF MISCONDUCT incidents” implies, or whether  
4 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
5 referred the matter to the OIA. Defendants object that the interrogatory includes a total of two  
6 discrete subparts, and should be counted toward Plaintiffs’ limit in accordance with Federal Rule  
7 of Civil Procedure 33(a)(1).

8 Subject to those objections, and without waiving them, Defendants respond as follows:  
9 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
10 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
11 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
12 Defendants are diligently searching all available sources for responsive information, but have not  
13 yet located the information Plaintiffs seek. Defendants will continue to search for such  
14 information and provide it to Plaintiffs once the information is located.

15 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

16 Subject to and incorporating all previously asserted objections, Defendants respond as  
17 follows:

18 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
19 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
20 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
21 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
22 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
23 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
24 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
25 case was counted as a referral by the KVSP hiring authority. Cases rejected by OIA were  
26 counted as not sustained by the hiring authority and no action imposed.

27 In 2017, the KVSP hiring authority referred eight (8) cases of staff misconduct involving an  
28 *Armstrong* or *Coleman* class member to OIA. Within the eight (8) cases, there were eighteen (18)

1 allegations. The hiring authority sustained ten (10) of the allegations. Below is a chart showing  
 2 the OIA case number, the number of subjects, the hiring authority decision to sustain or not  
 3 sustain the allegation, and the type of disciplinary action imposed.

2017 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
C-KVSP-035-17-A	1	Administrative Investigation	Not Sustained	No Action
C-KVSP-283-17-C	1	Criminal Investigation	Referred to the District Attorney	No Action (District Attorney Rejected the Case)
C-KVSP-272-17-D	1	Direct Action	Sustained	Adverse Action
	2	Direct Action	Sustained	Adverse Action
	3	Direct Action	Sustained	Adverse Action
	4	Direct Action	Sustained	Adverse Action
C-KVSP-378-17-D	1	Direct Action	Not Sustained	No Action
	2	Direct Action	Not Sustained	No Action
	3	Direct Action	Not Sustained	No Action
C-KVSP-445-17-D	1	Direct Action	Not Sustained	No Action
	2	Direct Action	Sustained	Corrective Action
C-KVSP-449-17-D	1	Direct Action	Not Sustained	No Action
	2	Direct Action	Not Sustained	No Action
C-KVSP-447-17-D	1	Direct Action	Sustained	Adverse Action
	2	Direct Action	Sustained	Adverse Action
C-KVSP-544-17-D	1	Direct Action	Sustained	Adverse Action
	2	Direct Action	Sustained	Adverse Action
	3	Direct Action	Sustained	Adverse Action

26 In 2018, the KVSP hiring authority referred ten (10) cases of staff misconduct involving an  
 27 *Armstrong* or *Coleman* class member to OIA. Within the ten (10) cases, there were nineteen (19)  
 28

1 allegations. The hiring authority sustained eleven (11) of the allegations. Below is a chart  
 2 showing the OIA case number, the number of subjects, the hiring authority decision, and the type  
 3 of disciplinary action imposed.

2018 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
C-KVSP-132-18-A	1	Administrative Investigation	Sustained	Adverse Action
	2	Administrative Investigation	Sustained	Adverse Action
C-KVSP-267-18-D	1	Direct Action	Sustained	Adverse Action
C-KVSP-295-18-D	1	Direct Action (OIA Removed Subject)	Not Sustained	No Action
	2	Direct Action	Sustained	Adverse Action
	3	Direct Action	Sustained	Adverse Action
	4	Direct Action	Sustained	Adverse Action
	5	Direct Action (OIA Removed Subject)	Not Sustained	No Action
C-KVSP-357-18-D	1	Direct Action	Sustained	Adverse Action
C-KVSP-420-18-A	1	Administrative Investigation	Not Sustained	No Action
	2	Administrative Investigation	Not Sustained	No Action
C-KVSP-447-18-A	1	Administrative Investigation (OIA Added Subject)	Sustained	Adverse Action
	2	Administrative Investigation	Not Sustained	No Action
	3	Administrative Investigation	Sustained	No Action (Subject Retired During Investigation)
	4	Administrative Investigation	Not Sustained	No Action
C-KVSP-453-18-D	1	Direct Action	Sustained	Adverse Action

1	C-KVSP-500-18-D	1	Direct Action	Not Sustained	No Action
2	C-KVSP-521-18-D	1	Direct Action	Sustained	Adverse Action
3	C-KVSP-523-18-A	1	Administrative Investigation	Not Sustained	No Action

5 In 2019, the KVSP hiring authority referred eleven (11) cases of staff misconduct involving  
6 an *Armstrong* or *Coleman* class member to OIA. Within the eleven (11) cases, there were  
7 twenty-five (25) allegations. KVSP had two (2) subjects added by OIA to case S-CCI-436-19-A,  
8 which was referred by the California Correctional Institution (CCI) hiring authority. The case  
9 and allegations were reported in the CCI interrogatory responses since the CCI hiring authority  
10 referred the case. The KVSP hiring authority decision to sustain or not sustain the two (2)  
11 allegations and the type of disciplinary action imposed are reflected in the response below. The  
12 hiring authority sustained eleven (11) of the allegations.

13 Below is a chart showing the OIA case number, the number of subjects, the hiring authority  
14 decision, and the type of disciplinary action imposed.

15	<b>2019 OIA Referral Case Numbers</b>	<b>Subject Number</b>	<b>OIA Action</b>	<b>Hiring Authority Decision</b>	<b>Disciplinary Action Imposed</b>
16	C-KVSP-004-19-D	1	Direct Action	Sustained	Adverse Action
17		2	Direct Action	Sustained	Adverse Action
18	C-KVSP-066-19-D	1	Direct Action	Sustained	Adverse Action
19		2	Direct Action	Sustained	Adverse Action
20		3	Direct Action	Sustained	Adverse Action
21	C-KVSP-084-19-A	1	Administrative Investigation	Not Sustained	No Action
22	C-KVSP-106-19-A	1	Administrative Investigation	Not Sustained	No Action
23		2	Administrative Investigation	Not Sustained	No Action
24		3	Administrative Investigation	Not Sustained	No Action
25		4	Administrative Investigation	Not Sustained	No Action

1		5	Administrative Investigation	Not Sustained	No Action
2		6	Administrative Investigation	Not Sustained	No Action
3					
4	C-KVSP-109-19-R	1	Rejected	Not Sustained	No Action
5	C-KVSP-125-19-D	1	Direct Action	Sustained	Corrective Action
6		2	Direct Action	Not Sustained	No Action
7		3	Direct Action	Sustained	Adverse Action
8					
9	C-KVSP-165-19-D	1	Direct Action	Sustained	Adverse Action
10	C-KVSP-177-19-A	1	Administrative Investigation	Not Sustained	No Action
11		2	Administrative Investigation	Not Sustained	No Action
12		3	Administrative Investigation	Not Sustained	No Action
13					
14		4	Administrative Investigation	Not Sustained	No Action
15	C-KVSP-197-19-D	1	Direct Action	Sustained	Adverse Action
16	C-KVSP-206-19-C/A	1	Criminal Investigation Later Split to Administrative Investigation	Criminal Investigation – Referred to the District Attorney Administrative Investigation - Sustained	Criminal Investigation – Referred to the District Attorney Administrative Investigation – Adverse Action
17					
18					
19					
20	C-KVSP-1535-19-A	1	Administrative Investigation	Not Sustained	No Action
21		2	Administrative Investigation	Not Sustained	No Action
22					
23	S-CCI-436-19-A* (Case Submitted by CCI Hiring Authority)	1	Administrative Investigation	Sustained	Adverse Action
24					
25		2	Administrative Investigation	Not Sustained	No Action
26					

\*Case was referred to OIA by the CCI hiring authority.

1 In 2020, the KVSP hiring authority referred three (3) cases of staff misconduct involving an  
 2 Armstrong or Coleman class member to OIA. Within the three (3) cases, there were seven (7)  
 3 allegations. The KVSP hiring authority did not sustain one (1) allegation and six (6) allegations  
 4 are pending. Below is a chart showing the OIA case number, the number of subjects, the hiring  
 5 authority decision, and the type of disciplinary action imposed.

2020 OIA Referral Case Numbers	Subject Number	OIA Action	Hiring Authority Decision	Disciplinary Action Imposed
C-KVSP-025-20-R	1	Rejected	Not Sustained	No Action
C-KVSP-125-20-C	1	Criminal Investigation	Pending OIA	Pending OIA
C-KVSP-260-20-A	1	Administrative Investigation	Pending OIA	Pending OIA
	2	Administrative Investigation	Pending OIA	Pending OIA
	3	Administrative Investigation	Pending OIA	Pending OIA
	4	Administrative Investigation	Pending OIA	Pending OIA
	5	Administrative Investigation	Pending OIA	Pending OIA

16 **INTERROGATORY NO. 10:**

17 For each year from 2017 to the present, indicate the number of STAFF MISCONDUCT  
 18 incidents at KVSP where the KVSP hiring authority sustained and issued (a) a Level 1 penalty  
 19 (official reprimand), (b) a Level 2 penalty (1-2 day suspension without pay), (c) a Level 3 penalty  
 20 (5% salary reduction for 3-12 months or suspension without pay for 3-12 work days), (d) a Level  
 21 4 penalty (salary reduction 10% for 3-12 months or suspension without pay for 6-24 work days),  
 22 (e) a Level 5 penalty (salary reduction 5% for 13-36 months or suspension without pay for 13-36  
 23 work days), (f) a Level 6 penalty (salary reduction 10% for 13-24 months or suspension without  
 24 pay for 26-48 work days), (g) a Level 7 penalty (suspension without pay for 49-60 work days),  
 25 (h) a Level 8 penalty (demotion to a lower class), or (e) a Level 9 penalty (dismissal), as those  
 26 levels are defined in the Employee Disciplinary Matrix, Department of Operations Manual, §  
 27 33030.16.  
 28

**1 RESPONSE TO INTERROGATORY NO. 10:**

2 Defendants object to this interrogatory as not seeking information relevant to any party's  
3 claims or defenses in this case. The request is also burdensome and not proportional to the needs  
4 of the case. The Department tracks allegations of staff misconduct by the subject of the  
5 allegations, not the reporting individual or alleged victim. Each file must be pulled and reviewed  
6 in order to determine whether the incident central to an allegation of staff misconduct involved an  
7 inmate. Once that determination is made, the Department can identify which allegations involved  
8 class members. Defendants object to the definition of the term "STAFF MISCONDUCT  
9 incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF  
10 MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual §  
11 54110.25, neither of which exist in the current versions of those documents. The definition of  
12 STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs'  
13 definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF  
14 FORCE." It is unclear whether Plaintiffs mean that in order to meet the definition of STAFF  
15 MISCONDUCT there must be an EXCESSIVE USE OF FORCE (in addition to the requirements  
16 that an incarcerated person be harmed, and that there be a violation of law, policy, regulation, or  
17 procedure) or whether an EXCESSIVE USE OF FORCE meets Plaintiffs' definition of STAFF  
18 MISCONDUCT, regardless of whether the other two criteria are met. The request is also vague  
19 and ambiguous as to the phrase "harmed an incarcerated person" in the definition of "STAFF  
20 MISCONDUCT" because it is not clear whether Plaintiffs are seeking only instances in which a  
21 finding of harm to an incarcerated person was made, or whether Plaintiffs are also seeking  
22 instances in which an allegation of harm to an incarcerated person was made, but not sustained.  
23 The request is also vague and ambiguous because it is not clear whether Plaintiffs are seeking  
24 only instances in which a finding of staff misconduct was sustained, as the term "STAFF  
25 MISCONDUCT incidents" implies, or whether Plaintiffs are seeking both sustained and not  
26 sustained instances in which the hiring authority referred the matter to the OIA. Defendants  
27 object that the interrogatory includes a total of nine discrete subparts, and should be counted  
28 toward Plaintiffs' limit in accordance with Federal Rule of Civil Procedure 33(a)(1).



1 Subject to those objections, and without waiving them, Defendants respond as follows:  
2 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
3 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
4 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
5 Defendants are diligently searching all available sources for responsive information, but have not  
6 yet located the information Plaintiffs seek. Defendants will continue to search for such  
7 information and provide it to Plaintiffs once the information is located.

8 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**

9 Subject to and incorporating all previously asserted objections, Defendants respond as  
10 follows:

11 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
12 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
13 regulation, or procedure, or appeared contrary to an ethical or professional standard. STAFF  
14 includes custody, non-custody, and medical classifications. If the Office of Internal Affairs  
15 (OIA) added a staff member to a case, the allegation was counted as a referral by the Kern Valley  
16 State Prison (KVSP) hiring authority. If OIA removed a staff member from the case, the  
17 allegation was counted as a referral by the KVSP hiring authority. If OIA initiated the case, the  
18 case was counted as a referral by the KVSP hiring authority. Cases rejected by OIA were  
19 counted as not sustained by the hiring authority and no action imposed.

20 In 2017, the KVSP hiring authority sustained fourteen (14) allegations of staff misconduct.  
21 Thirteen (13) of the sustained allegations resulted in adverse action being imposed by the hiring  
22 authority. One (1) of the sustained allegations resulted in corrective action being imposed by the  
23 hiring authority.

24 Below is a list of the Employee Disciplinary Matrix (EDM) from the California Department  
25 of Corrections and Rehabilitations (CDCR) Department Operations Manual (DOM) followed by  
26 how many times the adverse action penalty was imposed on sustained allegations of staff  
27 misconduct.

28

<b>Employee Disciplinary Matrix Code</b>	<b>Times Penalty Imposed</b>
1	0
2	0
3	9
4	3
5	1
6	0
7	0
8	0
9	0

In 2018, the KVSP hiring authority sustained sixteen (16) allegations of staff misconduct. Fifteen (15) of the sustained allegations resulted in adverse action being imposed by the hiring authority. The hiring authority sustained the allegation on case C-KVSP-447-18-A; however, no disciplinary action was taken since the subject retired during the investigative process. It is unknown if the subjects retirement was related to the investigations.

Below is a list of the EDM from the CDCR DOM followed by how many times the adverse action penalty was imposed on sustained allegations of staff misconduct.

<b>Employee Disciplinary Matrix Code</b>	<b>Times Penalty Imposed</b>
1	1
2	0
3	9
4	2
5	0
6	0
7	0
8	0
9	3

In 2019, the KVSP hiring authority sustained eleven (11) allegations of staff misconduct. Ten (10) of the sustained allegations resulted in adverse action being imposed by the hiring authority. One (1) of the sustained allegations of staff misconduct resulted in corrective action being imposed by the hiring authority.

Below is a list of the EDM from the CDCR DOM followed by how many times the adverse action penalty was imposed on sustained allegations of staff misconduct.

<b>Employee Disciplinary Matrix Code</b>	<b>Times Penalty Imposed</b>
1	1
2	0
3	6
4	3
5	0

6	0
7	0
8	0
9	0

In 2020, the KVSP hiring authority sustained one (1) allegation of staff misconduct. The one (1) sustained allegation resulted in adverse action being imposed by the hiring authority. Six (6) allegations are pending.

<b>Employee Disciplinary Matrix Code</b>	<b>Times Penalty Imposed</b>
1	0
2	0
3	1
4	0
5	0
6	0
7	0
8	0
9	0

**INTERROGATORY NO. 11:**

Indicate the names of all officers against whom a warden at KVSP has, since January 1, 2017, imposed adverse action for STAFF MISCONDUCT.

**RESPONSE TO INTERROGATORY NO. 11:**

Defendants object to this interrogatory as not seeking information relevant to any party's claims or defenses in this case. Defendants further object to this interrogatory as intended to harass non-party officers and former officers. Defendants further object to the interrogatory as unduly burdensome and disproportional to the needs of the case. Defendants further object to the interrogatory as seeking information that is protected from disclosure by official information privilege and California Penal Code section 832.7. Defendants object to the definition of the term "STAFF MISCONDUCT incidents" as vague, ambiguous, and incomprehensible because the definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and Department Operations Manual § 54110.25, neither of which exist in the current versions of those documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs' definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order

1 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
2 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
3 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
4 meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two  
5 criteria are met. The request is also vague and ambiguous as to the phrase "harmed an  
6 incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether  
7 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
8 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
9 incarcerated person was made, but not sustained. The request is also vague and ambiguous  
10 because it is not clear whether Plaintiffs are seeking only instances in which a finding of staff  
11 misconduct was sustained, as the term "STAFF MISCONDUCT incidents" implies, or whether  
12 Plaintiffs are seeking both sustained and not sustained instances in which the hiring authority  
13 referred the matter to the OIA.

14 Subject to those objections, and without waiving them, Defendants respond as follows:  
15 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
16 STAFF MISCONDUCT for this interrogatory. This interrogatory seeks confidential information  
17 contained in California Department of Corrections and Rehabilitation employee files, and is not  
18 limited to incidents involving class members. Because there is no demonstrated need for this  
19 confidential, protected information regarding incidents not involving *Coleman* and *Armstrong*  
20 class members, Defendants decline to produce it. Subject to that exclusion, Defendants will  
21 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
22 Defendants are diligently searching all available sources for responsive information, but have not  
23 yet located the information Plaintiffs seek. Defendants will continue to search for such  
24 information and provide it to Plaintiffs once the information is located.

25 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

26 Subject to and incorporating all previously asserted objections, Defendants respond as  
27 follows:  
28

1 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
 2 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
 3 regulation, or procedure, or appeared contrary to an ethical or professional standard. The names  
 4 of staff only include custody staff, including Officer, Sergeant, Lieutenant, and Captain. The staff  
 5 members named were sourced from confidential records protected by the Court's August 12,  
 6 2020 Order at ECF No. 3039. These names are **HIGHLY CONFIDENTIAL** and  
 7 **ATTORNEYS' EYES ONLY.**

8 In 2017 the Kern Valley State Prison (KVSP) hiring authority imposed adverse action on  
 9 the following custody staff members for sustained allegations of staff misconduct:

10

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

24 In 2018, the KVSP hiring authority imposed adverse action on the following custody staff  
 25 members for sustained allegations of staff misconduct:

26

[REDACTED]
[REDACTED]
[REDACTED]

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  
28

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In 2019, the KVSP hiring authority imposed adverse action on the following custody staff members for sustained allegations of staff misconduct:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In 2020, the KVSP hiring authority imposed adverse action on the following custody staff member for sustained allegations of staff misconduct:

[REDACTED]
------------

1 **INTERROGATORY NO. 12:**

2 For each officer identified in response to Interrogatory 11, indicate:

- 3 1. The level of adverse action imposed by the hiring authority
- 4 2. Whether the incarcerated person involved in the incident that gave rise to the adverse  
5 action was a *Coleman* or *Armstrong* class member
- 6 3. The date the hiring authority imposed adverse action
- 7 4. The OIA case number associated with the adverse action
- 8 5. Whether the officer was placed on administrative time off for any time period before  
9 the adverse action was imposed, and, if yes, the dates on which the administrative time  
10 off began and ended
- 11 6. Whether the officer appealed the adverse action in any forum (e.g., *Skelly* hearing,  
12 State Personnel Board proceeding, or state court proceeding)
- 13 7. Whether the officer's appeal of the adverse action, if any, is complete
- 14 8. If the officer is no longer appealing the adverse action, the final adverse action  
15 imposed on the officer
- 16 9. Whether the officer was permitted to retire in lieu of being dismissed
- 17 10. Whether the officer resigned in lieu of being dismissed
- 18 11. Whether the officer faced criminal prosecution for the conduct for which the warden  
19 decided to impose adverse action
- 20 12. Whether the officer is still being paid by CDCR and, if not, when CDCR ceased  
21 paying the officer

22 **RESPONSE TO INTERROGATORY NO. 12:**

23 Defendants object to this interrogatory as not seeking information relevant to any party's  
24 claims or defenses in this case. Defendants further object to this interrogatory as intended to  
25 harass non-party officers and former officers. Defendants further object to the interrogatory as  
26 unduly burdensome and disproportional to the needs of the case. Defendants further object to the  
27 interrogatory as seeking information that is protected from disclosure by official information  
28 privilege and California Penal Code section 832.7. Defendants object to this interrogatory as

1 seeking information regarding non-party *Coleman* class members. Defendants object that the  
2 interrogatory includes a total of twelve discrete subparts, which should be counted toward  
3 Plaintiffs' limit in accordance with Federal Rule of Civil Procedure 33(a)(1).

4 Subject to those objections, and without waiving them, Defendants respond as follows:

5 This interrogatory seeks confidential information contained in California Department of  
6 Corrections and Rehabilitation employee files, and is not limited to incidents involving class  
7 members. Because there is no demonstrated need for this confidential, protected information  
8 regarding incidents not involving *Coleman* and *Armstrong* class members, Defendants decline to  
9 produce it. Subject to that exclusion, Defendants will provide responsive information, which  
10 Defendants believe Plaintiffs are attempting to seek. Defendants are diligently searching all  
11 available sources for responsive information, but have not yet located the information Plaintiffs  
12 seek. Defendants will continue to search for such information and provide it to Plaintiffs once the  
13 information is located.

14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:**

15 Subject to and incorporating all previously asserted objections, Defendants respond as  
16 follows:

17 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
18 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
19 regulation, or procedure, or appeared contrary to an ethical or professional standard. Cases  
20 rejected by the Office of Internal Affairs (OIA) were counted as not sustained and no disciplinary  
21 action imposed by the hiring authority. Staff only include custody staff to include Officer,  
22 Sergeant, and Lieutenant. The date reported for "the date the hiring authority imposed adverse  
23 action" is the date noted on the Notice of Adverse Action (NOAA).

24 For the information requested see Exhibit A.

25 **INTERROGATORY NO. 13:**

26 For each year from 2017 to the present, please indicate the number of STAFF  
27 MISCONDUCT allegations that were referred to OIA by the KVSP hiring authority, where OIA  
28 conducted a criminal investigation and made a referral to a criminal prosecuting agency.



**1 RESPONSE TO INTERROGATORY NO. 13:**

2 Defendants object to this interrogatory as not seeking information relevant to any party's  
3 claims or defenses in this case. Defendants further object to the interrogatory as unduly  
4 burdensome and disproportional to the needs of the case. Defendants further object to the  
5 interrogatory as seeking information that is protected from disclosure by official information  
6 privilege and California Penal Code section 832.7. Defendants object to the definition of the term  
7 "STAFF MISCONDUCT allegations" as vague, ambiguous, and incomprehensible because the  
8 definition of "STAFF MISCONDUCT" Plaintiffs use cites to Title 15, § 3084(g), and  
9 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
10 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
11 incomprehensible because Plaintiffs' definition of STAFF MISCONDUCT "includes [Plaintiffs'  
12 definition of] EXCESSIVE USE OF FORCE." It is unclear whether Plaintiffs mean that in order  
13 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
14 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
15 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
16 meets Plaintiffs' definition of STAFF MISCONDUCT, regardless of whether the other two  
17 criteria are met. The request is also vague and ambiguous as to the phrase "harmed an  
18 incarcerated person" in the definition of "STAFF MISCONDUCT" because it is not clear whether  
19 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
20 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
21 incarcerated person was made, but not sustained.

22 Subject to those objections, and without waiving them, Defendants respond as follows:  
23 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs' definition of  
24 STAFF MISCONDUCT for this interrogatory. In the interests of efficiency, Defendants will  
25 provide responsive information, which Defendants believe Plaintiffs are attempting to seek.  
26 Defendants are diligently searching all available sources for responsive information, but have not  
27 yet located the information Plaintiffs seek. Defendants will continue to search for such  
28 information and provide it to Plaintiffs once the information is located.

1 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:**

2 Subject to and incorporating all previously asserted objections, Defendants respond as  
3 follows:

4 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
5 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
6 regulation, or procedure, or appeared contrary to an ethical or professional standard. Staff include  
7 custody, medical and non-custody staff.

8 In 2017, the Kern Valley State Prison (KVSP) hiring authority referred one (1) staff  
9 misconduct allegation in which the Office of Internal Affairs (OIA) conducted a criminal  
10 investigation and made a referral to a criminal prosecuting agency.

11 In 2018, KVSP hiring authority referred zero (0) staff misconduct allegations in which OIA  
12 conducted a criminal investigation and made a referral to a criminal prosecuting agency.

13 In 2019, KVSP hiring authority referred one (1) staff misconduct allegation in which OIA  
14 conducted a criminal investigation and made a referral to a criminal prosecuting agency.

15 In 2020, KVSP hiring authority referred zero (0) staff misconduct allegations in which OIA  
16 conducted a criminal investigation and made a referral to a criminal prosecuting agency.

17 However, one (1) criminal investigation is pending.

18 **INTERROGATORY NO. 14:**

19 For each year from January 1, 2017 to the present, please indicate the number of STAFF  
20 MISCONDUCT allegations referred to OIA by the KVSP hiring authority that were then referred  
21 by OIA to a criminal prosecuting agency and where the agency decided to prosecute the subject  
22 of the investigation.

23 **RESPONSE TO INTERROGATORY NO. 14:**

24 Defendants object to this interrogatory as not seeking information relevant to any party's  
25 claims or defenses in this case. Defendants further object to the interrogatory as unduly  
26 burdensome and disproportional to the needs of the case. Defendants further object to the  
27 interrogatory as seeking information that is protected from disclosure by official information  
28 privilege and California Penal Code section 832.7. Defendants object to the definition of the term

1 “STAFF MISCONDUCT allegations” as vague, ambiguous, and incomprehensible because the  
2 definition of “STAFF MISCONDUCT” Plaintiffs use cites to Title 15, § 3084(g), and  
3 Department Operations Manual § 54110.25, neither of which exist in the current versions of those  
4 documents. The definition of STAFF MISCONDUCT is also vague, ambiguous, and  
5 incomprehensible because Plaintiffs’ definition of STAFF MISCONDUCT “includes [Plaintiffs’  
6 definition of] EXCESSIVE USE OF FORCE.” It is unclear whether Plaintiffs mean that in order  
7 to meet the definition of STAFF MISCONDUCT there must be an EXCESSIVE USE OF  
8 FORCE (in addition to the requirements that an incarcerated person be harmed, and that there be  
9 a violation of law, policy, regulation, or procedure) or whether an EXCESSIVE USE OF FORCE  
10 meets Plaintiffs’ definition of STAFF MISCONDUCT, regardless of whether the other two  
11 criteria are met. The request is also vague and ambiguous as to the phrase “harmed an  
12 incarcerated person” in the definition of “STAFF MISCONDUCT” because it is not clear whether  
13 Plaintiffs are seeking only instances in which a finding of harm to an incarcerated person was  
14 made, or whether Plaintiffs are also seeking instances in which an allegation of harm to an  
15 incarcerated person was made, but not sustained. Defendants further object to this interrogatory  
16 because their records may be incomplete as they do not keep records of other agencies’ decisions.

17 Subject to those objections, and without waiving them, Defendants respond as follows:

18 Due to the myriad problems noted above, Defendants decline to adopt Plaintiffs’ definition of  
19 STAFF MISCONDUCT for this interrogatory. Defendants are diligently searching all available  
20 sources for responsive information, but have not yet located the information Plaintiffs seek.  
21 Defendants will continue to search for such information and provide it to Plaintiffs once the  
22 information is located.

23 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

24 Subject to and incorporating all previously asserted objections, Defendants respond as  
25 follows:

26 For purposes of this response, Defendants interpret STAFF MISCONDUCT to mean on-  
27 duty staff behavior that is alleged to have harmed an incarcerated person and violated law, policy,  
28

1 regulation, or procedure, or appeared contrary to an ethical or professional standard. Staff include  
2 custody, medical and non-custody staff.

3 In 2017, the Kern Valley State Prison (KVSP) hiring authority referred zero (0) staff  
4 misconduct allegations in which the Office of Internal Affairs (OIA) referred the allegations to a  
5 criminal prosecuting agency and the agency decided to prosecute the subject.

6 In 2018, KVSP hiring authority referred zero (0) staff misconduct allegations in which OIA  
7 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
8 subject.

9 In 2019, KVSP hiring authority referred zero (0) staff misconduct allegations in which OIA  
10 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
11 subject. However, one (1) case is pending the District Attorney's determination.

12 In 2020, KVSP hiring authority referred zero (0) staff misconduct allegations in which OIA  
13 referred the allegations to a criminal prosecuting agency and the agency decided to prosecute the  
14 subject. However, one (1) criminal investigation is pending.

15 Dated: October 21, 2020

Respectfully submitted,

16  
17 XAVIER BECERRA  
18 Attorney General of California  
19 JOANNA B. HOOD  
20 Supervising Deputy Attorney General



21 SEAN W. LODHOLZ  
22 Deputy Attorney General  
23 *Attorneys for Defendants Gavin Newsom and  
24 the California Department of Corrections  
25 and Rehabilitation*

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**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 supplemental response to Plaintiffs' Special Interrogatories, Set One, for Kern Valley State Prison, and that the response is true and correct based on my own knowledge, or based on information that is available to me.

Executed this 21st day of October, 2020, in Sacramento, California.



\_\_\_\_\_  
Kimberly Seibel

# **EXHIBIT A**

Exhibit A - Interrogatory Number 12 for Kern Valley State Prison (KVSP)														
HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY – ARMSTRONG V. NEWSOM (C 94-2307 CW)														
Case Number	Staff Name	Armstrong or Coleman Class Member Involved	Level Adverse Action Imposed	Effective Date of Adverse Action	Placed on Administrative Time (ATO) Off	Dates of ATO	Appealed Adverse Action	Appeal of Adverse Action Complete	Final Action Imposed	Retire in Lieu of Dismissal	Resign in Lieu of Dismissal	Criminal Prosecution	Staff Still Being Paid	Date CDCR Ceased Paying
<b>2017</b>														
C-KVSP-013-17-D	██████	No Class Member	3	September 30, 2017 (Close of Business)	No	N/A	No	N/A	5% for 9 Months	N/A	N/A	No	Yes	N/A
C-KVSP-049-17-D	██████	No Class Member	3	May 31, 2017 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-049-17-D	██████	No Class Member	3	May 31, 2017 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-272-17-D	██████	Coleman Class Member	3	Initial - October 31, 2017 (Close of Business) Amended - November 11, 2017 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 3 Days	N/A	N/A	No	Yes	N/A
C-KVSP-272-17-D	██████	Coleman Class Member	3	Initial - October 31, 2017 (Close of Business) Amended - December 13, 2017 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 3 Days	N/A	N/A	No	Yes	N/A
C-KVSP-272-17-D	██████	Coleman Class Member	3	Initial - October 31, 2017 (Close of Business) Amended - December 5, 2017 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 3 Days	N/A	N/A	No	Yes	N/A
C-KVSP-272-17-D	██████	Coleman Class Member	4	Initial - October 31, 2017 (Close of Business) Amended - November 15, 2017 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 3 Days	N/A	N/A	No	Yes	N/A
C-KVSP-355-17-D	██████	No Class Member	3	November 30, 2017 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-447-17-D	██████	Coleman Class Member	4	November 30, 2017 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-447-17-D	██████	Coleman Class Member	4	November 30, 2017 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-544-17-D	██████	Coleman Class Member	3	February 28, 2018 (Close of Business)	No	N/A	No	N/A	5% for 9 Months	N/A	N/A	No	Yes	N/A
C-KVSP-544-17-D	██████	Coleman Class Member	3	February 28, 2018 (Close of Business)	No	N/A	No	N/A	5% for 9 Months	N/A	N/A	No	Yes	N/A
C-KVSP-544-17-D	██████	Coleman Class Member	5	February 28, 2018 (Close of Business)	No	N/A	No	N/A	5% for 9 Months	N/A	N/A	No	Yes	N/A

Case Number	Staff Name	Armstrong or Coleman Class Member Involved	Level Adverse Action Imposed	Effective Date of Adverse Action	Placed on Administrative Time (ATO) Off	Dates of ATO	Appealed Adverse Action	Appeal of Adverse Action Complete	Final Action Imposed	Retire in Lieu of Dismissal	Resign in Lieu of Dismissal	Criminal Prosecution	Staff Still Being Paid	Date CDCR Ceased Paying
<b>2018</b>														
C-KVSP-069-18-D	██████	No Class Member	4	August 30, 2018 (Close of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 6 Days	N/A	N/A	No	Yes	N/A
C-KVSP-132-18-A	██████	Coleman Class Member	9	Retired before NOAA	No	N/A	No	N/A	Retired before NOAA	N/A	N/A	No	No	Retired on May 1, 2018
C-KVSP-132-18-A	██████	Coleman Class Member	9	Initial - February 20, 2019 (Close of Business) - Amended February 22, 2019 (Beginning of Business)	Yes	February 13, 2019 to February 21, 2019	Yes	Yes	Suspension without Pay for 9 Days	No	No	No	Yes	N/A
C-KVSP-254-18-D	██████	No Class Member	4	June 30, 2019 (Close of Business)	No	N/A	Yes	Yes	Action Withdrawn	N/A	N/A	No	Yes	N/A
C-KVSP-267-18-D	██████	Coleman Class Member	3	September 30, 2018 (Close of Business)	No	N/A	No	N/A	5% for 9 Months	N/A	N/A	No	Yes	N/A
C-KVSP-295-18-D	██████	Coleman Class Member	3	May 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 8 Months	N/A	N/A	No	Yes	N/A
C-KVSP-295-18-D	██████	Coleman Class Member	3	May 30, 2019 (Close of Business)	No	N/A	Yes	Yes	10% for 9 Months (Stipulation and Release Combined Case C-KVSP-007-19-D)	N/A	N/A	No	Yes	N/A
C-KVSP-295-18-D	██████	Coleman Class Member	3	May 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 10 Months	N/A	N/A	No	Yes	N/A
C-KVSP-357-18-D	██████	Coleman Class Member	3	Initial - November 29, 2018 (Close of Business) - Amended - December 19, 2018 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 5 Days	N/A	N/A	No	Yes	N/A
C-KVSP-409-18-D	██████	No Class Member	3	December 31, 2018 (Close of Business)	No	N/A	Yes	Yes	Action Withdrawn	N/A	N/A	No	Yes	N/A
C-KVSP-421-18-D	██████	No Class Member	3	October 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 6 Months	N/A	N/A	No	Yes	N/A
C-KVSP-447-18-A	██████	Coleman Class Member	1	October 30, 2019 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-453-18-D	██████	Coleman Class Member	3	March 29, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 2 Months	N/A	N/A	No	Yes	N/A
C-KVSP-521-18-D	██████	Coleman Class Member	3	April 30, 2019 (Close of Business)	No	N/A	Yes	Yes	Corrective Action	N/A	N/A	No	Yes	N/A



Case Number	Staff Name	Armstrong or Coleman Class Member Involved	Level Adverse Action Imposed	Effective Date of Adverse Action	Placed on Administrative Time (ATO) Off	Dates of ATO	Appealed Adverse Action	Appeal of Adverse Action Complete	Final Action Imposed	Retire in Lieu of Dismissal	Resign in Lieu of Dismissal	Criminal Prosecution	Staff Still Being Paid	Date CDCR Ceased Paying
<b>2019</b>														
C-KVSP-004-19-D	██████	Coleman Class Member	4	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-004-19-D	██████	Coleman Class Member	4	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-066-19-D	██████	Armstrong and Coleman Class Member	3	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Instruction	N/A	N/A	No	Yes	N/A
C-KVSP-066-19-D	██████	Armstrong and Coleman Class Member	3	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-066-19-D	██████	Armstrong and Coleman Class Member	3	January 30, 2020 (Close of Business)	No	N/A	Yes	Yes	5% for 3 Months	N/A	N/A	No	Yes	N/A
C-KVSP-125-19-D	██████	Coleman Class Member	1	September 30, 2019 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-165-19-D	██████	Coleman Class Member	3	February 29, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Reprimand	N/A	N/A	No	Yes	N/A
C-KVSP-197-19-D	██████	Coleman Class Member	3	May 30, 2020 (Close of Business)	No	N/A	Yes	Yes	Letter of Instruction	N/A	N/A	No	Yes	N/A
C-KVSP-206-19-C/A	██████	Coleman Class Member	3	May 30, 2020 (Close of Business)	No	N/A	Yes	No	Pending SPB	N/A	N/A	Referred to the District Attorney. Case is Pending District Attorneys Determination.	Yes	N/A
C-CCI-436-19-A	██████	Coleman Class Member	4	Initial - July 31, 2020 (Close of Business) Amended - July 31, 2020 (Beginning of Business)	No	N/A	Yes	Yes	Suspension Without Pay for 6 Days	N/A	N/A	No	Yes	N/A
<b>2020</b>														
C-KVSP-185-20-D	██████	No Class Member	3	June 30, 2019 (Close of Business)	No	N/A	Yes	Yes	5% for 4 Months	N/A	N/A	No	Yes	N/A
<b>HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY – ARMSTRONG V. NEWSOM (C 94-2307 CW)</b>														

# **Exhibit 9**

**From:** [CDCR Data Requests](#)  
**To:** [Jack Gleiberman](#); [CDCR Data Requests](#)  
**Cc:** [CDCR OLA Armstrong CAT Mailbox](#); [Penny Godbold](#); [Michael Freedman](#)  
**Subject:** RE: COMPSTAT Report Request [IWVOV-DMS.FID3579]  
**Date:** Wednesday, June 24, 2020 11:31:56 AM  
**Attachments:** [COMPSTATReportsAndCountingRules.zip](#)

---

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  
[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)

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---

**From:** Jack Gleiberman [mailto:JGleiberman@rbgg.com]  
**Sent:** Tuesday, June 23, 2020 3:00 PM  
**To:** CDCR Data Requests <Data.Requests@cdcr.ca.gov>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <OLAArmstrongCAT@cdcr.ca.gov>; Penny Godbold <PGodbold@rbgg.com>; Michael Freedman <MFreedman@rbgg.com>  
**Subject:** RE: COMPSTAT Report Request [IWVOV-DMS.FID3579]

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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 <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Sent:** Tuesday, June 23, 2020 2:55 PM  
**To:** Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>; CDCR Data Requests <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <[OLAArmstrongCAT@cdcr.ca.gov](mailto:OLAArmstrongCAT@cdcr.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**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](mailto:kyle.langowski@cdcr.ca.gov)

---

**From:** Jack Gleiberman [<mailto:JGleiberman@rbgg.com>]  
**Sent:** Tuesday, June 23, 2020 2:06 PM  
**To:** CDCR Data Requests <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <[OLAArmstrongCAT@cdcr.ca.gov](mailto:OLAArmstrongCAT@cdcr.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Subject:** RE: COMPSTAT Report Request [IWOV-DMS.FID3579]

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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' <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <[OLAArmstrongCAT@cdcr.ca.gov](mailto:OLAArmstrongCAT@cdcr.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**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)  
[jgleiberman@rbgg.com](mailto:jgleiberman@rbgg.com)

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# **Exhibit 10**

**From:** [CDCR Data Requests](#)  
**To:** [Jack Gleiberman](#); [CDCR Data Requests](#)  
**Cc:** [CDCR OLA Armstrong CAT Mailbox](#); [Penny Godbold](#); [Michael Freedman](#)  
**Subject:** RE: COMPSTAT Report Request [IWVOV-DMS.FID3579]  
**Date:** Friday, September 11, 2020 10:08:06 AM  
**Attachments:** [2018\\_06\\_DAI High Security.pdf](#)

---

Good morning Jack,

Apologies on the missing data. I have attached a June 2018 COMPSTAT report that covers from June 2017-June 2018 and that should have March 2018 numbers. Please let me know if this works for you. 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  
[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)

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---

**From:** Jack Gleiberman [mailto:JGleiberman@rbgg.com]  
**Sent:** Friday, September 11, 2020 9:56 AM  
**To:** CDCR Data Requests <Data.Requests@cdcr.ca.gov>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <OLAArmstrongCAT@cdcr.ca.gov>; Penny Godbold <PGodbold@rbgg.com>; Michael Freedman <MFreedman@rbgg.com>  
**Subject:** RE: COMPSTAT Report Request [IWVOV-DMS.FID3579]

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Dear Nick,

The COMPSTAT data produced by your office on June 24, 2020 appears to be missing data for the month of March 2018 (it covers January 2017 through February 2018, skips March, and the continues on through 2019 with complete data). Could you please provide us with the High Security Mission COMPSTAT data for March 2018? Thank you in advance.

Best,  
Jack

---

**From:** CDCR Data Requests <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Sent:** Wednesday, June 24, 2020 11:28 AM  
**To:** Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>; CDCR Data Requests <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <[OLAArmstrongCAT@cdcr.ca.gov](mailto:OLAArmstrongCAT@cdcr.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Subject:** RE: COMPSTAT Report Request [IWV-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  
[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)

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---

**From:** Jack Gleiberman [<mailto:JGleiberman@rbgg.com>]  
**Sent:** Tuesday, June 23, 2020 3:00 PM  
**To:** CDCR Data Requests <[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)>



# **Exhibit 11**

**From:** [CDCR Data Requests](#)  
**To:** [Jack Gleiberman](#); [CDCR Data Requests](#)  
**Cc:** [CDCR OLA Armstrong CAT Mailbox](#); [Michael Freedman](#)  
**Subject:** RE: COMPSTAT Report Request [IWOV-DMS.FID3579] Email 1  
**Date:** Monday, September 14, 2020 7:19:20 AM

---

Good morning Jack,

We have set up a Secure File Transfer site to include historical COMPSTAT reports that cover through the requested timeframe. To access these data, please go to <https://user.st.cdt.ca.gov/> and use the below login information:

Username: cdcr-or-edmbclient3

Password: [To be provided in a follow up email]

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  
[Data.Requests@cdcr.ca.gov](mailto:Data.Requests@cdcr.ca.gov)

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---

**From:** Jack Gleiberman [mailto:JGleiberman@rbgg.com]  
**Sent:** Friday, September 11, 2020 9:08 AM  
**To:** CDCR Data Requests <Data.Requests@cdcr.ca.gov>  
**Cc:** CDCR OLA Armstrong CAT Mailbox <OLAArmstrongCAT@cdcr.ca.gov>; Michael Freedman <MFreedman@rbgg.com>  
**Subject:** 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 write to request the General Population and Female Offenders COMPSTAT Reports for January 2017 through August 2020 (or whatever month is most current). It is my understanding that these reports are delivered in 12-month increments, so if necessary, please produce the four reports needed to cover the requested time-frame for both missions. We would like to expedite this request as well if possible.

Thank you,

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)  
[jgleiberman@rbgg.com](mailto:jgleiberman@rbgg.com)

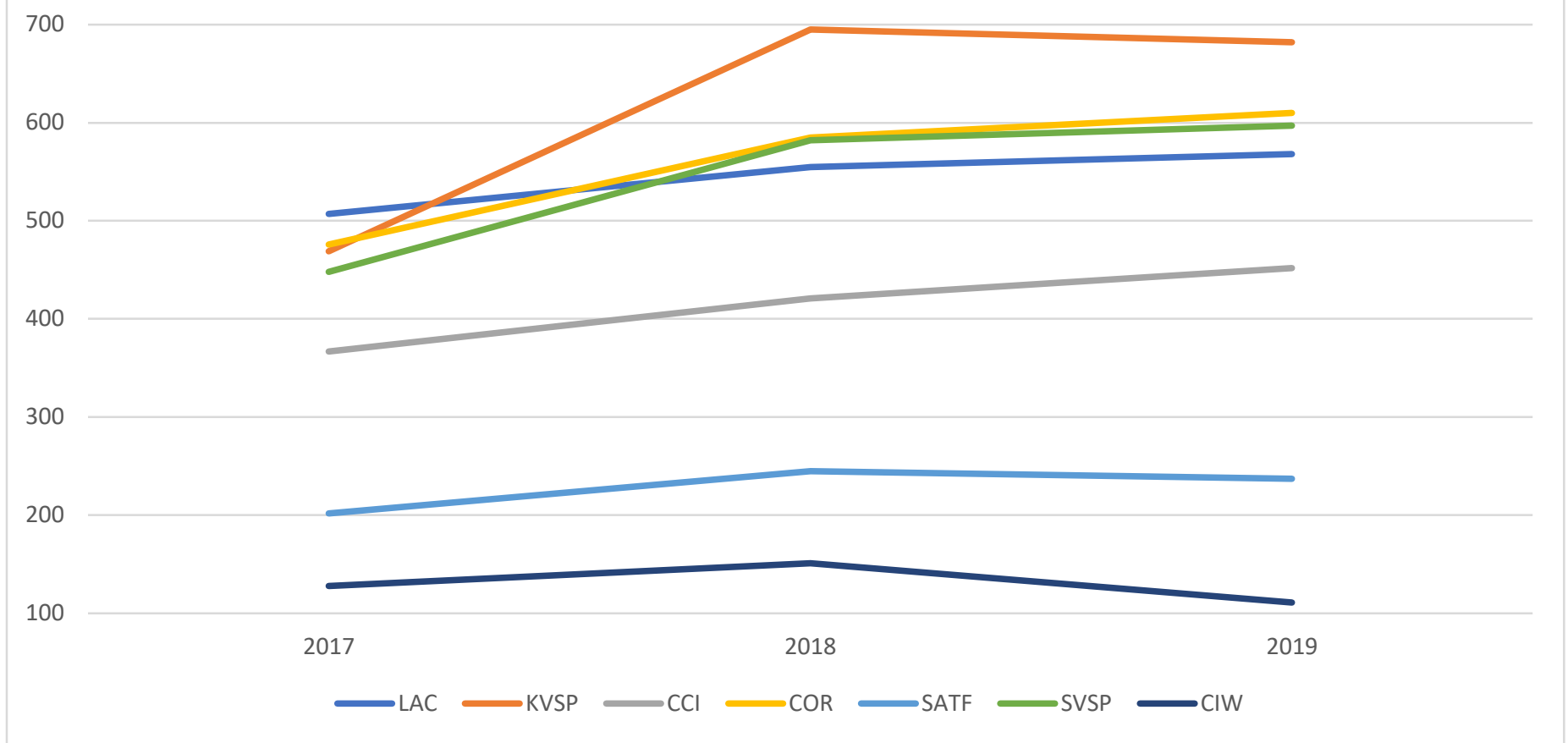
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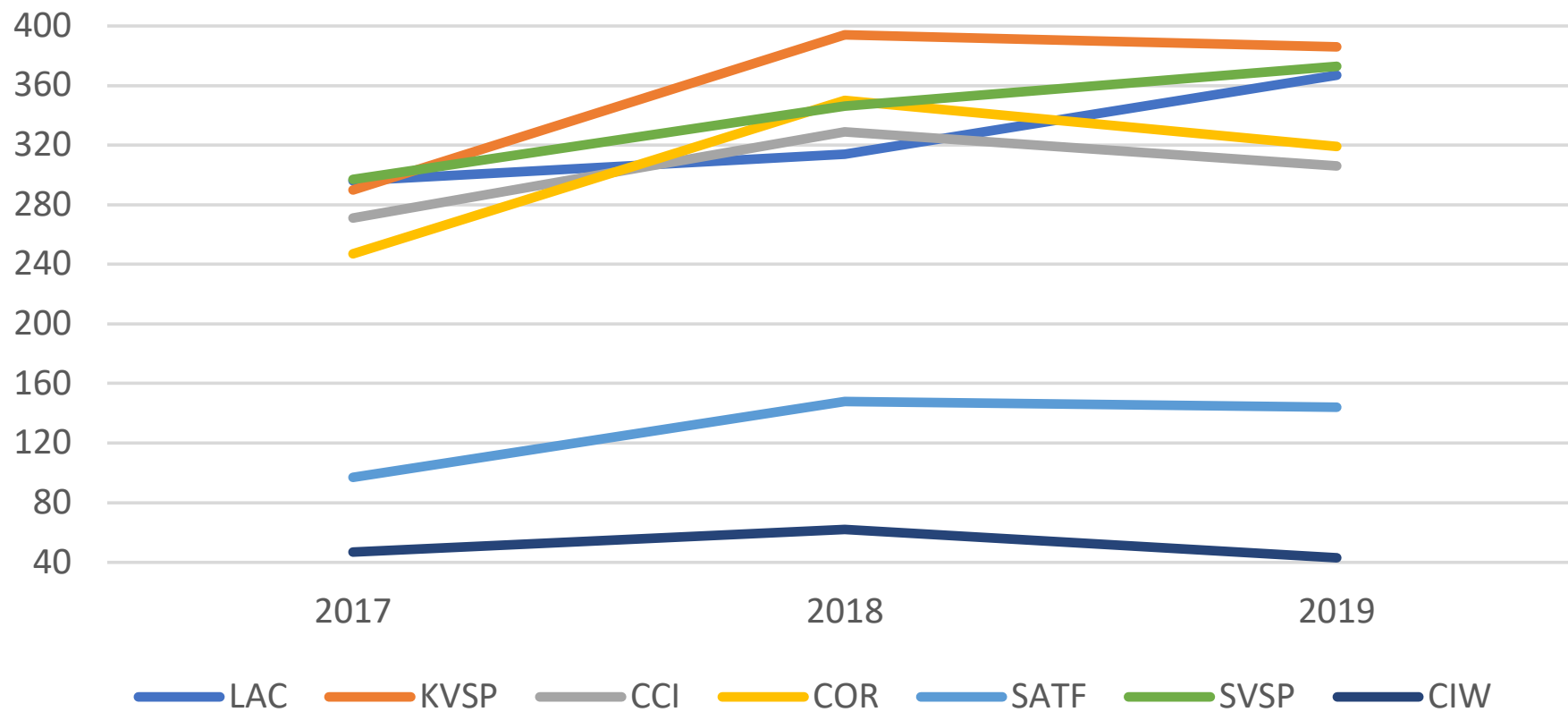
# **Exhibit 12**

### COMPSTAT 2017-2019 Data: Documented Use of Force



# **Exhibit 13**

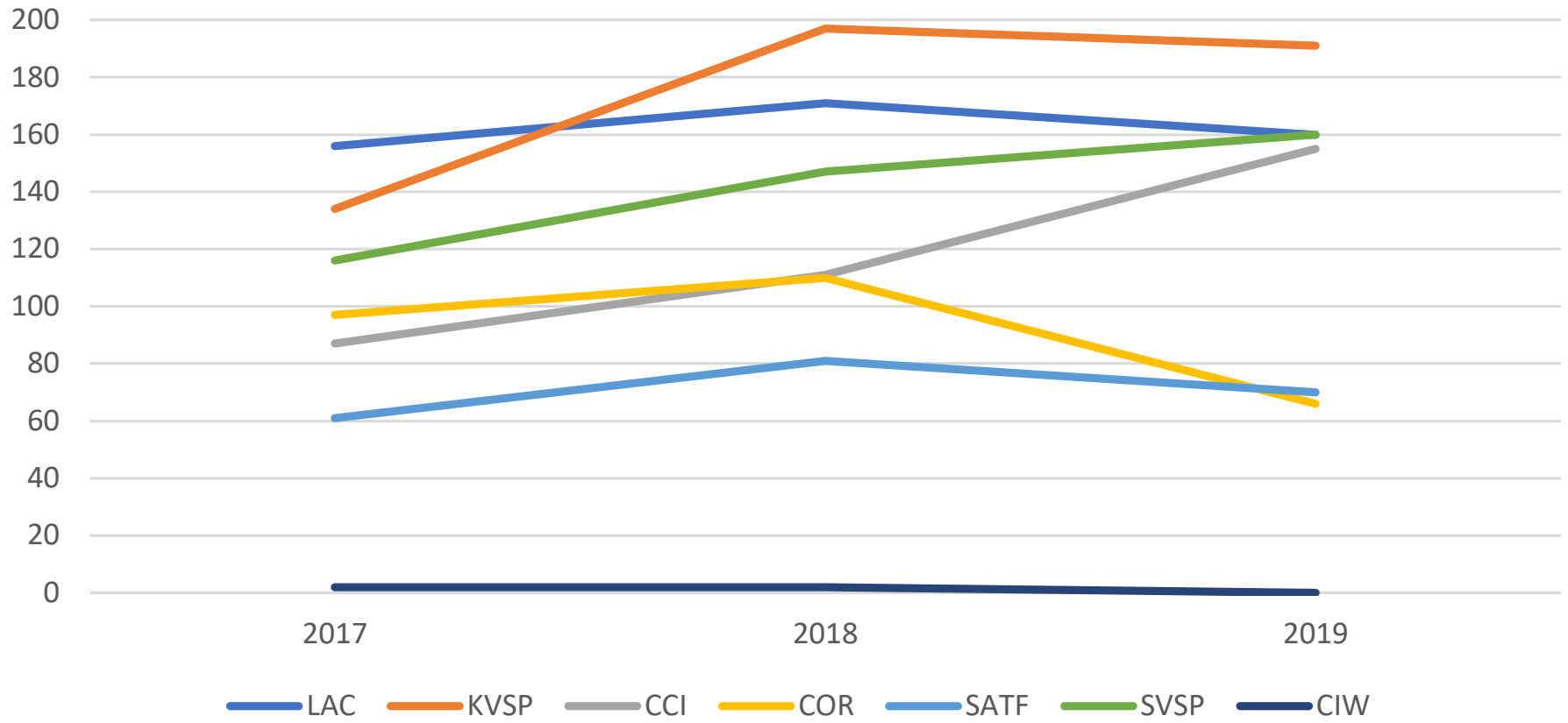
### COMPSTAT 2017-2019 Data: OC Spray



# **Exhibit 14**



### COMPSTAT 2017-2019 Data: 37/40mm Block Gun



# **Exhibit 15**

**From:** [Michael Freedman](#)  
**To:** [Anthony Tartaglio](#); [Ed Swanson](#)  
**Cc:** [Gay C. Grunfeld](#); [Joanna Hood](#); [Trace Maiorino](#); [Alicia Bower](#); [Sean Lodholz](#); [Jeremy Duggan](#); [Penny Godbold](#); [Jack Gleiberman](#)  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]  
**Date:** Tuesday, October 13, 2020 10:40:48 AM

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All,

Plaintiffs have considered Defendants' request to agree to some of the depositions proposed by Defendants. Though Plaintiffs maintain that Defendants have not complied with the Court's instructions justifying any of the depositions, Plaintiffs will agree to the depositions of the following five people, assuming we agree on the other terms and conditions discussed yesterday:

[REDACTED]

If Defendants wish to take additional depositions (of the five other people Defendants have proposed or other people who submitted declarations in support of Plaintiffs' reply brief), Defendants will need to provide further justification consistent with the Court's instructions (as described by Ed yesterday).

As for the anti-retaliation measures, Plaintiffs submit the following proposal:  
For the first four weeks following the deposition, the ADA Coordinator at the prison must meet face-to-face with the deponent in a confidential location and ask the deponent (1) if he or she has any safety concerns and (2) if he or she has faced any retaliation for participating in the deposition. For the next eight weeks, the ADA Coordinator at the prison must conduct the same face-to-face, confidential interview with the deponent once every two weeks. All interviews with the deponent shall be memorialized in an informational chrono that Defendants produce to Plaintiffs within 24 hours of completion.

These issues will need to be included in the stipulation and proposed order that is due today. We will send over a revised proposed stipulation and order soon.

Best,

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

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---

**From:** Michael Freedman

**Sent:** Monday, October 12, 2020 4:30 PM

**To:** Anthony Tartaglio <Anthony.Tartaglio@doj.ca.gov>; Ed Swanson <ed@smllp.law>

**Cc:** Gay C. Grunfeld <GGrunfeld@rbbg.com>; Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Alicia Bower <Alicia.Bower@doj.ca.gov>; Sean Lodholz <Sean.Lodholz@doj.ca.gov>; Jeremy Duggan <Jeremy.Duggan@doj.ca.gov>; Penny Godbold <PGodbold@rbbg.com>; Jack Gleiberman <JGleiberman@rbbg.com>

**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Anthony,

In advance of our call at 5 p.m., below is some additional information regarding our position on the issues we'd like to discuss. In addition, we would like to discuss the attached Stipulation, which we sent last week.

Timing of the depositions – Defendants' email suggests that Defendants will be unable to complete all of the depositions by November 3, the deadline set by the Court. ("Please also note that while Defendants will use their best efforts to schedule the depositions to occur within the next few weeks, there is a tremendous demand for the video-conferencing rooms at the prisons, which might cause scheduling delays.") Plaintiffs will not agree to any depositions taking place after November 3.

Pre-deposition document production – We recognize that there is no obligation for Defendants to produce documents in advance of the depositions. Pre-deposition production of the documents that Defendants intend to use is, however, warranted here for two reasons. First, many of the individuals that Defendants are seeking to depose have disabilities affecting communication. Given that Plaintiffs will not be in the room with the deponents for the deposition, it is critical that the documents be produced ahead of time to ensure the deponents understand the documents. Second, ordinarily, Defendants would have already produced documents related to the incidents at issue in the deponents' declarations. Those documents are also completely controlled by Defendants.

Post-deposition retaliation monitoring – This anti-retaliation protection is necessary because Plaintiffs have produced substantial evidence that declarants have been retaliated against for filing complaint, submitting declarations, and speaking with Plaintiffs' counsel. These depositions will increase the risk that the deponents will face retaliation.

The reasons for the deponents selected by Defendant – Defendants' explanations for why they wish

to take the deposition of the ten identified people do not comply with the Court's instructions from the October 6, 2020 hearing. The Court stated that Defendants could take depositions of declarants who fit the following criteria: "People whose deposition was necessary in the sense that there was no other source for information about it. And by which I mean if there were witnesses under the control of

defendants, those would need to file their declarations first so that we would know that there was an issue, that the facts were joined. And that there be some articulable reason to do the deposition..... [I] would like there to be some reason to do it, some inconsistency -- internal inconsistency within the declaration. Some inconsistency with medical records. Something other than I just don't believe this and I think if I had my chance to ask him a lot of questions, he would recant." Hearing Tr. at 35-36. The explanations for why Defendants wish to depose the declarants do not, for the most part, satisfy the Court's instructions. Accordingly, we request that Defendants provide additional detail regarding their reasons for wishing to take the depositions, including the specific contentions in the declarations that Defendants dispute and Defendants' basis for disputing the contention.

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

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---

**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>

**Sent:** Monday, October 12, 2020 3:08 PM

**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>

**Cc:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>

**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Ok 5 it is, here is the dial-in information.

Below please find the dial-in information for your call: CORRECTIONAL LAW SECTION Dial-In Phone No: (888) 808-6929 Participant Code: 997018

---

**From:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Sent:** Monday, October 12, 2020 3:00 PM  
**To:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>  
**Cc:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Let's do 5 p.m. today.

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

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**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>  
**Sent:** Monday, October 12, 2020 2:59 PM  
**To:** Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Cc:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

To clarify, which time would be better for RBGG? Either time will work for Defendants, and it appears that either should work for Ed, as well. (Feel free to correct me, Ed, if you can't do tomorrow at 10).

---

**From:** Anthony Tartaglio  
**Sent:** Monday, October 12, 2020 2:46 PM  
**To:** 'Ed Swanson' <[ed@smllp.law](mailto:ed@smllp.law)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Cc:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace

Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[pgodbold@rbgg.com](mailto:pgodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>

**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

In that case, we suggest having a call at 5 today or 10 am tomorrow so that hopefully Ed can join. @Michael, feel free to convey specific concerns beforehand over email if you'd like, that might help expedite the call. Thank you.

---

**From:** Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>

**Sent:** Monday, October 12, 2020 2:33 PM

**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>

**Cc:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[pgodbold@rbgg.com](mailto:pgodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>

**Subject:** Re: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

If you all can wait until 5, I should be in a better spot for talking

Sent from my iPhone

On Oct 12, 2020, at 2:27 PM, Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)> wrote:

Anthony,

Thank you for your email. We believe that there are a few topics that would be useful for the parties to discuss by phone, including timing of the depositions, pre-deposition document production, post-deposition retaliation monitoring, and the reasons for the deponents selected by Defendants.

We can be available at 3 or 5 so that Ed can participate.

Best,

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

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**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>  
**Sent:** Monday, October 12, 2020 12:48 PM  
**To:** Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Cc:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Hi Michael,

I suggest that we see if we can narrow the scope of issues via email. As I will shortly explain, I think we are actually able to find quite a bit of common ground on these issues. If we are able to narrow down the scope of the disagreement sufficiently, perhaps we could have a call tomorrow morning at 10 or even forego a call altogether. By the way, Defendants' preference is to include Mr. Swanson in any telephonic meet-and-confers regarding discovery matters. Please see the below comments to Plaintiffs' proposal.

\*\*\*\*\*

Preparation:

1. Defendants arrange for Plaintiffs' counsel to have three hours to prepare confidentially in person with each deponent the day before the deposition. Plaintiffs believe that there are numerous spaces within the prisons where these preparation sessions could occur safely and confidentially, with adequate space and ventilation, including the walled, outdoor portions of visiting areas or the large visiting rooms that exist at most prisons.

Defendants are ok with this.

2. Defendants arrange confidential, 15-minute telephone calls with all deponents at least twenty-four hours before the scheduled preparation sessions.

Defendants are ok with this.

3. Defendants must provide Plaintiffs with all documents they intend to use at the deposition at least twenty-four hours in advance of the preparation



session.

Defendants do not agree with this and do not see the reason for this. Nothing in the FRCP requires that a witness be given exhibits in advance of the deposition so that he can be coached on them by his lawyer. Defendants plan to have the exhibits printed out at the prison for the deponent to review once the deposition commences. And Defendants plan to email Plaintiffs' counsel electronic copies of the exhibits once the deposition commences.

4. CDCR staff must carefully sanitize the preparation area prior to the deponent's and Plaintiffs' counsel's arrival.

Defendants are ok with this.

During the deposition:

1. Plaintiffs must have the ability to speak confidentially with the deponent during breaks. This means not only must Defendants have the ability to create a virtual breakout room for Plaintiffs' counsel and the deponent, but also that the deponent must physically be in a room without any other people present or able to overhear the conversation.

Defendants have been informed by CDCR that while CDCR can agree to have correctional staff outside of the room, correctional staff need to be able to observe the inmate.

2. During the deposition itself, once the video link is established, no one other than the deponent shall be permitted in the deposition room. The escort personnel, including any correctional officers, shall not be allowed to observe or overhear the testimony.

See previous comment.

3. If, at any point during the deposition, Plaintiffs' counsel determines that the remote nature of the deposition is interfering with the deponent's ability to effectively communicate or with Plaintiffs' counsel's ability to communicate with the deponent, Plaintiffs' counsel reserves the right to suspend the deposition and reconvene the deposition with appropriate accommodations in place.

Due to the vagueness of this proposal, Defendants cannot agree to it. Plaintiffs cannot unilaterally terminate a deposition for vague, subjective reasons.

4. CDCR staff must carefully sanitize the deposition room prior to the start of the deposition.

Defendants are ok with this.

Other Conditions:

1. In order to reduce the risk of retaliation, Defendants must follow ducat and escort procedures for the deposition and deposition preparation that, as

much as possible, eliminate the possibility that staff or other incarcerated people will know that the deponent is preparing for or participating in the deposition. There shall be no announcements over the loud speaker. Instead, an AW or higher shall discretely and personally provide the deponent with a written statement that Plaintiffs approve explaining the purpose of the ducat. The AW shall ensure effective communication of the ducat language. The AW shall ensure that the deponent has all assistive devices prior to departing for the deposition or deposition preparation. The AW shall monitor the deponent's safety for 90 days following the deposition to ensure no retaliation occurs.

Defendants will agree with this proposal, with the exception of the last sentence. Here is some context. Before COVID-19, we at the AG's office regularly took prisoner depositions without incident. While your team might think of inmate depositions as an extraordinary event, all of us on the AG's team have taken many depositions of inmates without any special security measures. The 90-day monitoring that Plaintiffs are proposing is not necessary, especially since some of the inmate-declarants have already filed lawsuits about their allegations (which are visible on the court dockets).

2. In order to reduce the risk of COVID-19 transmission, all staff who interact with the deponent in connection with the deposition or the preparation for the deposition must wear a mask at all times and, to the extent possible, maintain at least six feet of distance from the deponent.

Defendants are ok with this.

Once the depositions begin, Plaintiffs reserve the right to request that the Court permit in-person deposition defense if defending the depositions remotely interferes with Plaintiffs' counsel's ability to defend the depositions or effectively communicate with the deponents.

As previously explained, this is too vague and subjective.

\*\*\*\*\*

Please note that if your team wishes to visit a prison, it will need to follow the attached COVID-19 protocols. Please also note that while Defendants will use their best efforts to schedule the depositions to occur within the next few weeks, there is a tremendous demand for the video-conferencing rooms at the prisons, which might cause scheduling delays.

Below are the inmates Defendants are contemplating deposing:

1. [REDACTED] To explore whether he should be considered a member of the Armstrong class, any disability accommodations provided (or not provided) by CDCR, the extent to which his mental health makes him disabled, treatment of disabled inmates at KVSP, potential inconsistencies in his allegations of staff

misconduct, and his litigation history.

2. [REDACTED] To explore whether he should be considered a member of the Armstrong class, the extent to which his mental health makes him disabled, treatment of disabled inmates at LAC, and potential inconsistencies in his allegations of staff misconduct.
3. [REDACTED] To explore whether he should be considered a member of the Armstrong class, the extent to which his mental health makes him disabled, treatment of disabled inmates at LAC, and potential inconsistencies in his allegations of staff misconduct.
4. [REDACTED] To explore whether he should be considered a member of the *Armstrong* class, any disability accommodations provided (or not provided) by CDCR, the extent to which his mental health makes him disabled, treatment of disabled inmates at COR, potential inconsistencies in his allegations of staff misconduct, and his litigation history.
5. [REDACTED] To explore whether he should be considered a member of the *Armstrong* class, any disability accommodations provided (or not provided) by CDCR, the extent to which his mental health makes him disabled, treatment of disabled inmates at COR, potential inconsistencies in his allegations of staff misconduct, and his litigation history.
6. [REDACTED] To explore whether he has any physical disabilities, the extent to which his mental health makes him disabled, treatment of disabled inmates at COR and SATF, and potential inconsistencies in his allegations of staff misconduct.
7. [REDACTED] To explore the extent to which CDCR has been providing reasonable accommodations for his disabilities, treatment of disabled inmates at Mule Creek, and potential inconsistencies in his allegations of staff misconduct.
8. [REDACTED] To explore whether he has any physical disabilities, the extent to which his mental health makes him disabled, treatment of disabled inmates at CMF, and potential inconsistencies in his allegations of staff misconduct.
9. [REDACTED] To explore the extent to which CDCR has been providing reasonable accommodations for her disabilities, treatment of disabled inmates at CIW, and potential inconsistencies in her allegations of staff misconduct.
10. [REDACTED] To explore whether he should be considered a member of the *Armstrong* class, any disability accommodations provided (or not provided) by CDCR, the extent to which his mental health makes him disabled, treatment of disabled inmates at COR, potential inconsistencies in his allegations of staff misconduct, the pending criminal case against him, and his litigation history.

Please let me know if you think we could hammer out these issues over email, or whether a phone call would be necessary.

Tony

---

**From:** Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>  
**Sent:** Monday, October 12, 2020 12:31 PM  
**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Cc:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[pgodbold@rbgg.com](mailto:pgodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** Re: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

I'll be in transit today, but I could talk at 3, if that would be helpful.

Sent from my iPhone

On Oct 12, 2020, at 11:34 AM, Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)> wrote:

All,

Given that the stipulation is due tomorrow, we think it makes sense to meet and confer prior to 5 p.m. today, even if that means that Ed cannot be present. As I indicated previously, Plaintiffs can be available any time today.

Best,

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

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---

**From:** Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Sent:** Monday, October 12, 2020 11:22 AM  
**To:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

I'm not available today, but I could be available for a call at 5 pm. I can also talk tomorrow between 8:30 and 10 am.

Thanks,

Ed

---

**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>  
**Sent:** Monday, October 12, 2020 9:50 AM  
**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Hello RBGG and Mr. Swanson, please let me know when you are available for a call regarding logistics for the inmate depositions. I am available today after 11. When we have our call, I plan to discuss the attached document. Thank you.

---

**From:** Anthony Tartaglio  
**Sent:** Thursday, October 8, 2020 4:02 PM  
**To:** 'Michael Freedman' <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Hi Michael, we are working with CDCR to evaluate your proposal and will provide a substantive response as soon as we can.

Tony

---

**From:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Sent:** Thursday, October 8, 2020 9:32 AM  
**To:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>; Penny Godbold <[PGodbold@rbgg.com](mailto:PGodbold@rbgg.com)>; Jack Gleiberman <[JGleiberman@rbgg.com](mailto:JGleiberman@rbgg.com)>  
**Subject:** RE: Armstrong inmate deposition logistics [IWOV-DMS.FID3579]

Anthony,

Thank you for your email about the depositions. Attached is a draft of a stipulation and proposed order regarding the depositions, COVID-19 safety precautions, further briefing, and a further hearing date on the Statewide Motion.

In its Minute Order, the Court ordered that the parties meet and confer and file a stipulation by October 13, 2020. Among the topics that must be covered by the meet and confer and stipulation is “the ten inmates who will be deposed by Defendant.” The Court indicated at the hearing yesterday that Defendants must provide a reason, other than simply wanting to test a declarant’s credibility, for each of the declarants that Defendants seek to depose. So that the parties can timely file the stipulation, Defendants must provide Plaintiffs with the names of the ten declarants that Defendants wish to depose, along with a written explanation of the reason for the deposition, by no later than noon on October 12, 2020.

Regarding the COVID-19 safety precautions, Plaintiffs understood the Court as being unlikely to approve in-person defense of depositions, given the risks to the health of the deponents and attorneys involved. Accordingly, Plaintiffs are willing to initially try to defend depositions remotely. Plaintiffs believe, however, that deposition preparation can be conducted safely in person. Accordingly, Plaintiffs

agreement on conducting the depositions remotely is subject to Defendants agreeing to the following conditions:

Preparation:

1. Defendants arrange for Plaintiffs' counsel to have three hours to prepare confidentially in person with each deponent the day before the deposition. Plaintiffs believe that there are numerous spaces within the prisons where these preparation sessions could occur safely and confidentially, with adequate space and ventilation, including the walled, outdoor portions of visiting areas or the large visiting rooms that exist at most prisons.
2. Defendants arrange confidential, 15-minute telephone calls with all deponents at least twenty-four hours before the scheduled preparation sessions.
3. Defendants must provide Plaintiffs with all documents they intend to use at the deposition at least twenty-four hours in advance of the preparation session.
4. CDCR staff must carefully sanitize the preparation area prior to the deponent's and Plaintiffs' counsel's arrival.

During the deposition:

1. Plaintiffs must have the ability to speak confidentially with the deponent during breaks. This means not only must Defendants have the ability to create a virtual breakout room for Plaintiffs' counsel and the deponent, but also that the deponent must physically be in a room without any other people present or able to overhear the conversation.
2. During the deposition itself, once the video link is established, no one other than the deponent shall be permitted in the deposition room. The escort personnel, including any correctional officers, shall not be allowed to observe or overhear the testimony.
3. If, at any point during the deposition, Plaintiffs' counsel determines that the remote nature of the deposition is interfering with the deponent's ability to effectively communicate or with Plaintiffs' counsel's ability to communicate with the deponent, Plaintiffs' counsel reserves the right to suspend the deposition and reconvene the

deposition with appropriate accommodations in place.

4. CDCR staff must carefully sanitize the deposition room prior to the start of the deposition.

Other Conditions:

1. In order to reduce the risk of retaliation, Defendants must follow ducat and escort procedures for the deposition and deposition preparation that, as much as possible, eliminate the possibility that staff or other incarcerated people will know that the deponent is preparing for or participating in the deposition. There shall be no announcements over the loud speaker. Instead, an AW or higher shall discretely and personally provide the deponent with a written statement that Plaintiffs approve explaining the purpose of the ducat. The AW shall ensure effective communication of the ducat language. The AW shall ensure that the deponent has all assistive devices prior to departing for the deposition or deposition preparation. The AW shall monitor the deponent's safety for 90 days following the deposition to ensure no retaliation occurs.
2. In order to reduce the risk of COVID-19 transmission, all staff who interact with the deponent in connection with the deposition or the preparation for the deposition must wear a mask at all times and, to the extent possible, maintain at least six feet of distance from the deponent.

Once the depositions begin, Plaintiffs reserve the right to request that the Court permit in-person deposition defense if defending the depositions remotely interferes with Plaintiffs' counsel's ability to defend the depositions or effectively communicate with the deponents.

We are available to discuss the proposed stipulation and the above-discussed topics at any time.

Best,

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



(415) 433-7104 (fax)

[mfreedman@rbgg.com](mailto:mfreedman@rbgg.com)

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---

**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>

**Sent:** Thursday, October 8, 2020 8:38 AM

**To:** Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>; Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>

**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>; Sean Lodholz <[Sean.Lodholz@doj.ca.gov](mailto:Sean.Lodholz@doj.ca.gov)>; Jeremy Duggan <[Jeremy.Duggan@doj.ca.gov](mailto:Jeremy.Duggan@doj.ca.gov)>

**Subject:** Armstrong inmate deposition logistics

Dear RBGG and Mr. Swanson,

We are in the process of compiling a list of declarants for the upcoming inmate depositions. While we are doing that, I believe we should discuss the logistics of how the inmate depositions will occur. Defendants' position is that, given the risks associated with COVID-19, the depositions should occur with all attorneys appearing remotely. Defendants already explained the reasons for this in their opposition to the motion for protective order, so I won't burden you by repeating them here. I will add that, in my opinion, Judge Wilken did not seem to think that in-person depositions were necessary, provided that Plaintiffs' counsel and the deponents could confer in virtual breakout rooms during breaks.

If Plaintiffs do not agree that Plaintiffs' counsel should appear remotely, then please let me know when you would be available for a telephonic meet-and-confer regarding the issue. Thank you.

<image001.png>

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# **Exhibit 16**

---

**From:** Namrata Kotwani <Namrata.Kotwani@doj.ca.gov>  
**Sent:** Monday, November 23, 2020 2:58 PM  
**To:** Michael Freedman; Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio; Tamiya.Davis@cdcr.ca.gov; Patricia.Ferguson@cdcr.ca.gov; Gannon.Johnson@cdcr.ca.gov; Alicia Bower  
**Subject:** Re: Armstrong- [REDACTED] deposition [IWOV-DMS.FID3579]

Michael,

Inmate [REDACTED]'s deposition can no longer go forward on November 30. The Litigation Office at MCSP has been exposed to COVID-19 and is remote working till 12/3. Given the limited availability of deposition slots and the constraints of the Litigation Office, we do not believe it is possible to conduct the preparation meeting and call, and deposition as well as additional briefing prior to the December 7 hearing. Therefore, Defendants have decided to forgo deposing Mr. [REDACTED].

Thank you,  
Namrata

---

**From:** Michael Freedman <MFreedman@rbgg.com>  
**Sent:** Sunday, November 22, 2020 10:17 AM  
**To:** Namrata Kotwani; Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio; Tamiya.Davis@cdcr.ca.gov; Patricia.Ferguson@cdcr.ca.gov; Gannon.Johnson@cdcr.ca.gov; Alicia Bower  
**Subject:** RE: Armstrong- [REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

We cannot agree to your proposed change to the briefing schedule, which would provide Defendants with four business days following the deposition to file their brief, but Plaintiffs with only one business day to write our brief. We stand by our initial proposal, with Defendants' brief due on December 3 and Plaintiffs' brief due on December 7.

Best,

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

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---

**From:** Namrata Kotwani <Namrata.Kotwani@doj.ca.gov>  
**Sent:** Thursday, November 19, 2020 11:05 AM  
**To:** Michael Freedman <MFreedman@rbgg.com>; Kara Janssen <KJanssen@rbgg.com>; Ed Swanson <ed@smllp.law>; Gay C. Grunfeld <GGrunfeld@rbgg.com>  
**Cc:** Joanna Hood <Joanna.Hood@doj.ca.gov>; Trace Maiorino <Trace.Maiorino@doj.ca.gov>; Damon McClain <Damon.McClain@doj.ca.gov>; Anthony Tartaglio <Anthony.Tartaglio@doj.ca.gov>; Tamiya.Davis@cdcr.ca.gov; Patricia.Ferguson@cdcr.ca.gov; Gannon.Johnson@cdcr.ca.gov; Alicia Bower <Alicia.Bower@doj.ca.gov>  
**Subject:** Re: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Michael,

We agree with your revisions but propose changing the date of filing of our supplemental brief to December 4. If you agree, I can file the stipulation and sign on your behalf.

Thank you,  
Namrata

---

**From:** Michael Freedman <MFreedman@rbgg.com>  
**Sent:** Wednesday, November 18, 2020 12:53:36 PM  
**To:** Namrata Kotwani; Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower  
**Subject:** RE: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

Attached are Plaintiffs' proposed revisions. We've avoided reference to Mr. [REDACTED]'s name so that the stipulation need not be filed under seal. Furthermore, we've moved Plaintiffs' deadline for filing our response to Defendants' supplemental brief from December 5 to December 7. When I previously proposed dates, I did not realize that December 5 was a Saturday.

Best,

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

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---

**From:** Namrata Kotwani <[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>  
**Sent:** Tuesday, November 17, 2020 3:48 PM  
**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>  
**Subject:** RE: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Michael,

Please find attached a draft stipulation for your review and signature.

Thank you,  
Namrata

---

**From:** Namrata Kotwani  
**Sent:** Monday, November 16, 2020 3:34 PM  
**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>  
**Subject:** Re: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Michael,

I will send you a draft stipulation reflecting our agreement tomorrow morning.

Thank you,  
Namrata

---

**From:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Sent:** Monday, November 16, 2020 2:55:21 PM  
**To:** Namrata Kotwani; Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower  
**Subject:** RE: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

Plaintiffs will agree to provide Defendants with a two-page supplemental brief about Mr. [REDACTED]'s declaration and deposition, so long as Defendants provide Plaintiffs with a two-page response. Please prepare a stipulation to that effect for our review.

Best,

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

(415) 433-7104 (fax)  
[mfreedman@rbgg.com](mailto:mfreedman@rbgg.com)

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**From:** Namrata Kotwani <[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>  
**Sent:** Monday, November 16, 2020 2:23 PM  
**To:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>  
**Subject:** Re: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Michael,

Thank you for your response. We appreciate the opportunity to depose Mr. [REDACTED] on November 30, and would like to file a 2-page supplemental brief subsequently, if warranted.

I would like to clarify that we dispute that the deposition testimony and the declarations supporting Plaintiffs' motion are consistent. Moreover, we did propose a schedule whereby Mr. [REDACTED] could be deposed on November 11 with a telephonic prep session with Ms. Janssen on the preceding weekend, but your colleagues insisted on an in-person preparation session with at least two negative COVID-19 tests. The tests were provided to Mr. [REDACTED] and we reached out to you with the November 30 date (with November 24 and 25 as alternatives) based on Mr. [REDACTED]'s second negative test and scheduling constraints at the institution. It is, therefore, inaccurate to state that the deposition could have been conducted from November 12-16, as you stated in your email below.

Thank you,  
Namrata

---

**From:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>  
**Sent:** Monday, November 16, 2020 12:26 PM  
**To:** Namrata Kotwani; Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower  
**Subject:** RE: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

Plaintiffs regret that we are unable to agree to extend Defendants' November 17 briefing deadline or move the December 8 hearing. These dates were set long ago by the Court. Depositions were supposed to be completed no later than November 3. Plaintiffs are seeking relief from ongoing irreparable harm.

Defendants have already completed four of the only five depositions they chose to pursue. The testimony to date has been entirely consistent with the declarations submitted by the deponents. The fact that Defendants have not been able to take Mr. [REDACTED]'s deposition does not provide a reason for delaying the hearing on the Statewide Motion by three weeks.

Moreover, notwithstanding Mr. [REDACTED]'s COVID-19 quarantine, Defendants have not made reasonable efforts to conduct Mr. [REDACTED]'s deposition in advance the deadline for Defendants' brief. It is our understanding that, if Mr. [REDACTED]'s second COVID-19 test came back negative, it would have been possible to conduct his deposition on November 12, 13, 14, 15, or 16. Defendants did nothing to attempt to make any of those dates work. Instead, Defendants have not even informed Plaintiffs of the results of his second test.

Nevertheless, Plaintiffs are willing to permit Defendants to take Mr. [REDACTED]'s deposition on November 30. Plaintiffs are also willing to stipulate that, by no later than December 3, Defendants can file a one-page supplemental brief addressing Mr. [REDACTED]'s testimony. Plaintiffs would then file a one-page response by no later than December 5.

To be clear, however, Plaintiffs are not willing to extend Defendants' November 17 deadline for filing their sur-reply in opposition to the Statewide Motion, nor are Plaintiffs willing to move the December 8 hearing date.

Best,

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

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**From:** Namrata Kotwani <[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>  
**Sent:** Monday, November 16, 2020 11:42 AM  
**To:** Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>; Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov); Alicia Bower <[Alicia.Bower@doj.ca.gov](mailto:Alicia.Bower@doj.ca.gov)>  
**Subject:** Re: Armstrong-- [REDACTED] deposition [IWOV-DMS.FID3579]

Good morning Kara,



I am following-up on our proposed deposition and briefing schedule. Please let us know if you agree as our sur-reply must be filed tomorrow.

Thanks,  
Namrata

---

**From:** Namrata Kotwani  
**Sent:** Friday, November 13, 2020 2:58 PM  
**To:** Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Michael Freedman; Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio;  
[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov)  
**Subject:** Re: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Kara:

The institution would be able to schedule a deposition for [REDACTED] on November 30, scheduling the pre-meeting call and in-person prep session over the weekend. They could make it work on November 24 or 25, but strongly prefer November 30, given their space and scheduling constraints.

Please let us know if November 30 could work for you.

Accordingly, we propose extending the briefing deadlines by 21 days and filing a stipulation to reflect that.

Thank you,  
Namrata

---

**From:** Namrata Kotwani  
**Sent:** Monday, November 9, 2020 2:09:34 PM  
**To:** Kara Janssen; Ed Swanson; Gay C. Grunfeld  
**Cc:** Michael Freedman; Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio;  
[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov)  
**Subject:** Re: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Good afternoon Kara,

I am advised that Mr. [REDACTED] tested negative on the first COVID-19 test administered to him last week. He was also tested today. We will confer once we have the results of the second test.

Thank you,  
Namrata

---

**From:** Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>  
**Sent:** Monday, November 9, 2020 1:40:54 PM  
**To:** Namrata Kotwani; Ed Swanson; Gay C. Grunfeld

**Cc:** Michael Freedman; Joanna Hood; Trace Maiorino; Damon McClain; Anthony Tartaglio;  
[Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov)  
**Subject:** RE: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

As a follow-up to my email below, we are confirming that no deposition date is currently set for Mr. [REDACTED] while we are waiting on his test results and updates on his status. Once we have that information we are happy to discuss scheduling of the deposition as well as how we can access Mr. [REDACTED] for preparation. Please feel free to call me at [REDACTED] if you would like to discuss further.

Best,

Kara

---

**From:** Kara Janssen  
**Sent:** Monday, November 9, 2020 8:58 AM  
**To:** Namrata Kotwani <[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>; Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov)  
**Subject:** RE: Armstrong--[REDACTED] deposition [IWOV-DMS.FID3579]

Namrata,

Please let us know the outcome of Mr. [REDACTED]'s initial test, provided on 11/3 as referenced below. Please also confirm whether he is being tested again today. Please also confirm your current proposal for taking his deposition, assuming his initial test was not positive.

Best,

Kara

---

**From:** Namrata Kotwani <[Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov)>  
**Sent:** Tuesday, November 3, 2020 4:45 PM  
**To:** Ed Swanson <[ed@smllp.law](mailto:ed@smllp.law)>; Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>; Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Cc:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; Joanna Hood <[Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov)>; Trace Maiorino <[Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov)>; Damon McClain <[Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)>; Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>; [Tamiya.Davis@cdcr.ca.gov](mailto:Tamiya.Davis@cdcr.ca.gov); [Patricia.Ferguson@cdcr.ca.gov](mailto:Patricia.Ferguson@cdcr.ca.gov); [Gannon.Johnson@cdcr.ca.gov](mailto:Gannon.Johnson@cdcr.ca.gov)  
**Subject:** Re: Armstrong--[REDACTED] deposition

Kara, Gay:

I am advised that Mr. [REDACTED] was tested this morning. Results will be back in 2-5 days and he will be tested again on 11/09 or 11/10; those results should be back by 11/12-11/13.

Thank you,  
Namrata

---

**From:** Namrata Kotwani  
**Sent:** Tuesday, November 3, 2020 11:28 AM  
**To:** Ed Swanson; Kara Janssen; Anthony Tartaglio  
**Cc:** Michael Freedman; Joanna Hood; Trace Maiorino; Damon McClain; Gay C. Grunfeld  
**Subject:** Re: Armstrong-[REDACTED] deposition

Good morning Gay, Kara:

Mr. [REDACTED] was exposed to a person who had contact with a staff member who tested positive for COVID-19. Mr. [REDACTED] has not yet been tested and the person to whom he was exposed refused testing. He will be tested today, provided he consents to being tested. Assuming he consents, obtaining test results will take 3-5 days. The next test would be scheduled on or around November 9. Accordingly, the earliest date Mr. [REDACTED] would be released from quarantine would be November 12. If Mr. [REDACTED] does not consent to being tested, another timeline would apply.

A confidential phone line is not available in quarantine, but staff can bring him to such a line on a weekend or public holiday because the area will be unoccupied on those days and will not have to be evacuated. The deposition date offered was for 11/11 because it is a holiday and Mr. [REDACTED] could be accommodated in the deposition space without requiring all others to be moved out of the general vicinity. Similarly, the preparation in person could be scheduled for the weekend for that reason. However, by that time, as discussed above, Mr. [REDACTED] will not have obtained two negative tests.

I will inform you about any status updates I receive today.

Thank you,  
Namrata

---

**From:** Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Sent:** Sunday, November 1, 2020 3:52 PM  
**To:** Kara Janssen; Anthony Tartaglio  
**Cc:** Michael Freedman; Joanna Hood; Trace Maiorino; Namrata Kotwani; Damon McClain; Gay C. Grunfeld  
**Subject:** RE: Armstrong-[REDACTED] deposition

All –

If you would like me to join this call, I'm available between noon and 12:30 pm on Monday.

Thanks,

Ed

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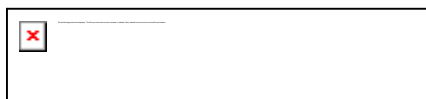
**From:** Kara Janssen <[KJanssen@rbgg.com](mailto:KJanssen@rbgg.com)>  
**Sent:** Friday, October 30, 2020 4:29 PM  
**To:** [Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov); Ed Swanson <[ed@smlp.law](mailto:ed@smlp.law)>  
**Cc:** Michael Freedman <[MFreedman@rbgg.com](mailto:MFreedman@rbgg.com)>; [Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov); [Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov); [Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov); [Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov); Gay C. Grunfeld <[GGrunfeld@rbgg.com](mailto:GGrunfeld@rbgg.com)>  
**Subject:** RE: Armstrong-█ deposition

Mr. Tartaglio,

I think that makes sense. I am copying Gay Grunfeld on this as she may join as well. We are available between 11 and 2 on Monday. If we do not have information by then we can also make Tuesday work.

Best,

Kara Janssen  
Senior Counsel



101 Mission Street, Sixth Floor  
San Francisco, CA 94105  
(415) 433-6830 (telephone)  
(415) 433-7104 (fax)  
[kjanssen@rbgg.com](mailto:kjanssen@rbgg.com)

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**From:** Anthony Tartaglio <[Anthony.Tartaglio@doj.ca.gov](mailto:Anthony.Tartaglio@doj.ca.gov)>  
**Sent:** Friday, October 30, 2020 12:54 PM  
**To:** [KJanssen@rbgg.com](mailto:KJanssen@rbgg.com); [ed@smlp.law](mailto:ed@smlp.law)  
**Cc:** [MFreedman@rbgg.com](mailto:MFreedman@rbgg.com); [Joanna.Hood@doj.ca.gov](mailto:Joanna.Hood@doj.ca.gov); [Trace.Maiorino@doj.ca.gov](mailto:Trace.Maiorino@doj.ca.gov); [Namrata.Kotwani@doj.ca.gov](mailto:Namrata.Kotwani@doj.ca.gov); [Damon.McClain@doj.ca.gov](mailto:Damon.McClain@doj.ca.gov)  
**Subject:** Armstrong-█ deposition

Dear Ms. Janssen and Mr. Swanson,

This morning I was informed that Inmate █—who was scheduled to be deposed on Monday—has been potentially exposed to COVID-19 and has been put on quarantine. At this point, he is not approved for the in-person prep session, pre-deposition confidential attorney call, or the deposition, and I do not have a clear idea of when we might expect him to come off quarantine. I will ask prison staff on Monday for an update on his

condition. I suggest that we try to set up a meet and confer call on Monday or Tuesday once I have more information to report. Please let me know if you think that would be helpful.

Tony



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# **Exhibit 17**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

- - -

JOHN ARMSTRONG, et al., )  
 ) Case No.:  
Plaintiffs, ) C 94-2307 CW  
 )  
vs. )  
 )  
GAVIN NEWSOM, et al., )  
 )  
Defendants. )  
-----)

**CERTIFIED COPY**

ZOOM DEPOSITION OF  
[REDACTED]  
SAN DIEGO, CALIFORNIA  
OCTOBER 28, 2020

ATKINSON-BAKER, INC.  
(800) 288-3376  
www.depo.com  
REPORTED BY: LINDA L. HUDDLESTON, CSR NO. 11160  
FILE NO: AE07536

[REDACTED]

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

- - -

JOHN ARMSTRONG, et al.,	)	
	)	Case No.:
Plaintiffs,	)	C 94-2307 CW
	)	
vs.	)	
	)	
GAVIN NEWSOM, et al.,	)	
	)	
Defendants.	)	
-----	)	

Deposition of [REDACTED], taken on behalf of Defendants, at San Diego, California, commencing at 9:11 a.m., Wednesday, October 28, 2020, before Linda L. Huddleston, CSR No. 11160.

[REDACTED]



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A P P E A R A N C E S

FOR PLAINTIFFS:

ROSEN, BIEN, GALVAN & GRUNFELD, LLP  
BY: CAROLINE E. JACKSON, ESQ.  
and  
MICHAEL FREEDMAN, ESQ.  
(APPEARANCE VIA ZOOM)  
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San Francisco, California 94105  
(415) 433-6830  
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mfreedman@rbgg.com

FOR DEFENDANTS:

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BY: ALICIA A. BOWER, ESQ.  
DEPUTY ATTORNEY GENERAL  
(APPEARANCE VIA ZOOM)  
1515 Clay Street  
Suite 2000  
Oakland, California 94612  
(510) 879-1982  
Alicia.Bower@doj.ca.gov

ALSO PRESENT VIA ZOOM:

NAMRATA KOTWANI  
GANNON ELIZABETH JOHNSON  
TRACE MAIORINO  
TAMYA DAVIS



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I N D E X

WITNESS: [REDACTED]

EXAMINATION PAGE

By: MS. BOWER 5

EXHIBITS:

NUMBER	DEFENDANTS' DESCRIPTION	PAGE
1	Notice of deposition	13
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3	Mental Health Documentation	70
4	Medical records Bates-stamped [REDACTED] through [REDACTED]	79
5	Medical records Bates-stamped [REDACTED]	82
6	Mental Health Forms Bates-stamped [REDACTED]	86
7	Rules Violation Report Bates-Stamped [REDACTED]	90
8	Computer Voice Stress Analyzer test results, Bates-stamped [REDACTED]	96
9	Rules Violation Report Bates-stamped [REDACTED]	100
10	Rules Violation Report Bates-stamped [REDACTED]	102
11	Crime/Incident Report Bates-stamped [REDACTED]	103
12	Inmate/Parolee Appeal and First Level Response, Appeal Log #20-00201 Bates-stamped [REDACTED]	104
13	Office/Clinic Notes, Bates-stamped [REDACTED]	113

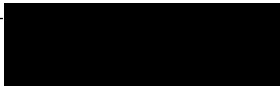
[REDACTED]

1	EXHIBITS:		
2	NUMBER	DEFENDANTS' DESCRIPTION	PAGE
3	14 - Rules Violation Report, Bates-stamped	[REDACTED]	118
4	15 - Rules Violation Report, Bates-stamped	[REDACTED]	120
5		Log #000000007019021	
6	16 - Rules Violation Report, Bates-stamped	[REDACTED]	122
7	17 - Rules Violation Report, Bates-stamped	[REDACTED]	126
8		Log FD-11-02-0002	
9	18 - Rules Violation Report, Bates-stamped	[REDACTED]	128
10	19 - Rules Violation Report, Bates-stamped	[REDACTED]	130
11	20 - Medical Record, Bates-stamped	[REDACTED]	130
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13			
14			

15 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

17	PAGE	LINE
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19	29	21
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I N D E X - (Continued)

WITNESS REFUSED TO ANSWER UNDER THE Fifth Amendment:

PAGE	LINE
34	3
51	9

INFORMATION TO BE SUPPLIED:

(NONE)



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[REDACTED]

having first been duly sworn, was  
examined and testified as follows:

EXAMINATION

BY MS. BOWER:

Q. Good morning again, Mr. [REDACTED]. My name is  
Alicia Bower. I'm the deputy attorney general with the  
California Attorney General's Office, and I represent  
Defendants in the Armstrong vs. Newsome case.

Can you state again and spell your full name,  
please.

A. Yes. My name is [REDACTED],

[REDACTED]

Q. And what is your CDCR number?

A. [REDACTED] as in [REDACTED] " [REDACTED] .

Q. Do you have any other CDCR numbers?

A. No, I don't.

Q. And are you known by any other names?

A. No, I'm not.

Q. How about nicknames?

A. Can you be more -- as in what manner?

Q. Maybe a nickname that your friends use or  
something that you've been identified as having as a  
nickname while in prison?

[REDACTED]

1 A. Oh, yeah. Yeah. Yes, yes. [REDACTED]

2 Q. [REDACTED]

3 A. Yes.

4 Q. Anything else?

5 A. No, that is it.

6 Q. Okay.

7 MS. JACKSON: Ms. Bower, before we go any further,  
8 I just want to quickly state on the record there might  
9 be some discussion during today about other individuals  
10 who might be witnesses, or just the names and  
11 identifying information of other CDCR prisoners, and I  
12 just want to say that Plaintiffs' position is that we  
13 will abide by the Court's protective order in terms of  
14 keeping those names confidential. But I'm not going to  
15 object during the deposition. I'll let you take it,  
16 and then we can sort it out on the back end.

17 MS. BOWER: Perfect. That sounds great. Thank  
18 you.

19 Q. Mr. [REDACTED], I want to start by explaining a  
20 few guidelines that will help the deposition run  
21 smoothly today.

22 So the first item that I have here relates to  
23 a verbal answer. So I will be asking you a series of  
24 questions today. My questions and your responses will  
25 be recorded by the court reporter. It is important

1 that we speak loudly, slowly and clearly so that the  
2 court reporter can accurately transcribe everything  
3 that we say. So you might notice that sometimes I take  
4 pauses or I talk what seems really slow. It's to help  
5 out the court reporter.

6 For example, I ask that you avoid responding  
7 with a nod or shake of your head. Sometimes deponents  
8 will do that. It's also important that you say "Yes"  
9 or "No" clearly.

10 Do you understand.

11 A. Yes.

12 Q. Okay. Also, the court reporter can only take  
13 down one person at a time, so it's important that we do  
14 not speak over one another. I ask that you wait until  
15 I finish my question completely before you start your  
16 answer, even if you think you're anticipating what my  
17 question might be. And on my end, I will try to wait  
18 until you finish your response completely before you  
19 ask my next question.

20 Do you understand?

21 A. Yes --

22 Q. Perfect. Thank you.

23 The next piece I have here is about  
24 comprehension. It's important that you fully  
25 understand each question that I ask so that your answer

1 is responsive to the question. If you don't understand  
2 a question, please ask me for clarification or to  
3 rephrase it. If you don't ask for clarification and  
4 instead answer the question, I'll assume you understood  
5 the question.

6 Is that fair?

7 A. Yes.

8 Q. Great.

9 This next piece I have is about the oath that  
10 you were just placed under. I would like to remind you  
11 that before we started today, you were placed under  
12 oath, just as in court. The same laws governing  
13 perjury apply to this deposition.

14 Do you understand?

15 A. Yes.

16 Q. All right. This next item is about estimating  
17 versus guessing. So if you don't know an answer  
18 precisely, I'm entitled to your best estimate. I don't  
19 want you to guess, however.

20 So, for example, you can estimate the length  
21 of the table that you're sitting at because you've seen  
22 it, but if I ask you about the length of the table in  
23 my office, that would be a guess because you haven't  
24 seen that table.

25 Do you understand?



1 A. Yes.

2 Q. Okay. This next piece is about objections.  
3 So Ms. Jackson, she might make objections from time to  
4 time after I ask the question. That is perfectly  
5 normal and very typical during a deposition. I will  
6 allow her to make her objection for the record so that  
7 it's clear, and then unless she specifically instructs  
8 you not to answer, you can go ahead and give your  
9 answer.

10 Do you understand?

11 A. Yes.

12 Q. Okay. And this final piece is about any  
13 health concerns.

14 Is there anything about your health today  
15 physically, mentally, emotionally that would in any way  
16 prevent you from giving accurate and honest testimony?

17 A. None.

18 Q. Great.

19 Are you taking any medications that would  
20 prevent you from providing accurate and honest  
21 testimony today?

22 A. No.

23 Q. Great. Thank you.

24 Do you require any special assistive devices?

25 A. No.

1 Q. Great. Thank you.

2 If you need to take a break at any time, let  
3 me know and we can do that, as long as it's not between  
4 a question and an answer. I plan to take breaks  
5 periodically but if you need to take a break, feel free  
6 to let me know.

7 A. (Witness moves head up and down.)

8 Q. Did you receive notice that your deposition  
9 would take place today; correct?

10 A. Yes, I did.

11 Q. Okay.

12 And I want to start by mentioning that this is  
13 a little bit different, these remote depositions, and  
14 so to try to make this as easy as possible, I provided  
15 some paper copies of documents that we might be looking  
16 at today.

17 Can you verify that you have those packets in  
18 front of you?

19 A. Yes, I do. I got -- I laid them out  
20 specifically as envelopes. I got them right here  
21 (indicating).

22 Q. Okay.

23 A. I got three different envelopes.

24 Q. Perfect.

25 And I went ahead and put Bates labels, what

1 they're called, on the bottom. Those are sort of like  
2 page numbers. That way, I can refer to a particular  
3 page.

4 Do you see those on the bottom right corner?

5 A. Yes, I do.

6 Q. Okay. Perfect.

7 And I also will be adding the documents to the  
8 chat box for your counsel to see, so they'll be able to  
9 see it there and have that document. And then I'll  
10 also be sharing maybe from time to time the document on  
11 the screen so that we can both see what we're talking  
12 about, if we need to.

13 If I mention a document, take all the time you  
14 need to locate it and review it; okay?

15 A. Okay.

16 Q. So the first document I'm going to direct you  
17 to is -- should be in that first really small stack,  
18 and it's the deposition notice. The page numbers for  
19 that starts at 001.

20 Do you see that document?

21 A. Yes, I do.

22 (Defendants' Exhibit 1 was marked for  
23 identification.)

24 Q. BY MS. BOWER: Okay. Have you have you seen  
25 that document before?

1 A. No, I have not.

2 Q. Okay.

3 And that's your deposition notice for your  
4 deposition today; correct?

5 A. Okay.

6 Q. Did you receive notice of your deposition  
7 today?

8 A. Yes.

9 Q. Okay. And you met with your counsel prior to  
10 your deposition today; correct?

11 A. Correct.

12 Q. For both an in-person and telephone meeting;  
13 is that right?

14 A. Yes.

15 Q. And you're prepared to go forward with your  
16 deposition today?

17 A. Yes, I am.

18 Q. Great. Thank you.

19 You can put that document aside.

20 A. (Witness complies.)

21 All right.

22 Q. Mr. [REDACTED], I want to start by asking you  
23 some questions about your testifying history. Have you  
24 ever had your deposition taken before?

25 A. No, I haven't.

1 Q. Okay.

2 Have you testified in court?

3 A. No, I haven't.

4 Q. Okay.

5 Criminal court, civil court, nothing?

6 A. Nothing.

7 Q. Okay. So is this the first time you've been  
8 placed under oath?

9 A. Yes.

10 Q. Okay.

11 Did you prepare for your deposition today?

12 A. No.

13 Q. Did you meet with your attorneys about your  
14 deposition?

15 A. Yes.

16 Q. Did you prepare for your deposition with them  
17 during that meeting?

18 A. Yes.

19 Q. How long was that meeting?

20 A. I'd say a couple hours.

21 Q. Two hours maybe or three?

22 A. Yeah, yeah. Yeah, around there. I'd say  
23 three hours.

24 Q. Okay.

25 Any other meetings with your attorney about

1 your deposition?

2 A. As to the ones prior to this case? None.

3 Q. And by "this case," you mean the deposition  
4 we're taking today; right?

5 A. Yes. In general, yes. In this case, period.

6 Q. Understood. Thank you.

7 Did you talk to anybody else about your  
8 deposition today, maybe an inmate, another inmate?

9 A. No.

10 Q. Okay.

11 What documents did you review during your  
12 meeting with your attorneys about this deposition?

13 A. My declaration.

14 Q. Did you review any other documents?

15 A. No. That would be it.

16 MS. JACKSON: I'm going to object. This is a  
17 slippery slope in terms of the content of the  
18 communication between Mr. [REDACTED] and myself.

19 MS. BOWER: And we're entitled to ask him which  
20 documents he reviewed in preparation for his  
21 deposition. You agree?

22 MS. JACKSON: I -- no, I -- you can ask him if he  
23 prepared, but in terms of the specific documents that  
24 we reviewed during that preparation session, that's  
25 privileged and protected.

1 MS. BOWER: That's fine. I can move on.

2 Q. Did you -- so you didn't talk to anybody else  
3 about your deposition, Mr. [REDACTED]?

4 A. No.

5 Q. Did you take any notes?

6 A. No.

7 Q. So you did not take any notes while you were  
8 meeting with your attorneys about your deposition;  
9 correct?

10 MS. JACKSON: Ms. Bower, again, I'm going to object  
11 to any questions that go into what happened between  
12 Mr. [REDACTED] and myself during that preparation  
13 session. It was a privileged interaction.

14 MS. BOWER: So we're entitled to ask him if he took  
15 notes. Are you instructing him not to answer that  
16 question?

17 MS. JACKSON: Yes. I'm instructing him not to  
18 answer any questions that have to do with what happened  
19 during our confidential preparation session.

20 MS. BOWER: Understood.

21 Q. Mr. Jackson -- I'm sorry. Mr. [REDACTED], has  
22 anyone assisted you with this case, aside from your  
23 attorneys?

24 A. I don't understand the question.

25 Q. Sure. So we're here with respect to the  
[REDACTED]

1 Armstrong vs. Newsome class action.

2 You understand that; correct?

3 A. Yes.

4 Q. Have you talked to anybody aside from your  
5 attorneys about this case?

6 A. No.

7 Q. Okay.

8 Have you filed any other -- have you filed any  
9 lawsuits?

10 A. No.

11 Q. So you've never filed a civil lawsuit about  
12 being in prison?

13 MS. JACKSON: Objection; vague.

14 THE WITNESS: No.

15 Q. BY MS. BOWER: And that was a "No," right,  
16 Mr. [REDACTED]?

17 A. Correct. You're saying in civil court; right?

18 Q. Correct. Correct.

19 A. No, I have not.

20 Q. Okay.

21 I want to ask you now about some -- oh,  
22 actually let me ask you this: So you've never filed a  
23 lawsuit related to the incidents identified in your  
24 declaration that you submitted in connection with this  
25 case; correct?



1 A. Correct.

2 Q. Okay.

3 I want to ask you some general background  
4 questions now. Where were you born?

5 A. Bellflower, California.

6 Q. Where was that?

7 A. Bellflower -- excuse me, Bellflower,  
8 California.

9 Q. Is that Southern California?

10 A. Southern California.

11 Q. Okay.

12 And did you go to school there?

13 A. Yes. Southern California, yes.

14 Q. And high school, did you graduate from high  
15 school?

16 A. I've got a GED. I never went to a day of  
17 high school in my life.

18 Q. Okay. And where did you get the GED from?

19 A. CDC.

20 Q. Okay.

21 And what about college, any college classes?

22 A. None.

23 Q. And what's your commitment offense?

24 A. Possession of a control substance.

25 Q. And when was that?

1 A. 2016.

2 Q. And --

3 MS. JACKSON: Can you clarify when you say "When  
4 was that," what do you mean?

5 And that's an objection, Ms. Bower, yes.

6 MS. BOWER: What's the objection?

7 MS. JACKSON: The objection is vague to the  
8 question "When was that?"

9 MS. BOWER: Sure. Let me rephrase.

10 Q. So your commitment offense was possession of a  
11 controlled substance. Do I have that right,  
12 Mr. [REDACTED]?

13 A. Yes.

14 Q. And when were you -- when did you commit that  
15 offense?

16 A. I estimate around 2015, some -- about the  
17 middle of 2015.

18 Q. When were you first incarcerated with CDCR?

19 A. 2001.

20 Q. And what was the offense that led to your  
21 incarceration?

22 A. Possession of a dangerous weapon.

23 Q. And what was that weapon?

24 A. A knife.

25 Q. And how long were you in custody for that

1 offense?

2 A. I'd say about 16 to 18 months.

3 Q. And then I'm assuming you were incarcerated  
4 again after that; is that right?

5 A. Yes.

6 Q. Okay. And what was the date of that  
7 incarceration?

8 A. I couldn't be accurate. It's been -- it's  
9 been a lot, over and over, so I couldn't give you an  
10 accurate time -- timeline or time frame as to when,  
11 'cause I've been in and out of prison since 2001. So I  
12 couldn't give you an accurate timeline as far as that,  
13 as far as my recollection -- recollection, my memory is  
14 concerned.

15 Q. Understood.

16 Can you give an estimate of how many times  
17 you've been arrested?

18 A. In CDCR or just jail period?

19 Q. Let's start with CDCR.

20 A. I'd say a -- about a good eight, nine times.

21 Q. And what about generally?

22 A. About 15.

23 Q. And what were the crimes for those arrests?  
24 Is there one sort of category or are they varied?

25 A. They're varied.

1 Q. And does that include drug possession?

2 A. That includes drug possession.

3 Q. And what else?

4 A. Weapons possession, stolen vehicle possession,  
5 drug possession.

6 Q. Were any of those felonies?

7 A. It would all be felonies.

8 Q. They were all felonies. How many felonies?

9 A. A lot of felonies.

10 Q. A lot of felonies. Okay.

11 And what is your current classification level?

12 Are you a Level IV classification?

13 A. Yes.

14 Q. What does that mean to you, a Level IV  
15 classification?

16 A. It means my security level is -- is high risk.

17 Q. High risk to whom?

18 A. I guess the custody. I guess my custody is  
19 just high risk, as far as I understand it. But if you  
20 know more, please enlighten me.

21 Q. Is there a Level -- is there a Level V  
22 classification?

23 A. There is a 180.

24 Q. So is it Level IV is sort of the highest in  
25 terms of I, II, III, IV? And then you're saying

1 there's a classification called a 180 classification?

2 A. A Level IV/180. Yes. Yes, there is.

3 Q. So you're high risk in terms of -- I'm sorry,  
4 can you explain high risk again? When you use the term  
5 "high risk," what do you mean by that?

6 A. I don't know. I think there's just one  
7 explanation for high risk, that's just high risk. I  
8 mean, that means max custody.

9 Q. High risk for violence?

10 A. It means there's not -- there's nonviolent  
11 individuals in Level IV, so I wouldn't characterize it  
12 as that.

13 Q. Okay. Do you know why you're classified as a  
14 Level IV?

15 A. No, I don't.

16 Q. Okay.

17 Mr. [REDACTED], are you married?

18 A. Yes.

19 Q. And what is your wife's name?

20 A. [REDACTED] (phonetic).

21 MS. JACKSON: And just for the record, our  
22 objection, the privacy objection, is going to apply to  
23 any names of non-CDCR employees that come up in these  
24 depositions. So that would include any families  
25 members that he might name.

1 MS. BOWER: Do you want to make that objection now  
2 or you're mentioning your --

3 MS. JACKSON: We're preserving it for the record.  
4 So you may ask. Mr. [REDACTED], you may answer. But in  
5 terms of these names ever becoming public, that's our  
6 objection.

7 MS. BOWER: So I don't know if I agree with you  
8 about his wife, but we can talk about that later.

9 MS. JACKSON: Okay.

10 MS. BOWER: Okay.

11 Q. And how long have you been married,  
12 Mr. [REDACTED]?

13 A. About 13 years.

14 Q. And are you still in contact with her?

15 A. Yes.

16 Q. How often?

17 A. Every day.

18 Q. By telephone?

19 A. Yes.

20 Q. Are you allowed to make phone calls out every  
21 day?

22 A. Yes.

23 Q. And have you been married before,

24 Ms. [REDACTED]?

25 A. No.

1 Q. And do you have any children with,  
2 Ms. [REDACTED]?

3 A. No.

4 Q. Okay. Do you have any children?

5 A. Yes.

6 Q. How many children do you have?

7 A. I have three.

8 Q. And what are their names?

9 A. What are their names?

10 Q. Actually, you know what, let me -- let me  
11 start with how old are they?

12 A. 25, 23 and 21.

13 Q. So no minor children; correct?

14 A. None.

15 Q. And what are their names, your children?

16 A. [REDACTED].

17 Q. And do they all have [REDACTED] as a last  
18 name?

19 A. Yes, they do.

20 Q. And where are they located? Are they in  
21 Southern California?

22 A. Yes.

23 Q. And do you have contact with them?

24 A. Yes.

25 Q. How about [REDACTED], do you have contact with

1 him fairly regularly?

2 A. Yes, I do. I have contact with him regularly,  
3 if I -- you know, he works a lot.

4 Q. When was the last time you had contact with  
5 your son [REDACTED]?

6 A. Probably in Atascadero, so I would say in  
7 March.

8 Q. March of this year?

9 A. Yes.

10 Q. And was that by phone or in-person visit?

11 A. That was by phone. That was by phone.

12 Q. And your -- the second daughter you mentioned,  
13 that I believe is 23, what's the spelling on her name?

14 A. [REDACTED].

15 Q. And do you have regular contact with her?

16 A. Yes.

17 Q. And when was your last contact with her?

18 A. The day before yesterday.

19 Q. And how was that contact? What was the method  
20 for that contact?

21 A. Telephone.

22 Q. Did you talk to her about your deposition  
23 today?

24 A. No.

25 Q. And the last daughter you mentioned, what's



1 the spelling on that name?

2 A. [REDACTED].

3 Q. And are you in regular contact with her?

4 A. Yes.

5 Q. And when was your last contact with her?

6 A. The 21st, I would believe. I would guess  
7 around the 21st of October.

8 Q. Of the -- October 21st.

9 And what was the method of contact?

10 A. Telephone.

11 Q. My next question is a little bit difficult,  
12 Mr. [REDACTED]. Do you have a daughter who was involved  
13 in a car accident?

14 A. Yes, I did.

15 Q. And who was that?

16 A. Can you explain as to "who"?

17 Q. Who was your daughter who was involved in a  
18 car accident?

19 A. [REDACTED].

20 Q. How do you spell that?

21 A. [REDACTED]

22 Q. And what was her last name?

23 A. [REDACTED].

24 Q. And who is her mother? Are you in contact  
25 with her?

[REDACTED]

1 A. Not no more.

2 Q. When was your last contact with [REDACTED]?

3 A. January 3rd.

4 Q. January 3rd of what year?

5 A. Of this year.

6 Q. So you had contact with your daughter [REDACTED]  
7 on January 3rd, 2020?

8 A. Yes.

9 Q. And what was the method of contact?

10 A. Tablet.

11 Q. What do you mean by "tablet"?

12 A. By tablet, JPay tablet.

13 Q. And what was the nature of that communication?

14 A. I don't understand what you mean.

15 Q. How old is [REDACTED]?

16 A. She's 12.

17 Q. And she was involved --

18 A. She's no longer with --

19 Q. -- in a car --

20 A. Yeah, she's no longer with us no more.

21 Q. And when did she pass away?

22 A. On the 7th of January.

23 Q. So she did not pass away on January 1st, 2020;  
24 correct?

25 A. That is correct.

[REDACTED]

1 Q. And how did you learn that she passed away?

2 A. Through tablet.

3 Q. Tablet with who?

4 A. I don't understand what you mean.

5 Q. Who informed you that [REDACTED] passed away on  
6 January 7th, 2020?

7 A. That would be my -- my ex in-laws.

8 Q. And who was that?

9 A. [REDACTED].

10 Q. And what's the last name?

11 A. [REDACTED].

12 Q. And was that [REDACTED]'s mother?

13 A. No, that would be my ex, my ex in-laws.

14 Q. [REDACTED]'s grandmother?

15 A. Yeah.

16 Q. And when did you -- you received a message  
17 from her via JPEG -- JPay?

18 A. Yes, I was -- I didn't have a tablet. I was  
19 using somebody else's tablet. I was on orientation, so  
20 that was...

21 Q. Whose tablet were you using?

22 MS. JACKSON: Objection; I'm going to -- I'm  
23 concerned that this will -- I'm concerned --

24 MS. BOWER: But it hasn't; right? Do you want to  
25 make your objection to the question?

1 MS. JACKSON: Yes. In terms of any -- any  
2 information -- I'm going to instruct Mr. [REDACTED] not  
3 to respond by asserting his right under the  
4 Fifth Amendment of the Constitution against  
5 self-incrimination.

6 MS. BOWER: Oh, I'm going to ask the court reporter  
7 to read back the last question, if she can.

8 Ms. Huddleston, do you mind?

9 (Record read.)

10 MS. BOWER: Ms. Jackson, can you make your  
11 objection? I'm not sure I understand it.

12 MS. JACKSON: Yes. The objection is that in terms  
13 of his Fifth Amendment right against  
14 self-incrimination, I'm concerned that it would get him  
15 into trouble in terms of the identity of any tablet  
16 that he might be using or the owner of the tablet that  
17 he might be using.

18 MS. BOWER: Is he under investigation for a crime  
19 related to his use of this tablet?

20 MS. JACKSON: Not to my knowledge.

21 MS. BOWER: So how is he asserting his  
22 Fifth Amendment right here? Is that a crime?

23 MS. JACKSON: No, but there could be a Rules  
24 Violation Report that could get him into trouble in  
25 that direction.

1 MS. BOWER: Sure. Let me ask a different question.

2 Q. Mr. [REDACTED], are you saying that your ex  
3 in-law, [REDACTED], sent a message to a different  
4 inmate on January 7th, 2020 about [REDACTED]'s accident?

5 A. Yes.

6 Q. And that message was sent on January 7th,  
7 2020; correct?

8 A. No.

9 Q. When was the message sent?

10 A. On the 3rd.

11 Q. And you received it on January 7th, 2020?

12 A. No.

13 Q. When did you receive it?

14 A. Around the 3rd.

15 Q. Did you see the actual message or the inmate  
16 told you about it?

17 A. I seen it myself.

18 Q. And so just to make sure I have this right,  
19 [REDACTED] did not pass away on January 1st, 2020, she  
20 passed away on January 3rd, 2020; is that right?

21 A. No.

22 Q. Okay. When did she pass away?

23 A. On the 7th.

24 Q. Okay. [REDACTED] passed away on January 7th,  
25 2020?

1 A. Yes.

2 Q. Was she involved in a car accident on  
3 January 3rd, 2020?

4 A. Exactly.

5 Q. Understood. Okay. Thank you.

6 And I appreciate your patience. I know this  
7 is a difficult subject, but it's identified in your  
8 declaration.

9 So she was involved in a car accident on  
10 January 3rd, 2020; correct?

11 A. Yes, correct.

12 Q. And the message was sent to a different inmate  
13 on their tablet on January 3rd, 2020; correct?

14 A. Correct.

15 Q. And you were informed about that information  
16 on January 3rd, 2020?

17 A. Correct.

18 Q. And earlier it sounded like you said that you  
19 found out on January 7th, 2020. Is that not right?

20 A. Of her passing, correct.

21 Q. When did you -- understood. Understood. I  
22 see. Okay.

23 So on January 3rd, 2020, you found out that  
24 she was in a car accident?

25 A. Correct.

1 Q. And then on January 7th, 2020, you found out  
2 that she passed away?

3 A. Correct.

4 Q. And were both of those messages communicated  
5 via a tablet through another inmate?

6 A. No.

7 Q. How was the January 7th, 2020 message  
8 conveyed? Was that through the tablet of another  
9 inmate?

10 A. It was through a phone call through a porter  
11 through -- or no, through a regular inmate.

12 Q. What do you mean a phone call through a  
13 regular inmate?

14 A. Okay. Well, I'm on orientation. I was  
15 currently on orientation in Building 1 in E yard in  
16 SATF, excuse me.

17 So if you're on orientation, you cannot leave  
18 your cell. So I had another inmate who was at day room  
19 make a phone call for me, and he relayed the  
20 information as to the passing of my daughter at  
21 that -- on January 7th. So that's how I got that  
22 information.

23 Q. Understood.

24 And what time -- what time was that at, on  
25 January 7th, 2020?

1           A. Around 9:00 -- I would guess around between  
2 9:30, 10:30 in the morning.

3           Q. I'm going to ask the question and your  
4 attorney can make the objection and instruct you not to  
5 answer, but who was the inmate who made that phone call  
6 for you?

7           MS. JACKSON: And so I'm going to object under the  
8 Fifth Amendment and instruct him not to respond,  
9 although I -- actually, I'm going to withdraw that  
10 objection, because I don't believe that it's a problem  
11 for another individual to place a phone call on his  
12 behalf.

13                   So Mr. [REDACTED], under your understanding of  
14 the consequences of giving this information, you may  
15 either assert your right against self-incrimination or  
16 you may answer Ms. Bower's question.

17           THE WITNESS: Yeah, I would do that.

18           MS. JACKSON: Can you state for the record, please,  
19 which you're going to do?

20           THE WITNESS: I would plead the Fifth.

21           MS. BOWER: Ms. Jackson, are you instructing your  
22 client not to answer that question.

23           MS. JACKSON: Mr. [REDACTED], is asserting his right  
24 under the Fifth Amendment not to answer that  
25 question.



1 Q. BY MS. BOWER: Okay. He's refusing to answer  
2 that. Okay.

3 So Mr. [REDACTED], did anything happen on  
4 January 1st, 2020?

5 A. A lot of things happened on January 1st, 2020.

6 Q. That's fair. That's fair.

7 Did anything happen on January 1st, 2020,  
8 related to your daughter [REDACTED]?

9 A. You know, I was supposed to get a visit that  
10 day, but it was pushed to the following week. So no,  
11 as far as, you know, as far as to that. There was bad  
12 weather, so they decided not to, you know, to come up  
13 earlier in the week, you know. And, you know, that's  
14 kind of where we were at right now, as to the situation  
15 where, you know, my guilt is there. But no, nothing as  
16 far as...

17 Q. Understood. Thank you.

18 I want to make sure I go back and clarify,  
19 because I think I might have heard you wrong. You  
20 didn't have contact with [REDACTED] on January 3rd, 2020;  
21 correct? When was the last time you had contact with  
22 [REDACTED]?

23 A. Christmas.

24 Q. Of 2019?

25 A. Yes.

1 Q. And what was that method of contact?

2 A. Telephone.

3 Q. How about an in-person visit?

4 MS. JACKSON: Objection; vague.

5 Q. BY MS. BOWER: Did you have any in-person  
6 visits with [REDACTED] in 2019?

7 A. In 2019?

8 Q. Correct.

9 A. You mean the whole -- from the whole 2019?

10 Q. Right.

11 A. No. Yeah, no.

12 Q. What about 2018?

13 A. Nope.

14 Q. 2017?

15 A. Nope.

16 Q. 2016?

17 A. Nope.

18 Q. Is there any record, that you know of, of her  
19 visiting you while you were in CDCR?

20 A. There's none.

21 Q. Did you inform anyone at the prison about your  
22 daughter passing?

23 A. Do you mean did I inform anybody?

24 Q. Let me be a little bit more specific. Did you  
25 inform any --

1 A. Staff?

2 Q. I'm sorry?

3 A. Like staff?

4 Q. Staff. Right.

5 A. I did, yes. I did.

6 Q. Who did -- which staff who did you inform?

7 A. I went to see the doctor that would be on  
8 that -- okay. So the 7th was on a Wednesday. I would  
9 say on the Friday -- no, maybe on -- I think maybe  
10 Saturday, not of the passing, just of the car accident.  
11 So I know the severity of it, so I was having anxiety  
12 pains. Anxiety, I was having a lot of anxiety.

13 So I went to CTC. I went -- CTC is like the  
14 infirmary, like the hospital inside the prison; right?  
15 So I was having a lot of anxiety, so they sent me to go  
16 have an EKG, as far as for my heart, for the anxiety.

17 And the doctor asked me as to what was  
18 causing -- if there was anything causing it, and I let  
19 him know, yeah, I -- you know, I've had family tragedy,  
20 you know, that -- you know, that car accident with my  
21 daughter and her mother. And so that right there, you  
22 know, he -- he knew that.

23 So he asked if I wanted to talk to a anybody  
24 at the time, and I just -- you know, so I did notify.  
25 I did notify the doctor as far as the infirmary, yeah.

1 Q. Understood.

2 Anyone else? Any other staff?

3 A. No.

4 Q. So just that doctor?

5 A. At that time, as for before, you know, yeah.

6 Q. Understood.

7 And was there a reason why you did not want to  
8 notify staff or -- did you not want to notify staff, I  
9 guess is the question, or...

10 A. Well, my -- I was -- I wasn't planning on my  
11 daughter passing away. As, you know, prior -- if  
12 you're asking prior to that, I mean...

13 Q. No, right. Obviously. No, right.  
14 Absolutely.

15 But after her passing, did you think to notify  
16 staff? Was that something that came to your mind?

17 A. Yeah, of course I did. I did try to notify  
18 staff. That would be Officer Bott.

19 Q. And when did you do that?

20 A. I would say in the afternoon, like  
21 around -- it would be around 1:00, 1:30. 1:30, you  
22 know.

23 Q. And we're going to talk about that in just a  
24 minute.

25 I want to ask you about your -- we talked

1 about this earlier, but I asked you today if you  
2 require any assistive devices. Have you -- and I just  
3 want to clarify that. Do you require any assistive  
4 devices for a disability?

5 A. No devices, no. None.

6 Q. And are you familiar with CDCR's Disability  
7 Placement Program?

8 A. Yes, I am.

9 Q. Okay.

10 What is your understanding of that program?

11 A. You mean DDP -- or DPP, you mean?

12 Q. Right. Exactly.

13 A. Which one would that be?

14 Q. Are you familiar with the Disability Placement  
15 Program?

16 Let me ask you this -- yeah, let me ask this  
17 way: Do you have a permanent physical disability?

18 A. I don't have a physical disability, no.

19 Q. Okay.

20 What about a permanent learning disability?

21 A. No, I don't have a learning disability.

22 Q. Your what is your TABE score, T-A-B-E score?

23 A. 12.9.

24 Q. Is that fairly high?

25 A. I think there's only 12 grades in school, I

1 think.

2 Q. And so you don't have any other type of  
3 permanent disability; correct?

4 A. As far as mental disability, mental health,  
5 you mean?

6 Q. What about physical learning, any sort of  
7 disability? Do you consider yourself to have any sort  
8 of permanent disability?

9 A. I don't have a learning disability.

10 MS. JACKSON: I'm going to object. This calls for  
11 an expert conclusion, so I'm going to ask that you  
12 rephrase in terms of Mr. [REDACTED]'s personal  
13 perception of himself.

14 MS. BOWER: Well, so he could talk about what he  
15 believes; right?

16 MS. JACKSON: Correct. But as for a -- whether his  
17 situation amounts to a disability under the ADA, that  
18 calls for a legal conclusion.

19 MS. BOWER: Right.

20 Q. So, Mr. [REDACTED], just to clarify, you do not  
21 believe that you have a permanent physical disability;  
22 correct?

23 A. I'm not an expert, so I don't know.

24 Q. Do you believe that you have a physical  
25 disability? You said no earlier; right?

1 A. I could have.

2 Q. What physical disability could you have?

3 A. I don't know that it is physical, so I  
4 couldn't answer that honestly.

5 Q. Do you require a wheelchair?

6 A. No, I do not.

7 Q. Do you require any sort of other device to  
8 help you walk around?

9 A. No, I do not.

10 Q. What about hearing? Are you deaf or severely  
11 hearing impaired?

12 A. I have selective hearing sometimes.

13 Q. Understood.

14 Do you use an assistive hearing device to  
15 achieve --

16 A. No, I do not.

17 Q. -- communication?

18 A. No, I do not.

19 Q. Perfect. Thank you.

20 Are you familiar with a person by the name of  
21 Katherine Johnson -- Katherine Johnson (phonetic)?

22 A. Yes, I am.

23 Q. Who is that?

24 A. She is the woman who took my declaration.

25 Q. And how many times have you spoken with her?

1 A. Several.

2 Q. More than five?

3 MS. JACKSON: Ms. Johnson, is -- she works with  
4 RBGG, and I'm very concerned about your probing into  
5 the frequency, nature, content of Mr. [REDACTED]'s  
6 communication with anyone from our office.

7 MS. BOWER: Are you making --

8 MS. JACKSON: I'm going to instruct --

9 MS. BOWER: -- an objection or...?

10 MS. JACKSON: -- you not so to respond to these  
11 questions -- well, you can respond as to the frequency,  
12 but nothing about the content or nature of those  
13 conversation.

14 MS. BOWER: So I haven't asked that; right? So  
15 let's start with the question I asked.

16 Q. How many times have you spoken with her? Do  
17 you want to make an objection to that?

18 MS. JACKSON: No objection to that.

19 Mr. [REDACTED], you may answer.

20 THE WITNESS: Okay. I've spoken -- I've spoken  
21 with her maybe four times.

22 Q. BY MS. BOWER: And she assisted you with your  
23 declaration; correct?

24 A. Correct.

25 Q. And she orally confirmed the contents of the



1 declaration to you as being true and correct; is that  
2 right?

3 A. Correct.

4 Q. You never physically signed that declaration;  
5 right?

6 A. I've -- I verified it. I verified it, so I  
7 signed it verbally. I signed it, yes.

8 Q. And so you can attest today that everything in  
9 that declaration is true and correct under penalty of  
10 perjury?

11 A. I could attest to that, yes.

12 Q. Okay.

13 And you granted her permission to affix your  
14 signature and file that declaration; right?

15 A. I did.

16 Q. In your declaration that you submitted in  
17 support of Plaintiffs' motion in this case, you  
18 identified incidents at two prisons, right, SATF and  
19 Corcoran?

20 A. I did.

21 Q. And to clarify for the record, that's the  
22 Substance Abuse and Treatment Facility in Corcoran;  
23 correct?

24 A. Correct.

25 Q. And the spelling on that is S-A-T-F for SATF;

1 right?

2 A. Correct.

3 Q. And your declaration does not identify any  
4 incidents at any other prisons; correct?

5 A. Correct.

6 MS. JACKSON: Objection; the declaration speaks for  
7 itself.

8 Q. BY MS. BOWER: Let me just make sure I have  
9 that right.

10 Okay. So you were also housed at Kern Valley  
11 State Prison and you're now at RJ Donovan; is that  
12 right?

13 A. I'm housed at Donovan, yes.

14 Q. And your declaration does not identify any  
15 incidents or issues at those prisons; correct?

16 MS. JACKSON: Objection; what do you mean by "those  
17 prisons"?

18 THE WITNESS: At Donovan -- yeah, I don't  
19 understand.

20 Q. BY MS. BOWER: Sure. So your declaration does  
21 not identify any incidents at RJ Donovan; correct?

22 A. Correct.

23 Q. And your declaration does not identify any  
24 incidents at Kern Valley State Prison; correct?

25 A. Correct.

1 Q. So I want to ask you some questions now about  
2 your allegations relating to an incident that you claim  
3 occurred at SATF. That was a January 7th, 2020 cardiac  
4 arrest medical issue; correct?

5 A. Correct.

6 Q. And what were the dates that you were housed  
7 at SATF?

8 A. I was -- I was -- I was housed from  
9 November 7th to November 20th, I was on Facility D  
10 yard. From November 20th to the 23rd, I was in the ASU  
11 of SATF. From the 23rd until the 7th, I was on SATF  
12 facility E yard. And then I went to the hospital until  
13 the 10th of January. From January 10th, I came back,  
14 went to the ASU for three days or so. And then I got  
15 transferred out to Corcoran or the Corcoran Crisis Bed  
16 unit.

17 Q. What does ASU stand for?

18 A. Ad Seg Unit.

19 Q. Is that Administrative Segregation Unit?

20 A. Okay. Yes. Excuse me. Admin, you're right.  
21 Correct. Yes, correct.

22 Q. And when you transferred to SATF, where were  
23 you transferring from? Which prison?

24 A. Corcoran, old Cocoran State, California State  
25 Prison at Corcoran.

1 Q. And do you know why you were transferred to  
2 SATF?

3 A. Yes.

4 Q. And what is your understanding of why you were  
5 transferred to SATF?

6 A. Because I had an enemy. I had an enemy  
7 on -- on the yard for -- you know, how do you put it?  
8 I had an enemy on one of them yards. And I could not  
9 be housed with him, so they sent me to -- to SATF.  
10 That's why.

11 Q. And when you left SATF, where did you transfer  
12 to?

13 A. When I left SATF, I transferred to  
14 The Hub -- or the Crisis Bed, excuse me. The Crisis  
15 Bed at Corcoran.

16 Q. And that -- that was in 2020; correct?

17 A. Correct.

18 Q. And your declaration identifies an incident at  
19 SATF that occurred on January 7th, 2020; correct?

20 A. Correct.

21 Q. And was that a cardiac arrest that happened to  
22 you?

23 A. Yes.

24 Q. Do you have any understanding of what that  
25 means?

1 MS. JACKSON: Objection; vague.

2 THE WITNESS: My heart -- my heart stopped.

3 Q. BY MS. BOWER: Your heart stopped.

4 And do you know why? Do you have any  
5 understanding of why that happened?

6 A. Do I know why your heart stops? No, I do not.

7 Q. Had that ever happened to you prior to  
8 January 7th, 2020?

9 A. No.

10 Q. Did you have heart issues prior to that?

11 A. None that I know of, no.

12 Q. What about chest pain?

13 A. Yes. Yes, I did. Yes, of course.

14 Q. What sort of chest pain issues did you have  
15 before January 7th, 2020?

16 A. I had some on the 3rd prior to that. I -- I  
17 believe I stated that earlier.

18 Q. January 3rd, 2020?

19 A. Back, yeah.

20 Q. What about prior to that?

21 A. Prior to January 3rd?

22 Q. Correct.

23 A. None --

24 Q. What about --

25 A. -- that I know of.

1 Q. Okay. So you never made complaints prior to  
2 that of chest pain?

3 MS. JACKSON: Objection; vague.

4 Q. BY MS. BOWER: Did you ever make complaints of  
5 chest pain prior to January 3rd, 2020?

6 A. No.

7 Q. In your declaration, you state that you tried  
8 to commit suicide that day; is that accurate?

9 A. Yes, that's accurate.

10 Q. And what time was that at?

11 A. I would say about 3-ish. 3-ish. Around after  
12 3-ish, somewhere around there. If I -- I couldn't give  
13 you a positive timeline, as far as -- because my mental  
14 state was all over the place. So I couldn't give you,  
15 you know, a timeline-ish that would be accurate.

16 Q. And your declaration does not identify the  
17 method that you used to try to commit suicide; correct?

18 A. Correct.

19 Q. And what was that method?

20 MS. JACKSON: And this is a situation where we're  
21 going to assert Mr. [REDACTED]'s right under the  
22 Fifth Amendment of the Constitution not to answer that  
23 question.

24 MS. BOWER: I'm going to have to insist that he  
25 answers it. Can you explain your objection? What's

1 the Fifth Amendment concern here?

2 MS. JACKSON: So, actually -- so can we take a  
3 brief break? We've been going about an hour, and so...

4 MS. BOWER: No. I'm going to have to insist that  
5 he answers the question, and you can either make an  
6 objection and he can answer, or you can instruct him  
7 not to answer. But we're in the middle of a question,  
8 so I'm going to have to insist that you don't take a  
9 break right in the middle of my question.

10 So let me try again, and then you can make  
11 your objection. How about that?

12 MS. JACKSON: Okay.

13 Q. BY MS. BOWER: So Mr. [REDACTED], what was the  
14 method that you used to try to commit suicide that day,  
15 as you allege you did?

16 MS. JACKSON: I'm going to object under my client's  
17 right under the Fifth Amendment not to answer that  
18 question and renew my question of the -- to take a  
19 break.

20 MS. BOWER: Are you instructing your client not to  
21 answer the question.

22 MS. JACKSON: Yes.

23 MS. BOWER: I'm sorry. I didn't hear you. Are you  
24 instructing your client not to answer the question?

25 MS. JACKSON: Yes, prior to the break.

1 MS. BOWER: And what is your basis for that?

2 MS. JACKSON: It's his rights against  
3 self-incrimination under the Fifth Amendment to the  
4 U.S. Constitution.

5 MS. BOWER: And what's the incrimination that  
6 you're concerned about?

7 MS. JACKSON: The method of suicide. So his answer  
8 to that question -- however, again, I'm requesting a  
9 brief break to discuss the matter with my client.

10 MS. BOWER: Sure. How about five minutes?

11 MS. JACKSON: Certainly. Thank you.

12 (Recess taken.)

13 MS. BOWER: Back on the record.

14 Q. BY MS. BOWER: So we are back on the record  
15 now after a quick break, about ten minutes or so.

16 Mr. [REDACTED], you've had a chance to talk  
17 with your attorneys; is that right?

18 A. Correct.

19 Q. And so going back to the question that I asked  
20 before the break, what was the method that you  
21 supposedly used in this suicide attempt that day on  
22 January 7th, 2020?

23 A. I took some pills.

24 Q. What kind of pills did you take?

25 MS. JACKSON: And I'm going to assert our rights



1 under the Fifth Amendment to the Constitution and  
2 instruct my client not to respond.

3 Q. BY MS. BOWER: Did you take vitamin C pills?

4 MS. JACKSON: Ms. Bower, I'm going to object under  
5 the Fifth Amendment and instruct my client not to  
6 respond to any questions -- sorry, you can answer that.  
7 So I withdraw my objection.

8 THE WITNESS: I do not know what pills I took.

9 Q. BY MS. BOWER: How did you get the pills?

10 A. I assert my Fifth Amendment on that one on the  
11 pills.

12 Q. Did you have the pills before January 7th,  
13 2020?

14 A. No.

15 Q. So you received the pills on January 7th,  
16 2020; is that right?

17 MS. JACKSON: I'm going to object under the  
18 Fifth Amendment and instruct Mr. [REDACTED] not to  
19 respond.

20 MS. BOWER: And I'll just say -- and maybe we'll  
21 have to deal with this later and come back here. I  
22 don't know. But this is a central part of his  
23 declaration, right, so I may have to have a meet and  
24 confer after that and come back here again, I don't  
25 know, but this is an essential part of his declaration.

1 This is information that we need to know.

2 So I'll say that and you've made your  
3 objection and instructed him not to answer.

4 Obviously, Mr. [REDACTED], if that is what you  
5 choose to do, that is -- that's your choice and I will  
6 respect that, but we may have to revisit this later.

7 So I'll continue to ask the questions, and you  
8 can continue to instruct your client not to answer.

9 MS. JACKSON: (Moves head up and down.)

10 Q. BY MS. BOWER: Mr. [REDACTED], you had a  
11 cellmate in your cell that day, right, on January 7th,  
12 2020?

13 A. I had a cellmate, yes.

14 Q. And who is your cellmate?

15 A. He was [REDACTED].

16 Q. Did you leave your cell at all that day?

17 A. I did.

18 Q. How many times did you leave your cell that  
19 day?

20 A. Once.

21 Q. And when was that?

22 A. I'd say around 8:00 in the morning,  
23 8:30 -- around 8:30-ish -- 8:00 or 8:30-ish.

24 Q. And how long were you out of your cell for?

25 A. I would say 15 minutes maybe.

1 Q. And what was the purpose for you leaving your  
2 cell?

3 A. I was called to the program office to pick  
4 up -- when you get one of these (indicating), a  
5 Rules Violation Report I'm holding in my hand,  
6 that's -- they call you to the program office to go  
7 pick them up. So I was receiving the final outcome of  
8 a Rules Violation Report.

9 Q. Which Rules Violation was that?

10 A. I believe it was the final copy of the -- it  
11 was the final copy of the incident I got on  
12 December 13th.

13 Q. Of 2019?

14 A. So-- yes. That would be it. Yes.

15 So that would be the final copy of the  
16 incident I got on final -- of December 13th. They were  
17 serving me with the final copy of it.

18 Q. And that was the incident where you were found  
19 to have been fighting with other inmates; correct?

20 A. Correct.

21 Q. So you received that around 8:30 a.m., and  
22 then you returned to your cell?

23 A. Correct.

24 Q. So --

25 A. Yes.

1 Q. -- you returned to your cell around 8:45 or  
2 9:00 a.m.?

3 A. It was thereabouts, yes. Yeah.

4 Q. And you mentioned earlier that you received a  
5 message from an inmate about your daughter's passing  
6 that morning; is that right?

7 A. Yes. Yeah. Yes.

8 Q. And so what time was that at?

9 A. A little bit -- a little bit after I got back,  
10 because they opened up the day room thereabout after.  
11 As soon as I came back, they opened up the day room for  
12 inmates to come out. So it was around that time.

13 Q. And that inmate passed that message along to  
14 you; correct?

15 A. Correct.

16 Q. And did you have any interactions with any  
17 officers after that message was relayed to you --

18 A. I tried to.

19 Q. -- that morning?

20 A. I tried to. Yes, I did. I tried to.

21 Q. What about your breakfast? When did you get  
22 your breakfast that morning?

23 A. They -- okay. So I'm on orientation; right?  
24 So some sometimes I go to breakfast, sometimes I don't.  
25 They'll bring it to you. You know, you're on

1 orientation, you're not allowed to leave your cell, if  
2 you don't want to, actually. You only can go to the  
3 chow hall and back, you know.

4 So that morning, I didn't go to chow that  
5 morning.

6 Q. Did you have the option to go to chow or you  
7 were not allowed to?

8 A. I did, yeah. I had the option to go to chow  
9 that morning. You do. It was raining that morning.

10 Q. What time would that have been?

11 A. 6:00 -- around 6:30.

12 Q. So did someone deliver your breakfast to you  
13 in your cell that morning?

14 A. No, no. No, they didn't. I didn't. Just did  
15 not go. I just did not go to breakfast.

16 Q. What about a count, did an officer come by in  
17 the morning and do a count?

18 A. They do count at -- they don't do count,  
19 unless you're closed custody. I'm not closed custody,  
20 so I don't do count.

21 Closed custody is for higher custody of  
22 inmates who need to be counted at certain times a day.  
23 I'm medium custody, so I don't have to be counted.

24 Q. And were you housed on a second tier at that  
25 time?

1 A. Correct.

2 Q. And how many office- -- did you see any  
3 officers that morning?

4 A. In their office, I did, yes. Yes.  
5 Their -- their office is, I would say -- I would  
6 estimate about 40 feet from where my cell's at, you  
7 know. But they have -- okay.

8 Q. Go ahead. I'm sorry.

9 A. Yeah. It's an office with doors, so they can  
10 open and close it as -- you know, depending on how they  
11 feel.

12 Q. Did any officers pass by your cell that  
13 morning?

14 A. In the morning? Maybe in the morning around  
15 like 6:00 in the morning, probably, when they first get  
16 there. But I was asleep, so maybe it's possible. But  
17 as far as during the day while I was up, no. They  
18 didn't come in. They didn't come by my cell.

19 Q. So the inmate that relayed the message to you  
20 walked up the tier, to the second tier, to your cell to  
21 relay that message to you?

22 A. Yeah. Sometimes, yeah. I call him. He's the  
23 porter. So yeah, I -- I called him to -- to ask  
24 Officer Bott to come to my door.

25 Q. What about the inmate who relayed the message

1 to you about your daughter?

2 A. Okay. Yes.

3 Q. He came up to the second tier to your cell?

4 A. No. Okay. So he wrote -- he wrote it on a  
5 piece of paper and gave it to the porter to take to me.  
6 So he didn't -- because other inmates are not allowed  
7 to go on the top tier, unless you're a porter. Unless  
8 you're the porter, you're not allowed to go on the top  
9 tier during day room.

10 So he wrote the information on a piece of  
11 paper, and he sent it to me and, you know, he gave it  
12 to me. Yeah.

13 Q. And then you also -- are saying that you gave  
14 a message to an inmate porter that day; is that  
15 right?

16 A. Yes, yes, yes. I -- that would be  
17 the -- yeah, correct.

18 Q. And what was that -- what time was that at?

19 A. There were several times I was asking him to  
20 go get Bott. So like 11:30, I told him to get Bott.  
21 Around 12:30, I told him to get -- like I kept -- he  
22 had -- he -- okay. So I told him once -- twice before  
23 he went in for count. And then another time finally  
24 when he came out again. And then Bott -- till Bott  
25 finally came down, came to my -- came a distance for me

1 to talk to him, you know, or shout.

2 Q. And why -- and why Bott? Why were you asking  
3 for him?

4 A. It was not necessarily Bott. It was just  
5 could you go -- that was the officer he was going to.  
6 I don't mean necessarily go to ask Bott. I was just  
7 saying C.O. in general. So I don't mean Bott, I just  
8 mean C.O. in general. It's just Bott's the one that  
9 came --

10 Q. Understood.

11 A. -- to -- like, yeah.

12 Q. So what did you specifically ask the porter to  
13 do for you?

14 A. I asked him to tell Bott or to go tell the  
15 C.O. that I needed to talk to him, that I had an  
16 emergency and that -- that I was feeling suicidal, that  
17 I had some chest pains.

18 Q. So just to make sure I have this right, you  
19 asked the inmate porter to tell some officer that you  
20 were having an emergency, you were having chest pains  
21 and you felt suicidal; is that right?

22 A. Yes, correct.

23 Q. And that's what you told the porter around  
24 11:30 and then around 12:30?

25 A. Yeah. Yes, yes. I -- yeah, yes.



1 Q. And then -- and then there was a third time;  
2 right?

3 A. Well, yes. Yeah. It was -- it was a couple  
4 times before that, you know.

5 So you have to understand, a porter, he has  
6 other people telling him other things to do. I'm not  
7 the only person. So, you know, he might get caught,  
8 lost in the situation of what someone is asking him to  
9 do, he -- and he might forget. So I have to keep  
10 reminding him.

11 Q. What was the porter's response when you asked  
12 them to do that?

13 A. Okay. I got you.

14 Q. Okay.

15 And how do you know that he relayed that  
16 message to an officer?

17 A. I did.

18 Q. Do you -- do you -- yeah, do you know if he  
19 relayed that message to an officer?

20 A. I didn't. That's why I kept reminding him  
21 until the officer came. So...

22 Q. So when did the officer come?

23 A. He came like around 1:00, I would say, around  
24 1:30-ish. Around 1:30-ish. Around 1:30.

25 Q. And you mentioned that the officers' office is

1 40 feet away. Is that a hearing distance? Can they  
2 hear you if you were to shout?

3 A. If they choose to. They have selective  
4 hearing also.

5 Q. So you could yell out to the officers to come  
6 help; right?

7 A. Yes. I was --

8 Q. Did you do that that morning --

9 A. Yeah.

10 Q. -- or did you just use the porter?

11 A. No. I used that method also.

12 Q. When did you do that?

13 A. Several times. Several times, yeah.

14 Q. And is that in your declaration? Or you're  
15 not sure?

16 MS. JACKSON: The document speaks for itself.

17 THE WITNESS: Yes, the document speaks for  
18 itself.

19 Q. BY MS. BOWER: Is that your answer,  
20 Mr. [REDACTED]?

21 A. My answer is no, it does not say that in the  
22 document.

23 Q. Okay.

24 And so an officer came around 1:30 p.m.; is  
25 that right?

1           A. Yes. He came within shouting distance. He  
2 did not come to my door.

3           Q. And which officer was that?

4           A. Officer Bott.

5           Q. And had you had any interactions with him  
6 before that?

7           A. Yes.

8           Q. How many?

9           A. A handful.

10          Q. And you were new to that unit; right?

11          A. Correct.

12          Q. What did you say to him when he came to you?

13          A. I told him I was having an emergency. I told  
14 him I was experiencing chest pains and I was feeling  
15 suicidal.

16          Q. So you told him that you were feeling  
17 suicidal?

18          A. Yes.

19          Q. And in your declaration, you say "It was my  
20 understanding that because 1:30 p.m. is close to the  
21 change of shift at 2:00 p.m., Officer Bott was  
22 reluctant to help me"; is that right?

23          A. Yeah, he motioned to that. He motioned  
24 (indicating). Yes, to the best of my understanding.

25          Q. And what's the basis for that understanding?

1 A. He motioned to his watch (indicating) and to  
2 the clock (indicating).

3 Q. What exactly did he do?

4 A. He motioned to his watch (indicating), to the  
5 clock (indicating), and he said "You'll be all right."

6 Q. So your belief is that his motivation for not  
7 you helping you was because his shift was almost  
8 offer?

9 A. Correct.

10 Q. So you don't claim that this incident --

11 MS. JACKSON: Let the record reflect that when  
12 Mr. [REDACTED] was motioning to the -- I'm not  
13 objecting. I'm just -- for the record, what he was  
14 stating that the officer was motioning to his watch and  
15 to the clock, Mr. [REDACTED] was making the same  
16 gestures.

17 MS. BOWER: Why don't we have him explain it, then.

18 Mr. [REDACTED], do you want to explain any  
19 gestures that you were just making?

20 A. Yes. My gestures were the gestures of  
21 Officer Bott, were to his wrist of where his watch was  
22 (indicating) and to the clock which was on the wall  
23 (indicating) of the tower. They have a clock right  
24 there. So yeah, that was his mention, you know. You  
25 know, hurry up, you know (indicating). "You'll be

1 all right, [REDACTED]." And he mentioned to his  
2 watch -- his wrist and to the wall clock.

3 MS. JACKSON: Let the record reflect those are the  
4 gestures that Mr. [REDACTED] was reproducing just now.

5 MS. BOWER: Sure.

6 Q. So you do not claim that this incident was  
7 motivated by any disability; right?

8 MS. JACKSON: Objection; calls for a legal  
9 conclusion.

10 MS. BOWER: You can go ahead and answer that.

11 THE WITNESS: A disability of who, my disability?

12 MS. BOWER: Right.

13 THE WITNESS: You know, are you -- can you -- I  
14 don't understand the question.

15 Q. BY MS. BOWER: Sure. So you confirmed earlier  
16 that you didn't have a physical or learning disability;  
17 right?

18 A. At -- yes, I did not have a physical  
19 disability or a -- I might have had a mental disability  
20 at the time, you know, depression, which was something  
21 he could see. He understood my situation.

22 Q. How do you know that he understood your  
23 situation? And what do you mean by "situation"?

24 MS. JACKSON: Objection; compound question.

25 THE WITNESS: My distress, yes.

1 Q. BY MS. BOWER: And how would you know that?

2 MS. JACKSON: Objection; vague.

3 MS. BOWER: Go ahead and answer, if you can,

4 Mr. [REDACTED]?

5 THE WITNESS: Okay. Well, I mean, you know, I was  
6 being very -- from my interactions with Officer Bott  
7 were mainly under control, you know, and not as  
8 distressed, as I was -- you know, as I felt that he  
9 could see me acting erratic, you know, as to letting  
10 him know that, you know -- specifically me letting him  
11 know that I was suicidal, you know.

12 Q. BY MS. BOWER: All right. So you believe that  
13 he should have known that you were suicidal, because  
14 you claim that you told him that you were suicidal;  
15 right?

16 A. Yeah, it was a verbal. It wasn't a -- it was  
17 a verbalized statement from me outside my door to let  
18 him know, "Hey, I'm having chest pains. I'm feeling  
19 suicidal." You know, so he should have -- I felt that  
20 he should have understood that.

21 Q. What exactly did you say to him with respect  
22 to the idea that you were feeling suicidal?

23 A. "I'm having chest pains. I'm feeling  
24 suicidal."

25 Q. Is that something that was important and

1 relevant to him not responding, as you believed he  
2 should have, the suicidal part?

3 MS. JACKSON: Objection; foundation.

4 MS. BOWER: You can go ahead and answer, if you  
5 can, Mr. [REDACTED].

6 THE WITNESS: Okay. Can you be clearer? I don't  
7 understand your question.

8 Q. BY MS. BOWER: Sure. So it sounds like you  
9 mentioned to him, what you're saying, that you  
10 mentioned to him that you were feeling suicidal and  
11 that's an important piece of this interaction with him,  
12 is that right, in your opinion?

13 A. Correct.

14 Q. Is that something that maybe you would have  
15 put in your grievance form about the incident?

16 A. "I'm feeling I'm having chest pains and I'm  
17 feeling suicidal."

18 Q. Right.

19 A. In my grievance?

20 Q. Correct.

21 A. You're saying it's what I told you -- what I'm  
22 telling you right now, is that something I should have  
23 put in the grievance form?

24 Q. Right. So it sounds like you're saying today  
25 that the fact --

1 A. Yeah.

2 Q. -- that you told him that you were feeling  
3 suicidal was important and he should have responded to  
4 that; right?

5 A. Yeah. Yeah, I felt that me telling I'm -- I'm  
6 having chest pains, knowing that I went out  
7 prior -- because he knew I had chest -- he knew I went  
8 out for having chest pans already; right? So me  
9 telling him "I'm having chest pains, I'm feeling  
10 suicidal," would give him the reason to come to my door  
11 and give me the attention that I needed, of course.  
12 You know.

13 Q. All right.

14 So I want to focus on the suicidal part, you  
15 telling him that you were feeling suicidal.

16 A. Okay.

17 Q. Is that something that you felt was an  
18 important part of the -- that interaction with  
19 Officer Bott, feeling suicidal part?

20 A. Of course I felt that it was important.  
21 Anything that would get him to come to my door, instead  
22 of being -- not giving me my attention, like answering  
23 me from the distance instead of coming to my door, you  
24 know, and giving me the attention that I required, you  
25 know, instead of speaking my business outside my door.



1 Q. But you didn't put that part in your  
2 grievance; right?

3 A. What did I put? I don't remember as to what I  
4 put in my grievance.

5 Q. Well, why don't we look at it together. It  
6 should be in that third stack of documents and it  
7 starts on page 303.

8 A. Let me see.

9 Q. We'll mark this document as Exhibit 2, and  
10 I'll upload it so your attorneys can have it as well.

11 THE WITNESS: All right. Let me find it.

12 Okay.

13 (Defendants' Exhibit 2 was marked for  
14 identification.)

15 Q. BY MS. BOWER: I've uploaded this document in  
16 the chat feature so that your attorneys can have access  
17 to it and review it. You have a physical copy there.

18 Let me know when you find it and take as much  
19 time as you need to review it. It's -- the page number  
20 is on the bottom right. It's 303.

21 A. Okay. All right. All right.

22 Q. And your actual grievance starts at page 305.

23 A. All right. So I'm at 303.

24 Q. I'll ask you to turn to page 305 through  
25 307 -- excuse me -- and why don't you take a few

1 minutes to review that document --

2 A. Okay. All right. (Witness complies.)

3 Q. -- and let me know when you're ready.

4 A. Okay. I reviewed it.

5 Q. Do you recognize this document?

6 A. Yeah, I do.

7 Q. What is this document starting at page 305 of  
8 Exhibit 2?

9 A. It is CDCR 602.

10 Q. And is that a grievance form?

11 A. Yes, it's a grievance form.

12 Q. And what is this grievance about?

13 A. It was a grievance about him, C.O. Bott,  
14 refusing me medical treatment. Exactly what it says.

15 Q. And when did you submit this grievance?

16 A. On the 12th, on the -- on the 11th, on the  
17 12th.

18 Q. And for the subject of the appeal, you state  
19 "Refused medical treatment causing cardiac arrest";  
20 right?

21 A. Yes.

22 Q. And there's no mention in this grievance of a  
23 suicide attempt; correct?

24 A. Correct.

25 Q. And there's no mention in this grievance that

1 you told Officer Bott that you were feeling suicidal;  
2 correct?

3 A. Correct.

4 Q. And why not?

5 A. Yeah, I wasn't really in my right mind at this  
6 time, when I wrote this. I was kind of still in a  
7 little depressed state when I -- when I wrote this  
8 specific 602 right here, you know. It was -- I was  
9 in -- I was in SATF, so I wanted to get it out  
10 specifically because they were taking me -- I was going  
11 to Crisis Bed. They were -- they were coming -- at  
12 this time, they were coming to get me at Crisis Bed and  
13 I needed to get this out, like specifically ASAP,  
14 because I was going to be in a Crisis Bed. They don't  
15 give you paperwork or nothing there at that time.

16 Q. So let's look at another document. This one  
17 will be in that second pile, and it's -- the page on  
18 the bottom right-hand corner is number 45.

19 A. Okay. So --

20 Q. And I'll mark this one.

21 A. This is not -- this is the other pile?

22 Q. Right. It should be the second pile.

23 A. Okay. Mark this one as Exhibit 2, and I'll go  
24 ahead and share it in the chat so that your attorneys  
25 have access to it.

1 THE REPORTER: Counsel, I'm sorry to interrupt,  
2 but I believe that you marked the Grievance Form as  
3 Exhibit 2. Is this a new exhibit that you're going to  
4 mark? I think it might 3.

5 MS. BOWER: That's absolutely right. I apologize.  
6 I misspoke. This we will mark as Exhibit 3.

7 (Defendants' Exhibit 3 was marked for  
8 identification.)

9 THE WITNESS: Okay. Where you want me to go to?

10 Q. BY MS. BOWER: Are you on page -- it says "45"  
11 at the bottom right-hand corner?

12 MS. JACKSON: And, Ms. Bower, we haven't yet -- or  
13 I haven't yet received Exhibit 3.

14 MS. BOWER: Right. So it might be easier to do it  
15 this way, if you can. If you open up the chat box,  
16 this was what I was working with the reporting company  
17 on, I'm uploading it there.

18 MS. JACKSON: Correct. And I received Exhibits 1  
19 and 2 that way, but I haven't yet gotten Exhibit 3 as  
20 far as --

21 MS. BOWER: Oh, I'm doing it right now.

22 MS. JACKSON: Okay.

23 MS. BOWER: Yeah.

24 I'm sorry. I thought you were Ms. Huddleston,  
25 the court reporter.

1 MS. JACKSON: Nope.

2 Q. BY MS. BOWER: Okay. Mr. [REDACTED], why don't  
3 you take a minute to look at that.

4 A. Okay. You want me to read it?

5 MS. JACKSON: Mr. [REDACTED], you can look over it.  
6 Please don't read it out loud yet. I'm downloading the  
7 document.

8 THE WITNESS: Okay.

9 MS. JACKSON: I have it open. Thank you.

10 MS. BOWER: So why don't you take a moment to read  
11 it, Mr. [REDACTED], and let me know when you're  
12 finished.

13 THE WITNESS: Okay. I'm ready.

14 Q. BY MS. BOWER: So this Mental Health  
15 Documentation, does this change your response earlier  
16 that you were feeling depressed and suicidal following  
17 the January 7th, 2020 incident?

18 A. I was.

19 MS. JACKSON: Objection; vague.

20 Q. BY MS. BOWER: Here you were treated as saying  
21 you were just having heart problems and that you denied  
22 self-harm and, instead, endorsed a number of protective  
23 factors with the most effective being your wife of  
24 16 years and your three children; is that right?

25 A. I don't remember having this conversation.

1 Q. Do you remember saying that you were not  
2 concerned about going back to the SHU because you,  
3 quote, "did 10" years "in the SHU and it ain't no big  
4 thing"?

5 A. I do not remember having this conversation at  
6 all.

7 Q. What about -- and what about the endorsed  
8 suicide documentation there showing that your acute  
9 risk was low and that your chronic risk was low,  
10 documented January 10th. Do you recall that?

11 A. No. I don't remember where I could have this  
12 conversation at.

13 Q. So did you tell mental health staff that you  
14 were having depression or problems on January 10th,  
15 2020?

16 A. No. I didn't see Mental Health, not that I  
17 remember. When I seen Mental Health, I told them I was  
18 suicidal.

19 Q. Okay.

20 So just to make sure I have this right, you  
21 submitted a grievance about your complaints with  
22 Officer Bott and you submitted that grievance on  
23 January 12th, 2020; correct?

24 A. Correct -- well, the 11th. I think that was  
25 on the 11th. It's dated the 12th, because it went out

1 on the mail that day. So yeah.

2 Q. In that grievance, you identified that you  
3 told him that you had chest pains but not that you were  
4 feeling suicidal; right?

5 A. Right.

6 Q. And in that grievance, you don't identify that  
7 you attempted suicide; correct?

8 A. Correct.

9 Q. Instead, you say that you just went into  
10 cardiac arrest; correct?

11 A. Correct. That was the -- correct.

12 Q. Okay.

13 So what about after your conversation with  
14 Officer Bott, did you see any other officers in the  
15 unit that day on January 7th, 2020?

16 A. Did I seek any other officer?

17 Q. Did you see any other officer, officers?

18 A. After Officer Bott?

19 Q. Correct.

20 A. No, not -- not that I recall, no.

21 Q. Did you yell out to any other officers to come  
22 help you?

23 A. There was no any other -- there was no other  
24 officer.

25 Q. So what happened after your --

1           A. Okay. There was one -- there  
2 is -- Officer Bott does have a partner, but they were  
3 both in the office. So, you know, my -- my -- my  
4 relationship with Bott was kind of like the same with  
5 this -- his partner, you know? They kind of treated me  
6 the same, you know, which was, you know, not very  
7 likable.

8           Q. Who was his partner?

9           A. I couldn't -- I don't recall his name.

10          Q. And just to clarify, you believe that  
11 Officer Bott did not want to help you that day because  
12 he was almost off; is that right?

13          A. Yes. That -- when I -- when I -- when he came  
14 to my door, that was the signal he gave me as to his  
15 reluctance to help me or even come up to my door, yeah.  
16 That's what I believe.

17          Q. And you are not in the mental health program  
18 at that time; correct?

19          A. I was not.

20          Q. Did you tell any medical staff assisting you  
21 that day that it was a suicide attempt?

22          A. That day, I didn't -- I didn't -- I  
23 didn't -- I didn't talk to any medical staff that day,  
24 like -- that I recall, besides -- meaning the  
25 ambulance?



1 Q. Or any medical staff that day.

2 MS. JACKSON: Objection; can you clarify with more  
3 specificity which medical staff you're talking about  
4 and what you mean by "that day"?

5 Q. BY MS. BOWER: I think that's -- the question  
6 is on January 7th, 2020, did you tell any medical staff  
7 that you attempted suicide?

8 A. No.

9 Q. And why not?

10 A. My mental state at that time was -- was more  
11 that I was still here, so it was more a state of shock  
12 and the hard state of depression, than it was a state  
13 of alertness, as far as having a conversation with  
14 somebody and, you know, having -- so that was not  
15 absolutely --

16 Q. What about the --

17 A. -- yeah. Okay.

18 Q. No. Go ahead. I didn't mean to cut you off.  
19 I apologize.

20 A. Yeah. So January 7th, yeah, all that, it  
21 was -- I was not -- I was more within myself, instead  
22 of having a direct conversation with anybody. I was  
23 still going through something heavily and within  
24 myself. So...

25 Q. What about the next day on January 8th, 2020,

1 did you tell any medical staff that you attempted  
2 suicide?

3 A. No. No.

4 Q. And why not?

5 A. I was like -- I -- I was still in that -- I  
6 was still in that function within myself still, yeah.  
7 It lasted for a while, for a couple days before I  
8 actually did tell somebody that that was what it was.  
9 I think it was --

10 Q. Even though they -- even though they were  
11 trying to figure out what happened that day; right?

12 A. Yeah, right. Yeah.

13 Q. So when was the first time you told somebody  
14 that?

15 MS. JACKSON: Objection; vague.

16 Q. BY MS. BOWER: When was the first time you  
17 told somebody that it was a suicide attempt?

18 A. I think I told one of the officers inside  
19 the -- I told one of the officers that was watching me  
20 inside the hospital.

21 Q. What day was that?

22 A. It would be like the 9th, it might have  
23 been -- yeah, the 9th -- the day before the 9th or the  
24 10th. It could have been the day I left the hospital.  
25 I think it was like the day I left the hospital.

1 Q. And the medical staff believed that this  
2 medical episode that occurred on January 7th, 2020 was  
3 a drug overdose; right?

4 A. No.

5 MS. JACKSON: Objection; foundation.

6 THE WITNESS: You mean the medical staff at the  
7 hospital or the medical staff in the prison?

8 MS. BOWER: The medical staff in the prison.

9 MS. JACKSON: Same objection; foundation.

10 Q. BY MS. BOWER: Well, let's go back to  
11 Exhibit 3, and this is the document marked 45.

12 Were you upset that medical staff were  
13 referring to the incident as a drug overdose?

14 A. Yes.

15 Q. So medical staff believed it was a drug  
16 overdose; correct?

17 MS. JACKSON: Objection; foundation.

18 Q. BY MS. BOWER: Is that your understanding,  
19 Mr. [REDACTED] ?

20 A. That's always their understanding.

21 Q. Did they find track marks on your arm that  
22 day?

23 A. I could show you track marks on my arm right  
24 now. They are permanent track marks. I don't mean  
25 that they are recent track marks. You know, I got --

1 Q. Let's look at --

2 A. Yeah.

3 Q. Go ahead. I apologize. Go ahead.

4 A. I was a drug addict for many years, so I do  
5 have permanent track marks on my arm. So yeah, they  
6 can mistake track marks that I have on my arm for  
7 ones that might be fresh. But yeah, no, I don't  
8 have -- those weren't track marks. But if you want to  
9 see, I can show you so you can see yourself.

10 Q. Did you tell medical staff throughout -- let  
11 me ask that again.

12 Did you tell medical staff following the  
13 January 7th, 2020 incident, when you were being treated  
14 for that episode, that you had not used drugs in over  
15 six years?

16 A. Yes, I did tell them that.

17 Q. And is that still your belief today? Is  
18 that --

19 A. Yes.

20 Q. -- your testimony?

21 A. Yeah.

22 Q. So let's look at another document. It should  
23 be in that second pile and it's starts with page 15.

24 A. Okay. So you're talking about the Rules  
25 Violation Report ones.

1 Q. The -- actually the other stack. The medical  
2 records.

3 A. These ones (indicating).

4 Q. Right. Yes.

5 A. Okay. You want me to go to?

6 Q. So the first one should be starting on  
7 page 15.

8 MS. JACKSON: Ms. Bower, you're going to upload  
9 these documents for counsel?

10 MS. BOWER: Yes, I am doing that right now.

11 MS. JACKSON: Thank you.

12 MS. BOWER: And we'll mark this one as Exhibit 4.  
13 Exhibit 4 will be [REDACTED] through -24.

14 (Defendants' Exhibit 4 was marked for  
15 identification.)

16 Q. BY MS. BOWER: Mr. [REDACTED], if you can take  
17 a couple minutes, or however long you need, to take a  
18 look at this document.

19 A. So you want me to get page 15?

20 Q. Yes, 15 to 24.

21 A. Okay. 15 to 24. Okay.

22 Q. This medical -- I'm sorry. Go ahead. Take as  
23 much time as you need to review it.

24 A. (Witness complies.)

25 Okay. Where we at? All right. Okay.

1 Q. Do you recall -- do you recall this visit with  
2 Dr. Reddy, R-e-d-d-y, on January 8th, 2020?

3 A. That would be -- no. Do I recall -- that  
4 would be at the hospital?

5 Q. Right. Correct.

6 A. Okay. Am I -- my -- you know, my memory of  
7 all of that whole time was kind of -- it's kind of real  
8 vague, so I might be -- so no. I mean, I -- no, I  
9 don't.

10 Q. It's possible -- it's possible that you met  
11 with the doctor on January 8th, 2020 at the hospital?

12 A. Oh, yeah. Of course, yeah. Of course, yeah.  
13 I just -- my memory was -- I was all over the place,  
14 you know? So...

15 Q. Understood.

16 And this --

17 A. Okay.

18 Q. -- medical record mentioned that you received  
19 Narcan. Do you know what that is, N-a-r-c-a-n?

20 A. Yeah. I know what Narcan is, yeah. I know  
21 exactly what it is.

22 Q. What is your understanding of that?

23 A. Narcan is -- it's a -- they use it -- they use  
24 it primarily on -- on overdoses, you know. On  
25 overdoses of narcotics. Narcan; right?

1 Q. And --

2 A. For narcotics.

3 Q. -- and looking at page 17, under "Histories,"  
4 there's no mention of any family history issues;  
5 correct?

6 MS. JACKSON: Objection; vague.

7 THE WITNESS: History, family histories, as far as  
8 drug history? What are we talking about here? It just  
9 says "Family History."

10 Q. BY MS. BOWER: Right.

11 A. Okay.

12 Q. Well, I'm sorry. Let me ask you this: The  
13 next section says, "Abuse/Intent to Harm." So just to  
14 confirm, you never told the doctor that day that you  
15 intended to harm yourself, right, that it was a suicide  
16 attempt?

17 A. Yeah. Like I said, I don't -- you know, I  
18 don't recall telling the doctor really much of anything  
19 there at the hospital, you know.

20 Q. Okay. Let's look at the next medical record.  
21 It's going to be page 25 to 34, and I'll upload that as  
22 well so your attorney has a copy in front of them.

23 A. 25; right?

24 Q. Page 25 to 34.

25 A. Okay.

1 Q. I'm going to direct you to pages -- or to  
2 page 27.

3 MS. JACKSON: Ms. Bower, please wait for a moment.  
4 I see that you've sent the exhibit, but it hasn't  
5 downloaded yet.

6 MS. BOWER: Sure.

7 MS. JACKSON: Okay. I have it open. Thank you.

8 (Defendants' Exhibit 5 was marked for  
9 identification.)

10 Q. BY MS. BOWER: Mr. [REDACTED], do you see on  
11 page 27 it documents a visit with a nurse on  
12 January 10th at SATF?

13 A. 27, I see it, yes. Yes, I -- okay. So  
14 what -- can you repeat what you want me to see -- look  
15 at, please?

16 Q. Sure. On page 27 --

17 A. Yes.

18 Q. -- the visit documented on January 10th, 2020,  
19 indicates inmate denies suicide, denies depression.

20 Do you see that? It's three lines up --

21 A. Yeah.

22 Q. -- from the -- is that accurate?

23 MS. JACKSON: Objection; misstates the document.

24 Q. BY MS. BOWER: Does that misstate the document  
25 in your opinion, Mr. [REDACTED]?



1           A. No, it's not, because when I got -- I had let  
2 them know that I was feeling suicidal, so they took me  
3 and brought me back. So they should be -- I don't know  
4 if you have more documents. There should be another  
5 document showing they brought me back to TTA, like  
6 maybe 15, 20 minutes later. But, I mean -- but I did  
7 leave. This -- this might be the document telling you  
8 I left, because I did leave the -- when I went to TTA,  
9 I did leave, but I came right back because I did notify  
10 them, let them know that I was suicidal.

11           Q. So is this wrong where this nurse is  
12 documenting that you deny depression and suicide?

13           A. It could be -- it could be accurate, because I  
14 did leave. So you have to be able to leave. Yeah,  
15 you're right.

16           Q. And so the next page, on page 28, it's a  
17 Progress Note from a January 14th visit. Do you recall  
18 having a January 14th visit with a nurse practitioner,  
19 page 27 and 28?

20           A. Yeah, I got that. I got it right here.

21           Q. And do you recall telling the nurse  
22 practitioner that you had been clean from drugs for  
23 six years?

24           A. Yes. I mean, yeah. Yeah.

25           Q. And that you were evaluated and returned to

1 SATF with no definitive diagnosis for your January 7th,  
2 2020 incident?

3 A. Yeah. Okay. My dates might be a little mixed  
4 up.

5 Q. And turning to page 31, did you also have a  
6 medical appointment on January 11th, 2020? Do you  
7 recall that?

8 A. Was that the day I got back from the hospital?  
9 Yeah.

10 Q. And there's no mention of a suicide attempt in  
11 that note, correct, on page 31?

12 A. Correct.

13 MS. JACKSON: Objection; the document speaks for  
14 itself.

15 Q. BY MS. BOWER: Did you tell the doctor or the  
16 medical professional that day what you believed the  
17 cause was for that medical episode on January 7th,  
18 2020?

19 A. No, I didn't tell anybody anything.

20 Q. And turning to that next page, page 32, under  
21 the Plan, it says: Patient has been advised to see  
22 Mental Health for anxiety.

23 Were you told to see Mental Health personnel  
24 for your anxiety?

25 MS. JACKSON: Objection; vague.

1 MS. BOWER: That you recall.

2 Q. Let me have you turn to page 33, under  
3 Assessment. It says, "Suspected overdose of  
4 narcotics."

5 Do you recall talking with the medical  
6 professional about that on January 7th?

7 A. Is this at the hospital?

8 Q. This was at SATF.

9 And I believe your testimony earlier is you  
10 did not -- I guess maybe this is how I should ask  
11 it: When you were at SATF on January 7th, 2020, did  
12 you say anything to the medical professionals about  
13 what happened to you that day in terms of your mental  
14 health?

15 A. I don't think I said much to anybody at all on  
16 January 7th after that incident.

17 Q. Okay.

18 A. I mean no. So...

19 Was -- this is -- I don't understand. You're  
20 saying that I had a conversation with him while I was  
21 in the hospital -- in the ambulance?

22 Q. I believe on this page, it is a Progress Note  
23 that was entered and that was under the Assessment  
24 category.

25 A. All right. So is it -- is it a statement I

1 made or is it a assumption that they made?

2 Q. It doesn't appear to be, and so that's why I  
3 think I'm asking you. It sounds like you did not make  
4 that statement obviously to them; correct?

5 A. Correct. I did not make no statements, nor  
6 say anything at all.

7 MS. JACKSON: And Ms. Bower, can you clarify  
8 exactly when this conversation might have occurred?

9 MS. BOWER: I don't know that a conversation did  
10 occur. That was the question. And it sounds like it  
11 didn't. It sounds like this was an assessment, so I  
12 think that he clarified that.

13 So I'm going to have you now turn to page 91,  
14 and we'll mark this as Exhibit 6.

15 (Defendants' Exhibit 6 was marked for  
16 identification.)

17 THE WITNESS: (Witness complies.)

18 Okay. So page 91, huh?

19 MS. BOWER: Page 91, yes. And I am uploading this  
20 now.

21 MS. JACKSON: Thank you.

22 MS. BOWER: And we will mark this as Exhibit 6.

23 MS. JACKSON: And Ms. Bower, we've been going close  
24 to an hour. So I'm not going to stop you, but we will  
25 want a break in a moment or two.

1 MS. BOWER: Do you need a break, Ms. Jackson?

2 MS. JACKSON: Perhaps you can ask the questions  
3 that you have on this document, and then -- well, let's  
4 go ahead and take a break, yeah.

5 MS. BOWER: I think it's only been about an hour.

6 MS. JACKSON: Correct, yeah.

7 MS. BOWER: I don't think we want to take a break  
8 every hour, do we?

9 MS. JACKSON: I would like to take a break every  
10 hour.

11 MS. BOWER: Okay. Let's finish this document.

12 Q. Mr. [REDACTED], did you have a chance to review  
13 this document?

14 A. Yes.

15 Q. And do you recall this visit on January 10th  
16 with the medical professional?

17 A. No, I do not.

18 Q. Here it documents that you denied "self-harm  
19 intent" and "acute distress." Are you -- is that an  
20 accurate statement?

21 A. Like I said, I was not in my right mind at  
22 this time. Around this time, coming back, I was not  
23 really in the right mind. So I cannot remember as to  
24 what I might have said or what I didn't say to these  
25 people.

1 Q. So if you're quoted as saying nothing, I'm not  
2 suicidal, you're saying that that was not accurate?

3 A. Correct.

4 Q. Is it that you didn't tell them that or is it  
5 that you didn't actually believe that?

6 A. Yeah. I mean, I -- yeah, I mean, like, I was  
7 not in the right mind, as far as this -- coming back.  
8 So I could not tell you if -- if this is an accurate  
9 document or if this is not an accurate statement that I  
10 made. I was not in the right mind, you know? So...

11 Q. Okay. I'll ask it this way: Do you recall  
12 telling mental health professionals when you returned  
13 on January 10th that you're not feeling suicidal,  
14 hopeless, depressed or having anxiety?

15 A. I do not recall.

16 Q. Is it possible that you did tell them that?

17 A. Anything's possible.

18 Q. So it's possible that you told them that?

19 A. Anything's possible.

20 Q. Is that a yes?

21 A. Is it possible, yes. It is possible.

22 MS. BOWER: Okay. Why don't we take a quick is  
23 five minutes, okay, Ms. Jackson, or do you need longer  
24 than that?

25 MS. JACKSON: Sure. Five minutes is fine.

1 MS. BOWER: Okay. Let's take a five-minute break.

2 (Recess taken.)

3 MS. BOWER: Back on the record now after another  
4 short break.

5 Q. Mr. [REDACTED], I want to go back to a question  
6 I asked you before, and then I'll have another document  
7 for you to look at.

8 When medical staff was assisting you after the  
9 January 7th, 2020 incident, you represented to them  
10 that you had not used drugs in over six years; is that  
11 right?

12 A. Yeah, correct.

13 Q. And is that your testimony today, that you had  
14 not used drugs in over six years prior to that  
15 incident?

16 A. Yeah, that is my -- that is my testimony right  
17 now.

18 Q. But you had been found with drugs in your  
19 system less than a month before that; right?

20 A. That is, what, the 115. Yeah.

21 Q. So let's turn to that one. It's page 114 to  
22 page 133. I'll upload that, and we'll mark it as  
23 Exhibit 7.

24 A. 114 to 137, you said.

25 Q. 114 to 133.

1 A. Okay. Yes.

2 Q. This one might take a minute to upload,  
3 because it's got several pages, like 20 pages. So let  
4 me upload that so your attorney can look at a copy  
5 while we talk.

6 A. Okay.

7 MS. BOWER: Ms. Jackson, maybe you can let me know  
8 when you have that.

9 MS. JACKSON: Sure. Yes. It has -- the document  
10 has arrived in my chat box and now I'm waiting for it  
11 to download.

12 (Defendants' Exhibit 7 was marked for  
13 identification.)

14 MS. JACKSON: Okay. I have the document. Thank  
15 you.

16 Q. BY MS. BOWER: Mr. [REDACTED], do you recognize  
17 this document?

18 A. Yes. Yes, I do.

19 Q. What is this document?

20 A. This is an RVR --

21 Q. And what is RVR?

22 A. -- a Rules Violation Report.

23 Q. A Rules Violation Report? And what is your  
24 understanding of a Rules Violation Report?

25 A. Whenever there's a violation within the -- if



1 you, you know, violate some type of rules violation, if  
2 you violate some type of action, then they give you a  
3 115, you know, to state that there's something wrong  
4 you did.

5 Q. And what was this Rules Violation Report  
6 issued to you for?

7 A. It was issued to me for, it says a dirty  
8 urinalysis test.

9 Q. And the log number for this Rules Violation  
10 Report is 6964093; is that right?

11 A. Yeah, I don't know. Yeah, I -- oh, okay.  
12 Yeah, you're right. 6964093, yes. Yes.

13 Q. Mainly trying to identify it for the record.  
14 And the "Specific Act" there it says, "Use of  
15 a Controlled Substance"; correct?

16 A. Correct.

17 Q. And the violation date says January 28th,  
18 2020; is that right?

19 MS. JACKSON: Objection; the document speaks for  
20 itself.

21 MS. BOWER: You can answer, Mr. [REDACTED].

22 MS. JACKSON: It's -- that's not correct.

23 Q. BY MS. BOWER: What was the violation date?

24 A. They're saying the violation date on  
25 Wednesday, December 11th, 2019, would be what they're

1 saying is the violation date.

2 Q. And so on December 11th, 2019 is when you were  
3 tested; correct?

4 A. One of many, yes. Yes.

5 Q. And on January 28th, 2020, is that when the  
6 results came back? Do you know?

7 A. Correct. Correct.

8 Q. Okay.

9 And what were the results of that test?

10 A. It says there were -- positive for -- for  
11 amphetamines, amphetamine, and methamphetamine.

12 Q. And anything else?

13 A. Opiates and Morphine.

14 MS. JACKSON: Let the record reflect that he's  
15 reading from the first page of the RVR.

16 THE WITNESS: Yes.

17 Q. BY MS. BOWER: What page are you looking at,  
18 Mr. [REDACTED]?

19 A. 114.

20 Q. Okay. And I'll direct you to page 133, and  
21 that's the lab result; correct? Have you seen that  
22 before?

23 A. Yes. Yes, I've seen that lab report.

24 Q. And that's showing the results positive for  
25 methamphetamine, amphetamine, opiates, Morphine; is

1 that right?

2 MS. JACKSON: Can we first verify that

3 Mr. [REDACTED] is, in fact, on page 133?

4 THE WITNESS: Okay. Your lab reports are on 133,  
5 are you reading from?

6 MS. BOWER: Correct.

7 THE WITNESS: Okay. Yes. I got it right here. It  
8 says "positive."

9 Q. BY MS. BOWER: Have you seen that lab report  
10 before?

11 A. No, I didn't get this one, but -- okay. No, I  
12 didn't get this, but now I have. Okay.

13 Q. So you had positive results for a controlled  
14 or illegal substance; correct?

15 A. Correct.

16 Q. And that was less than a month before the  
17 January 7th, 2020 incident; correct?

18 A. Yes.

19 Let me clarify, I'm currently appealing  
20 this, along with plenty of other tests, with  
21 harassment to Lieutenant Lunes while I was on Facility  
22 D. So there was plenty of -- of the harassment. So  
23 there was plenty of other urine samples that were  
24 taken that didn't come up positive; but, you know,  
25 this one specifically came up. So I'm -- I'm

1 currently -- that's part of my -- my appeal that I'm  
2 doing right now with Facility D, you know, with  
3 Lieutenant Lunes of Facility D yard.

4 Q. And Lieutenant Lunes, he was a hearing officer  
5 for one of your RVRs, correct, or lieutenant?

6 A. Correct, yeah. Correct, yeah. Yes, correct.

7 Q. And you --

8 MS. JACKSON: Ms. Bower, there's actually more than  
9 one Lunes involved, so I'm going to object as vague and  
10 ask that you have Mr. [REDACTED] clarify and that you  
11 clarify when you refer to a Lunes.

12 Q. BY MS. BOWER: Mr. [REDACTED], do you have any  
13 confusion about who I'm referring to?

14 A. Yes, I do.

15 Q. Okay. So who are the different Luneses?

16 A. Okay. So there was a Lieutenant Lunes that is  
17 a Facility D lieutenant in SATF, and there was a  
18 Lieutenant Lunes who was lieutenant on Facility C in  
19 Donovan. So...

20 Q. Right. So I'm -- I'm referring only to the  
21 Lieutenant Lunes at SATF.

22 A. Okay. Okay. Okay. Yes.

23 Q. And you were --

24 A. So...

25 Q. -- asked and believed to have made threats

1 against Lieutenant Lunes at SATF; right?

2 A. Allegedly?

3 Q. Right.

4 A. Yeah.

5 Q. Is that correct?

6 A. Yeah, they had alleged that I -- that there  
7 was an investigation that there was alleged, but the  
8 investigation proved to be not reliable. So...

9 Q. You took -- did you take a lie detector test  
10 about that?

11 A. Yes, I did.

12 Q. Okay. I'm going to upload and mark as  
13 Exhibit A -- I'm sorry, Exhibit 8, another document.  
14 It's page 297.

15 A. Okay. So go to 297?

16 Q. Yes, please.

17 A. All right.

18 Q. And you're doing a great job with these  
19 documents, by the way. It's not easy. Usually I would  
20 just hand them to you, so you're doing a great job.

21 A. All right.

22 Q. And I have uploaded it so that your counsel  
23 can have access. It's one page, page 297. I'll mark  
24 it as Exhibit 8.

25 ///

1 (Defendants' Exhibit 8 was marked for  
2 identification.)

3 MS. JACKSON: It's coming through on the chat and  
4 I'm waiting for it to download.

5 Okay. I have it downloaded. Thank you,  
6 Ms. Bower.

7 Q. BY MS. BOWER: Mr. [REDACTED] let me know when  
8 you've had an opportunity to review this document?

9 A. Okay.

10 Okay. Okay. Yeah, I got it. I got it.

11 Q. Can you tell me about this lie detector test  
12 that you took? What -- when was that?

13 A. Yes.

14 Q. I'm sure that's not the formal name for the  
15 test, but maybe you can tell me a little bit about what  
16 happened with that test.

17 A. Yeah, I believe it's called a stress test or  
18 some type of stress -- stress analyzer. Lie detector  
19 is what they call it. But yeah.

20 Well, they -- you have to -- you volunteer for  
21 it, you know what I mean? So it was voluntary. I  
22 could have said no and not took it. And -- but I  
23 volunteered to take it. And they just asked me a  
24 series of questions and -- yeah. So, yeah, they asked  
25 me a series of questions.

1 Q. Do you know what the outcome of that test  
2 was?

3 A. I figured it was solely maybe in between,  
4 because they released me out of Ad Seg. If not, they  
5 would have kept me in Ad Seg. It was in between. The  
6 person -- the person giving me the interview kind of  
7 said that it was in between, so there was not no  
8 reliable threat that I would harm him. But at the same  
9 time, it didn't give enough information to say that I  
10 might, that I wouldn't. So it was in between. Not  
11 enough to -- so that's why they -- yeah.

12 Q. Let me read from it, and you tell me if this  
13 is what you recall being the findings.

14 A. Okay.

15 Q. "Based on the Tendency findings, this examiner  
16 has determined [REDACTED] displayed knowledge as a  
17 potential suspect regarding the plausible 'Staff  
18 Threat'" based on the -- "based solely on the CVSA  
19 exam." It says, "Therefore, as a precautionary measure  
20 and due to the plausible threat, ISU is recommending  
21 [REDACTED] case be referred back."

22 Do you recall that finding?

23 A. Yeah. That's why I got kicked out to another  
24 yard.

25 Q. So were you upset with Lieutenant Lunes for  
[REDACTED]

1 finding you guilty of an RVR?

2 A. No. It had nothing to do with the RVR. Like  
3 I said, there was a lot of harassment. He was  
4 harassing me and my family, you know, from prior  
5 history that I have with Lunes from another  
6 institution. So, you know, that's when I was an active  
7 gang member; okay? Now I'm on the SNY yard; I'm no  
8 longer an active gang member.

9 Lieutenant Lunes is a lieutenant on the yard  
10 that I just got to on November 7th; okay? So from  
11 November 7th to December 20th, he displayed plenty of  
12 harassment on me with, you know, searching my cell,  
13 testing me, drug testing me frequently, which is not  
14 required by CDC anymore, unless you give -- unless you  
15 give them, you know, reason to be, whether if I'm  
16 displaying I'm under the influence or something.

17 So I was getting frequently tested. My cell  
18 was being frequently searched. So I filed harassment.

19 My family would come visit me, and he would  
20 strip search them and, you know, that is not required  
21 by CDC when families come to visit. You don't strip  
22 search your family, and he was doing that.

23 So I filed paperwork against Lunes on the  
24 Friday, because on Saturday, he stripped searched my  
25 family. So on Sunday is when they took me to Ad Seg



1 for this threat, staff threat, because I filed  
2 paperwork on Saturday. My family did. My family  
3 filed.

4 Q. You tested --

5 A. Yes.

6 Q. And you tested positive for controlled  
7 substance in December of 2019; right?

8 MS. JACKSON: Objection; foundation.

9 THE WITNESS: That's the one you're talking about;  
10 right?

11 MS. BOWER: Right.

12 THE WITNESS: Yeah. Well, that was one of many.  
13 Like I said, he was testing me -- he tested me maybe  
14 four times that week. So if one came up and not four,  
15 then that is a potential...

16 Q. BY MS. BOWER: Okay. Let's look at another  
17 document. This one is page 182 to 196.

18 A. Okay. 186?

19 Q. I'm sorry, 182 to 196.

20 A. Okay. 182 --

21 Q. And I am uploading it for your attorney now.

22 A. -- to 196?

23 Q. 182 to 196.

24 A. Got you.

25 MS. JACKSON: And the exhibit has appeared in my

1 chat and I am downloading it now.

2 THE WITNESS: Okay.

3 (Defendants' Exhibit 9 was marked for  
4 identification.)

5 Q. BY MS. BOWER: Do you recognize this document?

6 A. Yeah. Yes, I do.

7 Q. What is this document?

8 A. It is a Rules Violation Report.

9 Q. And just for the purpose of making sure we're  
10 all on the same page, is that log number 4899084;  
11 correct?

12 MS. JACKSON: Ms. Bower, can you direct  
13 Mr. [REDACTED] on where the log number is on this  
14 document?

15 MS. BOWER: Sure. It's on page 182, and it's at  
16 the bottom where it says "RVR Log Number."

17 A. 4899084, yeah.

18 Q. Do you recall this incident?

19 A. Yes, I do.

20 Q. And the "Specific Act" is "Resisting Staff"  
21 for an incident this occurred on April 11th, 2018;  
22 correct?

23 A. Correct.

24 Q. And you were found guilty of this Rules  
25 Violation; correct?

1 A. For resisting, correct.

2 Q. And it states in the circumstances of the  
3 violation, that you had inserted something in your  
4 mouth and swallowed an unknown object when they were  
5 trying to search your cell?

6 A. Correct. They believed -- he believed  
7 that -- no, he believed I flushed something in the  
8 toilet. And then when they found that there was no  
9 object in the toilet, he said I swallowed something.  
10 So he was --

11 Q. When they did an --

12 A. -- huh?

13 Q. And when they did an x-ray, there was an  
14 anomaly that they detected; correct?

15 A. Well, they said there was an anomaly and  
16 then they put me on contraband watch. I gave them  
17 three bowel movements, which should have been -- which  
18 should have gave them what they thought they were  
19 looking for, and they x-rayed me after every bowel  
20 movement, and it became negative. So it was  
21 negative --

22 Q. I'm going to direct you --

23 A. -- yes.

24 Q. I'm going to -- go ahead, if you want to  
25 finish that thought. I didn't mean to interrupt you.

1 A. No, I mean, yeah. I -- everything  
2 I -- everything they asked of me, I did. There was  
3 nothing. So...

4 Q. I'm going to direct you to another document  
5 now. It's page 276 to 277, and I'll mark this -- we'll  
6 mark it as Exhibit 10, and I will upload it for your  
7 attorney now.

8 A. Okay. So what is that, again?

9 Q. It's pages 276 to 277.

10 MS. JACKSON: I have the document, Ms. Bower.  
11 Thank you.

12 Let's make sure Mr. [REDACTED] does.

13 THE WITNESS: What is it, number what?

14 MS. BOWER: 276 to 277.

15 THE WITNESS: Okay. Yeah.

16 (Defendants' Exhibit 10 was marked for  
17 identification.)

18 Q. BY MS. BOWER: Do you recognize --

19 A. I got it.

20 Q. -- this document?

21 A. Yeah. Well, a long time ago I do.

22 Q. And this is another Rules Violation Report for  
23 controlled substance; correct?

24 A. Yes.

25 Q. And you tested positive for methamphetamines?

1 A. Yeah, 2005. Yeah.

2 Q. All right.

3 I've got one more here for you, and we'll mark  
4 it as Exhibit 11. And that's page 278 to 296.

5 A. To 280?

6 Q. 278 to 296. And I just uploaded it for your  
7 attorney.

8 MS. JACKSON: I'm in the process of downloading  
9 it.

10 MS. BOWER: We'll mark this one as Exhibit 11.

11 (Defendants' Exhibit 11 was marked for  
12 identification.)

13 MS. JACKSON: I have it now, but I'm not sure if  
14 Mr. [REDACTED] has found it.

15 MS. BOWER: Pages 278 to 296.

16 THE WITNESS: Yeah, I got it.

17 Q. BY MS. BOWER: Do you recognize this document?

18 A. Yeah.

19 Q. And this is another incident report and Rules  
20 Violation for controlled substance; correct?

21 A. These aren't the same ones.

22 Q. That might be my mistake. I apologize.

23 This is for the one that we just looked at; is  
24 that right?

25 A. Yeah, this is the same ones.

1 Q. Right. So Exhibit 10 and Exhibit 11 sort of  
2 go together; right?

3 A. Of course.

4 Q. I'm sorry. The one that I -- we were just  
5 talking about and then now this one?

6 A. Yes.

7 Q. And you plead guilty to that charge; is that  
8 right?

9 A. Yes.

10 Q. And you were found guilty of that; correct?

11 A. Correct. I pled guilty to it and found  
12 guilty, yeah.

13 Q. Okay.

14 So I have one more document for SATF, related  
15 to SATF. So I will direct you to page 299 to 302 and  
16 we'll mark this one as Exhibit 12. So 299 to 302.

17 (Defendants' Exhibit 12 was marked for  
18 identification.)

19 THE WITNESS: Yeah, I've got them right here.

20 MS. JACKSON: And I'm still in the process of  
21 downloading the document.

22 THE WITNESS: Okay.

23 MS. JACKSON: I have it open. Thank you.

24 Q. BY MS. BOWER: Mr. [REDACTED], do you recognize  
25 this -- these two documents? One is the --

1 A. Yeah.

2 Q. -- response and one is your grievance; is that  
3 right?

4 A. Yes.

5 Q. What was this grievance about?

6 A. Once again, it has to go with one of my  
7 harassment against Lieutenant Lunes, Sergeant Wimer and  
8 Sergeant Herrmann, who -- they were -- Lunes was having  
9 these both sergeants, who are the yard sergeants,  
10 visiting sergeants, search my cell and take my  
11 property, numerous, numerous times, you know, and --

12 Q. For the --

13 A. You know, one week it is for my food. And  
14 this week it was -- this specific week was for property  
15 in cell, and so they took a lot of stuff from my cell.  
16 Some of this stuff in my cell -- most of the stuff they  
17 took was my stuff, my personal property. There was  
18 some property in my cell that was not -- did not belong  
19 to me, but --

20 Q. And to clarify -- and to clarify for the  
21 record, this is Appeal Log number 20-201 [sic]; is that  
22 right?

23 A. Yes.

24 Q. Okay.

25 And you believe this was because you were

1 formally a validated gang member and this was  
2 residual --

3 A. That they --

4 Q. I'm sorry?

5 A. No, no, no. Okay. No. My -- no, no, no.,  
6 That's not what I'm stating. This is what his  
7 harassment was. No.

8 You'd have to ask Lieutenant Lunes exactly  
9 why his harassment to me was. I'm just stating the  
10 facts, that that was when I was -- when my history  
11 started with Lieutenant Lunes, you know, as far as why  
12 he -- you know, why his harassment of me was so  
13 excessive. You'd have to ask him. I don't know.

14 Q. You don't know?

15 A. But -- No.

16 But this was one of the reasons -- this --  
17 this is one of my appeals --

18 Q. Right. And you don't --

19 A. -- for --

20 Q. -- and you don't allege any issues with that  
21 necessarily in your declaration, but what I want to ask  
22 you about is the date that you submitted this says  
23 January 7th, 2020; is that right?

24 A. It was the day before actually. This was the  
25 day before. But like I say, I gave my -- because they



1 go in the mail, you know, so this was the day before  
2 actually. I dated this -- I did this in the night the  
3 day before and -- yeah.

4 Q. So you completed this the night of  
5 January 6th, 2020; is that right?

6 A. The night of yeah January 6, yes.

7 Q. All right.

8 But you submitted it on January 7th, 2020?

9 A. No. It was submitted the night before, but  
10 they pick them up in the morning. Every morning  
11 there's a separate box for 602s. They pick them up  
12 separately in the morning.

13 So this was delivered the day before in that  
14 box. They just picked them up the day, in the morning.

15 Q. Let me ask this: On page 301, that's your  
16 signature as "Inmate/Parolee Signature"; right?

17 A. Yeah, that's my signature.

18 Q. And did you write in the date submitted?

19 A. The date submitted, did I write January 7th?

20 Q. Correct.

21 A. Yeah, I did. I wrote January 7th.

22 Q. So when did you write January 7th, 2020?

23 A. January 6th.

24 Q. And the reason why is because you believed  
25 they would pick it up on the 7th; is that right?

1           A. I kind of -- most -- most documents I date, as  
2 I stated before -- when I -- I stated before earlier  
3 that I date them the day when I believe they're going  
4 to pick them up. They submit it, would be the day of.  
5 So...

6           Q. I understand.

7                   And so how did you submit this document?

8           A. You just stick it outside your door, and they  
9 pick -- usually if you have mail or anything, a medical  
10 slip, you just stick it out your door. And sometimes  
11 the porter will pick it up, and he'll just -- most of  
12 the time the porter picks them up and puts them in the  
13 box.

14          Q. Okay.

15                   I just have another question about the  
16 January 7th, 2020 incident. In your declaration, you  
17 state that your ribs were broken during chest  
18 compressions; is that right?

19          A. Yes.

20          Q. Do you have any basis for that? Did somebody  
21 tell you that?

22          A. Yes.

23          Q. Who told you that?

24          A. The doctor.

25          Q. So a doctor told you that your ribs were

1 broken?

2 A. Yeah. The doctor in the hospital, he -- they  
3 said I had pneumonia and they said my ribs were broken.  
4 They issued me Morphine and -- I think they issued me  
5 Morphine, and I told them -- I denied the Morphine.  
6 And then they gave me, I believe it was another  
7 Oxycodone, I think, or something. I can't remember  
8 what that thing was, but they gave me medication for  
9 it.

10 But it should be in there in my medical.

11 MS. JACKSON: Ms. Bower, I can't hear you.

12 MS. BOWER: Can you hear me now?

13 MS. JACKSON: I can, yes.

14 MS. BOWER: Sorry about that.

15 Q. Mr. [REDACTED], can you hear me okay?

16 A. Yes.

17 Q. Okay.

18 Okay. I'd like to switch now to the incident  
19 that you allege occurred at Corcoran State Prison.

20 A. Okay.

21 Q. And your declaration alleges an April 6, 2020  
22 incident at Corcoran; correct?

23 A. Excuse me?

24 Q. Your declaration alleges an incident  
25 April 6th, 2020; correct?

1 A. Correct.

2 Q. And the officers that you allege were involved  
3 are officers -- which officers do you allege were  
4 involved?

5 A. Ruiz and -- Officer Ruiz and Officer  
6 Hernandez.

7 Q. Can you describe Officer Ruiz for me?

8 A. As far as his looks?

9 Q. Appearance, correct -- well, maybe we can do  
10 it this way --

11 A. He wears a green jumpsuit.

12 Q. -- is it male or female?

13 A. He's a male.

14 Q. And how about hair color?

15 A. It's black.

16 Q. And can you estimate his height?

17 A. I'm not real good at estimating height. I  
18 would say he's -- I'm tall, so he's short. I'm  
19 six-five.

20 Q. Okay. And what about race?

21 A. He's Hispanic.

22 Q. And how about Officer Hernandez, is that a  
23 male or female?

24 A. He's a male.

25 Q. And what color hair, do you recall?

1           A. He's light-skinned, so he wears a hat most of  
2 the time. Sometimes -- no, he's got like brownish  
3 hair. Brownish hair.

4           Q. And what about height?

5           A. They're about the same height. He's stockier,  
6 more stockier built. He's more stocky than Ruiz, as  
7 far as build, as far as muscular build.

8           Q. Okay.

9                     And you allege that there was an assault by  
10 these officers April 6, 2020; correct?

11          A. Yes.

12          Q. And your declaration does not identify a  
13 motivation for this alleged assault; is that right?

14          MS. JACKSON: Objection; the document speaks for  
15 itself.

16          THE WITNESS: Let me see. Does it? No, not that.  
17 No.

18          Q. BY MS. BOWER: And you do not claim that this  
19 incident was motivated by any sort of disability;  
20 correct?

21          MS. JACKSON: Objection; calls for a legal  
22 conclusion.

23          MS. BOWER: You can answer, if you can,  
24 Mr. [REDACTED].

25          THE WITNESS: Oh, no. I don't -- no.

1 Q. BY MS. BOWER: Do you have a belief today as  
2 to the motivation of this alleged assault?

3 A. I don't know.

4 Q. You claim that you were injured that day;  
5 correct?

6 A. Yeah. Yes.

7 Q. And what injuries do you claim that you  
8 sustained that day?

9 A. Physical and mentally.

10 Q. What sort of physical injuries?

11 A. Just body injuries, some facial injuries, some  
12 superficial injuries on my face from the cage. He  
13 hit -- they punched me in the ribs, in the back in the  
14 ribs on both sides. So yeah, there was some bruises,  
15 some rib injuries.

16 Q. What kind of rib injuries?

17 A. You know, just bruises from punches.

18 Q. And you did not seek medical help for those;  
19 correct?

20 A. I asked -- I asked for medical. I asked for  
21 medical, as well as asked to see the sergeant.

22 Q. I'm going to ask you to take a look at  
23 pages 98 to 109, and we'll mark this one as Exhibit 13.  
24 Pages 98 through 109.

25 A. Where are we at here? We're on the -- okay.

1 Q. I am uploading this for your attorneys; okay?  
2 All right.

3 MS. JACKSON: The exhibit arrived in my chat and  
4 I'm waiting for it to download.

5 (Defendants' Exhibit 13 was marked for  
6 identification.)

7 Q. BY MS. BOWER: Specifically I'm going to  
8 direct you to page 100 to start, and we'll wait for the  
9 attorney to get the document in front of her.

10 MS. JACKSON: What exhibit did you say this was?

11 MS. BOWER: I'm sorry?

12 MS. JACKSON: What exhibit number did you say this  
13 was?

14 MS. BOWER: We'll mark that as Exhibit 13.

15 MS. JACKSON: Thank you.

16 MS. BOWER: And that will be pages 98 to 109.

17 MS. JACKSON: I have the document. Thank you.

18 MS. BOWER: And I am directing Mr. [REDACTED] to  
19 page 100.

20 Q. Mr. [REDACTED], do you recall seeing a nurse on  
21 April 14th, 2020?

22 A. Yes.

23 Q. And that would have been about a week after  
24 the April 6, 2020 incident; correct?

25 A. Correct.

1 Q. Do you recall telling her that you refused the  
2 visit because you saw the doctor recently and, at this  
3 time, you don't have any medical concerns?

4 A. Yes.

5 Q. So you told this nurse that you did not have  
6 any medical concerns; correct?

7 A. Correct.

8 Q. And why did you not mention these injuries  
9 that you claim you sustained on April 6?

10 A. Well, for one, I don't remember if this was in  
11 front of my cell; right? So this nurse -- I don't -- I  
12 just didn't feel they would do anything, you know, to  
13 help me anyway, these nurses right here at this time.

14 This was in front of my cell, so they didn't  
15 take me out of my cell. This was in front of my cell,  
16 I believe, at this specific time. Because understand,  
17 I'm in Ad Seg, so this -- yeah, this was in front of my  
18 cell.

19 Q. And she told you to submit a 7362 if you had  
20 anymore problems; correct?

21 A. Yes.

22 Q. Did you submit one of those after your visit  
23 with her?

24 A. No, because I already filled out -- I already  
25 was -- filled out my 602.



1 Q. So you did not submit a medical request for  
2 service; correct?

3 A. No. I filled out a 602.

4 Q. And you refused a few visits during that time  
5 within a month of the April 6th incident?

6 A. Yeah, I refused more than enough.

7 Q. How much did you refuse?

8 A. I can't remember. It would depend on  
9 what officers that were -- that come to escort you,  
10 was -- you know -- you know, because they're all -- all  
11 the officers are together there, so -- you know, I was,  
12 you know, worried for another attack, depending on what  
13 officers it was that was taking me out.

14 Because everybody -- all the officers knew  
15 about what happened. You have to understand. So they  
16 are all one there.

17 Q. And how did you?

18 A. So we have --

19 Q. How did you know --

20 A. Huh?

21 Q. -- that they knew?

22 And when you say "they knew," who knew?

23 A. All the officers in that -- everybody knew  
24 what happened. It's not no secret there. There's more  
25 than one -- more than one assault on inmates going on

1 in that unit. So all them officers are aware of what's  
2 going on and who's getting assaulted.

3 Q. And if you turn to page 109, did you sign a  
4 consent form on April 15th, 2020; is that right?

5 A. A consent form?

6 Q. You were scheduled for a stress test on  
7 April 15th, 2020; correct?

8 A. Yes.

9 Q. And did you go to that stress test?

10 A. I don't think I went to the stress test.

11 Q. And why not?

12 A. Like I said, depending on who it was coming to  
13 get you. But yeah, it depends.

14 Q. And you think the escorting officer would not  
15 want you to go to your stress test or --

16 A. No. I mean, like the way my mental health  
17 state at this time was, is you don't know what's real  
18 and what's not. Because they can come and use -- take  
19 you -- taking you to medical as a ruse to get you out  
20 of your cell to assault you. Because I can stay in my  
21 cell and not come out and not be assaulted, and that  
22 would be a safe place for me.

23 But if I'm being escorted by an officer, like  
24 I was being escorted to yard, I got assaulted. So  
25 that, to me, can happen any other time. So depending

1 on what officer it is, I'm not trusting any of them  
2 anymore. I trusted them and I got assaulted, so...

3 Q. Do you consider yourself a nonviolent person?

4 MS. JACKSON: Objection; vague.

5 THE WITNESS: Yeah. I mean...

6 MS. BOWER: Go ahead is answer, if you will,

7 Mr. [REDACTED].

8 THE WITNESS: I mean -- I mean, I'm normally  
9 not violent, depending on the situation. We are in a  
10 violent place, look what happens. I mean...

11 Q. BY MS. BOWER: You have a documented history  
12 of fighting and violence; correct?

13 A. Yeah, I've gotten in a couple fights. Yes.

14 Q. Okay. Let's take a look at some of those.  
15 I'm going to direct you to page 134 to 150, and we'll  
16 mark that as Exhibit 14.

17 A. Which one are we on? Are we back on  
18 the -- the Rules Violation reports?

19 Q. Correct. I'll upload it. This for your  
20 attorney. It will be Exhibit 14, page 134 to 150.

21 A. Okay 134 to 150?

22 Q. Correct.

23 A. Yeah, I got it.

24 MS. JACKSON: Okay. I'm still waiting to get the  
25 document.

1 THE WITNESS: Okay.

2 MS. JACKSON: I see it in my chat, but I'm waiting  
3 for it to download.

4 Okay. I have it. Thank you.

5 (Defendants' Exhibit 14 was marked for  
6 identification.)

7 Q. BY MS. BOWER: Mr. [REDACTED], do you recognize  
8 this document?

9 A. Yes. I'm currently -- once again, I'm  
10 currently appealing the 605. This is an incident where  
11 Lieutenant Lunes, Lieutenant Herrmann -- Sergeant  
12 Herrmann and they -- they searched my cell, took my  
13 report. I was in the midst of getting my property with  
14 my receipts outside of their office. There happened to  
15 be a fight that was on the yard; right?

16 Q. Let me interrupt you, because I don't think  
17 I've asked you a question yet. So --

18 A. Okay.

19 Q. -- this -- the violation date for this was  
20 December 13th, 2019; correct?

21 A. Correct.

22 Q. And the "Specific Act" here was "Fighting";  
23 correct?

24 A. Correct.

25 Q. And the "Reporting Employee" was "A. Soltero,"

1 S-o-l-t-e-r-o; is that right?

2 A. Soltero, yes.

3 Q. Soltero.

4 And he reported that you were involved in a  
5 fight with three other inmates; is that right?

6 MS. JACKSON: Objection; the document speaks for  
7 itself.

8 Q. BY MS. BOWER: Is that your understanding of  
9 the violation reported?

10 A. No. No. The violation -- the violation  
11 states that there's two separate inmates fighting  
12 two other inmates.

13 Q. And you were one of those inmates; correct?

14 A. Allegedly.

15 Q. And were you found guilty of this Rules  
16 Violation for fighting?

17 A. By Lieutenant Lunes, yes.

18 Q. Okay. Let's turn to the next one. We'll mark  
19 this one as Exhibit 15.

20 A. Okay.

21 Q. And that would be pages 151 to 172, and I am  
22 uploading this for your attorney now.

23 A. All right. So it's 151 to where?

24 Q. 151 to 172.

25 ///

1 (Defendants' Exhibit 15 was marked for  
2 identification.)

3 THE WITNESS: Okay.

4 MS. JACKSON: I have the document as well.

5 Q. BY MS. BOWER: Do you recognize this document,  
6 Mr. [REDACTED]?

7 A. Yes.

8 Q. And what is this document?

9 A. It is a Rules Violation Report.

10 Q. And this is for fighting; correct?

11 A. Correct.

12 Q. And were you found guilty of this Rules  
13 Violation?

14 A. I was by Lieutenant Lunes.

15 Q. And the "Reporting Employee" was an  
16 Officer Valencia; correct?

17 A. Correct.

18 Q. And just for the sake of the record, the log  
19 number here is 7019021 [sic]; is that right?

20 A. Correct.

21 Q. And this involved an incident that occurred on  
22 July 29th, 2020; is that right?

23 A. Correct.

24 Q. And who is Inmate [REDACTED] that is identified  
25 in this Rules Violation?

1 A. What do you mean who -- I don't understand  
2 your question.

3 Q. Are you familiar with the Inmate [REDACTED] who  
4 is identified in this Rules Violation Report?

5 A. Am I? Yeah, I'm familiar with him.

6 Q. How are you familiar with him?

7 A. He's on the same yard as me.

8 Q. And did you have problems with  
9 Inmate [REDACTED]

10 A. No, I did not.

11 Q. And you were observed by Officer Valencia as  
12 having a one-on-one fight with him; correct?

13 MS. JACKSON: Objection; foundation.

14 THE WITNESS: Yes, yes. That's what he stated.

15 Q. BY MS. BOWER: And I'll direct you now to  
16 page 172. It's the very last page there. And that's a  
17 Medical Report of Injury for [REDACTED]; is that your  
18 understanding?

19 A. Yes.

20 Q. And it looks like the nurse documented  
21 injuries to his head; correct?

22 A. Correct.

23 MS. JACKSON: Objection; Mr. [REDACTED] is not a  
24 medical expert and you're asking him to interpret a  
25 medical form.

1 Q. BY MS. BOWER: Okay. Let's turn to the next  
2 one that we'll mark as --

3 A. It says -- it says he refused -- just for the  
4 record, it says he refused and he said "I'm good."

5 Q. Refused treatment.

6 And it's showing markings on his cheek and  
7 ear; correct?

8 MS. JACKSON: Objection; you're asking him to  
9 interpret a medical form.

10 THE WITNESS: Yeah. He had a scratches on his  
11 face, so it could be those.

12 Q. BY MS. BOWER: All right. We'll mark this  
13 next one as Exhibit 16. It's pages 173 through 181.  
14 So 173 to 181, and it's Exhibit 16.

15 (Defendants' Exhibit 16 was marked for  
16 identification.)

17 MS. JACKSON: Ms. Bower, I just want to do a time  
18 check. You previously said you had -- well, about an  
19 hour ago you said you had about an hour and a half  
20 left. Do you still think that you have about half an  
21 hour left now?

22 MS. BOWER: I think so, yes.

23 Q. Do you recognize this document, Mr. [REDACTED] ?

24 A. Yeah.

25 Q. And this is a Rules Violation Report; correct?



1 A. Yes.

2 Q. For threatening serious bodily injury to a  
3 prisoner?

4 A. What page is that again?

5 Q. Page 173 to 174 is what I'm looking at.

6 A. 173 to 174. Yeah.

7 Q. And this is regarding an incident that  
8 occurred on December 19th, 2018; correct?

9 A. Okay. All right.

10 Q. Were you found guilty of this Rules Violation?

11 A. Yeah.

12 Q. And there's several statements attributed to  
13 you here, and I want to verify that you made these  
14 statements. Did you tell an officer that due to  
15 previous business dealings, you consider certain  
16 inmates enemies and that if given opportunity, you want  
17 to gravely assault them?

18 A. No. I did not.

19 Q. Did you say something like that?

20 A. No. I said no such statements.

21 Q. You have some quotes here saying "By any means  
22 necessary, I'll do what I have to do." [REDACTED] is  
23 my cellie and the only one I trust, whatever we do, we  
24 do together." You didn't make any of those statements?

25 A. No, I did not.

1 Q. So the reporting employee here is  
2 Officer Cruz; correct?

3 A. No. Actually, it was a sergeant.

4 Q. Who was the sergeant?

5 A. I -- jeez, that was in Kern Valley, that's not  
6 in here. But I know -- no, I don't remember the  
7 sergeant's name, but -- but it was a sergeant.

8 Q. And you talked to a sergeant?

9 A. The sergeant was the one directing those  
10 comments.

11 Q. Did you say anything to the sergeant about  
12 issues with these inmates? It looks like two inmates.  
13 You could see them there on page 173.

14 A. [REDACTED], and I don't know who other inmate was.  
15 No, I do know the situation that you're talking about.  
16 But no. No.

17 Q. What is your position on what the situation  
18 was that prompted this Rules Violation?

19 A. Well, if you don't want to be  
20 somewhere -- yeah, I mean, I was on the yard. That was  
21 Kern Valley. I didn't want to be on that yard anymore,  
22 and me and my cellie, we didn't want to be on that yard  
23 anymore. And the sergeant asked for certain  
24 information, and we refused to give him any information  
25 that was to his liking.

1           So, you know, he threatened to send us back to  
2 that yard. I told him I don't want to be on that yard  
3 no more. He chose to put those comments on there  
4 specifically to get us off that yard. So that's what  
5 he wrote. That's not what I said, so...

6           Q. So you did not want to be on that yard  
7 anymore?

8           A. Correct.

9           Q. And why not?

10          A. Yeah, I just -- I mean, that yard's a gang  
11 member yard. I'm not a gang member, and I didn't  
12 chose -- he had me in a gang member setting. That's  
13 that simple.

14          Q. So you didn't make those threats; is that what  
15 you're claiming?

16          A. That's correct.

17          Q. But you did assault your cellmate before;  
18 right?

19          MS. JACKSON: Objection; misstates facts, assumes  
20 facts not in evidence.

21          Q. BY MS. BOWER: Do you recall a February 2011  
22 incident with your cellmate?

23          A. Are you directing me somewhere?

24          Q. I can, sure. Page 244 to 275. 244 to 275.  
25 I'll upload this for your attorney.

1 A. Okay. I'm there.

2 Q. Page 274 to 275, and we'll mark this as  
3 Exhibit 17.

4 Let me know when you've had a chance to review  
5 this.

6 A. I got it. We can continue.

7 (Defendants' Exhibit 17 was marked for  
8 identification.)

9 MS. JACKSON: Okay. Actually, I'm still waiting  
10 for the document to download.

11 THE WITNESS: Oh, okay. Okay. Okay. Okay.

12 Q. BY MS. BOWER:

13 MS. JACKSON: You said this was Exhibit 17?

14 MS. BOWER: Correct.

15 MS. JACKSON: Okay. I'm ready. Thank you.

16 Q. BY MS. BOWER: Do you recall this Rules  
17 Violation, Mr. [REDACTED]?

18 A. Yes, I do.

19 Q. And this was for an incident that occurred on  
20 February 2nd, 2011; correct?

21 A. Yes, it did.

22 Q. And for the sake of the record, the Rules  
23 Violation number is 02-2 [sic]; is that right?

24 MS. JACKSON: Ms. Bower, can you direct him to  
25 where you're looking?

1 THE WITNESS: Yeah, yeah, yeah. It is.

2 MS. BOWER: Page 246.

3 THE WITNESS: The log number is FD-11-02-0002.

4 Q. BY MS. BOWER: Right. And you were found  
5 guilty of battery on an inmate with a weapon; correct?

6 A. Correct.

7 Q. And the reporting officer stated that you were  
8 standing over your cellmate stabbing him with a weapon  
9 that looked like a cyclone fence wire; is that right?

10 A. Correct.

11 Q. And your cellmate was injured to the point  
12 where he was transported to an outside hospital. Do  
13 you recall that?

14 A. Correct.

15 Q. Okay. I have just a couple more of these  
16 here.

17 I'll direct you to page 214 and we will mark  
18 this one as Exhibit 18 and we'll upload this for your  
19 attorney.

20 A. Okay. You said 214; correct?

21 Q. 214 to 226.

22 A. All right. I got you.

23 Q. 214 to 226 is the page number. We'll mark it  
24 as Exhibit 18.

25 A. Okay. 214, okay.

1 MS. JACKSON: I have it too.

2 (Defendants' Exhibit 18 was marked for  
3 identification.)

4 Q. BY MS. BOWER: Do you recognize this document,  
5 Mr. [REDACTED]?

6 A. Yes, I do.

7 Q. And this is another Rules Violation Report;  
8 correct?

9 A. Correct.

10 Q. And it was for fighting?

11 A. Correct.

12 Q. And it was the reporting employee was an  
13 Officer Clark?

14 A. With an officer?

15 Q. The reporting employee, I'm sorry, was  
16 Officer Clark?

17 A. Yes. Yes.

18 Q. And it's regarding an incident that occurred  
19 on January 8th, 2018; is that right?

20 A. Correct.

21 Q. And you were accused of fighting another  
22 inmate; is that right?

23 A. Correct.

24 Q. And the reporting employee stated that he saw  
25 you striking each other in the facial area with your

1 fist; is that right?

2 A. It reported, yeah, we were both fighting, yes.

3 Q. And --

4 MS. JACKSON: And let the record reflect,  
5 Mr. [REDACTED] seems to just be reading off the  
6 document.

7 THE WITNESS: Yes.

8 Q. BY MS. BOWER: Is that what you recall being  
9 the violation that you were accused of?

10 MS. JACKSON: Objection; vague.

11 THE WITNESS: Yes.

12 Q. BY MS. BOWER: And you were found guilty of  
13 that violation; correct?

14 A. Correct.

15 Q. And that was at which prison?

16 A. That was in Ironwood State Prison.

17 Q. All right. I've got one more here, page 241  
18 to 243, and we will mark this one as Exhibit 19.

19 A. 241 to 243. Got it.

20 Q. 241 to 243, Exhibit 19, and we'll upload it  
21 for your attorney.

22 A. That is the same one.

23 MS. JACKSON: Mr. [REDACTED], I don't have the  
24 exhibit yet, so please hold off until Ms. Bower asks  
25 you a question.

1 THE WITNESS: Oh, okay. My apologies.

2 MS. JACKSON: Okay. These remote depositions are  
3 always a little awkward.

4 You said -- Ms. Bower, you said this was  
5 Exhibit 19?

6 MS. BOWER: Correct. That is what I have.

7 MS. JACKSON: Okay. I'm ready. Thank you.

8 (Defendants' Exhibit 19 was marked for  
9 identification.)

10 Q. BY MS. BOWER: Mr. [REDACTED], this is  
11 relating to the same fight that you're accused of for  
12 January 8th, 2018; correct?

13 A. Correct.

14 Q. All right. I want to direct you back to a  
15 medical record, page 110 to 113, and we'll mark this as  
16 Exhibit 20. So page 110 to 113.

17 A. 110 to 113?

18 Q. Correct.

19 A. All right. Okay. I got you.

20 Q. And let me upload this for your attorney.

21 (Defendants' Exhibit 20 was marked for  
22 identification.)

23 MS. JACKSON: Ms. Bower, I also wanted to check in  
24 on how much time you think you have left.

25 MS. BOWER: About the same as last time. So we're



1 still on track.

2 MS. JACKSON: So we're still on track to end around  
3 1:00.

4 MS. BOWER: Around 1:00. Right.

5 MS. JACKSON: Okay.

6 MS. JACKSON: Okay. I have it. Thank you.

7 Q. BY MS. BOWER: Mr. [REDACTED], take a minute to  
8 review this and let me know when you're ready.

9 A. Okay. I have the document.

10 Q. Do you recall this visit that's documented  
11 here having occurred on September 30th, 2020?

12 A. This is September 20th.

13 Q. September 30th, 2020?

14 A. September 30th, you mean?

15 Q. Correct. Right.

16 A. Yes.

17 Q. Do you recall that visit with the doctor?

18 A. Yes, I do.

19 Q. And what was that visit about, do you  
20 remember?

21 A. Yes, it was a stress test.

22 Q. And that was related to the cardiac arrest  
23 that occurred on January 7th, 2020; correct?

24 A. Yes, correct.

25 Q. And you did not mention anything or any

1 injuries related to the alleged incident on April 6th,  
2 2020; correct?

3 A. Yeah. No, I didn't. I didn't tell the doctor  
4 anything about my situation, no.

5 Q. And at this visit, did you again deny that you  
6 had not used drugs for seven years -- wait. I'm sorry.  
7 Let me restate that.

8 At this visit, did you relay to the doctor you  
9 had not used drugs for seven years?

10 A. I told him six years, but he could  
11 have -- might have mistaken it, yeah.

12 Q. And at this visit, was he trying to assess  
13 your health condition at the time?

14 MS. JACKSON: Objection; foundation.

15 Q. BY MS. BOWER: Do you know what the purpose of  
16 this visit was?

17 A. No.

18 Q. And at this visit, did you tell the doctor  
19 that there was a delay in your receiving the treatment  
20 and you had attempted suicide?

21 A. No, I did not tell this doctor anything  
22 personal. No, I didn't.

23 Q. Okay. You can put that document aside.

24 I want to ask you a couple more questions  
25 about that April 7th -- I'm sorry, April 6th, 2020

1 incident.

2 A. Okay.

3 Q. You completed a grievance about that incident;  
4 correct?

5 A. Correct.

6 Q. But the date submitted on that was about a  
7 month later; correct?

8 A. Correct.

9 Q. At some point, you claim that your injuries  
10 were resolved?

11 A. Excuse me. Can you repeat that?

12 Q. By that point, did you claim that you no  
13 longer had visible injuries?

14 A. They documented them when they videotaped me.  
15 So yes, they sent me to an IT at that time. So they  
16 did that.

17 Q. And what was documented there was accurate; is  
18 that right?

19 A. Well, I don't know what their documentation  
20 was. I didn't get a copy of this.

21 Q. In your declaration, you identify  
22 three inmates. One is an inmate [REDACTED].

23 Who is that?

24 A. Excuse me. Inmate who?

25 Q. [REDACTED]. [REDACTED]

[REDACTED]

1 A. Yes. He was my neighbor. He was my neighbor.  
2 He was in the cell next to me, and he was also being  
3 escorted out during the incident.

4 So he was a witness to two situations. He was  
5 a witness to the -- me being assaulted, and he was also  
6 a witness to me being -- to -- to my property being  
7 thrown away by Officer Ruiz while I was being  
8 interviewed by Internal Affairs.

9 Q. And did you discuss your declaration with this  
10 inmate, the declaration you submitted in support of  
11 this motion?

12 A. [REDACTED]

13 Q. Right.

14 A. Absolutely not.

15 Q. And who is [REDACTED]?

16 A. He happened -- he was a couple cells away from  
17 me. So he happened to be a witness to me being  
18 assaulted on the yard.

19 Q. And did you talk with him about the incident  
20 that happened on April 6th, 2020?

21 A. Absolutely not.

22 Q. And what about [REDACTED], who is that?

23 A. He was a couple cells away from me and  
24 happened to be outside and a witness to me being  
25 assaulted.

1 Q. And did you talk to him about the incident?

2 A. Absolutely not.

3 Q. So how do you know that he witnessed it?

4 A. Well, these inmates were out outside directly  
5 in the view of the incident, so I was left out  
6 there -- when I was left outside, they were yelling for  
7 help for me while I was being assaulted. So...

8 Q. Who was yelling for help for you?

9 A. Like [REDACTED], you know, while I  
10 was -- they were directly in front of me. They were  
11 directly in front of me. So when I was being pushed up  
12 against, I could see them. So when I was yelling for  
13 help, they were, "Hey," you know, because there was a  
14 lot of officers right there. So...

15 Q. What other officers? Do you know what other  
16 officers were there?

17 A. Officer Cruz was the one escorting [REDACTED],  
18 so he was directly right there. Right now, off the top  
19 of my head, their names I tend to forget. But most of  
20 the officers were out there because they were escorting  
21 inmates in the cages. So they just got done, so they  
22 were right directly in that corner of where I was  
23 located.

24 Q. And you had just recently transferred to  
25 Corcoran; correct?

1 A. Correct.

2 Q. How long had you -- about how long had you  
3 been there?

4 A. I'd say about a couple weeks.

5 Q. And just to make sure I have this right, what  
6 you testified earlier was that you don't know what  
7 their motivation was for this alleged attack;  
8 correct?

9 MS. JACKSON: Objection; misstates prior testimony.

10 THE WITNESS: I mean, do I know why? I mean, they  
11 could have been. I mean, they were calling me a lot.  
12 They -- officers took me out to interview about the  
13 misconduct with Officer Bott, so I was being  
14 interviewed about the incident with Officer Bott.  
15 Officer Ruiz escorted me. 'Cause you're in Ad Seg,  
16 you're cuffed up, so you have to be escorted by an  
17 officer.

18 So I was escorted to the office to be  
19 interviewed about the incident with Officer Bott. So  
20 [REDACTED] was outside the cell -- I mean outside the  
21 office. They had the door open. I have to sit on a  
22 chair. And so the door was open a little bit, so Ruiz  
23 was outside and he can hear the interview. So, you  
24 know, it was -- he was kind of privileged to what I was  
25 saying.

1 Q. BY MS. BOWER: When was the interview?

2 A. I couldn't -- I can't remember. I can't -- I  
3 can't be -- I can't remember.

4 Q. And you were being escorted to yard, though,  
5 right, not to an interview?

6 A. No. No, no. So --

7 MS. JACKSON: Objection; vague.

8 THE WITNESS: Yeah.

9 MS. JACKSON: Can you clarify when you say you were  
10 being escorted to yard, not to an interview, when are  
11 you talking about?

12 Q. BY MS. BOWER: Well, Mr. [REDACTED] can you  
13 answer the question or do you need clarification?

14 A. Are you -- yeah, I need for you to clarify.

15 Q. So you said that this incident occurred when  
16 you were being escorted to yard; correct?

17 A. Correct.

18 Q. But then you also indicated that you were  
19 escorted to an interview?

20 A. Yes. So are you -- he's escorted to -- go  
21 ahead and finish. I didn't mean to interrupt. Sorry.

22 Q. No, go ahead.

23 A. Yes. Ruiz escorted me to the interview, so he  
24 was outside listening to my -- he had to stay outside  
25 to -- you know, to -- for security. Because he

1 escorted me to the interview, so he has to stay with me  
2 and then escort me back to my cell. So he was  
3 listening to what I was saying about Officer Bott.

4 So when he -- when I left, when he escorted me  
5 back, he had some choice words to say about what I was  
6 saying, who I was calling -- you know, who -- am I  
7 ratting on his fellow officers, you know, in that  
8 nature, calling me a rat and stuff like that. So, you  
9 know -- you know, that, and he was doing it very  
10 loudly. So that kind of put me in a situation in both  
11 ways, with the other inmates and with him.

12 Q. So I'm going to direct you back to your  
13 grievance about Officer Bott, on page 306. Didn't that  
14 interview happen back in February?

15 A. Oh, yes. That's the -- one of them, yes. One  
16 of them was, yes. Yeah, one of them was.

17 Q. He did not escort you to that interview;  
18 right?

19 A. You're talking about the interview at  
20 Stockton; correct?

21 Q. On page 306, that's your grievance regarding  
22 Officer Bott, and it states that the date of interview  
23 was February 20th, 2020?

24 MS. JACKSON: Ms. [REDACTED] [sic], which exhibit  
25 are you talking about?



1 MS. BOWER: I'm referring to Exhibit 2, and it's  
2 page 306.

3 THE WITNESS: Oh, okay. Cool. Cool. Cool.

4 MS. JACKSON: Thank you.

5 THE WITNESS: Yeah.

6 Q. BY MS. BOWER: So the interview that you had  
7 for your grievance against Officer Bott, that occurred  
8 in February 20th, 2020 at CHCF; correct? That's where  
9 you were located?

10 A. Yeah. Yeah, in Stockton.

11 Q. So Officer Ruiz did not escort you to that  
12 interview; correct?

13 A. No, no, no. That's not the one I was talking  
14 about.

15 The one I was talking about was inside the  
16 Ad Seg unit specifically, you know. There was -- there  
17 was another -- there was another interview. Yeah, it  
18 was another officer. It was an officer. It was a  
19 lieutenant from SATF that came and visited me and  
20 was asking me about the situation, interviewing  
21 me about the situation. And he had me sign  
22 another -- it's a -- what's it called? It's another  
23 paper. It's a staff complaint. When you file a staff  
24 complaint, you -- there's another paper that goes with  
25 it. So he --

1 Q. The Rights and Responsibilities?

2 A. Exactly. Exactly.

3 So he had me fill out -- he had me sign  
4 another one. So I don't have it here, but that  
5 was -- at that time, he had me sign another one. I  
6 don't have it. It's not here.

7 So that was that -- yeah, that's what I was  
8 talking about.

9 Q. So that's the date that you're saying  
10 Officer Ruiz escorted you?

11 A. Exactly. It was -- it was that date.

12 Q. And that was at Corcoran?

13 A. That was at Corcoran, correct, yeah.

14 MS. JACKSON: Ms. Bower, are you about done? I  
15 would like to take a brief break. I'm sure  
16 Mr. [REDACTED] is very tired. We've been going over an  
17 hour.

18 MS. BOWER: I'm actually almost done. Can you hold  
19 on for maybe five more minutes?

20 MS. JACKSON: Okay. Five minutes.

21 MS. BOWER: I just want to review my notes and make  
22 sure I have everything correct. But I am pretty much  
23 done. Thank you, Mr. [REDACTED].

24 THE WITNESS: You're welcome, Ms. Bower.

25 Q. BY MS. BOWER: Let me just ask you this, then:

1 In terms of what you believe was the motivation for  
2 that April 6th, 2020 incident, you don't believe it was  
3 related to a disability; correct?

4 MS. JACKSON: Objection; calls for a legal  
5 conclusion.

6 THE WITNESS: Yeah. I -- I don't have -- I don't  
7 know.

8 Q. BY MS. BOWER: Did you have a disability at  
9 that time that these officers knew about, that you know  
10 of?

11 MS. JACKSON: Objection; calls for a legal  
12 conclusion.

13 THE WITNESS: Of course, I'm in a mental health  
14 setting.

15 Q. BY MS. BOWER: I'm sorry?

16 A. Of course, I'm in a mental health setting.  
17 That's the EOP hub. They know everybody there has a  
18 mental health issue.

19 Q. And that's your only basis for that?

20 MS. JACKSON: Objection; your question about his  
21 understanding of what the officers knew also calls for  
22 speculation, in addition to a legal conclusion.

23 MS. BOWER: Right.

24 Q. So you don't know what the officers thought,  
25 right, Mr. [REDACTED]? Is that your position?

1 A. I don't know.

2 Q. Okay. Great. Thank you so much for your  
3 time. That concludes my questions today.

4 And we'll provide the exhibits to the court  
5 reporter and your attorney has them.

6 Thank you again so much for your time,  
7 Mr. [REDACTED].

8 THE WITNESS: You're welcome. Thank you.

9 MS. JACKSON: I -- actually, I just have very few  
10 questions for Mr. [REDACTED], if I may --

11 THE WITNESS: Okay.

12 MS. JACKSON: -- but I'd like to take a brief break  
13 first.

14 MS. BOWER: You want to ask questions to your  
15 client at the deposition that we scheduled?

16 MS. JACKSON: Exactly, as is customary at the end  
17 of depositions, that the other position gets the  
18 opportunity to ask a few questions, if they wish.

19 So I would like to take a five-minute break.

20 MS. BOWER: How much time do you want?

21 MS. JACKSON: It's not going to have many  
22 questions.

23 MS. BOWER: Like ten minutes?

24 MS. JACKSON: Oh, for the break? Yeah, no more  
25 than ten minutes for the break. Ten minutes for the

1 break, in case Mr. [REDACTED] needs to go to the  
2 bathroom.

3 THE WITNESS: No, I'm good.

4 MS. BOWER: And how long for your questions?

5 MS. JACKSON: It's not a lot of questions.

6 MS. BOWER: So like less than ten minutes.

7 MS. JACKSON: Certainly less than 15.

8 MS. BOWER: Okay. So we'll go off the record and  
9 take a quick ten-minute break.

10 (Recess taken.)

11 MS. BOWER: Back on the record.

12 MS. JACKSON: So we can go back on the record just  
13 to say that counsel for Plaintiffs does not have any  
14 questions.

15 MS. BOWER: Great.

16 And thank you again, Mr. [REDACTED]. And that  
17 will conclude the deposition today.

18 THE REPORTER: And Ms. Jackson, would you like to  
19 order a copy of the transcript?

20 MS. JACKSON: We would like an expedited copy of  
21 the transcript, please, but no bells and whistles.  
22 Electronic copy emailed.

23 (Ending time: 1:33 p.m.)

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STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that I was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

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REPORTER'S CERTIFICATE

I, LINDA L. HUDDLESTON, CSR NO. 11160, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony of the witness, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

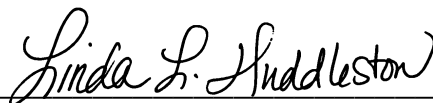
That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

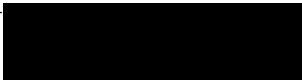
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Reading and signing was requested.

Dated this 2nd day of November, 2020.



LINDA L. HUDDLESTON, CSR NO. 11160



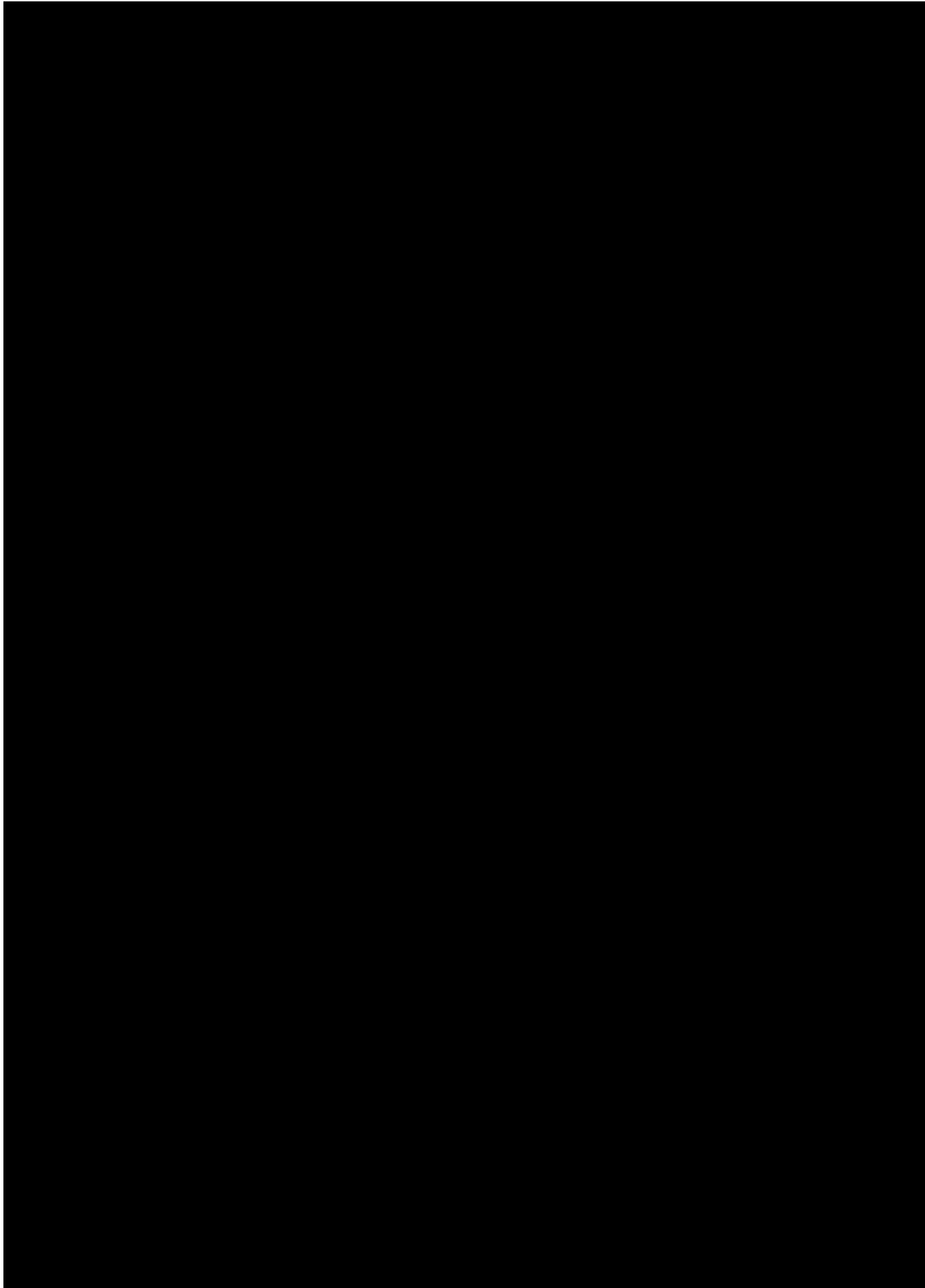
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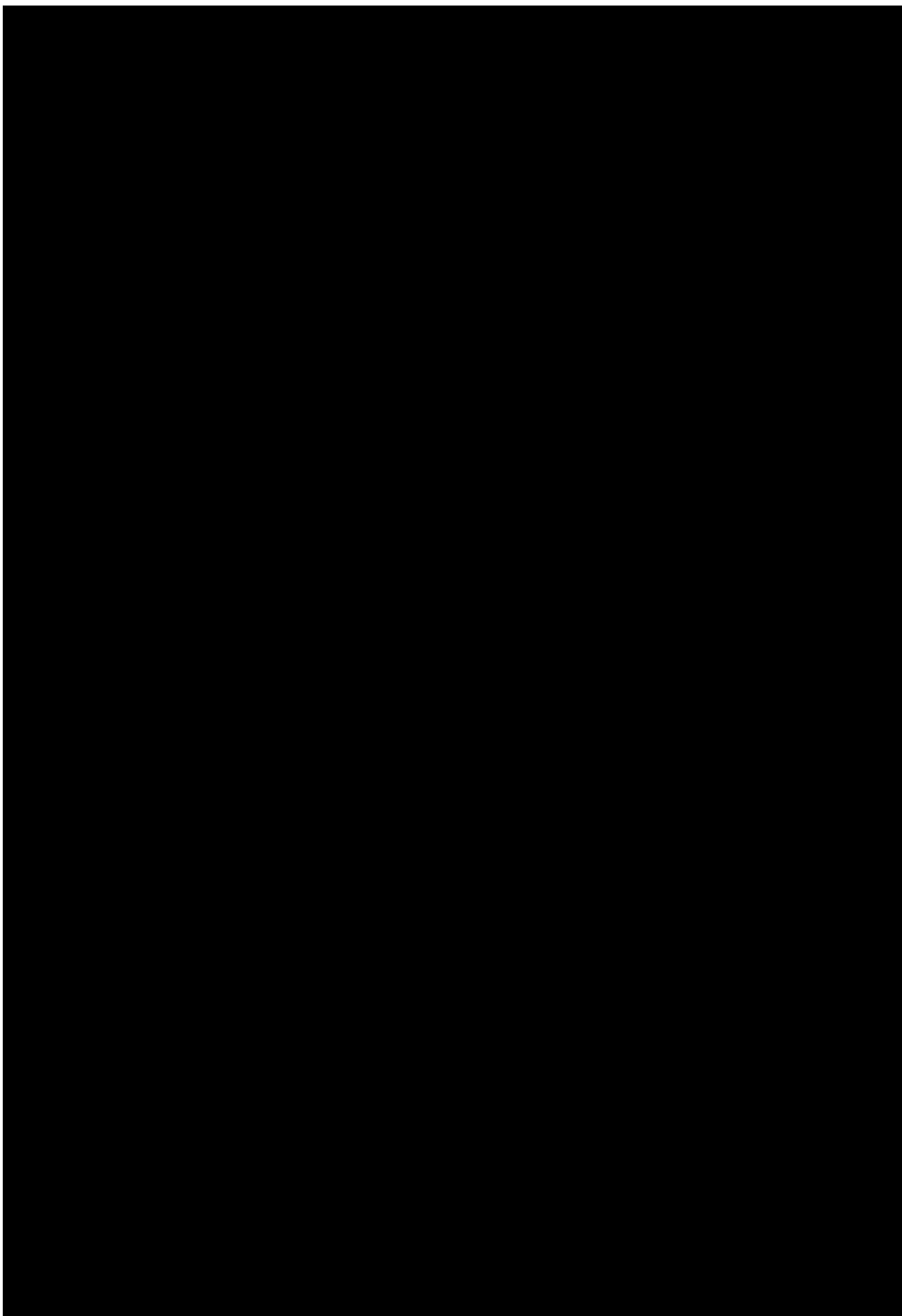


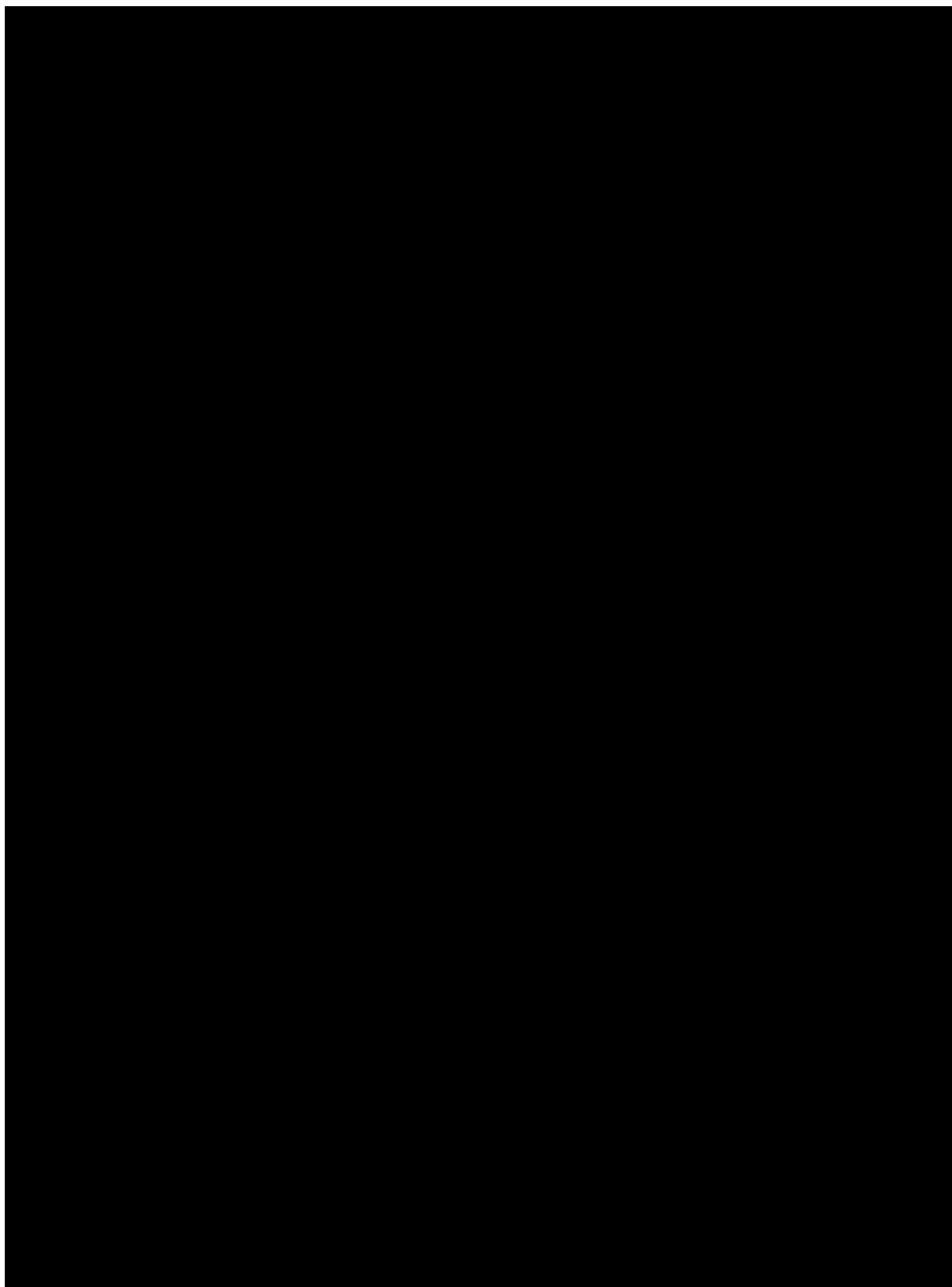


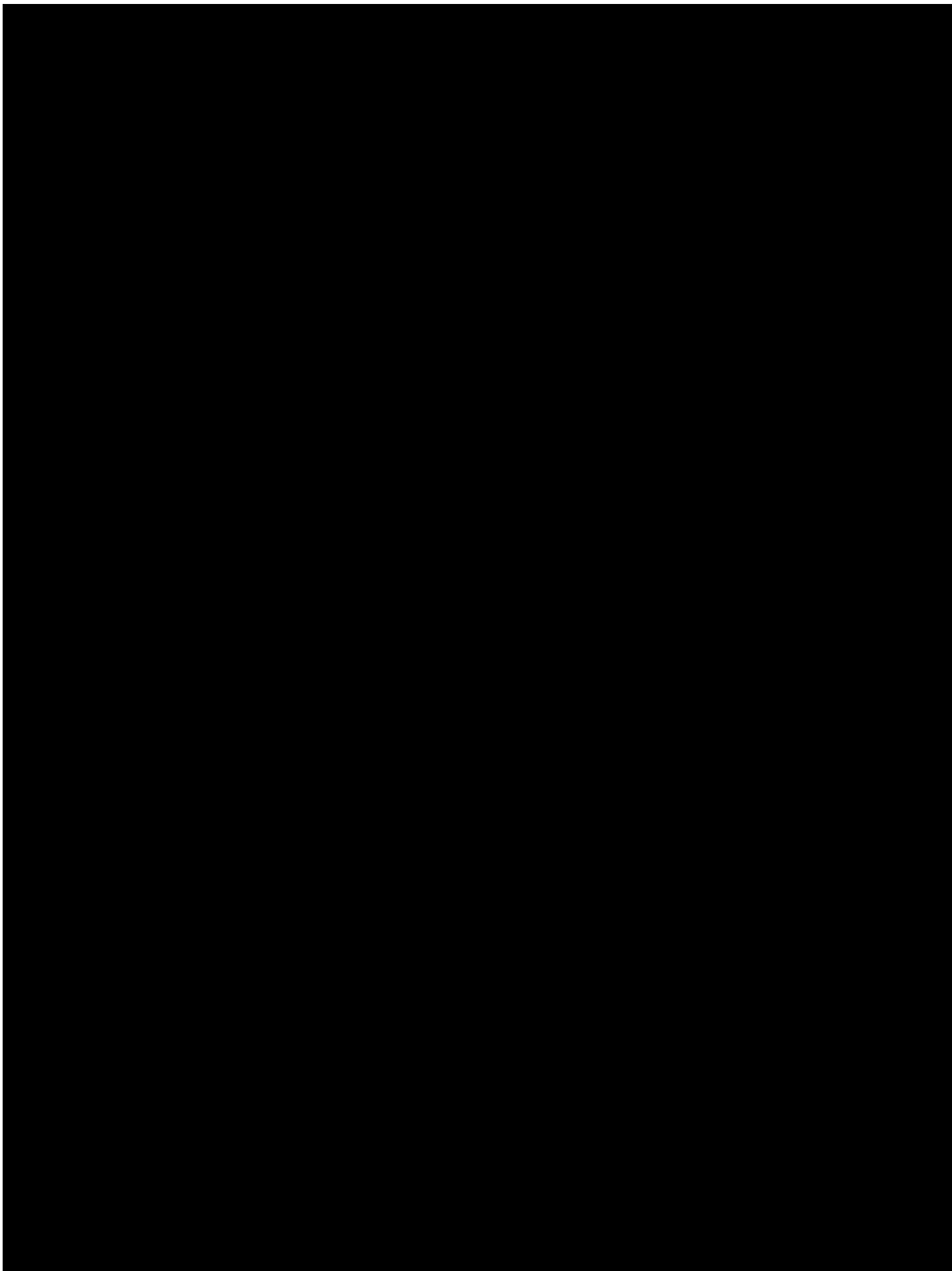
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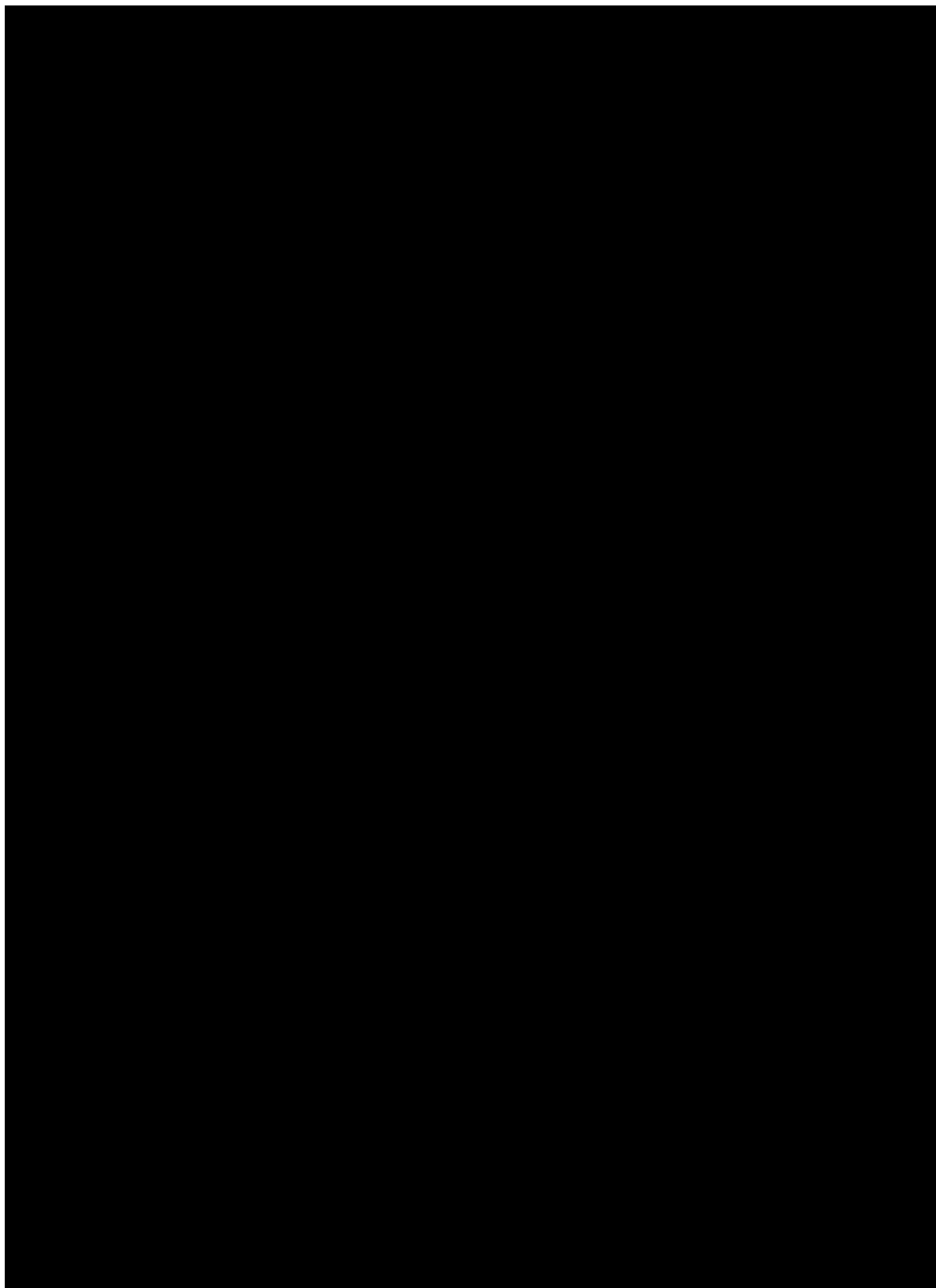


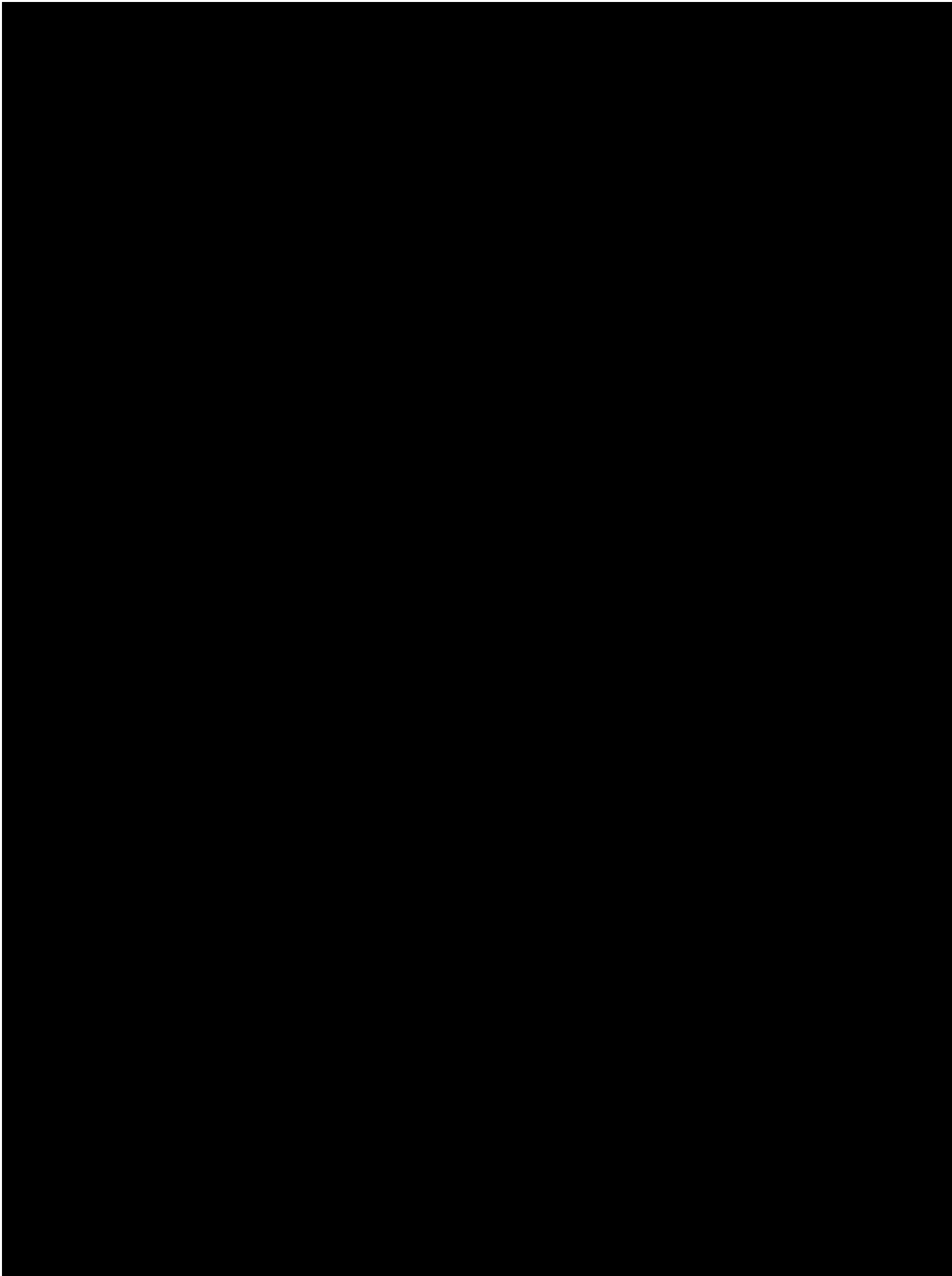


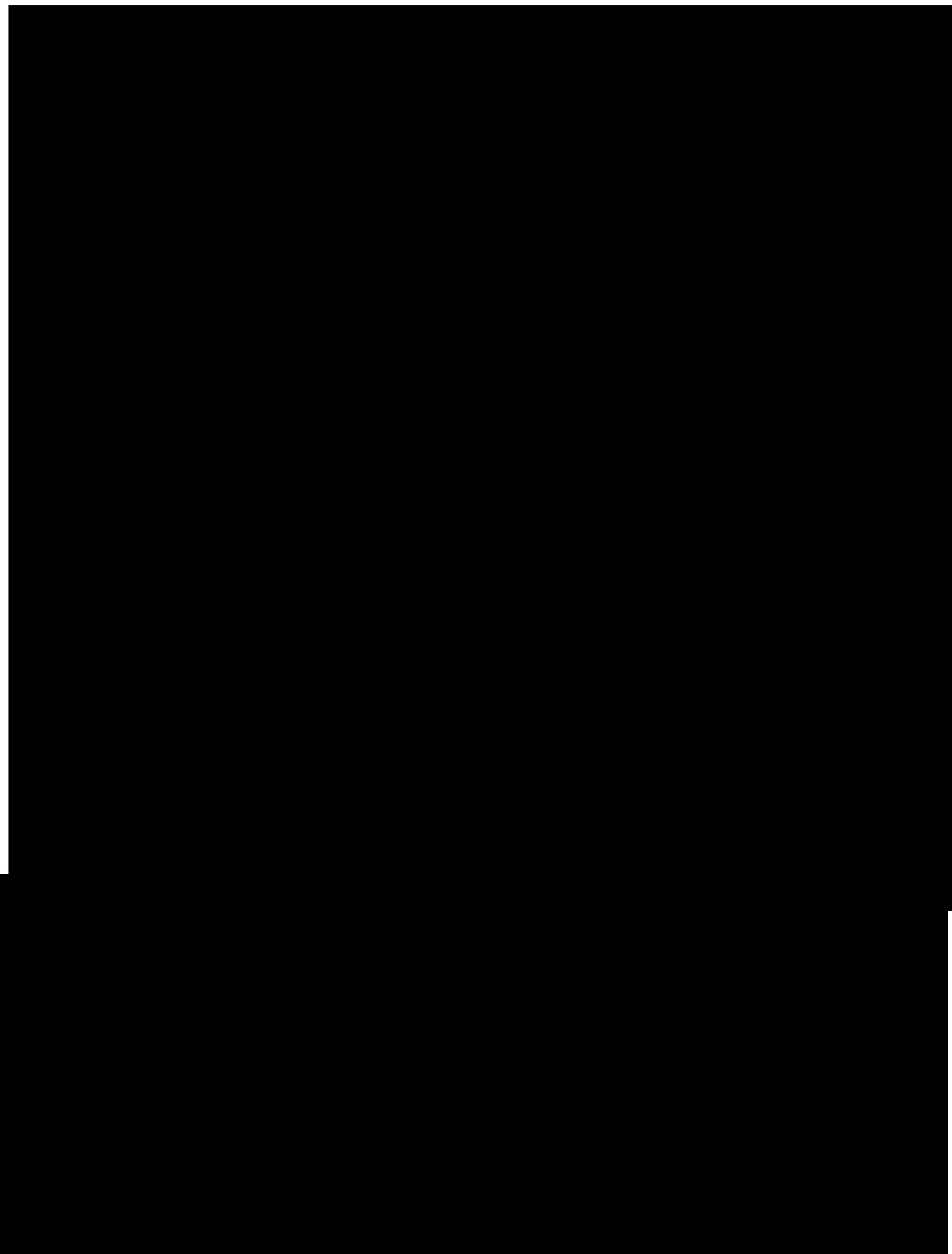




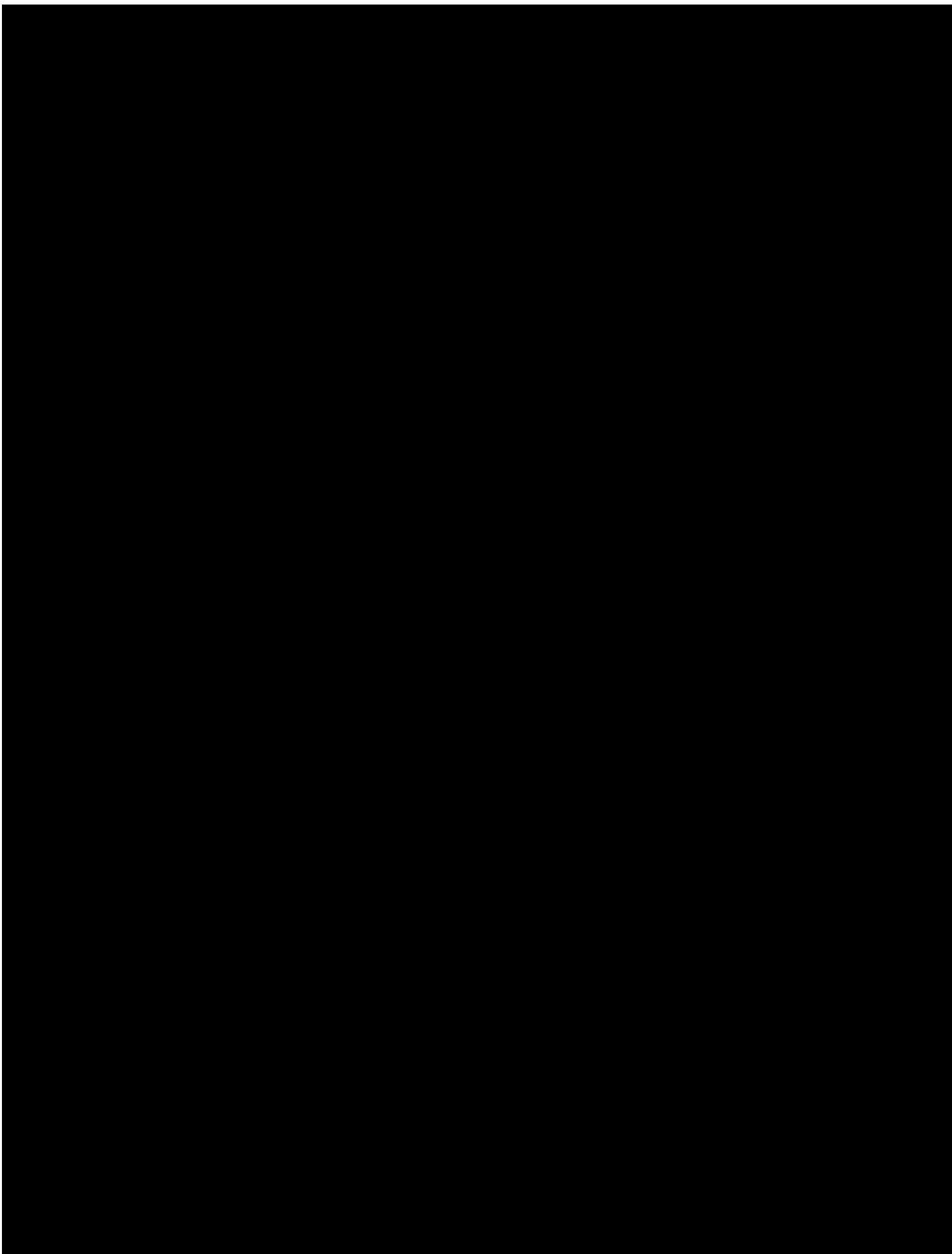


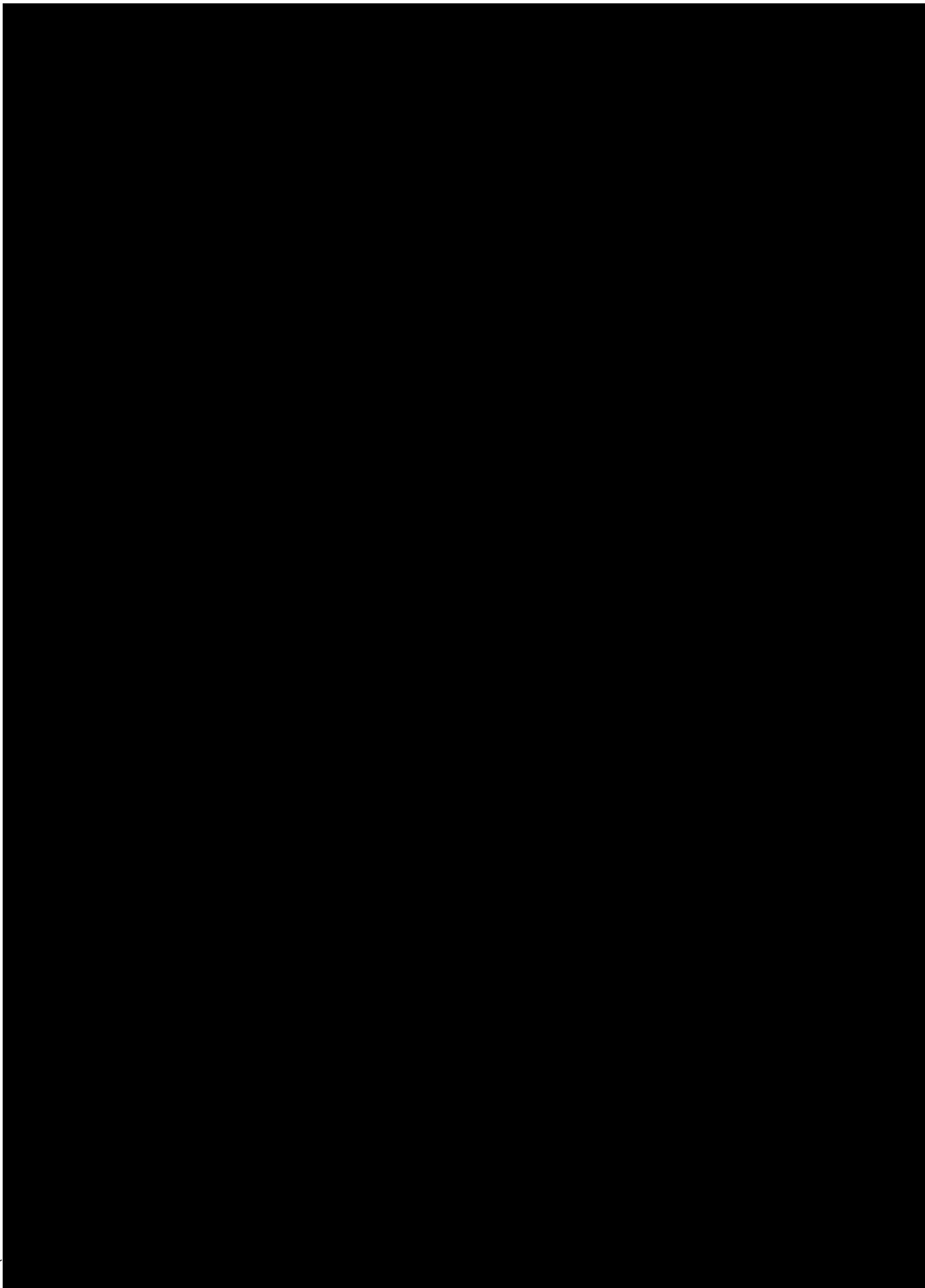


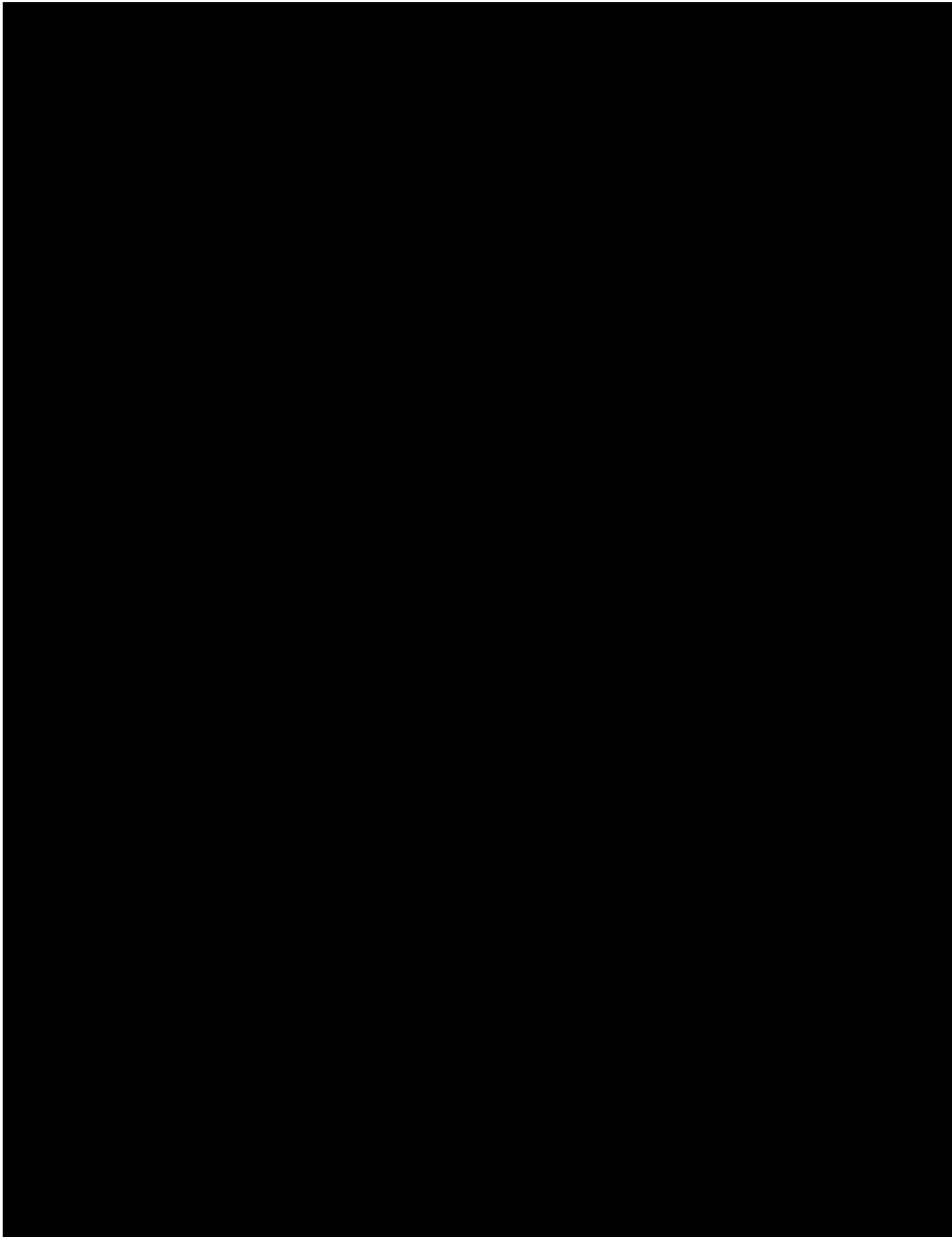


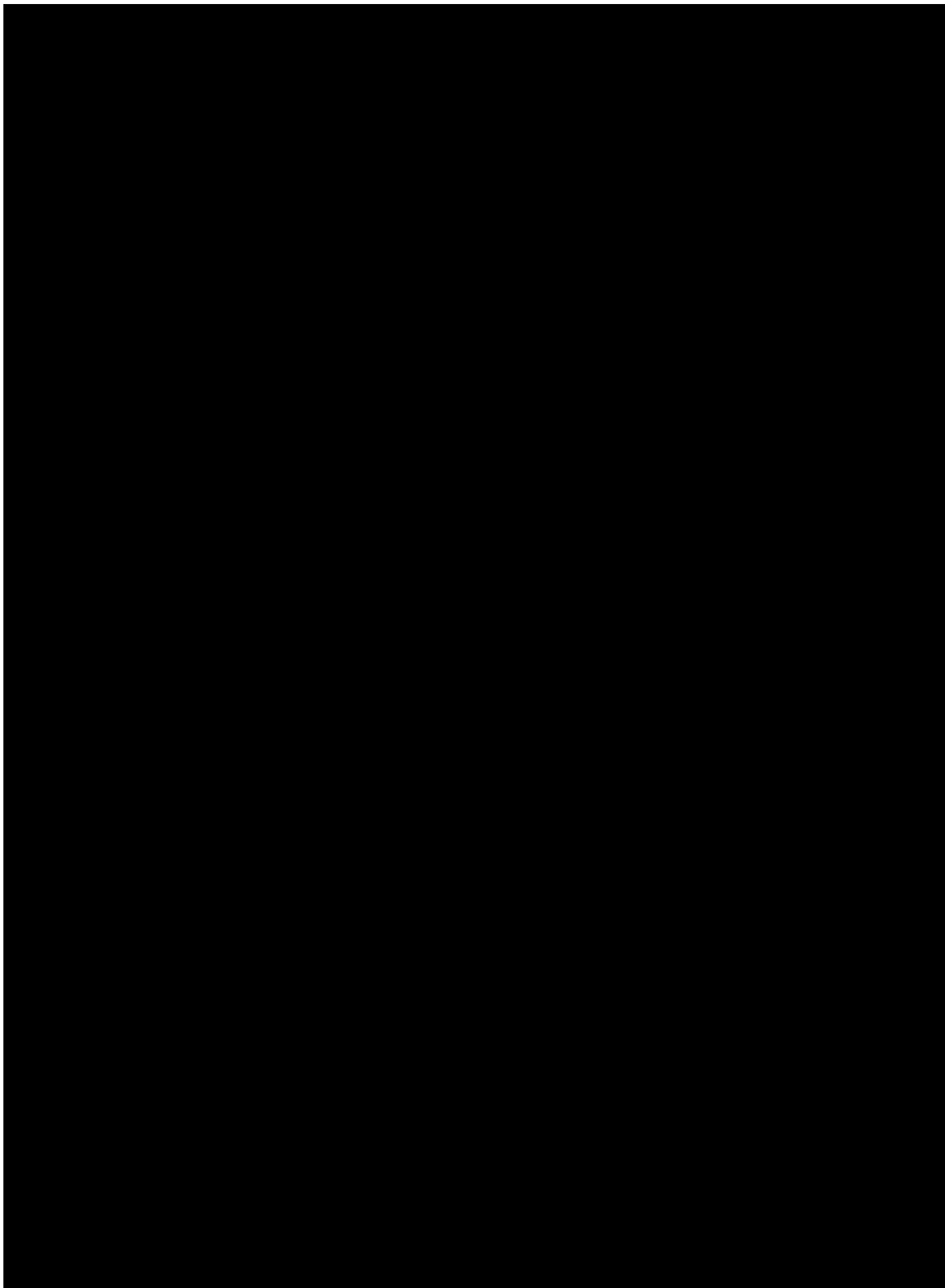


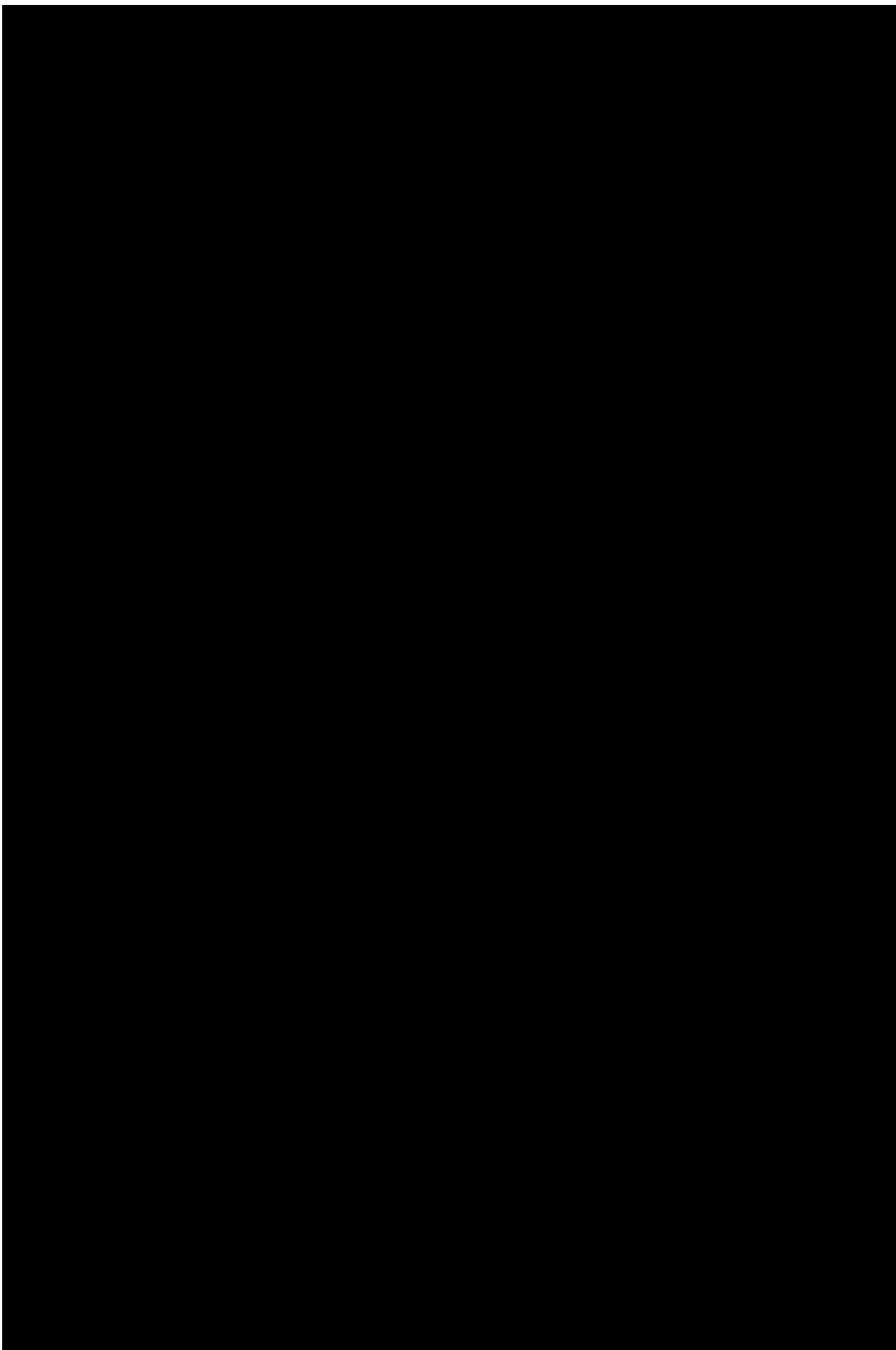


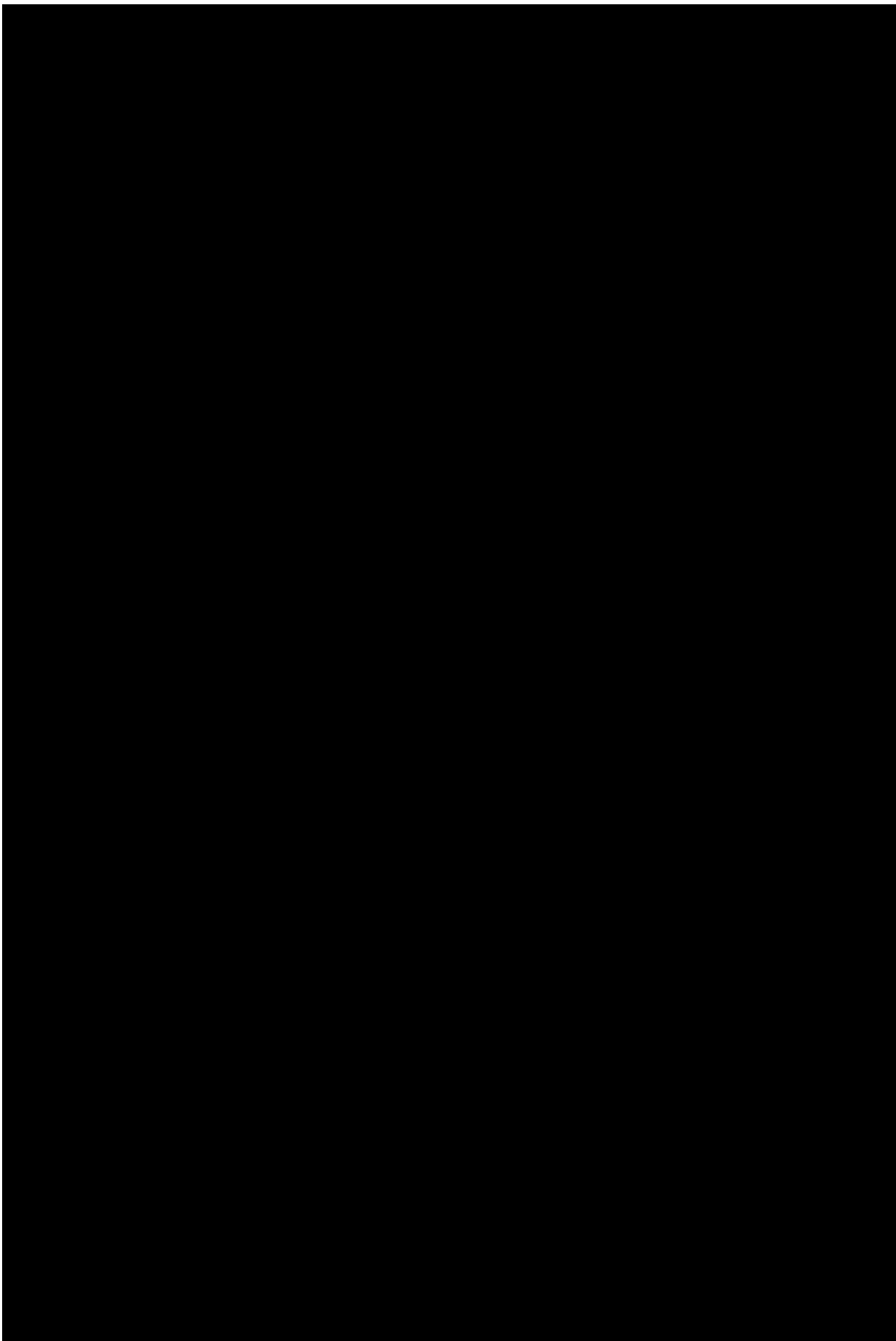


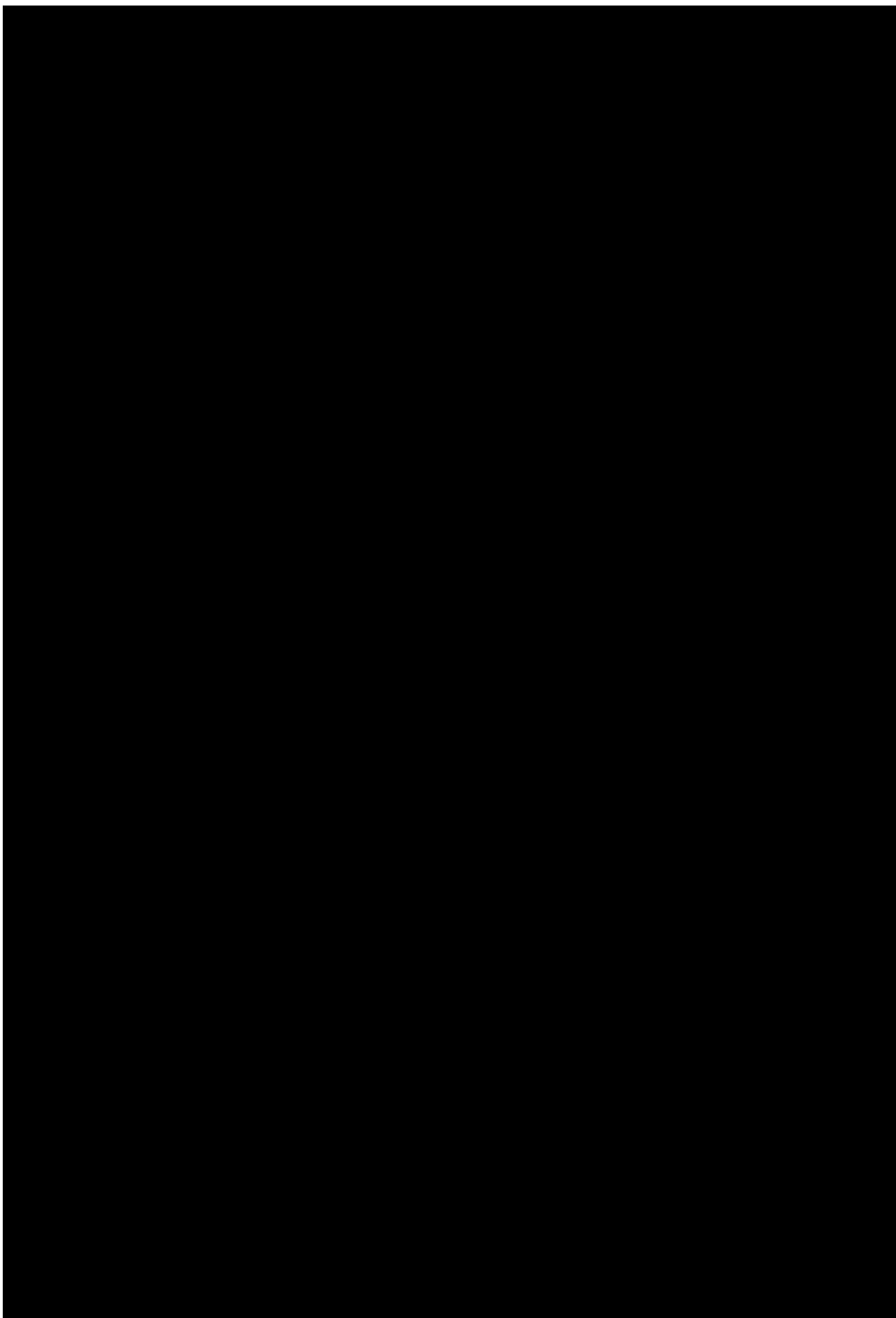












# **Exhibit 18**



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IN THE UNITED STATES DISTRICT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

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JOHN ARMSTRONG, )  
 )  
Plaintiff, )  
 )  
vs. ) No. C 94-2307 CW  
 )  
GAVIN NEWSOM, et al., )  
 )  
Defendants. )

DEPOSITION OF



VIA REMOTE WEB CONFERENCE

Friday, October 30, 2020

ATKINSON-BAKER, INC.  
(800) 288-3376  
www.depo.com

REPORTED BY: WAYNE A. HUNTER, CSR 5456

FILE NO.: AE07538



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IN THE UNITED STATES DISTRICT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

---o0o---

JOHN ARMSTRONG, )  
 )  
Plaintiff, )  
 )  
vs. ) No. C 94-2307 CW  
 )  
GAVIN NEWSOM, et al., )  
 )  
Defendants. )

Deposition of [REDACTED] taken on  
behalf of Defendant, via remote web conference,  
commencing at 9:59 a.m., on Friday, October 30,  
2020, before Wayne A. Hunter, CSR No. 5456.

[REDACTED]

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A P P E A R A N C E S

FOR THE PLAINTIFF (via Zoom):

ROSEN, BIEN, GALVAN & GRUNFELD LLP  
BY: JESSICA WINTER, ESQ.

-and-

BY: MICHAEL FREEDMAN, ESQ.  
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WITNESS: [REDACTED]

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[REDACTED]

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INFORMATION TO BE SUPPLIED :

(None)



1 THE REPORTER: Hello. My name is Wayne  
2 Hunter, a California certified court reporter, and this  
3 deposition is being held via videoconference equipment.  
4 The witness is not in the same room. The witness will  
5 be sworn remotely.

6 [REDACTED]  
7 having been first duly sworn was  
8 examined and testified as follows:

9 EXAMINATION BY MR. DUGGAN

10 Q. Mr. [REDACTED] good morning.

11 A. Good morning.

12 MS. WINTER: Jeremy, can I just interject for  
13 a second. I want to make clear that a lot of  
14 information that is going to shared today is covered by  
15 the protective orders, including class member names.  
16 And to the extent this deposition is going to be part  
17 of motion practice and so forth in court proceedings  
18 names, will be redacted and any other sensitive  
19 information.

20 MR. DUGGAN: Yes. Thank you.

21 Q. Mr. [REDACTED] you just -- you just took an oath  
22 here today, and that oath is the same oath you would  
23 take if you were giving testimony in a courtroom before  
24 a judge and a jury. Do you understand that?

25 A. Yes, sir.

[REDACTED]

1 Q. Do you understand that you have the same  
2 obligation to tell the truth here in this deposition  
3 that you would if you were testifying in a courtroom  
4 before a judge and a jury?

5 A. Yes.

6 Q. I know you've had your deposition --  
7 deposition taken a few times, but I'm going to go over  
8 the ground rules again for you so we're all on the same  
9 page.

10 The court reporter is here to write down what  
11 is said in the deposition. It's, therefore, important  
12 that we not both speak at once so that can he get  
13 everything down. I will, therefore, ask you to wait  
14 until I have completed my question before you respond.  
15 Can you do that?

16 A. Yes, sir.

17 Q. In addition, shaking or nodding your head, or  
18 saying things such as uh huh, or something similar are  
19 not clear on the written record. I am therefore going  
20 to ask you to respond in words, like yes or no so we  
21 can have a cleaner record. Do you understand that?

22 A. Yes.

23 Q. In this deposition I want you to understand  
24 the questions I'm asking. If you don't understand,  
25 please say so and I'll try to clarify the question. Do

1 you understand that?

2 A. Yes.

3 Q. And if you answer a question I will assume you  
4 understood it. And you understand that?

5 A. Yes.

6 Q. One thing that might be different about  
7 today's deposition is you have Ms. Winter here  
8 representing you. When I ask questions, Ms. Winter may  
9 state objections for the record. Do you understand  
10 that?

11 A. Yes.

12 Q. And after Ms. Winter has stated her  
13 objections, you should still answer the question  
14 provided you understood it. Do you understand that?

15 A. Yes, sir.

16 Q. If you need a break, please ask, and we'll  
17 take a break. Does that work for you?

18 A. Yes.

19 Q. And that goes for Mr. Hunter as well, and Ms.  
20 Winter.

21 Are you under the influence of any medication  
22 or substance that will prevent you from testifying  
23 accurately and truthfully today?

24 A. No.

25 Q. Have you drunk any alcohol in the last 24



1 hours?

2 A. No.

3 Q. Do you have everything you need to be able to  
4 hear my questions and answer them?

5 A. Yes, sir.

6 Q. Is there any reason why you can't give your  
7 best and most accurate testimony today?

8 A. No.

9 MR. DUGGAN: All right. Let's enter Exhibit 1  
10 into the record.

11 (Defendants' Exhibit 1 was marked for  
12 identification.)

13 Q. BY MR. DUGGAN: Will you have a look at  
14 Exhibit 1, Mr. [REDACTED]

15 A. Yes, I've got it.

16 Q. Do you recognize this document?

17 A. The Notice of Disposition (sic) of [REDACTED]  
18 [REDACTED]

19 Q. The Notice of Deposition?

20 A. Yes.

21 Q. So, you understand that Exhibit 1 is the  
22 Notice of Deposition requiring you to testify here  
23 today?

24 A. Yes.

25 Q. Did you review any documents to prepare for

[REDACTED]

1 this deposition?

2 A. Um... can you clarify, like review these  
3 documents? Because I met with my attorney yesterday.

4 MS. WINTER: So, I'm just going to object to  
5 the extent that there's any discussion of more than a  
6 general question of did he review materials for the  
7 deposition, as that invades the attorney-client  
8 privilege potentially and attorney work product  
9 documents.

10 Q. BY MR. DUGGAN: Sir, you can go ahead and  
11 answer if you can answer without revealing --

12 A. Yes, I went over some documents -- yes, I went  
13 over some documents.

14 Q. And what documents did you review?

15 MS. WINTER: Objection. That's privileged  
16 information protected by the attorney work product and  
17 the attorney-client privilege.

18 Sorry. Mr. [REDACTED] you're instructed not to  
19 answer that question.

20 Q. BY MR. DUGGAN: Did you bring anything  
21 with you to the deposition?

22 A. Yes.

23 Q. What did you bring?

24 A. The same documents that you provided me, the  
25 exhibits (indicating).

1 Q. Is that all you brought?

2 A. Yes, sir.

3 MR. DUGGAN: Let's take a look at Exhibit 2  
4 and enter that one into the record.

5 (Defendants' Exhibit 2 was marked for  
6 identification.)

7 Q. BY MR. DUGGAN: Mr. [REDACTED] do you  
8 recognize Exhibit 2?

9 A. Uh... yes, sir. The Declaration of [REDACTED]  
10 [REDACTED]

11 Q. Did you write Exhibit 2 yourself?

12 A. It was prepared by my attorney for me, and I  
13 read it and I approved it, yes.

14 Q. Did you read it, or did you listen to it over  
15 the phone?

16 MS. WINTER: I'm sorry, that invades the  
17 attorney-client privilege, and I'm going to instruct  
18 the witness not to answer.

19 Q. BY MR. DUGGAN: Okay. It says at the end  
20 of the document that you listened to it over the phone.

21 MS. WINTER: You're asking about -- to the  
22 extent you're asking for communications beyond just  
23 that statement at the end, it's attorney-client  
24 privilege.

25 Q. BY MR. DUGGAN: Did you read the document,

[REDACTED]

1 or did you listen to it over the phone?

2 A. I uh... listened to my attorney read the  
3 document to me over the phone, and I read the document  
4 as well.

5 Q. When did you read the document?

6 A. I read the document uh... yesterday.

7 Q. In paragraph 3 of Exhibit 2 you say you are at  
8 the EOP level of mental healthcare. Do you see that?

9 A. You say paragraph 2?

10 Q. I said 3. Is it actually 2?

11 A. Where I say I am a Coleman class member?

12 Q. Yes.

13 A. Yes.

14 Q. What is the EOP level of care?

15 A. It is Outpatient Program.

16 Q. Are there other levels of care in the CDCR  
17 system?

18 A. Yes, there is.

19 Q. And what are the other levels?

20 A. Triple C MS level care.

21 Q. And is the Triple C MS level of care a higher  
22 or lower level of care than EOP?

23 A. That's a lower level of care.

24 Q. What type of care do you get with the EOP  
25 level of care?

1 A. Uh... you get more COR management. Um... you  
2 get medication -- medication management. Uh... you  
3 meet with your commission one time a week. You get  
4 therapeutic groups every day. That's the basics of it.

5 Q. What is your mental health diagnosis?

6 A. Bipolar. Manic 1 type.

7 Q. Any other diagnosis?

8 A. No, not at the moment.

9 Q. Do you take medication for your diagnosis?

10 A. Yes, sir.

11 Q. What medication do you take?

12 A. Trilithol (phonetic). 450 milligrams.

13 Q. And how often do you take that?

14 A. I take it in the morning and at bedtime.

15 Q. Did you take that medication this morning?

16 A. Yes, sir.

17 Q. Does that medication interfere with your  
18 ability to testify truthfully today?

19 A. No, sir.

20 Q. Does that medication interfere with your  
21 memory?

22 A. No, sir.

23 Q. At paragraph 4 of Exhibit 2 it says that when  
24 your mental health is at its worst you feel suicidal.  
25 Are your mental symptoms worse today?

1 A. No, sir.

2 Q. It also says that your present health can  
3 cause to you feel angry. Are you feeling angry today?

4 A. No, sir.

5 Q. Are you feeling any symptoms from your mental  
6 health problems today?

7 A. I feel fine.

8 Q. So, you're not feeling any symptoms from your  
9 mental health problems?

10 A. No, sir.

11 Q. In paragraph 5 you state that you have  
12 mobility issues. What are those mobility issues?

13 A. Well, I got a knee brace, and I have leg  
14 compression stockings for edema. That's it.

15 Q. Did you walk to the deposition today?

16 A. Repeat that, please?

17 Q. Did you walk to the deposition today?

18 A. Yes, I did.

19 Q. Did you have any trouble walking over?

20 A. No, sir. I did not.

21 Q. Paragraph 5 also says that you are currently  
22 trying to get CDCR to issue you a cane.

23 A. Yes, sir.

24 Q. Have you been issued a cane since you signed  
25 this declaration?

1 A. No, sir.

2 Q. What crime are you currently in prison for?

3 MS. WINTER: Objection. Relevance. You can  
4 go ahead and answer, Mr. [REDACTED]

5 THE DEPONENT: Possession of sales of  
6 narcotics. Um... 1135.8.

7 Q. BY MR. DUGGAN: Is that a felony?

8 A. Yes, sir.

9 Q. What is your sentence?

10 MS. WINTER: Objection. Relevance. Go ahead,  
11 Mr. [REDACTED]

12 THE DEPONENT: 25 years to life.

13 Q. BY MR. DUGGAN: How long do you have left?

14 A. I'm really not sure.

15 Q. In 2013 did you request resentencing under  
16 California Three Strikes Law?

17 A. Yes, sir.

18 Q. Why did you request that?

19 A. Because I'm a non-violent offender.

20 Q. Was that request granted or denied?

21 A. It was denied.

22 Q. Why was that request denied?

23 A. They felt that I was a danger to society due  
24 to my behavior in prison.

25 MR. DUGGAN: Let's take a look at Exhibit 3

1 and enter that one into the record.

2 (Defendants' Exhibit 3 was marked for  
3 identification.)

4 Q. BY MR. DUGGAN: Mr. [REDACTED] do you  
5 recognize Exhibit 3?

6 A. I'm trying to get there right now. I'm trying  
7 to... okay. I'm there.

8 Q. Do you recognize this document?

9 A. Yes, it's a legal document.

10 MS. WINTER: I'm going to object to this  
11 entire line of questioning as irrelevant. His past  
12 criminal conviction, his request to be resentenced is  
13 not relevant to his disability and retaliation against  
14 him, and therefore interferes with his exercise of his  
15 rights. But you are instructed to answer, Mr. [REDACTED]

16 THE DEPONENT: Yes. It's a legal document.

17 Q. BY MR. DUGGAN: What legal document in  
18 particular is it?

19 A. Um... it's the People versus [REDACTED]

20 Q. Is the decision denying your request to  
21 resentencing?

22 A. It looks like the decision of an Appeals  
23 Court.

24 Q. Does it relate to your request for  
25 resentencing?

[REDACTED]



1 A. Yes, it does.

2 Q. On the page marked 3 of 5 it says the trial  
3 court denied the petition in the written order finding  
4 the following. The People point [REDACTED] extensive  
5 record of violations while serving his present  
6 sentence. Do you see that?

7 A. What paragraph?

8 Q. I'm sorry. I'm looking at the first full part  
9 in the first column on page 3 of 5.

10 A. I have 3 of 5 right here.

11 Q. The paragraph starts on November 22nd, 2016.

12 A. On November 22nd, 2016 the trial court denied.  
13 They denied.

14 Q. The court then goes on to give some examples.  
15 In the next paragraph it says on August 28, 2012 he  
16 threatened to make a spear and kill three Correctional  
17 Officer at his earliest opportunity. Do you see that?

18 A. Yes, sir.

19 Q. Did you threaten to like a spear and kill  
20 three Correctional Officers at your earliest  
21 opportunity in 2012?

22 MS. WINTER: I'm going to object on the basis  
23 of Mr. [REDACTED] right to be free from  
24 self-incrimination under the Fifth Amendment, and I'm  
25 going to instruct Mr. [REDACTED] not to answer.

1 Q. BY MR. DUGGAN: The document goes on to  
2 state that on August 22nd of 2012 he offered to pay  
3 anyone a thousand dollars to spear and kill a  
4 Correctional Officer. Do you see that?

5 A. Yes, sir.

6 Q. On August 22nd, 2012 did you offer to pay a  
7 thousand dollars for someone to spear and kill a  
8 Correctional Officer?

9 MS. WINTER: Objection. I'm going to instruct  
10 the witness not to answer pursuant to his right to be  
11 free from self-incrimination under the Fifth Amendment.

12 Q. BY MR. DUGGAN: Have you threatened to  
13 kill any prison staff members in the last two years?

14 MS. WINTER: Objection. I'm going to instruct  
15 the witness not to answer pursuant to his Fifth  
16 Amendment right to be free from self-incrimination.

17 MR. DUGGAN: Let's take a look at Exhibit 4  
18 and enter that one into the record.

19 (Defendants' Exhibit 4 was marked for  
20 identification.)

21 Q. BY MR. DUGGAN: Mr. [REDACTED] do you  
22 recognize Exhibit 4?

23 A. Um...

24 Q. Or the first two pages I should say.

25 A. Yes, sir.

1 Q. What is this document?

2 A. It's a Rules Violation Report.

3 Q. In that document does Correctional Officer J.  
4 Spangler accuse you of threatening to kill him on  
5 October 2nd, 2020?

6 A. Yes, sir.

7 Q. Did you threaten to kill Officer Spangler on  
8 October 2nd?

9 MS. WINTER: Objection. I'm going to instruct  
10 witness not to answer pursuant to his Fifth Amendment  
11 right to be free of self-incrimination.

12 Q. BY MR. DUGGAN: Do you see the document on  
13 the fourth page of Exhibit 4 that's dated May 17th,  
14 2020?

15 A. Yes, sir.

16 Q. In that document does Officer J. Gudgalls  
17 state that you threatened to kill him on May 17th,  
18 2020?

19 A. Yes, sir.

20 Q. Do you see the document on the seventh page of  
21 Exhibit 4 dated April 24th, 2020?

22 A. What date is it?

23 Q. April 24th, 2020.

24 A. Yes, sir.

25 Q. In that document does Officer A. Britton

1 accuse you of threatening to kill him?

2 A. Yes, sir.

3 Q. Do you see the document on the eighth page of  
4 Exhibit 4 dated March 11th, 2020?

5 A. Yes, sir.

6 Q. In that document --

7 MS. WINTER: I'm sorry, I don't -- I'm looking  
8 at the same document, and I don't see anything on page  
9 8 of Exhibit 4 except --

10 MR. DUGGAN: Oh. Sorry. Yeah, I wasn't  
11 counting -- I wasn't counting the cover sheet, so yes.  
12 So, it will be page 9 in the PDF. That's true. And  
13 it's dated March 11th, 2020.

14 Q. In that document does Mr. Rossi accuse you of  
15 threatening to kill him on March 11, 2020?

16 A. Yes, sir.

17 Q. Is it a crime to threaten to kill an officer?

18 A. Yes, it is.

19 MS. WINTER: Again, I'm going to object to  
20 this line of questioning regarding Mr. [REDACTED] past  
21 alleged criminal conduct, including any RDR  
22 disciplinary reports that were issued to him while he  
23 was in CDCR as irrelevant.

24 Q. BY MR. DUGGAN: In prison what does it  
25 mean to gas someone?

1 A. Under the law it means throwing a substance  
2 that make contact with a staff member. Liquid kind of  
3 substance, any kind of liquid substance. Uh...  
4 spitting.

5 Q. Are any other substances used?

6 A. Urine, like feces, urine. You know. Bodily  
7 fluids. Water. Milk, coffee.

8 Q. Have you ever gassed a prison staff member?

9 MS. WINTER: Objection. I'm going to instruct  
10 the witness not to answer pursuant to his right to be  
11 free from self-incrimination under the Fifth Amendment.

12 MR. DUGGAN: Let's take a look at Exhibit 5  
13 and enter that one into the record.

14 (Defendants' Exhibit 5 was marked for  
15 identification.)

16 Q. BY MR. DUGGAN: Exhibit 5 consists of  
17 several Rules Violation Reports against you, Mr.

18 [REDACTED]. Do you see that?

19 A. Yes, sir.

20 Q. And in each of those Rules Violation Reports  
21 are you accused by an officer of gassing them?

22 A. Yes.

23 Q. Have you ever been gassed by another inmate?

24 A. Yes.

25 Q. How many times have you been gassed by another

1 inmate?

2 A. I don't recall.

3 Q. Let's take a look at Exhibit 15. Do you  
4 recognize this document?

5 A. Uh... I'm still getting there. Yes.

6 Q. What is Exhibit 15?

7 A. It is a United States Civil Complaint.

8 Q. And in that complaint do you accuse defendant  
9 ██████ of gassing you?

10 A. Yes.

11 Q. Did defendant ██████ in fact gas you?

12 A. Yes.

13 Q. Who is defendant ██████

14 A. He's another inmate.

15 Q. Take a look at Exhibit 6. Mr. ██████ Exhibit  
16 6 is another compilation of Rules Violation Reports  
17 against you.

18 MS. WINTER: Is that a question?

19 MR. DUGGAN: No.

20 Q. I'm seeing I've got the wrong document for  
21 Exhibit 6. Let's do Exhibit 7. Can you take a look at  
22 Exhibit 7, Mr. ██████

23 A. Yes, sir.

24 Q. Mr. ██████ do you see the Rules Violation  
25 Report in Exhibit 7?

1 A. Yes.

2 Q. In Exhibit 7 are you accused of gassing an  
3 officer?

4 A. Yes, sir.

5 MR. DUGGAN: Let's take a look at Exhibit 8  
6 and enter that one into the record.

7 (Defendants' Exhibit 8 was marked for  
8 identification.)

9 Q. BY MR. DUGGAN: Mr. [REDACTED] in Exhibit 8  
10 are you accused of threatening to sue an officer?

11 A. Um... I'm not seeing. Let me see.

12 Q. Where it says, "I'm gonna to write you up.  
13 You won't be working here no more. I'm going to get  
14 your punk ass out this block."

15 A. You say this is Exhibit 8?

16 Q. Yes, 8.

17 A. Dated September 20th, 2020?

18 Q. 2020. Yep.

19 A. Okay. So, this September 2020 -- on Sunday  
20 September 20, 2020 at approximately 1920 hours while  
21 working in the program, Sergeant PSU 320363, I was  
22 assigned to the 31 Block staff with inmate, in a  
23 section, cell 105 full report. Uh...

24 Q. So, again, Mr. [REDACTED] did you -- are you  
25 accused in Exhibit 8 of threatening to sue an officer?

1           A. I don't see where I threatened to sue this  
2 officer.

3           Q. Okay. So, are you accused of threatening to  
4 write up the officer?

5           A. To write him up, yes.

6           Q. Let's take a look at Exhibit 9. And on the  
7 first page at the bottom paragraph it says that -- it  
8 says that you said, "I'm not taking any medication from  
9 you. I'll just write you up in a lawsuit for denying  
10 me my medication." Do you see that?

11          A. Yes.

12          Q. Did you threaten to sue that person, which is  
13 listed as Brooke Sanchez, Psyche Tech, on December 8,  
14 2019?

15          A. I don't recall.

16          Q. As for -- going back to Exhibit 8, did you  
17 threaten to write up Correctional Sergeant Porter on  
18 September 20th, 2020?

19          A. Yes.

20          Q. You've sued several prison staff members, is  
21 that right?

22          A. Yes.

23          Q. How many lawsuits do you have pending against  
24 prison staff members right now?

25          A. Approximately I believe -- I believe 40.



1 Q. Are those all in the Eastern District of  
2 California?

3 A. Yes.

4 MR. DUGGAN: Let's take a look at Exhibit 11  
5 and enter that into the record.

6 (Defendants' Exhibit 11 was marked for  
7 identification.)

8 MS. WINTER: Can you give me just one moment.  
9 I lost my exhibits. I need to pull them back up. You  
10 said Exhibit 11, is that correct?

11 MR. DUGGAN: 11.

12 MS. WINTER: Thank you.

13 Q. BY MR. DUGGAN: Do you recognize this  
14 document, Mr. [REDACTED]

15 A. Yes.

16 Q. I'd like you to turn to page -- what is this  
17 document?

18 A. This is a United States Civil Rights Complaint  
19 form, Eastern District.

20 Q. Is it a complaint that you filed?

21 A. Yes.

22 Q. I'd like you to turn to the page marked 7 of  
23 13.

24 A. 7 of 13?

25 Q. Uh huh. Do you see a paragraph there marked

1 Fact #9?

2 A. Yes.

3 Q. Could you read what you wrote in that part of  
4 for the record?

5 MS. WINTER: Objection. Assumes facts not in  
6 evidence that Mr. [REDACTED] in fact wrote this paragraph.

7 Q. BY MR. DUGGAN: Did you write this  
8 paragraph?

9 A. Yes.

10 Q. Could you read for the record what this  
11 paragraph says?

12 A. Fact #9, Defendant Silva informed plaintiff --

13 MS. WINTER: Objection. I'm going to instruct  
14 the witness not to answer this question pursuant to hi.  
15 Right to be free from self-incrimination.

16 MR. DUGGAN: I'm a little bit confused by that  
17 objection, counsel. I'm just asking him to read what  
18 he wrote in a public complaint.

19 MS. WINTER: Yes, I'm just concerned about the  
20 way -- the intent behind this question. So, I'm going  
21 to let him go ahead and answer at this point.

22 And read just -- purely read the complaint,  
23 the actual words that you wrote.

24 THE DEPONENT: Defendant Silva informed  
25 plaintiff that she knew all about plaintiff being the

1 #1 top litigator in CDCR. She, defendant Silva being  
2 added, plaintiff didn't know about her and what she  
3 could do to him.

4 Q. BY MR. DUGGAN: Are you the #1 top  
5 litigator in CDCR?

6 A. No.

7 Q. Who is, do you know?

8 A. No.

9 Q. But you have filed a lot of complaints. Do  
10 you think you've filed the most complaints of any  
11 inmate in CDCR?

12 A. I don't know.

13 MR. DUGGAN: Let's enter Exhibit 12 into the  
14 record.

15 (Defendants' Exhibit 12 was marked for  
16 identification.)

17 Q. BY MR. DUGGAN: Do you recognize Exhibit  
18 12, Mr. [REDACTED]

19 A. Yes.

20 Q. What is Exhibit 12?

21 A. It is a United States District Court, Civil  
22 Complaint, Eastern District.

23 Q. I don't have it as a Civil Complaint. I have  
24 it as Findings & Recommendations.

25 A. Well, it's the... it's the Findings &

1 Recommendations from the complaint that was filed on  
2 12-4-2008.

3 Q. And who filed that original complaint?

4 A. I did.

5 Q. It is a case that you brought against prison  
6 staff?

7 A. Yes.

8 Q. I want you to turn to the page marked 4 of 5.  
9 Near the bottom of the page it says at the end of a  
10 paragraph? Because plaintiff failed to exhaust  
11 available administrative remedies this case must be  
12 dismissed." Do you see that?

13 A. Yes.

14 Q. Was this case in fact dismissed?

15 A. Yes.

16 Q. What does it mean to exhaust administrative  
17 remedies in this context?

18 MS. WINTER: Objection to the extent it calls  
19 for a legal conclusion.

20 Mr. [REDACTED] you can respond to the question to  
21 the best of your personal knowledge about the process  
22 to exhaust administrative remedy.

23 THE DEPONENT: To exhaust administrative  
24 remedies, you have to give the prison an opportunity to  
25 address -- redress your issues uh... at all three

1 levels up to the final level.

2 Q. BY MR. DUGGAN: And so how do you start  
3 that process?

4 A. You start that process by requesting a 602  
5 Complaint Form.

6 Q. And what do you do with the 602 Complaint  
7 Form?

8 A. You fill it out, you put your issues on there,  
9 and you submit it to the Appeals Office.

10 Q. And then the Appeals Office reviews your form?

11 A. Yes.

12 Q. And there are three levels that are reviewed,  
13 is that correct?

14 A. Not no more.

15 Q. At the -- at the time of this case, in Exhibit  
16 12 were there three levels reviewed?

17 A. Yes.

18 Q. How many levels of review are there now?

19 A. Two.

20 Q. I've noticed in some of the lawsuits you've  
21 filed that you allege prison staff prevented you from  
22 exhausting, is that right?

23 MS. WINTER: Objection. Sorry. Withdraw.

24 THE DEPONENT: Yes.

25 Q. BY MR. DUGGAN: But you are able to file

1 602s, is that correct?

2 A. From here --

3 MS. WINTER: Objection. Vague.

4 Q. BY MR. DUGGAN: Are you able to file 602s?

5 MS. WINTER: Objection. Vague as to time,  
6 place, as to what content.

7 MR. DUGGAN: Let's enter Exhibit 13 into the  
8 record.

9 (Defendants' Exhibit 13 was marked for  
10 identification.)

11 Q. BY MR. DUGGAN: Do you recognize Exhibit  
12 13?

13 A. Yes, sir.

14 Q. What is Exhibit 13?

15 A. Exhibit 13 is the California Department of  
16 Corrections and Rehabilitation, Inmate/Parolees  
17 Tracking System - I & II.

18 Q. And is this a list of 602s that you filed?

19 MS. WINTER: Objection. The witness can --  
20 I'm not certain that the witness can authenticate this  
21 document.

22 Mr. [REDACTED] you can -- to the extent that you  
23 can see information on this document and understand  
24 what it says, you're -- you are welcome to answer the  
25 question. But Mr. [REDACTED] did not create this document,

1 nor is he responsible to make sure that it is  
2 authenticated and accurate.

3 MR. DUGGAN: Your objection is a paragraph  
4 long no. Okay. Let's just try to limit that a little  
5 bit.

6 Q. Go ahead, Mr. [REDACTED]

7 MS. WINTER: I can make the objection. I  
8 appreciate it, though.

9 THE DEPONENT: It appears to be a document  
10 with a sum of my complaints filed on there. However, I  
11 don't know if it's a complete document.

12 Q. BY MR. DUGGAN: This document is limited  
13 to 602s you filed at Corcoran, is that correct?

14 MS. WINTER: Objection. We just -- I just  
15 objected on the grounds that this document is not  
16 something that Mr. [REDACTED] created, so he cannot testify  
17 to everything that it potentially lists.

18 Q. BY MR. DUGGAN: You can answer, Mr.

19 [REDACTED]

20 A. It appears to be. Yes.

21 Q. Let's go to the last two pages of this  
22 document. Actually, the very last page. Does this  
23 document show that you filed a 602 that was received on  
24 September 6, 2019?

25 A. September 6, 2019, yes.

1 Q. And does this document show that you filed a  
2 602 that was received on October 15th, 2019?

3 A. Yes.

4 MS. WINTER: Objection. Again, this -- the  
5 witness can testify as to what this document says, but  
6 he cannot testify as to based on this document to  
7 confirm that those are the actual dates when the thing  
8 happened.

9 Q. BY MR. DUGGAN: Let's go back to Exhibit  
10 2.

11 A. Okay.

12 Q. And in paragraph 9 you allege that you  
13 witnessed a staff assault on September 23rd, 2019, is  
14 that right?

15 A. Paragraph 9?

16 Q. Yes.

17 A. Yes.

18 Q. Do you know the inmate's name that was  
19 assaulted?

20 A. Got him.

21 MS. WINTER: I'm going to object here. I'm  
22 sorry, to make clear that this witness's name is going  
23 to be maintained under seal as directed by the  
24 protective orders in this case.

25 MR. DUGGAN: Yes.



1 MS. WINTER: You can answer, Mr. [REDACTED] if  
2 you know.

3 THE DEPONENT: I don't recall his name.

4 Q. BY MR. DUGGAN: Do you know whether the  
5 inmates that you're saying was an assaulted is a  
6 Coleman class member?

7 A. Uh... yes. He's a Coleman class member.

8 Q. How do you know that?

9 A. We are housed in the same mental health  
10 housing block. Every inmate housed in that block with  
11 a mental disorder is a Coleman classman.

12 Q. Do you know whether the inmate involved in the  
13 September 23rd incident is an Armstrong class member?

14 A. I -- I don't know.

15 Q. It says here in paragraphs 9 and 10 you saw  
16 officers punch and kick an inmate and others in the  
17 housing unit. Do you know the names of the officers?

18 A. Uh... yes, I do.

19 Q. What are those names?

20 A. I believe it was Officer Madata (phonetic),  
21 Officer Berra (phonetic), uh... and I believe it was  
22 Officer Ceballa (phonetic). I am one hundred percent  
23 certain about Ceballa.

24 Q. In paragraph 12 you state that there was a  
25 Psyche Tech present. Do you know the name of that

1 Psyche Tech?

2 A. Um... yes. Her name was Campos.

3 MS. WINTER: Object. I think the witness may  
4 need some time to review this paragraph before he  
5 answers. There are a few different Psyche Techs  
6 mentioned in this document.

7 Q. BY MR. DUGGAN: Yeah, it looks like you  
8 mentioned Campos in paragraph 9, but I'm not sure if it  
9 is the same in paragraph 12.

10 A. Yeah. They told -- yes, this was -- yes.  
11 That was Psyche Tech Rosa.

12 Q. In your Declaration you also assert that you  
13 were assaulted by staff on October 2nd, 2019, is that  
14 right.

15 A. Yes.

16 Q. In paragraph 31 you state that you received an  
17 RVR for fighting with regard to that incident, is that  
18 correct?

19 A. Yes.

20 MR. DUGGAN: Let's take a look at Exhibit 16  
21 and enter that into the record.

22 (Defendants' Exhibit 16 was marked for  
23 identification.)

24 Q. BY MR. DUGGAN: Is this the RDR you were  
25 referring to in your Declaration?

1 A. Yes.

2 Q. In the RVR who does it say that you fought  
3 with?

4 A. Inmate [REDACTED]

5 Q. Let's go all the way to the second to last  
6 page of the RVR.

7 MS. WINTER: Can you clarify the page number?

8 MR. DUGGAN: In the PDF it's going to be 43,  
9 the second to last page on paper.

10 MS. WINTER: Thanks.

11 Q. BY MR. DUGGAN: Do you recognize this  
12 document, Mr. [REDACTED]

13 A. I don't have -- my pages are not numbered 43.

14 Q. Right. But yeah, it's going to be the second  
15 to last page in the RVR, and it should be your 7219.

16 MS. WINTER: Assumes -- let's see. Can you  
17 just describe the -- the page you're on?

18 MR. DUGGAN: So, it's a 7219, Medical Report  
19 of Injury or Unusual Occurrence. And it says, "I  
20 refuse all treatment." In quotation marks.

21 THE DEPONENT: You're referring to the Medical  
22 Report of Injuries?

23 Q. BY MR. DUGGAN: Yes.

24 A. Yes.

25 Q. Do you recognize that document?

1 A. Yes.

2 Q. What is that document?

3 A. This document is a Medical Report of Injuries  
4 for Unusual Occurrence.

5 Q. Does it record injuries received by you on  
6 October 2nd, 2019?

7 A. It reports some of the injuries.

8 Q. Were there other injuries?

9 A. Yes.

10 MS. WINTER: Objection. Vague as to --  
11 injuries from what?

12 Q. BY MR. DUGGAN: What were the other  
13 injuries that you received on October 2nd, 2019?

14 A. Uh... I had uh... a knot on my head, a chipped  
15 tooth. Uh... I had pain to my back. I had eye  
16 injuries. I was pepper sprayed. My body was burning.  
17 Um... I had injuries to my wrists, my hands. I had  
18 injuries -- I was experiencing chest pains. Those are  
19 the injuries that I recall at this time.

20 Q. How did you receive those injuries?

21 A. I received those injuries from the officers  
22 that attacked me.

23 Q. Did you receive any injuries from Inmate

24 [REDACTED]

25 A. I received no injuries from Inmate [REDACTED]

1 Q. Did Inmate [REDACTED] punch you on October 2nd,  
2 2019?

3 A. Yes.

4 Q. How many times did he punch you?

5 A. He punched me approximately twice.

6 Q. And you received no injuries from either of  
7 those punches?

8 A. No injuries.

9 MS. WINTER: Objection. Vague as to injury.

10 Q. BY MR. DUGGAN: Where on your body --  
11 where on your body did Inmate [REDACTED] punch you?

12 A. He punched me in my face, my jaw area.

13 Q. Let's go back to Exhibit 16 and go back to  
14 that first page.

15 A. Okay.

16 Q. How does the RVR say that you received your  
17 injuries?

18 A. The RVR says --

19 MS. WINTER: Objection. The RVR speaks for  
20 itself. If you'd like for him to read a particular  
21 sentence or set of sentences in this RVR in this very  
22 long paragraph, I would ask that you direct him to  
23 those specific paragraphs. Otherwise, you know, we're  
24 going to have to take some time for him to sit and read  
25 this and then summarize it for you.

1 Q. BY MR. DUGGAN: Does the RVR say that you  
2 received your injuries from Inmate [REDACTED]

3 A. I don't see where the RVR says I received my  
4 injuries from Inmate [REDACTED]

5 Q. Let's take a look at that -- at the first page  
6 of the RVR. Do you see the sentence that says, "I  
7 observed Inmate [REDACTED] straddling Inmate [REDACTED] lower  
8 torso area and Inmate [REDACTED] was striking Inmate [REDACTED]  
9 with a closed fist."

10 A. Yes.

11 Q. Did that happen?

12 A. It all depends on when are you saying this  
13 happened.

14 Q. Go ahead and explain it for me.

15 A. He struck me two times, and then he stopped  
16 his attack. Those two soft blows did not cause any  
17 injuries. They didn't knock me out, they didn't knock  
18 me down. There was no injuries.

19 Q. But it says here you were already down and he  
20 was straddling you.

21 MS. WINTER: Objection. Assumes -- the  
22 document again speaks for itself. Mr. [REDACTED] has not  
23 testified that this document accurately reflects what  
24 occurred on that date and during that incident.

25 So, Mr. [REDACTED] you can answer if you

[REDACTED]

1 understand the question.

2 THE DEPONENT: Yes. This document is the  
3 officer's account. He falsified this document. This  
4 is not what occurred on October 2nd, 2019.

5 Q. BY MR. DUGGAN: On October 2nd, 2019 did  
6 Inmate [REDACTED] straddle you and punch you?

7 A. No.

8 Q. What were your relative positions when Inmate  
9 [REDACTED] punched you?

10 A. I was cuffed up. I was at the back of my  
11 cell. The officers took Inmate [REDACTED] out of his  
12 handcuffs. As I was approaching the cell to get my  
13 handcuffs removed, Inmate [REDACTED] struck me two times.  
14 He then turned around and told the officers that he  
15 wasn't -- that they couldn't do this. And that was  
16 that.

17 Q. On the first page of the RVR it says that you  
18 had a hold of [REDACTED] and violently jolted him from side  
19 to side. Did that happen?

20 A. No.

21 MS. WINTER: Mr. Duggan, I just wanted to give  
22 you a warning. I think we're going to ask to take a  
23 break in the next couple minutes, so I want to make  
24 sure you have a good time to stop.

25 MR. DUGGAN: Actually, now might be a good

[REDACTED]

1 time.

2 MS. WINTER: Okay. Thanks.

3 (Recess taken.)

4 MR. DUGGAN: Okay. Back on the record.

5 Q. Mr. [REDACTED] you understand that the oath you  
6 took earlier today is still in effect?

7 A. Yes, sir.

8 Q. Before the October 2nd, 2019 incident --

9 MS. WINTER: Vague as to incident.

10 Q. BY MR. DUGGAN: Did you know Inmate [REDACTED]

11 A. Yes, sir.

12 Q. How well did you know him?

13 A. Not -- not well.

14 Q. You say in your Declaration that you had been  
15 cell mates before, is that correct?

16 A. Yes.

17 Q. How long were you cell mates?

18 A. Prior to this October 2nd incident we was cell  
19 mates for like a matter of weeks, but not long.

20 Q. Where were you cell mates? What prison?

21 A. Corcoran.

22 Q. And was it the same unit in which this  
23 incident happened?

24 A. Same unit, same cell.

25 Q. What happened for you to -- that you were no



1 longer cell mates?

2 A. The officers uh... was telling him that they  
3 wanted him to attack me, that I was writing them up,  
4 and that I was a snitch, stuff like that.

5 Q. And so he requested to be moved, or you  
6 requested to be moved? What happened?

7 A. He went out to the rec yard for exercise, and  
8 when he returned, I told the officers that I no longer  
9 wanted him to be my celly.

10 Q. Was that what they -- was that --

11 A. I don't recall.

12 Q. Were you friendly with Inmate [REDACTED] for a part  
13 of the time that you were cell mates?

14 MS. WINTER: Vague. As to what time period?

15 Q. BY MR. DUGGAN: I'm referring to the  
16 initial few weeks that you said you were cell mates.

17 A. We wasn't friends. We was just cell mates,  
18 like acquaintances just like trying to get along.

19 MR. DUGGAN: Let's go back a couple days, and  
20 let's take a look at Exhibit 17 and enter that one into  
21 the record.

22 (Defendants' Exhibit 17 was marked for  
23 identification.)

24 Q. BY MR. DUGGAN: Do you recognize Exhibit  
25 17, Mr. [REDACTED]

1           A. Give me a moment so I can get there, please,  
2 and I'll let you know.

3           Q. Okay.

4           MS. WINTER: I'm sorry. I have to pause for a  
5 second. I also have to plug in my computer. It's  
6 running low on battery.

7           MR. DUGGAN: Okay. We can take a -- how long  
8 do you need?

9           MS. WINTER: Just like two seconds. I just  
10 didn't want you to see me get up and walk away. I  
11 wanted you to know what was happening.

12          MR. DUGGAN: Okay.

13          MS. WINTER: Thank you.

14          Q. BY MR. DUGGAN: Okay. So, I believe the  
15 question was, do you recognize Exhibit 17?

16          A. Yes.

17          Q. What is Exhibit 17?

18          A. Exhibit 17 is a Health Care Services Request  
19 Form.

20          Q. When is Exhibit 17 dated?

21          A. It is dated 9-28-2019.

22          Q. Did you fill out this Health Care Services  
23 Request Form?

24          A. Yes.

25          Q. What were you asking for in this Health Care

1 Services Request Form?

2 A. Let me take a moment.

3 I was requesting to be placed back on my  
4 medication.

5 Q. Were you being deprived of your medication on  
6 September 28th, 2019?

7 A. Repeat that question.

8 Q. Were you being deprived of your medication on  
9 September 28th, 2019?

10 A. Can we take a moment, please? I'm not seeing  
11 my attorney.

12 MR. DUGGAN: She's here. I can see you.

13 MS. WINTER: Well, I can't see Mr. [REDACTED]  
14 either. I was going to wait. I also cannot see him.  
15 Can you guys see Mr. [REDACTED]

16 MR. DUGGAN: Yeah. I can see both.

17 MR. FREEDMAN: I can see everyone.

18 MS. WINTER: Oh. There. Mr. [REDACTED] you're  
19 back.

20 THE DEPONENT: I don't see you.

21 MR. FREEDMAN: Wait. We can see you. Why  
22 don't you let us know when you see us again, okay?

23 MS. WINTER: Do you see anyone, Mr. [REDACTED] on  
24 your screen?

25 THE DEPONENT: Yes. I see Mr. Hunter, and I

1 see Mr. Jeremy.

2 MS. WINTER: Okay. Um... you're still not  
3 seeing me though, right, Mr. [REDACTED]

4 THE DEPONENT: No. I see your name is there,  
5 and the room that you're in, but there's no picture of  
6 you.

7 MS. WINTER: Okay. You come back for me. I  
8 had lost you for a minute, too. I don't really feel  
9 comfortable going forward unless we can, you know,  
10 actually see each other. I'm not sure what the  
11 technical issue is, though. My video is not stopped,  
12 and the rest of you guys can see me, so I'm not sure  
13 what -- maybe let's take a pause and -- and we can talk  
14 to the facilitator and see what we can work out.

15 And Mr. [REDACTED] and I and Mr. Freedman can go  
16 into a break out room if that's okay.

17 MR. DUGGAN: Yeah. I mean, we can pause --  
18 it's kind of like -- okay. That works too, but I guess  
19 it isn't.

20 MS. WINTER: Yeah.

21 MR. DUGGAN: My thought would be if a break  
22 out room would work, then maybe we should leave and  
23 come back, if that would work.

24 MS. WINTER: Okay. Right now I will try and  
25 start and stop the video again and see if that makes a

1 difference. Oh. I just lost Mr. [REDACTED]

2 MR. DUGGAN: I lost him. Yeah. Oh, no.

3 MS. WINTER: Let's go off the record, Mr.  
4 Court reporter.

5 MR. DUGGAN: Yes. Got to work this out.

6 (Discussion held off the record.)

7 MR. DUGGAN: Okay. Back on the record.

8 Q. Mr. [REDACTED] you understand we took a short  
9 break due to some technical issues, but you understand  
10 the oath you took still remains in effect?

11 A. Yes, sir.

12 Q. Before that break we were talking about  
13 Exhibit 17, and I asked you if on September 28th, 2019  
14 you were being deprived of your medication. Were you  
15 being deprived of your medication on that day?

16 A. On September 28, 2019, yes.

17 Q. What medication were you being deprived of?

18 A. I don't recall, but I do recall it was a  
19 psyche medication.

20 Q. How many psyche medications were you taking at  
21 that time?

22 A. I don't recall.

23 Q. Were you taking the -- I believe you said  
24 Trimentols. Were you take that at that time?

25 A. I just don't recall.

1 Q. Did you get the medication that you were being  
2 deprived of on September 28, 2019 back?

3 A. I don't recall whether she gave it back to me  
4 or not.

5 Q. Could a lack of your psyche medication have  
6 made you feel angry?

7 A. Possibly.

8 Q. Could a lack of that medication have made you  
9 feel suicidal?

10 A. That's possible.

11 Q. Could a lack of that medication have affected  
12 your memory?

13 A. That's not possible, no.

14 Q. What's your opinion that the lack of that  
15 medication couldn't have affected your memory based on?

16 A. Basically, the medication that I take are mood  
17 stabilizers. They does not affect my memory.

18 MS. WINTER: Objection to the extent this  
19 calls for a professional or expert opinion regarding  
20 the side effects for medication.

21 Q. BY MR. DUGGAN: So, are you now recalling  
22 that the medication that you were being deprived of was  
23 a mood stabilizer?

24 A. That's -- that's pretty much all I take, is  
25 mood stabilizers.

1 Q. Can you now recall the exact medication that  
2 you were being deprived of?

3 A. No.

4 Q. Can you recall how many mood -- different mood  
5 stabilizers you were taking in September, 2019?

6 A. I don't recall.

7 Q. Let's take a look at Exhibit 9, which is  
8 already in the record. And let's look at the last page  
9 of Exhibit 9. And the second paragraph on that page is  
10 dated October 1st, 2019. Have you found Exhibit 9 yet?  
11 I'll wait.

12 A. Okay. I got it.

13 Q. All right. Can you turn to the last page of  
14 Exhibit 9?

15 A. All right. I got it.

16 Q. All right. Now, the second paragraph in  
17 Exhibit 9 is dated October 1st, 2019. Do you see that?

18 MS. WINTER: I think we lost you for a second  
19 here. I couldn't hear the question.

20 MR. DUGGAN: Oh. Okay.

21 Q. Do you see the second paragraph on Exhibit 9  
22 dated October 1st, 2019?

23 A. October 2nd, 2019, yes.

24 Q. Well, the second -- there's -- the first  
25 paragraph is dated October 2nd, and the second

1 paragraph is dated October 1st. I want to talk about  
2 the paragraph about October 1st.

3 A. Okay. Yeah. I see it.

4 Q. It states that on October 1st, 2019 at 7:35  
5 p.m. you reported that you were suicidal. Did you  
6 report that?

7 A. Let me review this document one second.

8 Okay. Can you repeat that question, please?

9 Q. The paragraph states that you reported that  
10 you were suicidal. Did you report that?

11 A. Yes.

12 Q. And did you report that to Psychiatric  
13 Technician Dennis Gichuru, G-i-c-h-u-r-u?

14 A. I don't recall the person's name.

15 Q. In the paragraph it also states that you  
16 filled out a slip that said, "I feel like killing  
17 Correctional Officer [REDACTED] and Correctional Officer  
18 Garcia respectively."

19 Did you write such a slip?

20 MS. WINTER: Objection. I'm going to instruct  
21 the witness not to answer to the extent this invades  
22 his Fifth Amendment privilege.

23 Q. BY MR. DUGGAN: After you reported that  
24 you were suicidal, do you recall what happened next?

25 A. I don't recall what happened next.



1 Q. But you did not go to a mental health crisis  
2 then, is that right?

3 A. I don't recall what happened next.

4 Q. In the first paragraph on that page of Exhibit  
5 9, it states that on October 2nd, 2019 at 8:31 a.m. you  
6 refused your medication. Did you refuse your  
7 medication on that date?

8 A. I just don't recall that date refusing  
9 medication. I don't recall.

10 Q. Could going without medication on that date  
11 have made you angry?

12 A. I don't even know what medication. It could  
13 have been medical, mental health. I don't recall.

14 MS. WINTER: And objection to the extent that  
15 this calls for a expert opinion over the side effects  
16 of the medication.

17 Q. BY MR. DUGGAN: So, you testified earlier  
18 that pretty much the only medications you take are mood  
19 stabilizers?

20 A. Yes. Um... mental health medication, mood  
21 stabilizers.

22 Q. So, could going without your mood stabilizers  
23 have made you angry?

24 MS. WINTER: Assumes facts not in evidence.  
25 He's already stated he doesn't know what medications he

1 was on on this date.

2 You can answer, Mr. [REDACTED] if you have  
3 knowledge.

4 THE DEPONENT: That's possible.

5 Q. BY MR. DUGGAN: Could going without your  
6 medications on that day have made you suicidal?

7 A. That's possible.

8 Q. Could going without your medications on that  
9 day have affected your memory?

10 MS. WINTER: Objection, again, to the extent  
11 that these questions may be expert testimony. You may  
12 answer, Mr. [REDACTED] if you know.

13 THE DEPONENT: No.

14 Q. BY MR. DUGGAN: That first paragraph, of  
15 Exhibit -- on the last page of Exhibit 9 also says that  
16 you threatened several nurses and said, "I'm going to  
17 602 you and all you damn nurses, all these nurses up in  
18 here are going to get written up."

19 Did you do that on the morning of October 2nd,  
20 2019?

21 MS. WINTER: Objection. I'm going to instruct  
22 the witness not to answer. The document speaks for  
23 itself.

24 MR. DUGGAN: Well, I'm asking if he did it.  
25 And it's not a crime.

1 MS. WINTER: Well, you know, we can go back  
2 and forth about what's a crime. I'm a little bit  
3 concerned here that you're attempting to show that he  
4 threatened someone, or attempting to ask him to confirm  
5 that he threatened someone in some way. I don't have  
6 the Penal Code in front of me, but I want to be careful  
7 about his rights.

8 MR. DUGGAN: Okay. I can take the word threat  
9 out of the question.

10 Q. Did you on the morning of October 2nd, 2019  
11 say, "I'm going to write your ass up. I'm going to 602  
12 you and all you damn nurses, all these nurses up in  
13 here are going to get written up"?

14 A. That's a no.

15 Q. You did not say that?

16 A. No.

17 Q. Did you say something similar to that?

18 A. I don't recall exactly what was said.

19 However, I do know that that's not even my vocabulary  
20 to even talk like that.

21 Q. What part in particular of that quoted  
22 statement is not your vocabulary?

23 A. When -- when she said uh... okay. She said,  
24 uh... "I'm going to write your ass up, I'm going to 602  
25 you and all you damn nurses, all these nurses up in

1 here are going to get written up."

2 That's like a long statement. I can sum that  
3 up in like two, three words, you know.

4 Q. You're more of a to the point type speaker?

5 A. I'm more of a straight guy, straight to the  
6 point type of guy.

7 Q. Did you tell the nurses that you were going to  
8 write a 602 against them?

9 A. That's possible.

10 Q. How -- if you did, how would you have put it?

11 A. Just like that. I'm going to write a 602.

12 MR. DUGGAN: Let's take a look at Exhibit 23.  
13 Let's enter that one into the record.

14 (Defendants' Exhibit 23 was marked for  
15 identification.)

16 THE DEPONENT: Okay. I got it.

17 Q. BY MR. DUGGAN: Okay. Do you recognize  
18 this document, Mr. [REDACTED]

19 A. Yes. I've seen it before.

20 Q. What is this document?

21 A. It's an Admit/Discharge/Transfer Form.

22 Q. What is the date of this document that... it  
23 says there was a preadmission screening performed, is  
24 that right?

25 MS. WINTER: Objection. Compound question.

1 Q. BY MR. DUGGAN: Does this document say  
2 that there was a MHCB Pre-Admission Screening  
3 performed?

4 A. Yes. That's uh... that's the medical health  
5 care crisis bed pre-administrator's screen form, yes.

6 Q. On what date was the -- well, let's start. I  
7 think you might have said the acronym wrong. Is it the  
8 Mental Health Crisis Bed?

9 A. Yes.

10 Q. On what date did Mental Health Crisis Bed  
11 Pre-admission Screening take place?

12 A. October 3rd, 2019.

13 Q. And at what time?

14 A. Uh...

15 MS. WINTER: Objection. The form was  
16 completed, or the record -- or I'm sorry, the document  
17 has a date and time on it. I think the question was  
18 asking what time the actual admission screening  
19 occurred. So, vague as to whether it's referring to  
20 the document or to the actual event. You can answer,  
21 Mr. [REDACTED]

22 THE DEPONENT: Yes. Um... the form say screen  
23 entered on October 3rd, 2019 at 9:22.

24 Q. BY MR. DUGGAN: In the paragraph there it  
25 says the IP stated that he did not have an altercation

1 with his cell mate, and that custody beat him up. Do  
2 you see that?

3 A. IP... what line is it?

4 Q. It starts on the third line. The sentence  
5 starts with, however, and ends with IP.

6 A. Yes, I see it. Yes.

7 Q. Did you state -- well, first, who is the IP in  
8 that sentence?

9 A. That would be me.

10 Q. Did you state that you did not have an  
11 altercation with your cell mate?

12 A. Yes, I did.

13 Q. As a matter of fact, you did have an  
14 altercation with your sell mate, correct.

15 MS. WINTER: Objection. Vague as to  
16 altercation.

17 THE DEPONENT: Yeah, because um... she would  
18 speak -- at the time we had this conversation, she was  
19 speaking -- was speaking in general of my injuries, who  
20 did what. And that's how that altercation came about  
21 was, did my celly do it, or did they do it. So, I  
22 don't -- I'm not aware of how she typed this up, but  
23 that's what that conversation was about.

24 Q. BY MR. DUGGAN: Do you recall that  
25 conversation well?

1 A. Yes, I recall having this conversation.

2 Q. Who were you talking to in this conversation?

3 A. I was talking to Dr. Houston.

4 Q. Do you know Houston well?

5 A. Yes, I do.

6 Q. How long have you known Houston?

7 A. I believe it was 2013, when she started  
8 working in 3A04. On her first day, I was one of the  
9 first inmates that she talked to.

10 Q. Did you file a 602 regarding the incident on  
11 October 2, 2019?

12 A. Yes, I did.

13 MR. DUGGAN: Let's take a look at Exhibit 19,  
14 and enter that into the record.

15 (Defendants' Exhibit 19 was marked for  
16 identification.)

17 Q. BY MR. DUGGAN: Is Exhibit 19 the 602 you  
18 filed?

19 A. Uh... it appears to be, yes.

20 Q. And does Exhibit 19 also include, toward the  
21 end, Staff Complaint Responses?

22 A. Yes.

23 Q. In Exhibit 19, on the fourth page in Section  
24 B, continuation of CDCR 602, do you see that section?

25 A. Fourth page.

1 Q. Yeah. I'm counting the cover page, so it will  
2 be the third page of the actual document.

3 A. Yes, I see it.

4 Q. In -- do you see in the second line of Section  
5 B where it says, "My teeth were kicked out"?

6 A. The second line... on the second line I don't  
7 see that.

8 Q. In section B.

9 A. Oh. Section B. Yes. I see it.

10 Q. Were your teeth in fact kicked out?

11 A. Yes.

12 MR. DUGGAN: Let's take a look at Exhibit 20,  
13 and let's enter that one into the record.

14 (Defendants' Exhibit 20 was marked for  
15 identification.)

16 THE DEPONENT: I've got it.

17 Q. BY MR. DUGGAN: Do you recognize this  
18 document?

19 A. Yes.

20 Q. What is this document?

21 A. This is a California State Prison Corcoran  
22 History and Physical Report.

23 Q. And do you see that it's dated October 4th,  
24 2019?

25 A. Yes.



1 Q. Do you see toward the bottom of the first page  
2 it says Review of Systems?

3 A. Yes.

4 Q. And then below that it says, "Mouth:  
5 Complains that his lip was lacerated and that his upper  
6 incisor was chipped"?

7 A. Yes.

8 Q. By the way, is this document about your  
9 health?

10 A. Yes.

11 Q. All right. And after sentence I just read  
12 about the upper incisor being chipped, it says, "He  
13 says that his other teeth had been lost previously."

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. Had your other teeth been lost previously?

18 A. Yes. I had lost two teeth previously.

19 However, I had denture teeth in, and those got kicked  
20 out. And then this teeth right here (indicating), it  
21 was -- it was kicked to the point where it was kicked  
22 -- chipped like here, and it's still the same like you  
23 see it. It's still the same.

24 Q. The resolution is not good enough for me to  
25 diagnose your chipped tooth. I'm sorry. But -- so

1 you're saying you had -- so, it wasn't in fact that  
2 your teeth got kicked out, it was that your dentures  
3 got kicked out?

4 A. Yeah, I had two partially dental teeth for  
5 these two, and then I had a real one in the middle with  
6 -- with -- was real. And that's the one that they said  
7 it was chipped. It was kicked and chipped. That's  
8 this one right here (indicating).

9 But these two was partials that they kicked  
10 out of my mouth. Broke them. I mean, that's what cut  
11 my lip. Where it says the laceration to the top of my  
12 lip, that's how I got that (indicating). You know, cut  
13 across the lip.

14 MR. DUGGAN: Okay. Look at Exhibit 10. Let's  
15 enter that one into the record.

16 (Defendants' Exhibit 10 was marked for  
17 identification.)

18 THE DEPONENT: Okay.

19 Q. BY MR. DUGGAN: Mr. [REDACTED] do you  
20 recognize -- this is another document with several  
21 Rules Violation Reports. Do you recognize -- do you  
22 recognize the first Rules Violation Report?

23 A. Yes.

24 Q. And in this document is Mr. Rodriguez accusing  
25 of you breaking a cell door window?

1 A. Yes.

2 Q. Did you break the cell door window?

3 MS. WINTER: Object. I'm going to instruct  
4 the witness not to -- not to answer the question to  
5 protect his Fifth Amendment right to be free from  
6 self-incrimination.

7 Q. BY MR. DUGGAN: If you take a look at the  
8 next one, it says -- it's dated June 5th, 2020. Do you  
9 see that?

10 A. Yes, sir.

11 Q. And it says -- and in this one you're accused  
12 of, an employee J. Read, of breaking a showerhead. Do  
13 you see that?

14 A. Yes, sir.

15 Q. Did you in fact break the showerhead?

16 MS. WINTER: Objection. I'm going to instruct  
17 the witness not to answer pursuant to his Fifth  
18 Amendment right.

19 Q. BY MR. DUGGAN: Mr. [REDACTED] you mentioned  
20 earlier that you have been attempting to have CDCR  
21 issue you a cane.

22 Let's take a look at Exhibit 28 and enter that  
23 one into the record. That will be the last one if  
24 they're in order.

25 A. I don't think I've got Exhibit 28. Mine's

1 only go up to Exhibit uh... 24.

2 Q. Okay. I'll have to have a word with uh... so  
3 you only have 1 to 24?

4 A. 1 to 24.

5 Q. Okay. Okay. All right. Well, we're going to  
6 have to fix that.

7 Okay. So, you don't have 26 and 27 either.  
8 All right. I think, then, we should break for lunch so  
9 I can get these exhibits to you. How long does  
10 everyone need?

11 MS. WINTER: Mr. [REDACTED] I'm guessing that  
12 it's going to take pretty long for you, unless they're  
13 going to bring you a sack lunch. I don't know if you  
14 have to be escorted anywhere.

15 MR. DUGGAN: Yeah, we can take an hour.

16 THE DEPONENT: Do you want me to call them and  
17 ask them? Can they take me back to the cell and bring  
18 me back in an hour?

19 MS. WINTER: If that's okay with you. If  
20 that's the right amount of time with you. We might  
21 also want to take some time to talk also before we get  
22 back together. But you let us know. It's probably you  
23 who will need the most time.

24 THE DEPONENT: They want to break for lunch.  
25 They want to know um... to take me back to the cell,

1 come back in about an hour or...

2 MS. WINTER: If that's what works for you,  
3 that's fine, yeah. I mean, I'm assuming nobody else  
4 needs more than an hour.

5 THE DEPONENT: They probable need a break,  
6 too.

7 MR. DUGGAN: Yeah, that's true. Also,  
8 Officer, Mr. [REDACTED] said he only has Exhibits 1 to 24,  
9 and I thought -- I thought there -- I thought I sent  
10 28. So... give me a call if there's any questions. I  
11 thought I sent them.

12 MS. WINTER: So, the other thing, Mr. [REDACTED]  
13 if it's easier for you, I mean we don't -- if you don't  
14 need a full hour, that you could also bring a sack  
15 lunch back. But I don't know if they've got that set  
16 up for you to do.

17 THE DEPONENT: I'm just going to go back and  
18 eat my lunch, get refreshed, and I will be back.

19 MR. DUGGAN: Okay. So, we're saying 1:00  
20 o'clock?

21 THE DEPONENT: All right. 1:00 o'clock.

22 MR. DUGGAN: Okay.

23 THE DEPONENT: Thank you.

24 (Recess taken.)

25 MR. DUGGAN: Back on the record.

1 THE DEPONENT: Yes, sir.

2 Q. BY MR. DUGGAN: Mr. [REDACTED] we've taken a  
3 lunch break, but you understand that the oath you took  
4 at the beginning of this deposition is still in effect,  
5 correct?

6 A. Yes.

7 Q. All right. And have you received the Exhibits  
8 25 to 28?

9 A. I received 24, 25, and... this... okay. Um...  
10 this is 27. I received... yeah, I think I got them  
11 all.

12 Q. Okay. Before we go to those, I'd like to go  
13 back to Exhibit 3.

14 A. Give me a second here. Hold up.

15 I've got it.

16 Q. Okay. Earlier in the deposition I was asking  
17 you about the page marked page 3 of 5. And  
18 specifically I asked you about the statement there that  
19 on August 28th, 2012 you threatened to make a spear and  
20 kill three Correctional Officers at your earliest  
21 opportunity. And I asked you whether that was true,  
22 and counsel has objected and instructed you not to  
23 answer based on the Fifth Amendment.

24 I just want to go back and ask you, are you  
25 accepting that instruction?

1 A. Yes, I am accepting that instruction.

2 Q. Okay. And then the same thing, I also asked  
3 you about the statement on -- in that -- on that same  
4 page, that on August 22, 2012 you offered to pay anyone  
5 a thousand dollars to spear and kill a Correctional  
6 Officer. And counsel again instructed you not to  
7 answer based on the Fifth Amendment. Are you accepting  
8 that instruction?

9 A. Yes.

10 Q. On that page there are additional examples  
11 listed of violations of, for example, assaults and  
12 threats. Did any of those -- did you engage in any of  
13 that conduct listed in those two paragraphs? Okay.  
14 And I have to start again.

15 (Simultaneous speech.)

16 MS. WINTER: Sorry.

17 Q. BY MR. DUGGAN: All right. My question  
18 was too vague anyway.

19 So, in the two paragraphs on page 3 of 5 of  
20 Exhibit 3, there's one paragraph that starts with, "On  
21 January 3rd, 2013," and there's one paragraph that  
22 starts with, "On April 17th, 2012." And there are  
23 several examples of violations that say that you made  
24 these violations. Did you in fact engage in any of the  
25 conduct listed in those two paragraphs?

1 MS. WINTER: Objection. I'm going to instruct  
2 the witness not to answer pursuant to his Fifth  
3 Amendment right to be free from self-incrimination.

4 Q. BY MR. DUGGAN: Are you accepting that  
5 instruction, Mr. [REDACTED]

6 A. Yes, sir.

7 Q. Okay. Let's go to Exhibit 4. As to Exhibit  
8 4, I previously asked you whether you had threatened to  
9 kill -- and this is on page 2 of 10 of the PDF file of  
10 Exhibit 4, and I had previously asked you whether you  
11 had in fact threatened to kill Officer J. Spangler on  
12 October 2nd, 2020. Counsel instructed not to answer  
13 based on the Fifth Amendment. Do you accept that  
14 instruction?

15 A. Yes.

16 Q. And I also asked you about the allegation on  
17 page 5 of 10 of Exhibit 4, whether you had in fact  
18 threatened to kill Officer J. Gudgalls on May 17th,  
19 2020. Counsel instructed you not to answer based on  
20 the Fifth Amendment. Did you accept that instruction?

21 A. Yes.

22 MS. WINTER: I'm going to object. I'm not  
23 certain -- this is all on the record. He's already  
24 accepted the instruction. I'm not sure what the  
25 purpose of this questioning is.



1 MR. DUGGAN: I just want to make sure that it  
2 is on the record that he accepted the instruction. I  
3 forgot to ask about it earlier, and I should have, and  
4 I'm just trying to clear it up, make sure it's clear.

5 MS. WINTER: Okay. That's fine. Okay.

6 Q. BY MR. DUGGAN: As to page 7 of 10 of  
7 Exhibit 4, there Officer Britton accused you of  
8 threatening to kill that officer. Did you in fact  
9 threaten to call Officer Britton on April 4, 2020?

10 MS. WINTER: I'm sorry. Can you -- I think  
11 you asked that question already, and he already pleaded  
12 the fifth to that question.

13 MR. DUGGAN: Okay. So, I wasn't sure if I  
14 asked him about this specific.

15 MS. WINTER: Okay.

16 Q. BY MR. DUGGAN: So -- you know. So, did  
17 you in fact accept your counsel's instructions to not  
18 to answer based on the Fifth Amendment with regard to  
19 whether you had in fact threatened to kill Officer  
20 Britain on April 24th, 2020?

21 A. Yes.

22 Q. And then 9 of 10, did you accept your  
23 counsel's instructions not to answer based on the Fifth  
24 Amendment as to whether you in fact threatened to kill  
25 Officer Rossi on March 11th, 2020? Did you accept your

1 counsel's instructions not to answer?

2 A. Yes.

3 Q. Thank you. Just a few more of these. I'm  
4 sorry, guys.

5 All right. Exhibit 5, as to the allegations  
6 that you gassed Officer Romney on September 14th, 2020,  
7 did you accept your counsel's instructions not to  
8 answer as to whether you actually gassed Romney on  
9 September 4th, 2020?

10 A. Yes.

11 Q. And then Exhibit 5, page 4 of 13, did you  
12 accept your counsel's instructions not to answer as to  
13 whether you gassed Officer Hegyes on Friday, July 31st,  
14 2020? Did you accept your counsel's instructions not  
15 to answer based on the Fifth Amendment?

16 A. Yes.

17 Q. Okay. Now, as for page 6 of 13, I don't think  
18 I've asked about this one before. I'm going to go  
19 ahead and ask, did you in fact gas Officer Mascadri on  
20 May 14th, 2020?

21 MS. WINTER: Objection. I'm going to instruct  
22 the witness not to answer on the basis of the Fifth  
23 Amendment, his Fifth Amendment right to be free from  
24 self-incrimination. I also don't think that you have  
25 laid the foundation for this particular exhibit.

1 THE DEPONENT: And also, can I just have a  
2 moment real quick? I need to have an officer come and  
3 fix this handcuff for me.

4 MR. DUGGAN: Okay. Let's take a break.

5 (Recess taken.)

6 MR. DUGGAN: Okay. Let's go back on the  
7 record.

8 Q. And let's talk about -- let's go back to page  
9 -- to Exhibit 4, page 9. And in that exhibit, Officer  
10 Rossi accused you of threatening to kill him on March  
11 11th, 2020. Do you see that?

12 A. Before page 9?

13 Q. Yes. The second to last page of Exhibit 4.

14 A. Yes, I see it.

15 Q. Did you in fact threaten to kill Officer Rossi  
16 on March 11th, 2020?

17 MS. WINTER: Objection. I'm going to instruct  
18 the witness not to answer pursuant to his Fifth  
19 Amendment right.

20 Q. BY MR. DUGGAN: Are you accepting that  
21 instruction, Mr. [REDACTED]

22 A. Yes, sir.

23 Q. All right. And is Exhibit 4 -- let's go back  
24 to page 7 of 10, so just two pages before that.

25 Officer Britton accused you of threatening to

1 kill that officer on April 24th, 2020. Did you in fact  
2 threaten to kill -- first, do you see that?

3 A. Yes, sir.

4 Q. Okay. Did you in fact threaten to kill  
5 Officer Britton on April 24, 2020?

6 MS. WINTER: Objection. I'm going to you  
7 instruct the witness not to answer based on his Fifth  
8 Amendment right.

9 Q. BY MR. DUGGAN: Are you accepting that  
10 instruction?

11 A. Yes, sir.

12 Q. All right. Now, we'll go back to Exhibit 5,  
13 page 6 of 13, where Officer Mascadri -- Mascadri  
14 accuses you of gassing that officer on May 14th, 2020.  
15 Do you see that?

16 A. Exhibit 5 page...

17 Q. 6 of 13.

18 A. 6 of 13. Yes.

19 Q. Did you in fact gas Officer Mascadri on May  
20 14, 2020?

21 MS. WINTER: Objection. I'm going to instruct  
22 witness not answer pursuant had his Fifth Amendment  
23 right.

24 Q. BY MR. DUGGAN: Are you accepting that  
25 instruction?

1 A. Yes, sir.

2 Q. Mr. [REDACTED]

3 A. Yes.

4 Q. On page 8 of 13 of Exhibit 5 Officer Diaz  
5 accuses you of gassing him. Do you see that?

6 A. Yes.

7 Q. Did you in fact gas Officer Diaz on April 6,  
8 2020?

9 MS. WINTER: I'm going to object. I'm  
10 instructing the witness not to answer based on his  
11 Fifth Amendment right.

12 Q. BY MR. DUGGAN: Are you accepting that  
13 instruction, Mr. [REDACTED]

14 A. Yes, sir.

15 Q. And on page 10 of 20 -- sorry, 10 of 13 of  
16 Exhibit 5, Officer -- Sergeant Sampley, Jr. accuses you  
17 of gassing him on January 22nd, 2020. Did you in fact  
18 gas -- oh, no. I'm sorry. Do you see that?

19 A. Yes.

20 Q. Did you in fact gas Sergeant Sampley on  
21 January 22nd of 2020?

22 MS. WINTER: Objection. I'm instructing the  
23 witness not to answer based on his Fifth Amendment  
24 privilege.

25 Q. BY MR. DUGGAN: Are you accepting that

[REDACTED]

1 instruction, Mr. [REDACTED]

2 A. Yes, sir.

3 Q. Okay. And on page 12 of 13 of Exhibit 5,  
4 Correctional Officer Buckley accuses you of gassing him  
5 on September 14th -- no, I'm sorry. This one is not --  
6 did not indicate you gassing him.

7 So, on page 12 of Exhibit 5 Officer Buckley  
8 states that there was a rolling shield placed in front  
9 of your cell due to you gassing staff previously. Do  
10 you see that?

11 A. Yes, sir.

12 Q. Was there in fact a rolling shield placed in  
13 front of your cell?

14 A. Yes, sir.

15 Q. Let's go to Exhibit 7. And on the second page  
16 of Exhibit 7 -- well, the third page in the PDF,  
17 Correctional Sergeant Couch accuse you of sticking a  
18 spear through the food port of his cell and attempting  
19 to spear him. Do you see that?

20 A. Yes, sir.

21 Q. Did you in fact attempt to spear Sergeant  
22 Couch on August 29th, 2014?

23 MS. WINTER: Objection. I'm instructing the  
24 witness not to answer pursuant to his Fifth Amendment  
25 privilege.

1 Q. BY MR. DUGGAN: Are you accepting that  
2 instruction, Mr. [REDACTED]

3 A. Yes, sir.

4 Q. Just as a catchall, in this deposition have  
5 you accepted your counsel's instruction not to answer  
6 based on the Fifth Amendment every time it has been  
7 given?

8 A. Yes, sir.

9 MR. DUGGAN: Let's take a look at Exhibit 28.  
10 Let's enter Exhibit 28 into the record.

11 (Defendants' Exhibit 28 was marked for  
12 identification.)

13 Q. BY MR. DUGGAN: Do you recognize Exhibit  
14 28, Mr. [REDACTED]

15 A. Give me a few seconds. I'm trying to find it.

16 Q. Okay.

17 A. Exhibit 28. What is Exhibit 28?

18 Q. It should be a Reasonable Accommodation Panel  
19 Response.

20 A. Reasonable... don't have Exhibit 28. I've got  
21 it up to Exhibit 27.

22 MR. DUGGAN: You're killing me. Killing me.  
23 Let's take a break and get the officer -- get the  
24 litigation coordinator on this. Thank you.

25 (Discussion held off the record.)

1 MR. DUGGAN: Okay. Back on the record, Mr.

2

3 Q. We took a short break and now we have located  
4 Exhibit 28, is that right?

5 A. Yes, sir.

6 Q. Do you recognize Exhibit 28?

7 A. Yes.

8 Q. What is Exhibit 28?

9 A. Reasonable Accommodation Panel Rap Response.

10 Q. What's the date on the document?

11 A. 1/2/2020.

12 Q. And which inmate is involved?

13 A. Inmate name is

14 Q. Is that you?

15 A. Yes, sir.

16 Q. Let's look at page 2 of -- or page 3 in the  
17 PDF of Exhibit 28. What's that -- what's that last  
18 page of Exhibit 28? Do you recognize that document?

19 MS. WINTER: Objection. Compound.

20 MR. DUGGAN: Yes. Okay.

21 Q. Do you recognize the last page of Exhibit 28?

22 A. Yes.

23 Q. What is the last page of Exhibit 28?

24 A. It looks like a...

25 (Loss of internet connection.)



1 MR. DUGGAN: Let's go back and do it again.

2 MS. GRUNFELD: That's an example of something  
3 that wouldn't have happened in the old days. Very  
4 sorry, Mr. [REDACTED]

5 Q. BY MR. DUGGAN: All right. So, Mr.  
6 [REDACTED] what is the last page of Exhibit 28?

7 A. The last page of Exhibit 28 is a CDCR 1824  
8 Form.

9 Q. Who filled out this CDCR 1824 Form?

10 A. I did.

11 Q. What's the purpose of the CDCR 1824 Form?

12 A. It's a Complaint Form for mobile devices.

13 Q. What do you mean by mobile devices?

14 A. Like trying to get a cane or a walker, if you  
15 have a complaint.

16 Q. When did you sign this -- did you sign this  
17 CDCR 1824 Form?

18 A. Yes, sir.

19 Q. When did you sign it?

20 A. December 24th, 2019.

21 Q. What problem were you seeking to solve when  
22 you filed this 1824 Form?

23 A. I was seeking to receive either a cane or a  
24 walker.

25 Q. Did you receive the cane or walker?

1 A. No, sir.

2 Q. Was your request for a cane or a walker  
3 denied?

4 A. Yes, sir.

5 Q. Who denied your request for a cane or a  
6 walker?

7 A. Um... it was the ADA Coordinator.

8 Q. Is that denial shown on the second page of  
9 Exhibit 28, the page that's titled Reasonable  
10 Accommodation Panel Response?

11 A. Yes, sir.

12 MR. DUGGAN: Okay. Now, let's go back to  
13 Exhibit 27. Please enter Exhibit 27 in the record.

14 (Defendants' Exhibit 27 was marked for  
15 identification.)

16 Q. BY MR. DUGGAN: Mr. [REDACTED] do you  
17 recognize Exhibit 27?

18 A. Exhibit 27. Exhibit 27?

19 Q. Yes.

20 A. Okay. I got it. Exhibit 27.

21 Q. Yes. Do you recognize this document?

22 A. Yes.

23 Q. What is Exhibit 27?

24 A. Exhibit 27 is a Progress Note, CDCR Corcoran.

25 MS. WINTER: I'm just going to interject here

1 and point out that this is the type of sensitive  
2 medical information that is covered by protective  
3 orders and the court's other orders related to the  
4 motions that are pending in this case for status  
5 conduct.

6 MR. DUGGAN: Yes. Yes. We -- we'll keep this  
7 confidential, or filed under seal.

8 Q. Do you see it -- under History of Present  
9 Illness there, there's a statement that the patient is  
10 wanting to know why he can't have his walker back?

11 A. Yes.

12 Q. Did you ask for your walker back at this time?

13 A. Yes.

14 Q. And then on the next page of Exhibit 27, do  
15 you see where it says, "Physical examination does not  
16 reveal any significant findings that require this  
17 patient to have or need a walker"?

18 A. Yes.

19 Q. Under -- so, you did not receive your walker  
20 back at this time?

21 A. No.

22 Q. Let's take a look back at your --

23 MS. WINTER: I'm going to object to this --  
24 the use of this document. I think it's confusing,  
25 because there are multiple dates on this document. One

1 is for January 8, 2019, and one is for December 2nd,  
2 2019. I think to rely on this document there needs to  
3 be some clarification or authentication.

4 Q. BY MR. DUGGAN: Mr. [REDACTED] do you know  
5 when this appointment took place, what date?

6 A. No, sir.

7 Q. Do you know who you met with when this  
8 appointment took place?

9 A. I can't recall.

10 Q. Let's go to Exhibit 19, the 602 filing.

11 A. Exhibit 19. Okay. Got it.

12 Q. Okay. And you testified earlier that this was  
13 a 602 form that you filed about the incident on October  
14 2nd, 2019, is that right?

15 A. Yes, sir.

16 Q. Let's take a look at the second to last page,  
17 page 7 of 8. And in that last paragraph it says,  
18 "During your interview with Lieutenant C. Brown," do  
19 you see that paragraph?

20 A. Yes, sir.

21 Q. Were you interviewed by Lieutenant C. Brown  
22 about the incident of October 2nd, 2019?

23 A. Yes, sir.

24 Q. Do you recall the content of that interview?  
25 Do you recall what each of you said?

1 A. I don't recall what the conversation was  
2 about, but I do recall that there was an interview.

3 Q. Do you recall any of what you said at the  
4 time?

5 A. Uh... I recall him asking me to reiterate on  
6 the complaint, and that was that.

7 Q. So, Lieutenant Brown asked you to reiterate  
8 what you had said in the 602?

9 A. Yes.

10 Q. And you don't recall anything else in that  
11 conversation?

12 A. Not that I recall.

13 Q. Let's take a look back at Exhibit 16, the RVR.  
14 And in Exhibit 16 you were given a rules violation for  
15 fighting, is that right?

16 A. Yes, sir.

17 Q. Did you in fact fight with Inmate [REDACTED]

18 MS. WINTER: Objection. I'm going to instruct  
19 the witness not to answer based on his Fifth Amendment  
20 right.

21 Q. BY MR. DUGGAN: Are you accepting that  
22 instruction?

23 A. Yes, sir.

24 Q. You testified earlier that you have about 40  
25 lawsuits pending against Correctional Officers or

1 prison staff in the Eastern District of California  
2 currently, is that right?

3 A. Yes, sir.

4 Q. Did you file a lawsuit about the October 2nd,  
5 2019 incident as described in your Declaration?

6 A. Uh... I don't recall if I did or didn't. I  
7 don't have my records in front of me.

8 Q. So, you don't know?

9 A. I've filed a lot of lawsuits, and I don't have  
10 that record in front of me.

11 MR. DUGGAN: Okay. Let's go on a quick break.  
12 I may be able to wrap this up.

13 (Recess taken.)

14 MR. DUGGAN: All right. So, are we back on  
15 the record.

16 Q. Mr. [REDACTED] we took a short break. You  
17 understand you're still under oath?

18 A. Yes, sir.

19 MR. DUGGAN: I do not have any more questions,  
20 and I'll pass the witness.

21 EXAMINATION BY MS. WINTER

22 Q. All right. So, Mr. [REDACTED] I just have a few  
23 questions for you. So, to begin with, did you and I  
24 have a meeting yesterday at CDCR about this deposition?

25 A. Yes.

[REDACTED]

1 Q. And did you receive a ducat for that meeting?

2 A. Yes.

3 Q. Who gave you the ducat for the meeting?

4 A. There was a warden, Ms. Rojas. And then was  
5 another warden, Mr. Scotland.

6 THE REPORTER: How do you spell that?

7 THE DEPONENT: He spell his name S-t-o -- let  
8 me see. Hold on.

9 Q. BY MS. WINTER: Is it like the country?

10 A. Yes, like Scotland. Like S-c-o-t-t-l-a-n-d.  
11 Scotland.

12 Q. Okay. And at what time did you receive the  
13 ducat?

14 A. Like about 7:30.

15 Q. Okay.

16 A. Like real early.

17 Q. Okay. And what time did the ducat say that  
18 you and I were supposed to meet?

19 A. The ducat said that we was supposed to meet at  
20 11:00 o'clock, I believe.

21 Q. Okay. And before 11:00 o'clock were you ready  
22 to meet with me?

23 A. Yes. I was ready. I was up, ready, waiting.

24 Q. Did you have your materials ready to go?

25 A. Yes. I had my materials ready, bright light

1 on.

2 Q. What does that mean, bright light on?

3 A. When you know you've got to go somewhere, you  
4 have to turn your bright light on to let them know that  
5 you're ready to go.

6 Q. Okay.

7 A. So, they know you're up and ready to go.

8 Q. So, when you say them, you mean like the  
9 custody officers in your unit?

10 A. Yes.

11 Q. Okay. So, when it came time for you to be  
12 escorted to our meeting, can you tell me what happened?

13 A. Um... CO D. Catlin, he approached my cell. He  
14 asked me if I wanted to go to my legal visit. I told  
15 him yes. He walked away. And he went out and told  
16 them that I refused.

17 Q. How did you know that they told him -- or that  
18 he told them that you refused?

19 A. Because shortly after he walked out into the  
20 hallway, I was approached by the Litigation  
21 Coordinator, and there was an ISU Officer, and they  
22 came up, and they was asking me, "Do you want to come  
23 out?"

24 And I was like, "Yes."

25 And they said, "Well, you know you got this



1 legal visit."

2 And I said, "Yeah. That's what I'm waiting  
3 on."

4 And he's like, "Oh. He said that you  
5 refused."

6 I said, "No, I didn't refuse."

7 And he said, "Well, let me go call them and  
8 let them know that you're coming."

9 Q. Okay. So, just to be fair -- I missed what  
10 you said. I think there was interference. Can you  
11 hear me?

12 A. Yes.

13 Q. So, just the last sentence, I -- I didn't hear  
14 you very clearly.

15 A. So, the Litigation Coordinator showed up. And  
16 he told me, he's like, "Well, they -- Officer Catlin  
17 told me that you refused."

18 And I said, "No. I want to go to my -- my  
19 legal visit."

20 And he said, "Okay. Let me go call, and I'll  
21 get you up here."

22 And he -- he got me up here.

23 Q. Okay. So, we did in fact meet?

24 A. Yes.

25 Q. Okay. But -- but that -- but Officer Catlin

1 said that you refused before you were able to meet?

2 A. Yes.

3 Q. Okay.

4 A. Yes.

5 Q. And so -- thank you. Let's see. So, this  
6 morning we're here at a deposition.

7 A. Yes.

8 Q. Correct. Did you get a ducat for this  
9 deposition?

10 A. Yes.

11 Q. What time did you get a ducat?

12 A. At about 7:30.

13 Q. Okay. Who brought you that ducat -- I'm  
14 sorry?

15 A. The Associate Warden. Um... Scotland.

16 Q. Scotland brought the ducat?

17 A. Yes.

18 Q. And did something else happen this morning  
19 before you came to this deposition?

20 A. Yes.

21 Q. Can you tell me what happened before you came  
22 to this deposition?

23 A. So, CO again, Catlin, that's C-a-t-l-i-n, he  
24 approached my living cell. He told me that he wanted  
25 to come to my directly to conduct a cell search.

1 I asked him why. He left. Shortly after that  
2 he came back, and he did something with my tray. I  
3 wound up finding a milk carton.

4 He said that the content of the milk carton  
5 got on him. Then when it came time for my ducat, the  
6 warden came and gave me the ducat. So, I knew I had a  
7 different -- a disposition (sic) today because I had to  
8 sign up for the ducat.

9 When he left, CO Catlin approached my cell and  
10 asked me if I wanted to attend my legal visit today.  
11 And I told him yes.

12 He went out again into the hallway and  
13 reported that I refused. And then shortly after that  
14 uh... again, the Litigation Coordinator and the ISU,  
15 Investigation Services Officers -- Officers, all came  
16 to my living cell and asked me if I wanted to come up  
17 here.

18 And was telling them, well, now I'm kind of  
19 frustrated, but -- because -- because this guy clearly  
20 trying to sabotage me two days in a row.

21 So, they gave me word that they would bring me  
22 up here, and they would personally escort me up here  
23 and see there wouldn't be any more problems out of this  
24 officer. But they got me up here.

25 Q. So, you're here at the deposition.

1 A. Yes.

2 Q. Okay. So, I'm just going to go back a few  
3 steps to make sure I got all the pieces right. So, you  
4 said that you asked CO Catlin why he was going to  
5 search your cell, correct?

6 A. Yes.

7 Q. And -- and did he provide you any response as  
8 to why he was going to search your cell?

9 A. No, he -- he just walked off. You know, like  
10 he just walked off. And I found that I -- but they did  
11 conduct a cell search, because they used that -- that  
12 the contents they trying to say got on him, that's a  
13 mandatory cell search. If an officer say somebody got  
14 something on them, then you have to get your cell  
15 searched.

16 Q. Okay. So, you're saying --

17 (Simultaneous speech.)

18 Q. Sorry. So, you're saying when he initially  
19 came to do a cell search you asked him why, he didn't  
20 give you any explanation, but then later after the  
21 situation with the milk carton, which we'll talk a  
22 little bit more about, then he -- then he was able to  
23 search your cell after he said that the milk had hit  
24 him?

25 A. Yes.

1 Q. Okay.

2 A. Yes.

3 Q. So -- and you said that -- you were brought a  
4 tray with a milk carton on it, and you threw the milk  
5 carton, correct?

6 A. Yes.

7 Q. And where -- where did you throw the milk  
8 carton?

9 A. I was inside my cell. I threw the milk carton  
10 at my cell door. None of the contents got outside that  
11 cell door, that I believe. And he said that contents  
12 got on him. And the food port was locked, closed, so I  
13 just don't see how the contents made contact with him.

14 Q. Okay. So, the food port was closed?

15 A. Yes.

16 Q. The cell door was closed.

17 A. Closed.

18 Q. As far as you know, there was no opening for  
19 milk to escape the cell and touch him?

20 A. None at all. I threw the -- because he told  
21 me to take the tray, so I took the tray, and I took the  
22 milk off the tray, because I don't drink milk. I took  
23 the milk off the tray, and I threw it on the door.

24 And the milk, it like bust all over my door.

25 And he was still standing like a the foot away from the

1 door. So, he heard it when it hit the door. So, that  
2 was his excuse to say, "Oh, well, some of that stuff  
3 got on me."

4 So, they didn't immediately come with a cell  
5 search. Like normally if you -- like if something get  
6 on an officer, within like three seconds all the  
7 officers going to be at your door, and you've got to  
8 come out of that cell.

9 But in this case they went about an hour or  
10 two hours, and did a canvas, and said, "Hey, we got to  
11 come in the cell."

12 Q. Okay. And did Officer Catlin tell you he was  
13 going to issue an RVR for you, for the milk carton?

14 A. Yes, he did.

15 Q. And what did he say that the RVR was going to  
16 be for? What was the violation?

17 A. They going to write me up for a battery for  
18 him.

19 Q. Okay. But do you know -- did you receive the  
20 RVR paperwork immediately?

21 A. No. They have 15 days to serve me the RVR.

22 Q. Okay. But your understanding is that he's --  
23 he is now writing you up for battery on a peace officer  
24 based on you throwing the milk carton inside your cell?

25 A. Yes. I'm 100 percent sure that he's writing

1 an RVR.

2 Q. Okay. So, the other thing that you said was  
3 that when Officer Catlin came to your door before you  
4 came to this deposition, that he went and told the  
5 other officers that you were refusing, is that right?

6 A. Yes.

7 Q. How do you know that he said that to those --  
8 the other officers?

9 A. Because the officers that brought me up here,  
10 that was the -- the uh... the guy that had the black  
11 shirt on, that's -- that's our uh... ISU officers.

12 Q. Okay.

13 A. The investigators squad. And he's the  
14 Sergeant. And he told that they was saying I refused  
15 to come here.

16 Q. For today's meeting?

17 A. For today's meeting. And he was the one that  
18 came to my door. And he talked to me -- he was like,  
19 "Look. That meeting is important. A lot of people  
20 that working on getting this meeting done, so I'm here.  
21 I will personally walk you up there, and I will stay  
22 there with you, make sure nothing happens, nobody  
23 retaliate against you. Will that work for you?"

24 I told him, "Yeah, that will work for me."  
25 And he did that.

1 Q. Okay. And you've said a few times up here.  
2 When you say up here, you mean coming to the  
3 deposition, is that right?

4 A. Yes. To the visiting area, the deposition.

5 Q. Okay. Do you have -- do you have any belief  
6 as to why Officer Catlin -- why that the incident  
7 yesterday occurred first?

8 MR. DUGGAN: Objection. Calls for  
9 speculation. Sorry.

10 MS. WINTER: Okay.

11 Q. You can go ahead, Mr. [REDACTED]. Just tell me if  
12 you do have a belief as to why that happened.

13 A. Well, I believe that he's trying to put two  
14 and two together as to why the warden keep coming to my  
15 door, got me signing these ducats. And he's like  
16 within like ear range to hear about -- because on the  
17 ducat it says the Armstrong case. So, they know that  
18 it's about the Armstrong case, you know.

19 And there's no secret in the building that I'm  
20 the -- the litigator, so if they see me communicating  
21 with them, and I'm coming up here, it's not hard to  
22 figure out what's going on.

23 Q. Okay. And do you think that that sort of same  
24 reason is what motivated him today to search your cell?

25 MR. DUGGAN: Objection. Calls for



1 speculation.

2 THE DEPONENT: I believe that his intentions  
3 was to search my cell, read the documents, and see what  
4 I was working on, or what I was reading, because my  
5 file was just sitting right there on my bed.

6 S. WINTER: Okay.

7 THE DEPONENT: So, I believe that's what his  
8 intention was, to try to figure out exactly what was  
9 going on.

10 Q. BY MS. WINTER: And do you believe that  
11 the same intention was why he told you he was going to  
12 issue you an RVR?

13 MR. DUGGAN: Objection. Calls for  
14 speculation.

15 THE DEPONENT: Well, I believe that he has to  
16 do an RVR to justify the cell search, because they  
17 already searched the cell. So, now you got to justify  
18 you why searched the cell.

19 And -- and -- and if you're going say that the  
20 contents of that milk touched your person, then that  
21 will justify you getting into my cell.

22 Q. BY MS. WINTER: Okay. And -- and tell me  
23 again, what is your personal belief about why Officer  
24 Catlin also said that you refused to come to the  
25 deposition today.

1 MR. DUGGAN: Objection. Calls for  
2 speculation.

3 THE DEPONENT: I believe that he know -- he  
4 know that protocols requires that if you have an  
5 interview, and you refuse that interview, then they  
6 automatically void the whole complaint process. That's  
7 -- that's like protocol for when they're dealing with  
8 investigations here.

9 So, him blocking me from coming up to a legal  
10 visit, he know that that will be something like  
11 valuable for me. I don't refuse anything legal.

12 S. WINTER: Okay. I have no further  
13 questions.

14 MR. DUGGAN: Okay. We can go off the record.

15 THE REPORTER: Just a moment. Who would like  
16 a copy?

17 MR. DUGGAN: We would. And expedited.

18 MS. WINTER: We would as well.

19 (Defendants' Exhibits 6, 7, 9, 15, 21,  
20 22 and 24 were requested to be marked for  
21 identification by Mr. Duggan.)

22 (Ending time: 2:21 p.m.)  
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STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF )

I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions, or deletions that I was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, at \_\_\_\_\_, California.  
(City)

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[Redacted Signature]

[Redacted]

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R E P O R T E R ' S C E R T I F I C A T E

I, WAYNE A. HUNTER, CSR No. 5456, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney or of any of the parties nor financially interested in the action.

Dated this 31st day of October, 2020.

  
\_\_\_\_\_  
Wayne A. Hunter, C.S.R. No. 5456



[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]		
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# **Exhibit 19**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

---oOo---

JOHN ARMSTRONG, et al., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
GAVIN NEWSOM, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

**CERTIFIED COPY**

No. C 94-2307 CW

DEPOSITION OF  
[REDACTED]  
REPRESA, CALIFORNIA  
NOVEMBER 2, 2020

ATKINSON-BAKER, INC.  
(800) 288-3376  
WWW.DEPO.COM

REPORTED BY: THERESA G. MENDOZA, CSR NO. 12338

FILE NO.: AE07537

[REDACTED]

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

---oOo---

JOHN ARMSTRONG, et al., )  
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Plaintiff, )  
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vs. ) No. C 94-2307 CW  
 )  
GAVIN NEWSOM, et al., )  
 )  
Defendants. )  
\_\_\_\_\_)

Deposition of [REDACTED] [REDACTED] taken on  
behalf of Defendants, via video conference equipment,  
in Represa, California, commencing at 9:31 a.m.,  
Monday, November 2, 2020 before Theresa G. Mendoza,  
CSR No. 12338.

[REDACTED]

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A P P E A R A N C E S

FOR THE PLAINTIFF:

ROSEN BIEN GALVAN & GRUNFELD  
BY: MICHAEL FREEDMAN, ESQUIRE  
101 Mission Street, Sixth Floor  
San Francisco, California 94105-2235  
Mfreedman@rbgg.com

FOR THE DEFENDANTS:

STATE OF CALIFORNIA  
Department of Justice  
Office of the Attorney General  
BY: TRACE O. MAIORINO, DEPUTY  
455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102-7004  
415-703-5843  
Trace.Maiorino@doj.ca.gov

ALSO PRESENT:

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Assistant Chief Counsel, Legal Affairs  
BY: Patricia Ferguson, Esquire

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Office of Legal Affairs - Class Action Team  
BY: Gannon Elizabeth Johnson, Esquire



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A P P E A R A N C E S C O N T I N U E D

ALSO PRESENT:

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Office of Legal Affairs - Class Action Team

BY: Tamiya Davis, Esquire

ATKINSON BAKER  
Deposition Monitors  
BY: Ian Atkinson-Baker  
BY: Jennifer  
BY: Rebecca



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I N D E X

WITNESS: [REDACTED] [REDACTED]

EXAMINATION		PAGE
BY MR. MAIORINO		8, 235
BY MR. FREEDMAN		227

EXHIBITS		
LETTER	PLAINTIFF'S DESCRIPTION	PAGE
	(NONE)	

NUMBER	DEFENDANTS' DESCRIPTION	PAGE
1	Second Amended Notice Bates No. [REDACTED] 001-[REDACTED] 005	Premarked
2	Declaration of [REDACTED] Bates No. [REDACTED] 006-[REDACTED] 044	Premarked
3	6-6-2020 Rules Violation Report Bates No. [REDACTED] 045-[REDACTED] 072	Premarked
4	Documents Bates No. [REDACTED] 073-[REDACTED] 083	Premarked
5	Documents Bates No. [REDACTED] 084-[REDACTED] 092	Premarked
8	Offender Grievances/Appeals Bates No. [REDACTED] 097-[REDACTED] 099	Premarked
9	Inmate/Parolee Appeals Tracking System Levels I & II Bates No. [REDACTED] 100-[REDACTED] 102	Premarked
10	Inmate/Parolee Appeals Tracking System Levels III Bates No. [REDACTED] 103-[REDACTED] 126	Premarked

[REDACTED]

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EXHIBITS

NUMBER	DEFENDANTS ' DESCRIPTION	PAGE
11	Health Care Services Grievance History Bates No. [REDACTED] 127-[REDACTED] 131	Premarked
15	KVSP Legal/Confidential Mail Record Bates No. [REDACTED] 161-[REDACTED] 169	Premarked
18	Vexatious Litigant Order Bates No. [REDACTED] 278-[REDACTED] 280	
19	Application to Vacate Vexatious Litigant Order Bates No. [REDACTED] 281-[REDACTED] 282	Premarked
20	[REDACTED] V Thomas Felker Order Bates No. [REDACTED] 283-[REDACTED] 286	Premarked
21	[REDACTED] V Thomas Felker Order Bates No. [REDACTED] 287-[REDACTED] 286	Premarked
22	[REDACTED] V M. Sepulveda Bates No. [REDACTED] 290-[REDACTED] 303	Premarked
23	Monterey County People V [REDACTED] Bates No. [REDACTED] 309-[REDACTED] 311	
25	Monterey County People V [REDACTED] Bates No. [REDACTED] 317-[REDACTED] 324	Premarked
27	Progress Notes Bates No. [REDACTED] 331-[REDACTED] 431	Premarked
28	Abstract of Judgement Bates No. [REDACTED] 432-[REDACTED] 437	Premarked
29	KVSP Staff Observation Bates No. [REDACTED] 438-[REDACTED] 439	Premarked
30	KVSP chrono 6-17-2020 Bates No. [REDACTED] 440-[REDACTED] 441	Premarked

[REDACTED]

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I N D E X      C O N T I N U E D

QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER:

PAGE	LINE
23 & 24	21-25 & 1-7
90 & 92	20-25 & 1-3

INFORMATION TO BE SUPPLIED:

(NONE)





1 THE REPORTER: Good morning. My name is  
2 Theresa Mendoza, a California Certificate Shorthand  
3 Reporter.

4 The witness and the reporter are not in the  
5 same room.

6 The witness will be sworn in remotely.

7 The deposition is being held via video  
8 conference equipment.

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██████████ ██████████  
having first been duly sworn,  
was examined and testified as follows:

EXAMINATION

BY MR. MAIORINO:

Q. Good morning, sir. My name is  
Trace Maiorino and I'm an attorney with the  
Attorney General's Office in San Francisco, and I  
represent the defendants in the Armstrong class action,  
and first I want to just say I apologize for the remote  
nature of this deposition. If I had it my way I would  
have driven to the prison and would have been in the  
same room with you for this deposition.

But can you hear me, sir?

A. Yes, I can.

████████████████████

1 Q. Okay. And if at any time during the  
2 deposition if you can't hear me or can't hear other  
3 people, please let us know. Maybe you might have to  
4 raise your hand or signal or some other means to get  
5 our attention, but are you able to hear the court  
6 reporter?

7 A. Yes I can.

8 Q. Okay. Great.

9 And are you able to see your attorney,  
10 Mr. Freedman?

11 A. Not good, but yes.

12 Q. Okay. Okay. And I'm not quite sure if we  
13 can do anything about that, but what about me, can you  
14 see me?

15 A. Yeah, it's the same problem.

16 Q. Okay. Okay.

17 MR. FREEDMAN: If there are some problems  
18 seeing it, Mr. [REDACTED] what are the problems you're  
19 having seeing us?

20 THE WITNESS: Well it's the floaters in my  
21 eye, No. 1, and they are supposed to give me my reading  
22 glasses, and my reading glasses are specifically for  
23 distance that we're looking right now. So you guys are  
24 kind of blurry, and as well as the paperwork I'm  
25 reading. So that's the problem I'm having right now,

1 they didn't give me my glasses.

2 MR. FREEDMAN: So it's not because of the  
3 computer screen?

4 THE WITNESS: No, it's not the screen, it's to  
5 the visual effects of my eyes, the floaters, and the  
6 distance between me looking, that's all.

7 BY MR. MAIORINO:

8 Q. Okay. Sir, and you are wearing glasses  
9 right now, are those glasses for reading?

10 A. No. These are my long distance glasses.  
11 Probably I can see maybe 50 yards, and then medium  
12 distance I can see alright, but as far as close up  
13 reading and distances over I'd say 50 feet, I have  
14 other glasses for that, another pair of glasses.

15 Q. Okay. My concern is, because we will have  
16 exhibits for you to read and then I'll ask you some  
17 questions about the exhibits, are you able to read with  
18 the glasses that you have on?

19 A. It's going to take me a minute to read  
20 them. They didn't give me -- I've been trying to get  
21 my reader glasses for the -- since Friday. The custody  
22 officers here refuse to give them to me.

23 So I do need them, but I believe I can make  
24 out fairly well without.

25 Q. Okay. Do you have -- let me -- so we'll

1 touch on this subject again I think maybe when I deal  
2 with the first exhibit.

3 A. Okay.

4 Q. But if you have issues with reading, just  
5 please let me know and we'll see if there is anything  
6 we can do about it. Where are your reader glasses  
7 right now?

8 A. They're in my property. I have 11 boxes  
9 of property, and I just got off orientation status  
10 Thursday.

11 Q. Yes.

12 A. They were ordered to bring me all my  
13 property on Thursday, and since from Thursday to Friday  
14 I have been talking to custody here at this prison and  
15 I've been told that I'm going to get my property, but  
16 nobody has ever brought my property to me. So I have  
17 ADA appliances, I have medications, I've got my reading  
18 glasses. I have none of these.

19 Q. Okay. And are you fairly confident though  
20 that you can proceed with the deposition using the  
21 glasses that you have to read written exhibits that  
22 I'll be presenting to you?

23 A. Yes. Yes. What I can do also is I can  
24 just lift the glasses up if I have a problem and just  
25 kind of --

1 Q. Okay. Well please let me know if you're  
2 not able to read something and we'll see if we can make  
3 other arrangements.

4 A. Okay.

5 Q. So why don't we start with you stating  
6 your name and CDCR number for me please, sir?

7 A. My name is [REDACTED] [REDACTED] [REDACTED]. My  
8 CDC number is [REDACTED] as in [REDACTED] [REDACTED]

9 Q. Okay. And your date of birth and age?

10 A. My date of birth is January [REDACTED] [REDACTED]  
11 and I am currently [REDACTED] years old.

12 Q. And, Mr. [REDACTED] are you known by any  
13 other names, nicknames?

14 A. Yes. They call me by my Islamic name now  
15 which is [REDACTED], and I used to go by the  
16 moniker of [REDACTED]

17 Q. Could you please spell your Islamic name  
18 for me, please?

19 A. It's capital [REDACTED].

20 Q. Thank you.

21 And how long have you been going by that name?

22 A. I've been full Shahadah Muslim since 19 --  
23 excuse me, since 2014.

24 Q. Thank you.

25 And have you filed any documents or made any

[REDACTED]

1 efforts to have your name legally changed to the name  
2 that you just gave us?

3 A. No, I have not.

4 Q. Okay. Okay. And you have a  
5 Social Security Number?

6 A. Yes, I do.

7 Q. You don't have to give me the  
8 Social Security Number, but the name associated  
9 with that Social Security Number is still  
10 [REDACTED]?

11 A. Yes.

12 Q. Thank you.

13 Let me just -- again, I'll note that this is a  
14 remote deposition, so I'm going to go through some  
15 ground rules with you, just some admonitions that  
16 hopefully will make the deposition run more smoothly  
17 first.

18 I'll be asking you a series of questions  
19 today, and your answers will be recorded by  
20 Madam court reporter, so it's important that we both  
21 speak clearly and loud enough for her to hear us and  
22 that we give each other an opportunity to finish before  
23 the other one starts. So I ask that before you answer  
24 the question, if you would wait and let me finish  
25 before responding.

1           Also, we need a verbal response. The  
2 court reporter can't take down nodding of the head or,  
3 you know, non verbal responses such as uh-huh or  
4 huh-uh. We need a yes or no if that's what the  
5 question calls for; do you understand that, sir?

6           A. Yes, I do.

7           Q. Okay. And it's important that you  
8 understand my questions, so if you don't understand the  
9 question, please let me know and I'll try to rephrase  
10 the question to ensure that you understand it, but if  
11 you do respond to the question then we'll assume that  
12 you understood the question; do you understand that,  
13 sir?

14          A. Yes, I do.

15          Q. And you did -- you were placed under oath  
16 today so that's kin to providing trial testimony, sir,  
17 and do you -- and do you understand that, that you've  
18 taken on oath to tell the truth today?

19          A. Yes, I do.

20          Q. Okay. If you don't understand my question  
21 precisely, we're not here for you to guess. We're  
22 entitled to your best answer.

23                 So if the question calls for an estimation,  
24 then we're entitled to your best estimation, and I can  
25 give you an example for the transcript purposes of a

1 guess and an estimation. For example, if I were to ask  
2 you the size of the table, if there is a table in your  
3 room that you're in right now, you can give me an  
4 estimate as to the dimensions of that table based on  
5 your past experience, but if I were to ask you the size  
6 of a table in a conference room in my office building,  
7 or of a coffee table in my house, that would be a guess  
8 because you haven't been in either one of those places;  
9 do you understand that, sir?

10 A. Yes, I do.

11 Q. Okay. I appreciate it. Thank you.

12 From time to time your attorney may be  
13 objecting to questions that I ask, and so we'll let him  
14 make the objection without speaking over the objection  
15 so that the court reporter gets the objection, but  
16 unless he instructs you not to respond, then you should  
17 respond to the question as best you can; do you  
18 understand that, sir?

19 A. Yes, I do.

20 Q. Okay. And is there anything about your  
21 health today physically, mentally, emotionally that may  
22 prevent you from giving your best testimony today?

23 A. Not to the degree where I would not be  
24 able to give you my best testimony.

25 Q. Okay. And, sir, are you taking any



1 medications or have you taken any medication or other  
2 substances that would prevent you from providing  
3 accurate testimony today?

4 A. I haven't been getting my medications  
5 since Friday, but I can still proceed, I'm confident.

6 Q. Okay. And can you itemize those  
7 medications for me that you haven't been given since  
8 Friday?

9 A. On Saturday it was my psychotropic  
10 medications which consist of Vistaril, I believe it's  
11 100 milligrams; my Remeron, that helps me sleep, I  
12 think that's 2 milligrams or 1 milligram, and my  
13 Depakote for my hallucinations and auditorial problems,  
14 and I think -- I believe that's 500 milligrams.

15 Q. Can you repeat the name of that medication  
16 for me, please?

17 A. Okay. It's Vistaril. It's -- I mean,  
18 Remeron, or, excuse me, yeah, Remeron, and Depakote.

19 Q. Depakote was the last one?

20 A. Yes.

21 Q. Okay.

22 A. Now those are my psychotropic medications.  
23 My regular medications are my pain pills which consist  
24 of 325 milligram tablet Aspirin or Tylenol; my  
25 81 milligram Aspirin for my heart; my stool softeners;

1 my fiber laxative tablets; my Prilosec stomach tablets;  
2 my Lisinopril, high blood pressure medication; my  
3 Vitamin B-12 deficiency medication; my Vitamin D-3  
4 deficiency medications; my eye drops; my visual eye  
5 drops for my floaters; and my nasal spray, and it's an  
6 allergy -- another allergy antihistamine medication.  
7 That's what I'm taking.

8 Q. Any other medications that have been  
9 prescribed for you that you haven't -- that you don't  
10 have or that you haven't been provided that you --  
11 other than the ones that you've listed for me?

12 A. Not that I can recall at this time.

13 Q. Okay. And you gave us a list of  
14 psychotropic medication and regular medications.  
15 Besides -- so besides the ones that you listed for us,  
16 any other medications that have been prescribed to you?

17 A. Not that I can recall.

18 Q. Okay. Okay. And, sir, from time to time  
19 you may need to take a break, so please don't hesitate  
20 to ask for a break even if it's just to stand up,  
21 stretch your legs, but I would just ask if you do ask  
22 for a break that you do so after you respond to my  
23 question; do you understand that, sir?

24 A. Yes, I do.

25 Q. Okay. And you talked a little bit about

1 your glasses, but what assisted devices do you require?

2 A. I currently --

3 MR. FREEDMAN: Objection. Vague.

4 BY MR. MAIORINO:

5 Q. Sure. Okay. So do you have -- do you  
6 want to answer the question, sir?

7 A. Yes, I can. I have my two different  
8 prescriptions for eyeglasses. I have chronos for a  
9 lower bunk, lower tier. I have a chrono for my back  
10 brace. I have a chrono for my knee brace. I have a  
11 chrono for orthopedic shoes. I have a chrono for  
12 orthopedic inserts. I have arch supports.

13 I have a chrono for my sling, my left elbow  
14 sling. I have a left elbow Neoprene brace. I have a  
15 one-inch shoe lift in my left shoe because one of my  
16 legs is shorter than the other.

17 I have an incontinence supply because I  
18 defecate on myself unknowingly. I have compression  
19 stockings I must wear. I believe that would be the  
20 majority of my accommodation chronos.

21 Q. Okay. Thank you.

22 A. I have braces.

23 Q. I'm sorry, what was the last one?

24 A. I have braces that I just referred to.

25 Q. Okay. The back brace?

1           A. Yes, I have a back brace. I have an elbow  
2 sleeve, Neoprene brace. I have a knee brace.

3           Q. And the knee brace, do you have one knee  
4 brace or two knee braces?

5           A. No, I only have one.

6           Q. Is that for the right or left?

7           A. The left.

8           Q. Okay. Do you require any hearing aids,  
9 sir?

10          A. Not the ones you guys are thinking of, but  
11 I do have a hearing device for my ADA machine.

12          Q. What's that hearing device that you have  
13 that you refer to?

14          A. I am -- it's a speaker/amplifier. I have  
15 an ADA speaker for me to actually hear audio. I also  
16 have one that is for a phone jack.

17                 I have a book on tape machine that plays  
18 reading books and music for me.

19          Q. And do you have all of these hearing  
20 devices in your possession?

21          A. They're not in my possession currently,  
22 but they're in my property that I have yet to get,  
23 receive, and I have been requesting them since getting  
24 off orientation status Friday.

25          Q. Okay.

1           A. And these officers here refuse to provide  
2 them for me.

3           Q. Okay. And going back to the  
4 speaker/amplifier that you just discussed, what sort of  
5 things do you use that for?

6           A. I can use it for my TV. I use it for my  
7 radio. I use it for my books on tape machine. Those  
8 are basically my audio appliances that are classified  
9 for me up in my mental health treatment and my mental  
10 health treatment plan.

11          Q. Okay. When you say "mental health  
12 treatment plan," what does that mean, sir?

13          A. My mental health treatment plan  
14 specifically means that it's a design program they have  
15 for me to try to stick to help me cope with my daily  
16 mental health problems, my hallucination problems, my  
17 voice -- my voices, those things.

18          Q. Do you -- sir, do you use the  
19 speaker/amplifier from the radio, TV, books on tape; do  
20 you use those daily?

21          A. I haven't been able to use them. Do I? I  
22 do, because I fear coming out of my cell.

23                I don't come out to yard for certain reasons,  
24 but since June 17th, 2020, the officer at Kern Valley,  
25 Officer J. Maguire and Officer Garcia, they confiscated

1 my speaker, and I have not been able to get my speaker  
2 back, and I also have a chrono, or had a medical order  
3 for a secondary fan because of my paranoid  
4 schizophrenia, and I have hot flashes to where instead  
5 of me stripping out completely naked and the staff  
6 coming by my cell to look in, a female staff, I have  
7 air flowing from the front and the back of my body.

8 Q. And what does the fan do for you? Why do  
9 you have that fan?

10 A. We have recirculating air vents inside the  
11 cell.

12 Q. Uh-huh.

13 A. The vents have not been cleaned out. So  
14 it blows air, and I have very bad respiratory problems.  
15 I have asthma fairly bad.

16 So what I can do is I can put a wet towel over  
17 my vent inside the cell, and the fans have circulating  
18 air that I need to keep my body temperature right and  
19 kind of just cool me down to where when I sit back and  
20 listen to my tapes it's the feeling of me actually  
21 being outside and having like the wind blowing on me.

22 Q. And do you find that helpful?

23 A. Very helpful. Very helpful.

24 Q. And, sir, just to clarify, and we'll get  
25 into this with the -- I have some housing questions for

1 you, but I understand that you were just taken off of  
2 quarantine status, was it October 28th?

3 A. Yes.

4 Q. Okay.

5 A. No, it was October -- the quarantine  
6 status yes. The -- actually, the, 29th which was last  
7 Thursday.

8 Q. Okay. Okay. I know if you gave me your  
9 age, but, sir, how tall are you?

10 A. I'm approximately five foot nine.

11 Q. Okay. And let's go to Exhibit No. 1. Do  
12 you have Exhibit Number 1 in front of you?

13 A. Yes, I do.

14 Q. Okay. And I'll represent to you that  
15 Exhibit No. 1 is I believe it's entitled Second Amended  
16 Notice of Deposition; do you see that, sir?

17 A. Yes, I do.

18 Q. Okay. And can you take a moment to read  
19 Exhibit No. 1, the notice of this deposition, please?

20 A. Yes.

21 Okay, I'm done.

22 Q. And, sir, I know we talked a little bit  
23 about reading glasses at the beginning of this  
24 deposition.

25 A. Yes.

1 Q. Were you able to read Exhibit 1?

2 A. Yes.

3 Q. Okay. So let me just ask you, have you  
4 seen this Exhibit 1 before today?

5 A. No. No. I have not.

6 Q. Okay. But you understand that that's the  
7 notice for today's deposition of you, sir, correct?

8 A. Yes, I do.

9 Q. Okay. And you're currently located at  
10 CSP Sacramento in Represa, California; is that correct?

11 A. Yes.

12 Q. And, sir, what did you do to prepare for  
13 today's deposition, and I don't want to know about the  
14 content of any conversation you had with your attorney,  
15 but just anything you may have done in preparation for  
16 today's deposition besides the content of the  
17 conversation with Mr. Freedman?

18 A. Basically it's just been to review my  
19 deposition, or declaration, excuse me. For this  
20 deposition. That's all.

21 Q. Okay. Besides your declaration and any  
22 documents that may have been attached to your  
23 declaration that was submitted in this lawsuit, did you  
24 review any other documents in preparation for today's  
25 deposition?



1 MR. FREEDMAN: Objection. I'm going to --  
2 that question gets at work product, including documents  
3 that we reviewed when we were -- during our deposition  
4 preparation session. So I'm going to instruct him not  
5 to answer to the extent it goes to any of the documents  
6 that we looked at during our preparation session.

7 BY MR. MAIORINO:

8 Q. Sir, you can answer.

9 A. I refuse to answer.

10 Q. Well it calls for a yes or no, so you can  
11 answer the question if you reviewed documents in  
12 preparation for today's deposition?

13 A. Yes.

14 Q. Okay. Besides Mr. Freedman or somebody  
15 from his office, did you speak to any other person in  
16 preparation for today's deposition?

17 A. No, I have not.

18 Q. Okay. Did you prepare any notes in  
19 preparation for today's deposition?

20 A. No, I did not.

21 Q. Let's see. Sir, have you ever had your  
22 deposition taken before today?

23 A. Yes, I have.

24 Q. Okay. And we're going to go talk about  
25 some of the other lawsuits that you may have been

1 involved with, but just briefly, how many times have  
2 you been deposed before today?

3 A. Twice.

4 Q. Okay. And were those depositions, did  
5 they take place in a lawsuit that you filed?

6 A. The deposition that I did do from the  
7 High Desert had to do with an internal affairs  
8 investigation staff battery on me. The second one had  
9 to do with staff battery on me as well at Salinas  
10 Valley State Prison in 2014. Those were the two.

11 Q. Okay. So in 2014 you were deposed  
12 concerning an incident out of Salinas Valley; is that  
13 correct?

14 A. Can you repeat the date again?

15 Q. Sure. If I understand your testimony, in  
16 2014 you had your deposition taken concerning an  
17 incident out of Salinas Valley?

18 A. Yes. And to clarify, it was from the ISU,  
19 but not the courts or your office.

20 Q. Okay. Let's just get the dates squared  
21 away. First, for the High Desert incident, what year  
22 was that, if you remember?

23 A. I don't recall.

24 Q. Okay. Was it within the last ten years?

25 A. Yes, it was.

1 Q. Okay. Was it within the last five years?

2 A. No, it was not.

3 Q. Okay. And I'm not quite sure if I  
4 understand, but you first identified the deposition  
5 that was taken concerning the High Desert State Prison  
6 incident, was that part of a lawsuit that you filed  
7 alleging, or making allegations against staff members  
8 at High Desert?

9 A. The deposition was done by the Office of  
10 Internal Affairs.

11 Q. Uh-huh.

12 A. I believe there was also people from your  
13 office that were there, but it wasn't the court case.  
14 I did file a court case on this.

15 Q. Uh-huh.

16 A. But it was behind the investigation of  
17 what was transpiring at High Desert State Prison.

18 Q. Okay. The testimony that you provided  
19 related to the High Desert State Prison incident, was  
20 there a court reporter present?

21 A. Yes.

22 Q. And do you have the -- any identifying  
23 case numbers or log numbers for that particular  
24 deposition that you can provide to me?

25 A. I do not have the case number or log

1 numbers, but what I do have is the actual name of the  
2 special agent of the internal affairs for CDCR that  
3 conducted the investigation.

4 Q. Okay. And what was that, what's the name  
5 if you can provide that to me?

6 A. His name is [REDACTED],

7 [REDACTED]

8 Q. Okay. Thank you.

9 And going back to the Salinas Valley incidents  
10 where you say you were deposed in 2014, was a court  
11 reporter present at that time?

12 A. I don't recall when.

13 Q. Okay. Can you provide me with any  
14 identifying case number or log number for the 2014  
15 incident out of Salinas Valley State Prison?

16 A. I do not have the log number.

17 Q. Any other identifying information that you  
18 can provide me for the Salinas Valley 2014 incident  
19 that you --

20 A. It was -- it was conducted by a  
21 Lieutenant [REDACTED]. She was a female, and she was  
22 part of the ISU squad at Salinas. Then she had got  
23 transferred to internal affairs in Sacramento, and  
24 she came as also the internal affairs investigator  
25 following up, and she came to talk to me at

[REDACTED]

1 SATF State Prison.

2 Q. Okay. Sir, have you ever testified in  
3 court concerning a civil legal action?

4 A. Yes, I have.

5 Q. And could you please identify for me your  
6 prior testimony in a civil legal action where you  
7 provided testimony in court?

8 A. This case had to do with a prisoner that  
9 was in the Corcoran SHU when I was there and he was  
10 assaulted by officers, and they had put an inmate with  
11 a cell with him, and I had testified to that in the  
12 Eastern District Court in Fresno.

13 Q. Were you called as a witness in that case?

14 A. Yes. Yes, I was.

15 Q. And what year was that, if you recall?

16 A. I believe, and I would be guessing when I  
17 say this, it was approximately 2015, maybe 2016.

18 Q. Okay. And is 2015 or 2016 your best  
19 estimate, sir?

20 A. As to my recollection, yes.

21 Q. Okay. Do you recall the name of the  
22 plaintiff in that legal action?

23 A. I do not.

24 Q. Okay. Besides the testimony that you  
25 provided in the Eastern District in Fresno in

1 approximately 2015 or 2016, have you provided any other  
2 testimony in a legal proceeding in court?

3 A. No, I have not.

4 Q. Okay. What about criminal court actions,  
5 have you provided any other testimony in a criminal  
6 court action?

7 A. Aside from my own, no.

8 Q. Okay. And when you say aside from your  
9 own, are those criminal actions where you were the  
10 defendant, sir?

11 A. In the one, yes.

12 Q. Okay. And if I understand your testimony,  
13 then you provided -- you testified on your own behalf  
14 in a criminal action in court; is that correct?

15 A. That is correct.

16 Q. Okay. And what year was that, if you  
17 recall?

18 A. 2011, I believe, roughly.

19 Q. Okay. So, sir, I wanted to talk to you a  
20 little bit and continue our discussion with criminal  
21 versus civil lawsuits, and I take it that you do  
22 understand the difference between a civil legal action  
23 and a criminal legal action; is that correct?

24 A. Yes, I do.

25 Q. Okay. And, sir, you have filed civil

1 lawsuits on your own behalf; is that correct?

2 A. Yes, I have.

3 MR. MAIORINO: Okay. And, let's see, I have  
4 -- can you queue up some exhibits.

5 BY MR. MAIORINO:

6 Q. Do you have a pile of documents in front  
7 of you, sir?

8 A. Yes, I do.

9 Q. Okay. And maybe if you can sort of  
10 separate Exhibits 18, 19, 20, 21 and 22.

11 A. I have those.

12 Q. Okay. If you want to separate those so  
13 they don't get confused with other documents that you  
14 might have in front of you, but if you could, if you  
15 can take a moment and review Exhibits 18 and 19?

16 A. Okay.

17 Q. Okay. And Exhibit 18, sir, there's a --  
18 on let's say Bates number [REDACTED] 279, the caption reads  
19 Order To --

20 MR. FREEDMAN: I'm sorry, how are we going to  
21 go about marking these as actual exhibits, because  
22 we're now -- you know, you did the deposition notice  
23 that was Exhibit 1, so are we just going to do them  
24 completely out of order and, you know, we'll just have  
25 Exhibit 1, you know, with gaps, or how do you propose

1 doing this?

2 MR. MAIORINO: Yeah, and because of this  
3 remote nature of this case and because I wanted to be  
4 able to Bates number and queue up exhibits, we will I  
5 think have to go out of order. It's not my preference.  
6 I would have, of course, preferred to have been using  
7 Bates numbered documents sort of in realtime, but I  
8 didn't want there to be, you know, anticipating  
9 difficulties. I didn't want to have to sort of fumble  
10 around with the exhibits, but I think we will need to  
11 take them out of order.

12 MR. FREEDMAN: Okay. And, Theresa, that's  
13 alright with you? That will work for -- you'll be able  
14 to compile them even though we might be missing  
15 Exhibits 3, 7, 10, whatever? Okay.

16 Thank you for that clarification, Trace. Go  
17 ahead.

18 BY MR. MAIORINO:

19 Q. So, sir, getting back to the caption on  
20 Bates No. 279, it reads "Order Declaring Plaintiff a  
21 Vexatious Litigant Requiring Security and Issuance of a  
22 Prefiling Order"; do you see that, sir?

23 A. Yes, I do.

24 Q. And have you seen this document before?

25 A. I have.



1 Q. Okay. And then turning to Exhibit,  
2 let's see, Exhibit 19, and if you can review  
3 Bates No. [REDACTED] 282, and at the middle of the page it  
4 reads "Order On Application to Vacate Prefiling Order  
5 and Remove Plaintiff/Petitioner From Judicial Council  
6 Vexatious Litigant List; do you see that, sir?

7 A. Yes, I do.

8 Q. Okay. And have you seen this document  
9 before?

10 A. Yes, I did.

11 Q. Okay. Exhibit 19, Bates No. 282, do you  
12 see the typewritten information that starts with  
13 "Monterey County Superior Court Case Number [REDACTED]  
14 [REDACTED] V J. Lopez, et al."; do you see that, sir?

15 A. Yes. Yes, I do.

16 Q. Okay. Did you type that information in  
17 there, sir?

18 A. Yes, I did.

19 Q. Okay. And then there's a box checked on  
20 Bates No. [REDACTED] 282 that says "Denied", and the date is  
21 March 30th, 2020; do you see that?

22 A. Yes, I do.

23 Q. Okay. And it seems to bear the signature  
24 of Presiding Justice or Judge Lydia Villarreal; do you  
25 see that sir?

[REDACTED]

1 A. Yes, I do.

2 Q. Okay. And so with Exhibits 18 and 19,  
3 sir, is it your understanding that you were declined a  
4 vexatious litigant in Monterey county?

5 MR. FREEDMAN: Objection. Calls for a legal  
6 conclusion.

7 BY MR. MAIORINO:

8 Q. You can still go ahead and answer, sir.

9 A. Yes, I do.

10 Q. Okay. And are you -- have you taken any  
11 further action other than what's described or appears  
12 in Exhibit 19 Bates No. 282 to get yourself removed  
13 from the vexatious litigant list in Monterey county?

14 A. Yes, I have.

15 Q. And what have you done, sir?

16 A. Well I've requested an appeal on this  
17 case because the defendant that is listed on page 280,  
18 Pleasant Valley State Prison, No. 1, never been there  
19 since my 22 years of incarceration.

20 No. 2, whoever Braytelton (phonetic) is, I  
21 have no idea who that individual is. As I stated  
22 before, I've never been in Pleasant Valley State  
23 Prison.

24 No. 3, I've never had no lien put on me for  
25 this one says 26 -- \$2,680. I've never had that lodged

1 against me, and the other issue was this was a small  
2 claims case. A small claims case behind the California  
3 Code of Civil Procedure, the Attorney General cannot  
4 represent the litigants per the court rules.

5 So what I did was I filed an appeal and  
6 pointed out to the judge, and the judge has not allowed  
7 me to proceed with the appeal or even address the  
8 appeal. So currently I have a writ of mandate pending  
9 in the Sixth Appellate Court in San Jose ordering them  
10 to address the issues of the defendant that I have no  
11 idea of, a prison I've never been in, and an assessment  
12 of fees that was never assessed against me, and the  
13 fact that the Attorney General cannot represent  
14 defendants in a small claims or a state tort claim  
15 action.

16 Q. And I understand sir -- sir, are you still  
17 awaiting a decision on that writ of mandate that you  
18 mentioned?

19 A. Yes, I am.

20 Q. Okay. And have you been able to file any  
21 civil lawsuits after the Exhibits 18 and 19 were issued  
22 by the courts?

23 A. Can you please be more specific?

24 MR. FREEDMAN: Objection.

25 Sorry.

1 Vague to where the lawsuits would have been  
2 filed to the jurisdiction.

3 BY MR. MAIORINO:

4 Q. Okay. So have you been able to file a  
5 civil lawsuit in Monterey county after the issuance of  
6 the document that's been marked as Exhibit 18, the  
7 order that we discussed?

8 A. I have not filed no civil action. No, I  
9 have not.

10 Q. Okay. Okay. So, sir, I think at this  
11 time we can set aside 18 and 19, those two exhibits,  
12 and if you could review -- let's see, if you can review  
13 exhibits -- do you have Exhibit 20, 21, 22 and 40 in  
14 front of you?

15 A. I do not have 40. You have stopped at 22.

16 Q. I apologize. Can we take a moment and you  
17 locate Exhibit 40?

18 A. Yes.

19 Do you have a page number for that?

20 Q. For Exhibit 40?

21 A. Yes.

22 Q. Yes. Exhibit 40 should be Bates numbered  
23 [REDACTED] 50, [REDACTED] 51.

24 A. None of those exhibits are here.

25 Q. Okay.

1           A. These exhibits, they stop at page -- I  
2 have Exhibit 27.

3           Q. Okay.

4           A. And I have Exhibit 28, and they have no  
5 page numbers on them.

6           Q. Oh, okay.

7           A. But they stop at 28.

8           MR. FREEDMAN: Trace, I'll just say that in  
9 the deposition on Friday we -- the printout stopped  
10 short of where it needed to as well. It was short four  
11 or five exhibits.

12           MR. MAIORINO: Oh, okay.

13           MR. FREEDMAN: I'm not sure what's happening  
14 with that.

15 BY MR. MAIORINO:

16           Q. Thank you for letting me know, sir. I  
17 think maybe at our first break I'll reach out and see  
18 if we can get the other exhibits that I sent over for  
19 you; is that okay?

20           A. Yes, it is.

21           Q. Okay. So let's -- I won't ask you a  
22 question about Exhibit 40 at this time, but do you have  
23 Exhibit 20, Exhibit 21 and Exhibit 22 in front of you?

24           A. Yes, I do.

25           Q. Okay. And, so, can you take a moment to

1 review Exhibit 20 and 21?

2 A. Okay.

3 Okay. I'm done.

4 Q. Okay. So have you seen these documents  
5 before, sir?

6 A. Yes, I have.

7 Q. Okay. And going to Exhibit 20 on page  
8 [REDACTED] 284, it's an order issued by the Eastern District  
9 of California, correct?

10 A. Yes, it is.

11 Q. And it's in the caption for the lawsuit is  
12 [REDACTED] versus Thomas Felker; is that correct?

13 A. Yes, it is.

14 Q. And that's a lawsuit you filed, correct?

15 A. Yes, it is.

16 Q. Okay. And going to page [REDACTED] 286, do you  
17 see that where the order states that you're in forma  
18 pauperis status has been revoked and you were declined  
19 a three strikes litigant pursuant to 1915G; do you see  
20 that, sir?

21 MR. FREEDMAN: Objection. Document speaks for  
22 itself.

23 BY MR. MAIORINO:

24 Q. You can still answer, sir. Do you see  
25 that?

1 A. Are you saying page 286, am I correct?

2 Q. Yes, page [REDACTED] 286?

3 A. Okay. That's not what it states on mine.

4 Q. Okay. Do you have [REDACTED] 286 in front of  
5 you?

6 A. Yes, I do.

7 Q. Okay. And do you see on line 6 --

8 A. You said line 6? Yes.

9 Q. Okay. Do you see the No. 3?

10 A. Yes, I do.

11 Q. Okay. And can you read that sentence for  
12 me just to ensure we're on the same place?

13 A. Well I can, but the line 2 I have an issue  
14 with because it says that many findings and  
15 recommendations are adopted in full, but No. 2  
16 specifically says that defendants' motion for order  
17 revoking plaintiff's in forma pauperis -- okay, it's  
18 granted. Yeah, it's granted. Okay, yes, I got that.

19 Q. Okay.

20 A. I see that granted part, and I was like  
21 no, it wasn't granted, it's denied.

22 Q. Okay. Thank you for clarifying that.  
23 Can you read No. 3, please?

24 A. Yes. Plaintiff is declined a three  
25 strikes litigant pursuant to 1915(g).

1 Q. Okay. Then what does No. 4 state?

2 A. That I am required to pay \$350 before I  
3 can proceed with this action.

4 Q. Can you read the remainder of that  
5 sentence, please?

6 A. Yes. It says Plaintiff is required to  
7 submit the \$350 filing fee for this action or face  
8 dismissal of this action as the imminent danger  
9 exception does not apply in this case.

10 Q. Okay. So, sir, after this order was  
11 issued did you pay the \$350 filing fee in this lawsuit?

12 A. No, I did not.

13 Q. Okay. And was it -- was this lawsuit  
14 identified in Exhibit 20 ultimately dismissed?

15 A. Yes, for failure to pay.

16 Q. Okay. And was there an order issuing that  
17 dismissal?

18 A. Yes, there was.

19 Q. Okay. Sir, did you appeal the order?

20 A. Yes, I did.

21 Q. Okay. And what was the outcome of your  
22 appeal, sir?

23 A. Well the appeal I believe was also denied.

24 Q. Okay. And let's -- if you could take a  
25 moment to review Exhibit 22, and it's Bates No. 290



1 through 303. Do you have that in front of you, sir?

2 A. Yes, I do.

3 Q. Okay. And if you can just take a moment  
4 to review that, sir, and let me know when you're done?

5 A. Okay. I'm done.

6 Q. Okay. Thank you, sir. And have you seen  
7 this document before?

8 A. Yes, I have.

9 Q. Okay. And going to page [REDACTED] 291 of  
10 Exhibit 22, the caption reads "Order Granting Motion to  
11 Revoke In Forma Pauperis Status Granting Motion to  
12 Strike Secondary Reply and dismissing complaint"; do  
13 you see that, sir?

14 A. Yes, I do.

15 Q. Okay. And the caption of the case is  
16 [REDACTED] [REDACTED] [REDACTED] versus M. Sepulveda et al.; do you  
17 see that, sir?

18 A. Yes, I do.

19 Q. Okay. And this is a lawsuit that you  
20 filed, correct?

21 A. Yes, it is.

22 Q. Okay. If you could direct your attention  
23 to pages [REDACTED] 300 and the top of [REDACTED] 301. Do you  
24 see that part of Exhibit 22, sir?

25 A. Yes.

1 Q. Okay. And that's -- and that section of  
2 Exhibit 22, the court's discussing the imminent danger  
3 clause of 1950(g), correct?

4 MR. FREEDMAN: Objection. The document speaks  
5 for itself.

6 BY MR. MAIORINO:

7 Q. You can still answer, sir.

8 A. This does not state that.

9 Q. Okay.

10 A. This is -- it's a continuation of an  
11 argument from page 9, but --

12 Q. Okay.

13 A. Yeah.

14 Q. Let me --

15 A. It doesn't state --

16 Q. Okay. Can I direct you to the bottom of  
17 [REDACTED] 300 of Exhibit 22?

18 A. Okay.

19 Q. You the line 25 on Bates No. [REDACTED] 300?

20 A. Yes.

21 Q. Okay. What does line 25 say?

22 A. Issue No. 5 is imminent danger.

23 Q. Okay. And can you read the next sentence  
24 for me?

25 A. Sure. It says the plain language of the

1 imminent danger clause in subsection 1915(g) indicates  
2 that inmate danger of serious physical injury is not to  
3 be assessed at the time of filing, or, excuse me, is to  
4 be assessed at the time of filing the Complaint, not at  
5 the time of the alleged constitutional violation.

6 Q. Okay. And the last portion that you read  
7 appears at the top of Bates No. Page [REDACTED] 301,  
8 correct?

9 A. It does.

10 Q. Okay. And so looking at Exhibit 22, the  
11 part that you just read and Exhibit 20 that we read  
12 earlier on page [REDACTED] 286 that stated that the imminent  
13 danger exception did not apply in that case, do you  
14 understand that there is an imminent danger exception  
15 that would permit you or another litigant to file a  
16 lawsuit in federal court even after being declared a  
17 three strikes litigant?

18 MR. FREEDMAN: Objection. Calls for a legal  
19 conclusion.

20 BY MR. MAIORINO:

21 Q. You can still answer as to your  
22 understanding, sir.

23 A. Okay. I might have misunderstood your  
24 question. Did you say Exhibit 20 and 22, or are you  
25 talking about Exhibit 22 solely?

1 Q. Okay. No, because we read Exhibit 20.

2 A. Right.

3 Q. And you read the court's order on  
4 page [REDACTED] 286 that stated that the imminent danger of  
5 the section did not apply in that case; do you remember  
6 that?

7 A. Okay. Yes, I do have that.

8 Q. Okay. And then so I just wanted to ask  
9 you that even though you had been declined a three  
10 strikes litigant in federal court, you could still file  
11 a lawsuit if you met the imminent danger exception; do  
12 you understand that, sir?

13 A. Yes, I did.

14 MR. FREEDMAN: Objection. Vague and  
15 confusing.

16 BY MR. MAIORINO

17 Q. Okay. And you also understand that you  
18 can file a lawsuit in federal court even though you've  
19 been declined a three strikes litigant by paying the  
20 filing fee; is that correct?

21 A. Yes. May I elaborate?

22 Q. Sure?

23 A. Up on the 1915 you're correct in that the  
24 imminent danger aspect of it, but the federal rules  
25 also say that I cannot be barred behind not paying or

1 being financially unable to pay a fine cost. This is  
2 why I've been a vexatious litigant, not behind this  
3 malicious claim, I've been declined a vexatious  
4 litigant because during the appeal of the original  
5 actions I do not pay the money, and they're using, or  
6 your office is using that to declare me a vexatious  
7 litigant because I cannot pay the money to pursue my  
8 actual grounds, and not behind the criteria up under  
9 1915(b) and 1915(g).

10 Q. Okay. I'll ask you a different questions  
11 about different legal actions, sir. So I think we can  
12 set aside Exhibits 20, 21 and 2.

13 MR. FREEDMAN: Trace, we've been going for  
14 about an hour, I think. Would now be all right for a  
15 break?

16 MR. MAIORINO: Sure. So if you feel like a  
17 break, we can certainly take one. We'll take a break  
18 and you can stand up and stretch your legs.

19 I'll contact the people at the prison to see  
20 if we can get the extra exhibits.

21 MR. FREEDMAN: You think ten minutes will be  
22 enough time to do that, Trace?

23 MR. MAIORINO: Yes. Maybe if we come back at  
24 10:45.

25 MR. FREEDMAN: Okay. Sounds good. Let's do

1 that.

2 (Whereupon a break is taken.)

3 BY MR. MAIORINO:

4 Q. So, Mr. [REDACTED] we came back from a brief  
5 break. We're back on the record. Are you prepared to  
6 proceed with your deposition?

7 A. Yes.

8 Q. Okay. So we'll go until a few minutes  
9 before 11:30 and then take a lunch break; is that good  
10 with you?

11 A. Yes, it is.

12 Q. Okay. Sir, when we left off we were  
13 talking about some civil legal matters, and I'd just  
14 like to continue with that. Sir, do you have any  
15 pending civil lawsuits in either federal court or state  
16 court?

17 A. Yes.

18 Q. Okay. Can you list those for me?

19 A. Yes.

20 Q. Okay. And before you list them, how many  
21 do you have?

22 A. Currently, approximately six, I would say.

23 Q. Okay. And why don't you start listing  
24 those six civil lawsuits that are currently pending?

25 A. Okay. I have the state action in

1 Kern County Court that is dealing with this staff  
2 battery on June 6th. I am to file an appeal within the  
3 Fifth Appellate District in Fresno in that case, but  
4 being I transferred and being under the quarantine  
5 status and not having my legal property, I am not able  
6 to do that which is violating my time restraints.

7 I have a federal action that I filed on this  
8 in the Eastern District Court, Fresno. This is a  
9 specific Claim 1, which is the assault that has to do  
10 with this deposition. That has not been ruled on yet  
11 because the e filing, there's a page limit at that  
12 institution, so Claim 1 and Claim 2 cannot be put  
13 together, and Claim 2, they made a ruling on it and  
14 they're also claiming vexatious litigant, failure to  
15 prosecute, I guess. So they have given me a specific  
16 time of six days to write my objection on that case.

17 I have a small claims for property in the  
18 Kern County Superior Court Small Claims Division, tort  
19 claim action behind some money that was compensated to  
20 me from CDCR, and the trust account took the money when  
21 it's excluded from being taken. That's for December.

22 I have a pending case in the Eastern District  
23 Court Sacramento. I believe it's for that Salinas  
24 Valley case that I had on the COVID matter, and then  
25 I'm also fighting some appeals that are in the

1 District Court and in the Court of Appeals for the  
2 Sixth Appellate District in San Jose.

3 Those are the ones that come to mind right  
4 now, and, of course, the one that you just spoke about  
5 vexatious litigation in the Monterey County Superior  
6 Court, that's being appealed, and the writ of mandate  
7 on that as well.

8 Q. Okay. And other than -- I believe those  
9 were six that you identified for me?

10 A. Yeah. Off the cuff, yes.

11 Q. Okay. Let's see if I understand. You  
12 mentioned that there was a state action in Kern County,  
13 and that was related to the June 6th, '20 incident  
14 that's in your declaration that we'll get to later; is  
15 that correct?

16 A. Yes, it is.

17 Q. Okay. And if I understand you correctly,  
18 that current case is before the Fifth because they had  
19 initially dismissed it because of the vexatious  
20 litigant status?

21 MR. FREEDMAN: Objection. Vague as to the  
22 Fifth.

23 THE WITNESS: Okay. No, that's not the reason  
24 why they dismissed it.

25 ///



1 BY MR. MAIORINO:

2 Q. Okay.

3 A. What they're enduring currently routinely  
4 in Bakersfield or Kern County Superior Court, the  
5 judges are -- cause their writ of habeas corpus is that  
6 they filed writ of mandate that they're ruling on that  
7 writ of habeas corpus, and what they're doing are  
8 they're using Salinas Valley issues with the property  
9 and issues with the officers, and they're using that in  
10 terms of what actually happened at Kern Valley, and are  
11 relaying to say that they're the same issues, and if  
12 they're not the same they're similar issues, and that  
13 because they're already brought up in Monterey, that I  
14 cannot bring them up in Kern Valley. So I'm trying to  
15 go ahead and show them the distinction from dates and  
16 incidents that these are two totally separate court  
17 jurisdiction we're dealing with.

18 Q. Okay. I think the next action you  
19 mentioned was a federal court action that was in  
20 Fresno, and you made a reference to a declaration, and  
21 I think you identified Claim 1 and Claim 2; is that  
22 right?

23 A. Yes.

24 Q. Okay. And when you say Claim 1, what are  
25 you referring to?

1           A. Well what I did was the combined Complaint  
2 is 80 some odd pages. I say roughly about 83 pages.  
3 Because of the efileing mandate and order for the  
4 Eastern District of Fresno, Kern Valley is one of the  
5 prisons in that jurisdiction that falls upon that  
6 efileing mandate. The efileing mandate you have a page  
7 limitation of the how many documents you can actually  
8 file with that court. So what I had to do was I spoke  
9 on this issue about the June 6th issue being first and  
10 foremost on Claim 1, and that's still pending.

11           The second issue had to do with the  
12 disciplinary -- the disciplinary Title 115s, the guilty  
13 findings, the violations of my rights, prison rights.  
14 That's one that they just dismissed because it didn't  
15 fall within the imminent danger expectations and the  
16 three strike litigant. So that's the one right now I  
17 had the 60 day extension on --

18           Q. Okay.

19           A. -- to file my objections.

20           Q. So if I understand you correctly, when  
21 you refer to Claim 2 you were referring to the rules  
22 violation report that was issued based on the  
23 June 6th, 2020 incident?

24           A. No.

25           Q. Okay.

1           A. That has to do with the thing that led up  
2 to the June 6th incident, RVRs I got for refusing a  
3 celly.

4           Q. Okay.

5           A. And then one for having my window blocked  
6 up.

7           Q. Yes.

8           A. And I have requested witnesses, I've  
9 requested documents, and they refuse to let me have  
10 them. So what I did is I went to the administrative  
11 process of filing of 602s, and now I filed the federal  
12 action about my rights being violated.

13           Q. Okay. And I think we'll get to some of  
14 that later in the deposition.

15           A. Okay.

16           Q. The next item I have is a small claims  
17 that's pending in Kern County.

18           A. Correct.

19           Q. And that had to deal with concerning a  
20 trust account issue of yours; is that correct?

21           A. Yeah. Basically what happened was they  
22 broke a brand new cassette player that I have for my  
23 ADA appliances, and they broke it and they put that  
24 pieces back and what they did is just went ahead and  
25 compensate me for the value. During that time I was

1 sent to Kern Valley.

2 When they issued a check -- when they actually  
3 issued the check for reimbursement, the reimbursement  
4 check, it stipulates that according to the Title 15  
5 rules and regulation it is except because it has to do  
6 with officers losing my property and it was not my  
7 fault, their liability, and it's exempt from any trust  
8 account, hold or pending restitution for them to take  
9 the money, and they did it anyway. So I had to file a  
10 court case on that.

11 Q. Okay. And this small claims matter arose  
12 out of Kern Valley; is that correct?

13 A. Yes, it did.

14 Q. Okay. Were you able to replace the  
15 cassette recorder with the money you were provided?

16 A. They didn't -- I never got the money.  
17 That's what the lawsuit is about.

18 Q. Okay.

19 A. They took the money when they shouldn't  
20 have took the money. That's what that lawsuit is  
21 about.

22 Q. Was that money, do you know if it was paid  
23 towards a restitution fee?

24 A. They're saying that it was paid for like  
25 state supplies, photocopies, postage, outgoing postage,

1 things of that nature.

2 Q. Okay. And then the next one, you  
3 mentioned it's an Eastern District Sacramento lawsuit,  
4 but then you mentioned Salinas Valley State Prison, so  
5 I wasn't sure what this particular matter arose out of?

6 A. That had to do with another issue, the  
7 criminal case I'm currently waiting on.

8 Q. Okay. And then you mentioned an appeal of  
9 the Sixth Appellate District, correct?

10 A. Yes.

11 Q. And can you briefly explain what that  
12 concerns?

13 A. That has to do with an appeal to -- we're  
14 required to exhaust our administrative remedies.

15 Q. Uh-huh.

16 A. State actions on 602 process, and the  
17 appeals coordinator in Sacramento for CDCR denied the  
18 process of the appeal saying that I cursed, used foul  
19 language in the appeal, and the case law and the cite  
20 that I used says if it's in written form you cannot  
21 stop me from exhausting my administrative remedies, and  
22 that's what that lawsuit is about right now the appeal.

23 Q. Okay. The final one you mentioned was an  
24 appeal out of Monterey county that dealt with the  
25 declaration of you as a vexatious litigant, correct?

1 A. Yes.

2 Q. Sir, we'll get to your declaration later  
3 in the deposition. You mentioned that there was an  
4 incident on June 6th, 2020 and that there's a pending  
5 action, correct?

6 A. Yes.

7 Q. In an earlier part of your declaration you  
8 identified a possible date of September 16, '19 and an  
9 incident that you attribute to your left elbow. I just  
10 wanted to ask you, is there a pending civil matter  
11 related to that 9-16-2019 incident?

12 A. That has been dismissed.

13 Q. Okay. And where was that filed?

14 A. Also in the Fresno Eastern District Court.

15 Q. And we'll get to that after we -- once we  
16 start talking about your declaration. I'll have you  
17 review that document and then we'll have some more  
18 questions for you about that, sir, okay?

19 A. Okay.

20 Q. So, sir, again, I apologize for having to  
21 take the exhibits out of order, but I do appreciate you  
22 bearing with me. It's just the remote access nature of  
23 this deposition, but if you -- let's just talk about  
24 your commitment offense briefly, and I have an exhibit.  
25 I think you said you had 28 in front of you?

1 A. Yeah.

2 Q. Can you take a moment to review  
3 Exhibit 28?

4 A. Yeah.

5 Q. Have you reviewed that, sir?

6 A. Yes, I have.

7 Q. Okay. And have you seen this document  
8 before?

9 A. Yes.

10 Q. Okay. So Exhibit 28, it's Bates No.  
11 [REDACTED] 433 through [REDACTED] 437, and at the top of page  
12 [REDACTED] 433 it reads "Abstract of Judgment Prison  
13 Commitment Determinant"; do you see that, sir?

14 A. Yes.

15 Q. Can you hear me?

16 A. Yeah. That's not what this exhibit says.

17 Q. Okay.

18 A. This is --

19 Q. Which one?

20 A. I don't know if you can see it?

21 Q. Yes.

22 Okay. So you have Exhibit 28.

23 A. This has to do with a reasonable  
24 accommodation chrono.

25 Q. Oh.

1 A. That's not it.

2 Q. Okay.

3 A. I believe it's an attachment. My last  
4 exhibit page is page 330.

5 Q. 330, okay. All right.

6 MR. FREEDMAN: That's way off.

7 BY MR. MAIORINO:

8 Q. We'll get -- this maybe we'll have to sort  
9 it out.

10 Sir, let's talk about your commitment offense.  
11 I'm going to ask you a series of questions related to  
12 your felony convictions, your commitment offense, and  
13 I'm not asking you to admit or deny, you know, sort of  
14 any Penal Code allegations or anything along those  
15 natures. I just want to know what it was that you were  
16 convicted of and what is the reason you are  
17 incarcerated at this moment?

18 MR. FREEDMAN: I'm going to object to this  
19 whole line of questioning on relevance grounds.

20 BY MR. MAIORINO:

21 Q. You can still go ahead and answer the  
22 questions, sir, but what's your commitment offense?

23 A. My commitment offense.

24 MR. FREEDMAN: Objection. Relevance.

25 ///



1 BY MR. MAIORINO:

2 Q. Okay. You can still go ahead and answer.

3 A. Okay. My commitment offense is second  
4 degree robbery with use of a firearm with special  
5 allegations.

6 Q. Okay. And are you currently serving, or  
7 at the time of sentencing were you given a 27-year  
8 4-month sentence?

9 MR. FREEDMAN: Objection. Relevance.

10 BY MR. MAIORINO:

11 Q. You can still go ahead and answer, sir?

12 A. Yes, I was.

13 Q. Okay. And are you familiar with the three  
14 strikes law?

15 MR. FREEDMAN: Objection. Relevance.

16 THE WITNESS: Yes, I am.

17 BY MR. MAIORINO:

18 Q. Okay.

19 A. Yes, I am.

20 Q. Okay. And I think the conviction offense  
21 includes a robbery, correct?

22 MR. FREEDMAN: Objection. Relevance.

23 BY MR. MAIORINO:

24 Q. You can still go ahead and answer.

25 A. Correct.

1 Q. Okay. So it is your understanding that  
2 that's a strikeable offense?

3 MR. FREEDMAN: Objection. Calls for a legal  
4 conclusion and is irrelevant.

5 BY MR. MAIORINO:

6 Q. You can still answer.

7 A. Correct.

8 Q. Okay. And was that conviction in 1999?

9 MR. FREEDMAN: Objection. Relevance.

10 THE WITNESS: The conviction, final court  
11 proceeding, yes.

12 BY MR. MAIORINO:

13 Q. Okay. And, sir, did you sustain another  
14 felony conviction in 2005?

15 MR. FREEDMAN: Objection. Relevance.

16 BY MR. MAIORINO:

17 Q. You can go ahead and answer, sir.

18 A. I believe so.

19 Q. Okay. And do you understand the sentence  
20 to be a four-year sentence based on that conviction?

21 MR. FREEDMAN: Objection. Relevance, and the  
22 document likely speaks for itself.

23 THE WITNESS: Well without having the document  
24 in front of me, I cannot accurately answer that  
25 question.

1 BY MR. MAIORINO:

2 Q. Okay. And hopefully we'll get the  
3 exhibits straightened out, but let me -- do you have --  
4 let's see, do you have Exhibit 23?

5 A. Yes, I do.

6 Q. And do you have Exhibit 24?

7 A. Yes, I do.

8 Q. Okay. Do you have Exhibit 26?

9 A. Yes, I do.

10 Q. Okay. And if I understand, based on what  
11 you said earlier, you do not have Exhibits 36 or 37; is  
12 that right?

13 A. No. I don't have 26 to whatever the  
14 ending is.

15 Q. Okay. Okay. So why don't you take a  
16 moment and review Exhibit 23 and 24?

17 A. Okay. I'm done.

18 Q. Okay. And Exhibit 23 is Bates numbered  
19 [REDACTED] 304 through [REDACTED] 311. Do you have -- you have  
20 that exhibit with those Bates numbers, sir?

21 A. Yes, I do.

22 Q. Okay. Then Exhibit 24 is Bates numbered  
23 [REDACTED] 312 through [REDACTED] 316. Do you have that exhibit  
24 with those Bates numbers in front of you?

25 A. Yes, I do.

1 Q. Okay. And I'll represent to you that this  
2 Exhibit 23 includes a Complaint and then an Information  
3 filed in Case Number [REDACTED]. Do you see that  
4 case number on page [REDACTED] 305 of Exhibit 23, sir?

5 A. Yes, I do.

6 Q. Okay. And do you see the caption, it's  
7 [REDACTED] correct?

8 A. Yes, it is.

9 Q. Okay. And, sir, this is a pending  
10 criminal action against you; is that correct?

11 A. Yes, it is.

12 Q. Okay. And I understand the Information,  
13 that begins on page [REDACTED] 308; do you see that sir?

14 A. Yes, I do.

15 Q. And before the information was filed with  
16 the court, and directing your attention back to that  
17 page where it states it was electronically filed on  
18 12-17-19, did you testify at any preliminary hearing in  
19 this criminal action?

20 A. No, I have not.

21 Q. Okay. And are you -- let's see. Let me  
22 direct your attention back to page [REDACTED] 305, and if  
23 you can just read to yourself, don't read it out loud,  
24 lines 24 through 26 on Bates No. [REDACTED] 305.

25 A. Okay.

[REDACTED]

1 Q. Okay. Then the same, if you go to page  
2 [REDACTED] 308 then review lines, roughly, 22 through 27.  
3 If you can just read that to yourself.

4 A. Okay.

5 Q. And, sir, are you familiar with the  
6 allegations that were alleged to have occurred on  
7 April 13, 2019 as stated in Exhibit 23?

8 A. Yes, I am.

9 Q. And I don't want you to discuss the facts  
10 of the allegations at this point, but did this arise  
11 out of Salinas Valley?

12 A. Yes, it did.

13 Q. Okay. And are you represented by an  
14 attorney in this criminal action?

15 A. Yes, I am.

16 Q. Okay. So I don't want any information  
17 related to any conversations that you may have had with  
18 that person or that person's law firm, but are you  
19 aware of the maximum sentence that you could have  
20 received if you were convicted in this criminal case?

21 A. Yes, I am.

22 Q. Okay. And what is that maximum sentence?  
23 What is your understanding, sir?

24 A. I do not have an actual range of that  
25 sentence, but my understanding is that it can add

1 another two, four or six years, and that they could  
2 double it.

3 Q. And is it your understanding that the  
4 reason they can double it is because of a prior  
5 strikeable felony conviction?

6 A. Yes, it is.

7 Q. Okay. Sir, let's -- I think we can put  
8 aside Exhibit 23 and 24?

9 MR. FREEDMAN: I don't believe you asked any  
10 questions about 24, so does it need to be entered as an  
11 exhibit?

12 MR. MAIORINO: It does because it has the  
13 preliminary hearing reference on the exhibit.

14 MR. FREEDMAN: What are you referring to?

15 MR. MAIORINO: Let me see it.

16 MR. FREEDMAN: You didn't ask him any  
17 questions about it. You didn't ask him to authenticate  
18 it, although he couldn't authenticate it cause it's not  
19 a document that he generated.

20 MR. MAIORINO: Right.

21 MR. FREEDMAN: So why would we keep it on the  
22 record here?

23 MR. MAIORINO: Let me see where it has the --  
24 because there is a reference to the preliminary  
25 hearing.

1 MR. FREEDMAN: That's fine, but if you're not  
2 going to ask him any questions about it, then there's  
3 no use talking about it.

4 MR. MAIORINO: You're right. I don't think we  
5 need Exhibit 24.

6 BY MR. MAIORINO:

7 Q. I don't think I have any questions about  
8 Exhibit 24 for you, sir. Sometimes I have an exhibit  
9 that might be helpful, and then we don't have a  
10 question about it. We won't attach 24 to the  
11 transcript, okay, sir?

12 MR. FREEDMAN: Okay.

13 MR. MAIORINO: Do you want to set 24 to the  
14 side, Mr. [REDACTED]

15 MR. FREEDMAN: Mr. Maiorino, we're at 11:22  
16 right and we talked before taking a break about 11:26,  
17 11:27 --

18 MR. MAIORINO: Sure.

19 MR. FREEDMAN: -- just to give Mr. [REDACTED] time  
20 to set up for his 11:30 Muslim prayers. So I just  
21 wanted to give you a heads up on that.

22 BY MR. MAIORINO:

23 Q. I think this might be a good time to  
24 break, Mr. [REDACTED]. Do you -- would you like to break  
25 now and you can do what you need to do and then we'll

1 come back in about an hour?

2 A. Yeah, we can do that.

3 MR. MAIORINO: Okay. So I think now is a good  
4 time to take the lunch break. We'll take a break.

5 (Whereupon a break is taken.)

6 BY MR. MAIORINO:

7 Q. Good afternoon, Mr. [REDACTED]. We've taken a  
8 lunch break, and are you repaired to proceed with your  
9 deposition?

10 A. Yes, I am.

11 Q. Okay. Great.

12 I think when we left off we were discussing  
13 Exhibit 23 relating to a pending criminal matter and  
14 you had testified about the potential maximum sentence  
15 if you were convicted of the allegations in that  
16 Information. So I want to ask you a few questions  
17 about that. Sir, do you understand the difference  
18 between a felony conviction sentence running concurrent  
19 versus a felony conviction sentence running consecutive  
20 to a prior felony conviction sentence?

21 MR. FREEDMAN: Objection. Relevance. Calls  
22 for a legal conclusion.

23 BY MR. MAIORINO:

24 Q. You can answer, sir.

25 A. Yes, I do.



1 Q. Okay. Can you just in your own words  
2 briefly describe the difference between those two?

3 MR. FREEDMAN: Objection. Relevance.

4 BY MR. MAIORINO:

5 Q. You can answer, sir.

6 A. Okay. One of them has to do with you  
7 having your sentence, whatever they imposed on you,  
8 running with the sentence you're currently doing at the  
9 time. The other one has to do, which is concurrent,  
10 excuse me, consecutive, that's all after the sentence  
11 you're serving is completed, then that's attached to  
12 the end of that that you have to serve as well.

13 Q. Okay. Thank you, sir.

14 So if a felony conviction sentence runs  
15 consecutive to a current felony conviction sentence,  
16 that means than additional time has to be completed,  
17 correct?

18 A. Yes.

19 MR. FREEDMAN: Objection. Relevance.

20 Objection. Calls for a legal conclusion.

21 BY MR. MAIORINO:

22 Q. And, sir, let's move on to Exhibits, I  
23 think it's 25 and 26. Do you have those in front of  
24 you?

25 A. Yes, I do.

1 Q. Okay. And why don't you take a moment to  
2 review Exhibit 25.

3 A. Okay.

4 Q. And, sir, directing your attention to  
5 Bates No. [REDACTED] 321 of Exhibit 25, and about the middle  
6 of the page there's a Case Number [REDACTED]; do you  
7 see that?

8 A. I do not. On what page number?

9 Q. [REDACTED] 321?

10 A. Okay.

11 Q. And then --

12 A. What line did you say?

13 Q. It's about between 9 and 10. It's a  
14 case number, number 19 --

15 A. Oh, okay. Yeah.

16 Q. Okay. And then to the left of that on the  
17 same page, [REDACTED] -- Bates No. [REDACTED] 321, there's a  
18 caption "The People of the State of California versus  
19 [REDACTED] do you see that?

20 A. Yes, I do.

21 Q. Okay. And, sir, this is in Monterey  
22 county, correct?

23 A. Yes, it is.

24 Q. Is this the second pending criminal case  
25 against you?

[REDACTED]

1 A. Yes, it is.

2 Q. Okay. And I just want to direct your  
3 attention to the bottom -- towards the bottom of the  
4 page of Exhibit 25, [REDACTED] 321, starting at about  
5 line 22 to 27. If you can just read that to yourself.

6 A. Okay.

7 Q. And in that section of the exhibit it  
8 states the December 13, 2018 allegations, correct?

9 MR. FREEDMAN: Objection. Vague.

10 What's the question?

11 MR. MAIORINO: Okay. Well let me ask a  
12 different one, sir.

13 BY MR. MAIORINO:

14 Q. On page [REDACTED] 321 of Exhibit 25 do you see  
15 where between lines 22 and 23 there's a reference to a  
16 December 13th, 2018?

17 A. Yes, I do.

18 Q. Okay. And there's an allegation of a  
19 battery on a non confined person by a prisoner,  
20 correct?

21 A. Correct.

22 Q. And did this incident arise out of  
23 Salinas Valley State Prison that's referred to on this  
24 page?

25 A. Yes, it did.

1 Q. Okay. And, again, I don't want to know or  
2 have you talk to anything that you may have discussed  
3 with an attorney who may be representing you in this  
4 action, but do you have an understanding as to the  
5 maximum sentence that you could receive if you were  
6 convicted of the allegations in this Information that's  
7 part of Exhibit 25?

8 MR. FREEDMAN: Objection. Relevance. Calls  
9 for a legal conclusion.

10 BY MR. MAIORINO:

11 Q. You can still testify as to your  
12 understanding, sir.

13 A. I have a guesstimation of how much it  
14 could carry.

15 Q. Okay. If you can give me your estimation?

16 MR. FREEDMAN: Objection. Relevance.

17 BY MR. MAIORINO:

18 Q. You can still answer, sir, if you have an  
19 understanding.

20 A. The maximum would be six years, I believe.

21 Q. Okay. Does that take into account the  
22 prior strike conviction that we spoke about earlier?

23 MR. FREEDMAN: Objection. Relevance.

24 Objection. Calls for a legal conclusion.

25 BY MR. MAIORINO:

1 Q. You can still answer, sir.

2 A. I do not know.

3 Q. Okay. You understand that if you have a  
4 prior strike offense or prior conviction of a serious  
5 or violent felony that it may cause the sentencing of  
6 any subsequent felony conviction to be doubled; is that  
7 correct?

8 MR. FREEDMAN: Objection. Relevance. Calls  
9 for a legal conclusion.

10 BY MR. MAIORINO:

11 Q. You can still answer, sir.

12 A. Yes, I do.

13 Q. Okay. And do you have an understanding as  
14 to whether or not if you were convicted of the  
15 allegation that's stated in this Information that we're  
16 speaking about, if that sentence would run concurrently  
17 or consecutively to your current sentencing?

18 MR. FREEDMAN: Objection. Relevance. Calls  
19 for a legal conclusion.

20 BY MR. MAIORINO:

21 Q. You can still answer, sir.

22 A. It may.

23 Q. Okay. And are you -- just to let me  
24 follow up on the question, are you represented by an  
25 attorney in the action ending 4584?

1 MR. FREEDMAN: Objection. Relevance.

2 BY MR. MAIORINO:

3 Q. You can still answer, sir.

4 A. I am, but I really don't want to be.

5 Q. Okay. And I won't inquire as to that,  
6 sir, okay?

7 A. Okay.

8 MR. MAIORINO: Let's put Exhibits 25 and 26  
9 aside, and we'll attach 25, but for the same reason  
10 we'll not attach 26, the same reason as before.

11 BY MR. MAIORINO:

12 Q. Okay. Sir, so I think you mentioned  
13 before the inmate appeal process. Are you familiar  
14 with the inmate appeal process that CDCR provides to  
15 people that are incarcerated.

16 MR. FREEDMAN: Objection. Vague.

17 BY MR. MAIORINO:

18 Q. You can still answer, sir.

19 A. Yes, I am.

20 Q. Okay. In your own words, what is the  
21 inmate appeal process?

22 MR. FREEDMAN: Objection. Vague.

23 BY MR. MAIORINO:

24 Q. You can still answer.

25 A. The appeals process basically has to deal

1 with us prisoners as having issues that we cannot  
2 resolve on the surface where it is involved with, or  
3 the situation that it may involve, to try to resolve  
4 it.

5 Q. Okay. Are you familiar with the 602 form?

6 A. Yes, I am.

7 Q. And what does the 602 form mean to you?

8 A. The 602 form is the form for us to file a  
9 Complaint or a grievance about matters or issues or  
10 situations that are as a result of being incarcerated.

11 Q. Okay. And if I say a 602 or a grievance,  
12 does a grievance mean substantially the same thing as  
13 the 602?

14 A. Well, the 602 is just the prison  
15 regulations numbers attached to the grievance or the  
16 appeal.

17 Q. Okay. Okay. And you've completed these  
18 forms before, correct?

19 MR. FREEDMAN: Objection. Vague.

20 BY MR. MAIORINO:

21 Q. You've completed a 602 before?

22 A. Yes, I have.

23 Q. Okay. And what sort of things can you --  
24 what's your understanding of what sort of things you  
25 can grieve about or complain about or include in a 602?

1 MR. FREEDMAN: Objection. Vague.

2 BY MR. MAIORINO:

3 Q. You can still answer, sir.

4 A. You're unclear about what you want me to  
5 address.

6 Q. Okay. Is it your understanding that if  
7 you have a complaint or a grievance that you complete a  
8 602 to seek relief?

9 MR. FREEDMAN: Objection. Vague. What  
10 relief?

11 THE WITNESS: That is -- that is part of what  
12 the 602 process is about.

13 BY MR. MAIORINO:

14 Q. Okay. What's the other part, sir?

15 A. You don't always get the relief that you  
16 want.

17 Q. Okay.

18 A. It's to bring notice to an issue, and nine  
19 times out of ten it's a formality you have to pursue  
20 through the last levels before you can seek any outside  
21 of CDCR relief.

22 Q. Okay. And are you familiar with the two  
23 different tracks for grievances, that being one for  
24 medical grievances and one for being non medical  
25 grievances?



1 A. Yes, I am.

2 MR. FREEDMAN: Objection. Vague as to  
3 "tracks".

4 BY MR. MAIORINO:

5 Q. And I may have -- I'll have some  
6 additional questions related to grievances and 602s  
7 later, but I wanted to first go to -- why don't you  
8 pull from your stack, if you have them, how about  
9 Exhibits 8, 9, and 10?

10 A. I have them.

11 Q. Okay. Why don't you take a look at  
12 Exhibits 8, 9 and 10 and let me know when you've  
13 reviewed them?

14 A. You also say 10?

15 Q. Yes.

16 A. Okay, I'm done.

17 Q. Okay. Sir, are you familiar with the  
18 requirement to exhaust your administrative remedies  
19 before proceeding to federal court with a lawsuit?

20 MR. FREEDMAN: Objection. Assumes facts not  
21 in evidence. Calls for a legal conclusion.

22 BY MR. MAIORINO:

23 Q. You can answer, sir?

24 A. That's part of the understanding I have.

25 Q. What's the other part, sir?

1 A. If you're in imminent danger --

2 Q. Uh-huh.

3 A. -- you won't have to pursue the legal --  
4 or the administrative process, you can go straight to  
5 the courts.

6 Q. Okay. How about if that imminent danger  
7 standard isn't met, what's the process as you  
8 understand it?

9 A. Then you'll be referred back to the  
10 regular appeals process, and once you exhaust your  
11 administrative remedies through the appeal process then  
12 you can pursue outside extension.

13 Q. Okay. And what's your understanding of  
14 exhausting the administrative appeals process?

15 MR. FREEDMAN: Objection. Vague. Calls for a  
16 legal conclusion.

17 BY MR. MAIORINO:

18 Q. You can answer, sir.

19 A. Go through all three levels of the appeals  
20 process for the department of corrections.

21 Q. Okay. And at the third level, is it your  
22 understanding that you need to have a decision on your  
23 grievance --

24 MR. FREEDMAN: Objection.

25 BY MR. MAIORINO:

1 Q. -- before your administrative remedies are  
2 exhausted?

3 MR. FREEDMAN: Objection. Calls for a legal  
4 conclusion. Relevance.

5 BY MR. MAIORINO:

6 Q. You can still answer.

7 A. Yes.

8 Q. Okay. And, sir, are you -- the inmate  
9 appeals branch or the office of appeals, do you  
10 understand that to be the third level?

11 MR. FREEDMAN: Objection. Relevance.

12 THE WITNESS: Yes.

13 BY MR. MAIORINO:

14 Q. Okay. And you're aware that at the third  
15 level they keep track of all of your inmate grievances,  
16 correct?

17 MR. FREEDMAN: Objection. Relevance. How  
18 could he know what they keep track?

19 BY MR. MAIORINO:

20 Q. You can still answer, sir.

21 A. Allegedly, yes.

22 Q. Okay. So if you could, why don't you take  
23 a look at Exhibit 10, and let's see, go to pages -- why  
24 don't we go to pages 111, [REDACTED] 11. So from the bottom  
25 of page [REDACTED] 111, and it would be three entries from

1 the bottom; do you see that, sir?

2 A. Yes, I do.

3 Q. Okay. And then the next page would be  
4 [REDACTED] I think that's at [REDACTED] 112. Do you see the  
5 entries starting at about the middle of the page for --  
6 so it would be the fifth column from the left with the  
7 acronym SVSP and KVSP?

8 A. Okay. I see that.

9 Q. Okay. So on that page, in that column  
10 there are log numbers that begin with KVSP. Do you see  
11 that column and the log numbers?

12 A. You're unclear.

13 Q. Okay. So going back to page -- so it's  
14 [REDACTED] 112 of Exhibit 10.

15 A. Right.

16 Q. You see about at the middle of the page --

17 A. Right.

18 Q. -- it begins with the log numbers with the  
19 acronym KVSP; do you see that?

20 A. Okay.

21 Q. Okay.

22 A. The ones you're referring to originally,  
23 the first log numbers is SVSP, and then in front of that  
24 is the KVSP log number, and there's one, two, two of  
25 those natures right below each other, and then there's

1 another one that actually does start with KVSP, and  
2 that's a date of 6-12-20.

3 Q. Okay.

4 A. I do see those.

5 Q. Okay. So looking at those log numbers  
6 that begin with KVSP on [REDACTED] 112, as I'm looking at  
7 this document are you able to identify any inmate  
8 appeal that you may have filed concerning the  
9 September 16th, 2019 incident that you've identified in  
10 your declaration?

11 MR. FREEDMAN: Objection. Vague. The  
12 document speaks for itself.

13 BY MR. MAIORINO:

14 Q. You can answer, sir.

15 A. It wouldn't be in the 2000.

16 Q. I'm sorry, it wouldn't be in the 2000?

17 A. 2020. You specifically asked about the  
18 September 16th issue.

19 Q. Yes.

20 A. That would be up on the 2019 log number.

21 Q. Okay. And would it have the prefix KVSP?

22 MR. FREEDMAN: Objection. How would he know  
23 what suffix it would have? This is a CDCR document.

24 THE WITNESS: I can't distinguish.

25 BY MR. MAIORINO:

[REDACTED]

1 Q. Okay. Maybe we'll come back to this once  
2 we talk about it with your declaration. Let's go to  
3 Exhibit 9.

4 Okay. So earlier we discussed the third level  
5 appeal; do you recall that, sir?

6 MR. FREEDMAN: Objection. Vague.

7 BY MR. MAIORINO:

8 Q. Earlier -- do you understand the question,  
9 sir?

10 A. Yes, I do.

11 Q. Okay. So there's also the first and  
12 second level for inmate appeals, correct?

13 MR. FREEDMAN: Objection. You haven't  
14 established what this document is at all. So, vague.  
15 Document speaks for itself.

16 If you want to ask him questions about it, go  
17 ahead.

18 BY MR. MAIORINO:

19 Q. Okay. Well that's the question. I'm not  
20 yet ready to refer to the document. I'm just asking  
21 you, sir?

22 MR. FREEDMAN: Well, then very vague. I don't  
23 know what the question is.

24 THE WITNESS: Me neither.

25 BY MR. MAIORINO:

1 Q. Okay. Now before reaching the third level  
2 of inmate appeals, you understand that you're required  
3 to first submit the 602 and then proceed through the  
4 second level of inmate appeals and receive a decision  
5 from the second level before proceeding to the third  
6 level of inmate appeals, correct?

7 A. Under some circumstances.

8 Q. Okay. Well under those circumstances, and  
9 I'll represent to you that Exhibit 9 is a list of your  
10 inmate appeals related to the second level of inmate  
11 appeals. So this is a tracking system of your inmate  
12 appeals.

13 MR. FREEDMAN: Objection. Vague and it does  
14 not appear what the document says it is. It's not just  
15 the second levels.

16 MR. MAIORINO: Okay.

17 THE WITNESS: And that's correct, I cannot  
18 distinguish if it is a first or second level.

19 BY MR. MAIORINO:

20 Q. Okay. Do you understand -- are you able  
21 to distinguish -- let's go to -- do you see [REDACTED] 101  
22 off Exhibit 19?

23 MR. FREEDMAN: Are you talking about  
24 Exhibit 19 or 9?

25 BY MR. MAIORINO:

1 Q. I'm sorry, 9. Sorry, Mr. [REDACTED]

2 A. Yes, I do.

3 Q. Okay. And let's just go through this.  
4 The first column is your CDCR number. You recognize  
5 [REDACTED], correct?

6 A. Yes, I do.

7 Q. Okay. And the second column is your last  
8 name, "[REDACTED]" correct?

9 A. Yes, it is.

10 Q. Okay. Then the next column is "Area of  
11 Origin", which refers to the inmate appeal; do you see  
12 that column?

13 MR. FREEDMAN: Objection. Vague. Document  
14 speaks for itself.

15 BY MR. MAIORINO:

16 Q. Do you see that column, sir?

17 A. Yes.

18 Q. Okay. And then the next column over the  
19 heading is "Issue, and it has different entries under  
20 that title; do you see that sir?

21 MR. FREEDMAN: Objection. Compound.

22 THE WITNESS: Yes, I see it.

23 BY MR. MAIORINO:

24 Q. Okay. And under that heading there are  
25 various entries transfer, legal property, etc.; do you

[REDACTED]



1 see that, sir?

2 A. Yes, I do.

3 Q. Okay. And have you submitted grievances  
4 related to property?

5 A. Yes, I have.

6 Q. Okay. And you did so while you were at  
7 KVSP, Kern Valley State Prison?

8 A. Yes, I have.

9 Q. Okay. Have you submitted inmate  
10 grievances related to disciplinary actions against you  
11 while at Kern Valley State Prison?

12 MR. FREEDMAN: Objection. Relevance.

13 MR. MAIORINO: Okay.

14 THE WITNESS: Yes, I have.

15 BY MR. MAIORINO:

16 Q. And while you were at Kern Valley State  
17 Prison you also submitted inmate grievances related to  
18 allegations against staff members, correct?

19 MR. FREEDMAN: Objection. Relevance.

20 THE WITNESS: Yes, I have.

21 BY MR. MAIORINO:

22 Q. Okay. Let's go to the middle of page 101.  
23 Do you see the entry for grievance against staff in the  
24 fourth column over?

25 A. Yes, I do.

1 Q. Okay. And do you see that there's a log  
2 number to the right of that column, so the last column,  
3 and it's log number KVSP [REDACTED]; do you see that?

4 A. Yes, I do.

5 Q. Okay. Do you know if this was related to  
6 the September 16th, 2020 by reviewing this Exhibit 9,  
7 page 101?

8 A. It was not.

9 Q. Okay. Are you able to tell me by looking  
10 at this exhibit on page 101 what KVSP [REDACTED] relates  
11 to?

12 A. No, I cannot.

13 Q. Okay. Okay. We'll revisit this to some  
14 degree once we get to your declaration, but let's go  
15 onto Exhibit 8.

16 Do you have that in front of you, sir?

17 A. Excuse me, what page was that?

18 Q. Exhibit 8, and it's Bates No. [REDACTED] 097  
19 through [REDACTED] 099?

20 A. Yeah, I got that.

21 Q. Got that, sir?

22 A. Yes, I do.

23 Q. Okay. And just take a quick look at it.

24 A. Okay.

25 Q. Okay. And these are the -- do you see the

1 first column that has a received date/time, sir?

2 A. I do.

3 Q. Okay. And at the top of page [REDACTED] 098  
4 in that column received date/time there's  
5 October 5th, 2020 entry, correct?

6 A. Yes, there is.

7 Q. Okay. And on the next page, [REDACTED] 099, in  
8 that same column, the first column, the last entry is  
9 July 10th, 2020, correct?

10 A. Yes, it is.

11 Q. And I know these dates are outside of the  
12 September 16, 2020, but is there -- by looking at this  
13 exhibit are you able to tell me if any of the entries  
14 on here are related to the incident that you identified  
15 on September 16th of 2019?

16 A. Can you clarify one more time?

17 Q. Sure. I know that the dates that we just  
18 discussed on Exhibit 8 are beyond the September 16,  
19 2019 date.

20 A. Okay.

21 Q. But I wanted to ask you, by looking at  
22 this document does any 602 that you may have filed  
23 related to the September 16, 2019 incident appear in  
24 this exhibit?

25 A. They are not.

1 Q. Okay.

2 A. It is not.

3 Q. Okay.

4 A. Yeah.

5 Q. So, sir, we may come back to Exhibit 8  
6 when we talk about your declaration, but let's just --  
7 why don't we put 8, 9 and 10 aside, but not too far,  
8 okay?

9 A. Okay.

10 Q. Okay. Let's look at do you have  
11 Exhibits 11 and 12 in front of you?

12 A. Yes, I do.

13 Q. Okay. So why don't you take a moment and  
14 look at Exhibits 11 and 12?

15 A. Okay, I'm done.

16 Q. Okay. So Exhibit 11, Bates No. 127  
17 through 131, and Exhibit 12, Bates No. 132 through 148.  
18 I'll represent to you this are your appeal histories  
19 related to health care grievances. Have you seen  
20 printouts like this before?

21 A. No, I have not.

22 Q. Okay. Why don't we look at Exhibit 11 at  
23 page 128.

24 A. Okay.

25 Q. Direct your attention to tracking number

1 KVSP HC [REDACTED]. Do you see that tracking number,  
2 sir?

3 A. Yes, I do.

4 Q. Okay. And then under do you see the  
5 heading "Action Requested"?

6 A. Yes, I do.

7 Q. So let's go to the second sentence where  
8 it states "Injuries you sustained on 9-16-2019 have  
9 also not been properly diagnosed and treated"; do you  
10 see that, sir?

11 A. Yes, I did.

12 Q. Okay. And did you submit a health care  
13 grievance complaining in part that injuries you  
14 sustained on 9-16-2019 have also not been properly  
15 diagnosed and treated?

16 A. Yes, I have.

17 Q. Okay. So other -- is this in  
18 tracking number 737?

19 MR. FREEDMAN: Objection. Vague.

20 BY MR. MAIORINO:

21 Q. You can answer.

22 A. Yes, it would be.

23 Q. Okay. So besides the health care  
24 grievance KVSP HC [REDACTED] that's itemized on  
25 [REDACTED] 128, did you submit any other grievance

1 complaining about the 9-16-2019 incident that's in your  
2 declaration that we'll get to later?

3 A. Yes, I did.

4 Q. Okay. Was that a non health care  
5 grievance?

6 MR. FREEDMAN: Objection. Vague.

7 BY MR. MAIORINO:

8 Q. You can answer.

9 A. There were several.

10 Q. Okay.

11 A. There was medical.

12 Q. Okay. We'll get to that I think when we  
13 get to it in your declaration, sir.

14 MR. FREEDMAN: Mr. [REDACTED] did you have  
15 anything else to say there? He kind of cut you off.

16 THE WITNESS: Yeah, I wanted to clarify that I  
17 filed dental on my appeals. I filed dental appeals. I  
18 filed the custody issues appeals. I filed the medical  
19 appeals because the dental and the actual medical are  
20 separate, the custody issues are separate from all of  
21 those, and the property issues are separate from all of  
22 those as a result of this incident.

23 BY MR. MAIORINO:

24 Q. Okay. So I think -- let's get to those  
25 then when we get to that section of your declaration,

[REDACTED]

1 okay, sir?

2 A. Okay.

3 Q. But if I understand you, it's dental,  
4 medical, custody and property?

5 A. Correct.

6 Q. Okay. So let's put these aside for now.

7 MR. FREEDMAN: Do we need to put Exhibit 12 on  
8 the record? You didn't ask any questions about it.

9 MR. MAIORINO: I think we're going to hang  
10 onto it. We may come back to it later when we get to  
11 the declaration.

12 MR. FREEDMAN: Okay. But is it entered into  
13 the record now, because you didn't ask any questions  
14 about it?

15 MR. MAIORINO: It's actually one document.  
16 It's two separate exhibits.

17 MR. FREEDMAN: I understand that, but you've  
18 labeled them as two separate exhibits. You asked a  
19 question about Exhibit 11. You did not ask any  
20 questions about Exhibit 12.

21 Are you seeking to enter Exhibit 12 into the  
22 record, and if so, are you going to ask any questions  
23 about it?

24 MR. MAIORINO: We won't enter it now, but we  
25 may come back to it when we talk about this

1 declaration.

2 MR. FREEDMAN: Okay.

3 MR. MAIORINO: For now it's 11, and 12 is set  
4 aside.

5 BY MR. MAIORINO:

6 Q. But we may come back to No. 12, okay,  
7 Mr. [REDACTED]

8 A. Okay.

9 Excuse me.

10 Q. Yes.

11 A. I need to stand up and take a break right  
12 now.

13 Q. Sure. Do you want to take a ten minute  
14 break, sir?

15 A. Yes.

16 MR. MAIORINO: Okay. If that's okay with  
17 everyone, we can take a ten minute break.

18 MR. FREEDMAN: Sure.

19 MR. MAIORINO: Okay. We are off the record.

20 (Whereupon a break is taken.)

21 BY MR. MAIORINO:

22 Q. Hello, Mr. [REDACTED]. We're back on the  
23 record after a short break.

24 Do you see some additional exhibits in front  
25 of you? I've been advised over the lunch hour some



1 additional exhibits were placed in your room?

2 A. Yes, I do.

3 Q. Okay. And are they numbered up to 40?

4 A. Yes, they are.

5 Q. Okay. So as we go through the exhibits,  
6 we may not use them all, but we'll confirm the Bates  
7 numbers correspond with the ones that I have and the  
8 ones your attorney has as well, okay, sir?

9 A. Okay.

10 Q. And thanks again for cooperating with the  
11 exhibits. I know they're out of order, but given the  
12 Zoom nature of the deposition I wanted to mark them so  
13 that we could have them all marked for all parties, but  
14 I appreciate you bearing with me as we go through.

15 So why don't -- I have a few more questions  
16 for you. Let's talk a little bit about your  
17 declaration. Do you have Exhibit 2 in front of you?

18 A. Yes, I do.

19 Q. Okay. So why don't you take a look at  
20 Exhibit 2?

21 A. I'm done.

22 Q. Okay. Sir, just to be clear, Exhibit 2 is  
23 Bates numbered [REDACTED] 006 through [REDACTED], let's see,  
24 044. I think for house-keeping purposes I need to  
25 ensure that we strike pages [REDACTED] 045 through

1 [REDACTED] 054.

2 MR. FREEDMAN: Let me check those pages real  
3 quick, but we agree, I think that those shouldn't  
4 belong there, 45 to --

5 MR. MAIORINO: I think 54.

6 MR. FREEDMAN: 54, yes.

7 MR. MAIORINO: Correct.

8 MR. FREEDMAN: Correct.

9 BY MR. MAIORINO:

10 Q. And do you recognize this document, sir,  
11 that's been marked as Exhibit 2?

12 A. Yes.

13 Q. Okay. And what do you recognize it as?

14 A. My declaration as to the incident that  
15 happened on June 6th.

16 Q. Okay. June 6th, 2020, correct?

17 A. Yes.

18 Q. And, sir, you did not type this  
19 declaration up personally, correct?

20 A. No, I did not.

21 Q. Okay. And on page [REDACTED] 018, at the  
22 bottom there's a signature, and then the signature line  
23 it says Emma Cook; do you see that, sir?

24 A. That's not on that page number.

25 Q. What page number do you have?

[REDACTED]

1 A. The page number where Ms. Cook signed is  
2 page 11, and it's [REDACTED] 18.

3 Q. Okay. So on Bates No. [REDACTED] 018 --

4 A. Right.

5 Q. -- you see the Emma Cook signature on  
6 there, correct?

7 A. I do.

8 Q. Okay. And it's dated September 24th,  
9 2020. Do you know who Emma Cook is?

10 A. From conversations, yes.

11 Q. Okay. And from your understanding, who is  
12 she?

13 A. Ms. Emma Cook is the paralegal for the law  
14 office of Rosen Bien Galvan & Grunfield.

15 Q. Okay. And is that the person you spoke to  
16 about your declaration that was filed in support of  
17 plaintiff's motion that we're having this deposition  
18 about?

19 A. It is.

20 Q. And how many times did you speak with  
21 Ms. Cook about your declaration, Exhibit 2?

22 MR. FREEDMAN: Objection to the extent it  
23 calls for how many times they spoke about the  
24 declaration. That's privileged attorney/client --  
25 that's privileged attorney/client material.

1           So don't answer the question about -- or I'm  
2     instructing you not to answer about how many times you  
3     spoke about the declaration.

4     BY MR. MAIORINO:

5           Q.    Sir, how many times have you spoken to  
6     Emma Cook, ever?

7           A.    Several.

8           Q.    Okay.  Less than ten?

9           A.    Yes.

10          Q.    Okay.  More than five?

11          A.    No.

12          Q.    Okay.  And have you ever met Emma Cook in  
13     person?

14          A.    No, I have not.

15          Q.    Okay.  Now that you've had a chance to  
16     review the declaration, did you give Emma Cook  
17     permission to affix your electronic signature to that  
18     declaration?

19          A.    Yes, I did.

20          Q.    Okay.  Again, after reviewing it, any  
21     corrections or revisions that you need to make to this  
22     declaration that's marked as Exhibit 2?

23                MR. FREEDMAN:  Objection.  Vague.  Corrections  
24     and revisions?

25     BY MR. MAIORINO:

1 Q. Are there any corrections that you would  
2 make to this declaration after reviewing it?

3 MR. FREEDMAN: Objection. Vague.

4 BY MR. MAIORINO:

5 Q. You can answer, sir.

6 A. No.

7 Q. Okay. Would you change anything in your  
8 declaration marked as Exhibit 2 after reading it?

9 MR. FREEDMAN: Objection to "anything." It's  
10 pretty vague.

11 You can answer. Go ahead.

12 THE WITNESS: I would like to go into more  
13 detail about actual events that transpired, but this is  
14 on point.

15 BY MR. MAIORINO:

16 Q. Okay. So do you confirm under penalty of  
17 perjury the contents of your declaration marked as  
18 Exhibit 2?

19 A. I do.

20 Q. Okay, sir. In your declaration you've  
21 identified yourself as a Coleman class member, correct?

22 A. I do.

23 Q. And when is your understanding that you  
24 became a Coleman class member?

25 MR. FREEDMAN: Objection. Calls for a legal

1 conclusion.

2 BY MR. MAIORINO:

3 Q. Just in your own understanding, sir. You  
4 can answer.

5 A. Upon coming into the Department of  
6 Corrections in 2000.

7 Q. Okay. And you've identified yourself as  
8 CCCMS, correct?

9 MR. FREEDMAN: Objection. Vague as to  
10 "CCCMS."

11 BY MR. MAIORINO:

12 Q. Is that correct?

13 A. Currently I'm CCCMS.

14 Q. And in your own words, what does that  
15 mean?

16 A. CCCMS has to do with inmates that suffer  
17 from mental health issues, possibly COVID. Other  
18 issues, there's hallucination, audio, video. Issues  
19 that makes it very difficult for us to function as  
20 normal people, or normal people on the prison mainline  
21 population.

22 Q. Okay. I understand that you're able to  
23 program in mainline population?

24 MR. FREEDMAN: Objection. Assumes facts not  
25 in evidence.

1 THE WITNESS: I function, but not very well.

2 BY MR. MAIORINO:

3 Q. Okay. Regarding to the programming on  
4 mainline CDCR yards, what does that mean to you?

5 MR. FREEDMAN: Objection. Vague.

6 BY MR. MAIORINO:

7 Q. You can answer.

8 A. Can you be more specific?

9 Q. Sure. Are you able to participate in any  
10 of the programs that CDCR offers?

11 MR. FREEDMAN: Objection. Vague.

12 THE WITNESS: The programs, they don't have  
13 any programs running right now in the Level 180, Level  
14 4 institution.

15 BY MR. MAIORINO:

16 Q. Okay. Are you assigned a job, sir?

17 A. Currently, I am not.

18 Q. Okay. Have you ever been assigned a job  
19 while in custody of CDCR?

20 A. Yes. Very few.

21 Q. Okay. When was the last time that you  
22 worked a job that you had been assigned to while in  
23 custody with the CDCR?

24 A. I believe my last job was Salinas Valley,  
25 2018.

1 Q. Okay. What did you do at Salinas Valley  
2 in 2018?

3 A. My last job there was I was a yard crew  
4 worker.

5 Q. And what does a yard crew worker do?

6 A. Well, maintains the prison. General  
7 upkeep. Mine was little different because I have  
8 restrictions.

9 Q. Okay. And so how often did you perform  
10 that work, how often during a given week?

11 MR. FREEDMAN: Objection. Vague as to time.

12 THE WITNESS: He would be correct on that.

13 BY MR. MAIORINO:

14 Q. Okay. You said it was 2018 when you were  
15 a yard crew worker. In 2018 at Salinas Valley State  
16 Prison as a yard crew worker, how often would you work  
17 during a one week period?

18 A. Honestly, never.

19 Q. Okay. At Salinas Valley in 2018 did you  
20 ever perform work, actual work as a yard crew worker?

21 A. No, I did not.

22 Q. Okay. And referring you to page --

23 A. Excuse me.

24 Q. Sure. Yes?

25 A. Can you clarify that, because there was a



1 time where I was required to pick up obvious trash.

2 Q. Okay.

3 A. And that was the extent to that. I would  
4 have a small trash bag attached to my waste, and that  
5 was it. I picked up a couple items of trash, and I  
6 just had to report to my job site, that's all.

7 Q. Okay. Was this in 2018 at Salinas Valley?

8 A. Yes, it was.

9 Q. Okay. And how many weeks or months did  
10 you perform that kind of work?

11 MR. FREEDMAN: Objection. Relevance.

12 THE WITNESS: I couldn't tell you.

13 BY MR. MAIORINO:

14 Q. Okay. Was it more than a month?

15 MR. FREEDMAN: Objection. Relevance.

16 BY MR. MAIORINO:

17 Q. You can answer.

18 A. Again, I couldn't tell you.

19 Q. Okay. Referring you to [REDACTED] 008,  
20 paragraph 3, the second sentence. Let's see, "At  
21 CCCMS, I am able to live and program on mainline CDCR  
22 yards alongside incarcerated individuals who do not  
23 have a mental health conditions."

24 Did I read that sentence correctly in  
25 paragraph 3 of Exhibit 2?

1 A. Yes, you did.

2 Q. What did you mean when you stated "program  
3 on mainline CDCR yards"?

4 A. To be around other inmates that don't have  
5 issues or complications that I have without being in so  
6 much fear about my safety around inmate population.

7 Q. Okay. When you use the word "program"  
8 what did you mean?

9 A. Program has to deal with when you get up I  
10 can go to my religious services. I can walk to the  
11 yard. I can go to the law library. I can go to my  
12 medical appointments, and this is without being in  
13 restraints or have custody escort you for fear of  
14 whatever can happen to you to these designations.

15 Q. Okay. So just, in general, how many times  
16 a week do you participate in religious services?

17 A. That's vague.

18 Q. Okay.

19 A. I would have to -- if you want me to be  
20 specific, because there's something always happening on  
21 the yard, and there's something to where we are on a  
22 modified program, we're supposed to have religious  
23 services twice a week, which is going to be Thursday,  
24 our teaching classes for Islam. Friday is our Sunday  
25 to the Christians. So that's their day for prayer in

1 our, what we call an ummah, or congregation, and a lot  
2 of times we didn't have that because we didn't have a  
3 spiritual leader present in the chapel to supervise us.

4 Q. Do you have access to written religious  
5 materials?

6 MR. FREEDMAN: Objection. Relevance.

7 Where is this going, Trace?

8 MR. MAIORINO: Well he had a question -- he --  
9 I'm asking him about being able to program as he stated  
10 in his declaration. I'm just delving into that based  
11 on his responses.

12 MR. FREEDMAN: Okay.

13 THE WITNESS: Can you ask the question again?

14 BY MR. MAIORINO:

15 Q. Sure. Do you have access to written  
16 religious materials?

17 A. The clarification I'm going to ask, are  
18 you talking about my own personal or can I get that  
19 from the institution where I'm at?

20 Q. Well do you have personal access to  
21 religious materials? Do you have --

22 A. I have my personal religious material. I  
23 sometimes write out to the street for religious  
24 materials, but the Level 4 180 prisons that I've been  
25 in have been so inconsistent about maintaining Islamic

1 law library or literature and having us a spiritual  
2 leader to where I would say no, I do not have access  
3 through the institution to this stuff you're speaking  
4 about.

5 Q. Okay. Sir, let's briefly talk about some  
6 of the physical conditions that you've identified in  
7 your declaration in paragraph 4. I think you stated  
8 you have a bone disease in your spine, correct?

9 A. Correct.

10 Q. Okay. Do you know what's the diagnosis or  
11 the name of this bone disease?

12 A. It's called dextroscoliosis of my either  
13 T5 or L4 and 5 lower spine.

14 Q. And do you recall when you were first  
15 diagnosed with this?

16 A. I do not.

17 Q. Was it within the last ten years?

18 A. Longer.

19 Q. Okay. So more than ten years ago; is that  
20 correct?

21 A. That is correct.

22 Q. Are you currently receiving any medication  
23 for this disease?

24 A. I am on medications, but it's basically  
25 for pain management.

1 Q. Okay. And what's the name of that  
2 medication, if you know?

3 A. What I have been on has been on -- well  
4 currently I'm on Naproxen. 325 milligram Aspirin and  
5 Ibuprofen prior to that. I was on Methadone before  
6 that.

7 Q. Do you know when it changed from Methadone  
8 to Naproxen?

9 A. Somewhere around, and I'm guessing, about  
10 20 -- I couldn't tell you exactly.

11 Q. Okay. All right. How often do you take  
12 the Naproxen?

13 A. Multiple times. Multiple times a day.

14 Q. Okay. And just, in general, what's the  
15 effects of this bone disease?

16 A. I don't -- can you clarify that question,  
17 please?

18 Q. Sure. What -- what are the effects of  
19 this bone disease other than, does it cause you pain?

20 A. Yes, I understand the question. I thought  
21 you were talking about the effects of the medication.

22 Q. No, the affects of the bone disease. I'm  
23 sorry.

24 A. Yeah. The bone disease, I obviously have  
25 a hard time walking. I have a hard time sleeping. My

1 leg gives out on me. My lower extremity give out on  
2 me.

3 I'm in constant pain. Sometimes a little bit  
4 better than other days, depending on what I'm doing or  
5 positions I sit on, sit in, durations of my being  
6 standing up or even sitting down.

7 Q. Uh-huh.

8 A. So, it varies.

9 Q. And you said your leg gives out on you,  
10 can you tell me what that means?

11 A. I'm using my lower extremities, and  
12 basically what that means is if I walk too far my left  
13 knee can pop out of the socket. I have a grinding in  
14 that, and it gets swollen. I also have cellulitis of  
15 my leg to where my blood flow wasn't circulating right  
16 and I had to wear the compression stocking.

17 I have problems with -- it's part of my  
18 defecation problem. I go to the bathroom on myself,  
19 and I don't know I go to the bathroom on myself because  
20 I think I'm passing gas.

21 Q. Uh-huh.

22 A. And it's not always gas, it can be fecal  
23 matter and sometimes urination.

24 Q. I think you said sometimes your knee pops  
25 out on you.

1 A. Right.

2 Q. How do you know that it pops out?

3 A. I have a grinding in it and it will shift.  
4 So when it shifts, instead of the bone being lined up  
5 the way it's supposed to line up, it shifts to the  
6 side. It will stick out to the left-hand side some or  
7 the right-hand side some.

8 So what I would have to do is I would have to  
9 sit down and, have to extend my leg all the way. I  
10 have to push on my kneecap when this happens to realign  
11 my knee and the leg with my knee.

12 Q. Okay. And are you under or do you  
13 currently have -- is this the reason for a lower bunk  
14 chrono?

15 MR. FREEDMAN: Objection. Vague. What is  
16 "this"?

17 BY MR. MAIORINO:

18 Q. I'm sorry, your bone disease that you've  
19 been describing?

20 A. I have several reasons for the lower  
21 lower --

22 Q. Okay.

23 A. -- chrono. Did you want me to tell you  
24 when I first --

25 Q. Let me ask you a question. When did you

1 first receive the lower lower chrono?

2 A. I've had the lower lower chronos since at  
3 least I've been incarcerated, I believe.

4 Q. Okay. And in your own words what are the  
5 reasons for your lower lower chrono?

6 A. My lower extremities, problem walking,  
7 navigating stairs, my back injury. Then my leg for  
8 sure. That's to my --

9 Q. Okay. Do you currently have any lifting  
10 restrictions?

11 A. Yes, I have several chronos.

12 Q. Okay. What are your lifting restriction  
13 chronos? What's the restriction on the lifting  
14 capabilities?

15 A. The lifting chrono, last I checked, was no  
16 more than 19 pounds.

17 Q. Okay. And when did you first receive a  
18 lifting restriction chrono?

19 A. I believe that was back in 2003, 2004,  
20 when I had a tens unit.

21 Q. Okay. And since 2003 or 2004 has the  
22 lifting restriction weight changed over time?

23 MR. FREEDMAN: Objection. Vague.

24 THE WITNESS: It hasn't changed so much as to  
25 where me rehabilitating myself I felt in my mind that I



1 could do better, or do a little bit more, and there has  
2 been periods of time to where I had to wait to get this  
3 chrono reinstated and updated to where I didn't have  
4 the chrono, so --

5 BY MR. MAIORINO:

6 Q. Okay. And I think you had mentioned that  
7 there's a no prone out chrono as well; is that correct?

8 A. That's correct.

9 Q. And what's your understanding of the no  
10 prone out chrono?

11 A. That has to do with several issues.

12 Q. Okay.

13 A. First, I have a hard time getting up,  
14 getting down. My leg and my back. When I lay on my  
15 stomach I end up bleeding in my bowls, especially for a  
16 duration of time, like for really to respond to alarms,  
17 and that's what's causing my, like I said, my  
18 defecation.

19 When I lay on my stomach, I'll defecate on  
20 myself. So that -- that will be the primary issue.

21 Q. Okay. When did you first receive a no  
22 prone out chrono; if you recall?

23 A. The first one I received a no prone out  
24 chrono has been at this facility. Excuse me, at  
25 Kern Valley, and that was in 2019, because the other

1 facilities you don't have to prone out. You have to  
2 sit down.

3 Q. Uh-huh.

4 A. But I also had a vest and they also knew  
5 what my conditions were, so even when other people had  
6 to prone out, I could sit up.

7 Q. Okay. And prior answer you mentioned a  
8 physical condition where you would defecate on  
9 yourself. When were you first diagnosed with that  
10 condition?

11 A. I was taken to emergency on it in 2016, I  
12 believe it was. I believe it was 2016, and that was at  
13 Corcoran State Prison. I was in Ad. Seg.

14 I had got a stomach infection. They thought  
15 it was a -- might have been appendicitis that hadn't  
16 been removed, a busted appendix, and when they took me  
17 to, it's now Adventist Health, but Bakersfield,  
18 San Joaquin Medical Center, they seen I had an  
19 infection in my stomach and was the reason why I  
20 couldn't walk, reason I couldn't put no force, and I  
21 hadn't defecated for about three-and-a-half days, and I  
22 was bleeding profusely and couldn't get medical  
23 attention about my problem in Ad. Seg.

24 Q. And were you ever told a cause for this  
25 particular condition?

1 A. They first thought it was cancer.

2 Q. Uh-huh.

3 A. I got -- I know I got nodules or polyps in  
4 my intestinal tract. They said that could have been  
5 the issue for me having the bleeding. They didn't know  
6 what the infection was for.

7 Just recently at Kern Valley I was told that  
8 it's my diagnosis, they're assuming, is in more align  
9 with IBS, Irritable Bowel Syndrome, but it's much more  
10 than that.

11 Q. Do you recall when you were told that it  
12 may be irritable bowel syndrome?

13 A. That was like earlier this year.

14 Q. Okay. Was that a CDCR doctor or third  
15 party doctor?

16 A. No. It was supposed to have been -- I  
17 went August. So it was approximately 24, August --  
18 August -- around June -- around July, August of -- no,  
19 the doctor -- the doctor actually said about July 2020.

20 Q. Okay. And, sir, have you been issued a  
21 special cuffing chrono?

22 A. Yes, I have.

23 Q. And what is the special cuffing chrono  
24 that you've been issued?

25 A. I am not to be handcuffed hands behind my

1 back at any given time. I must be put in waist  
2 restraints with handcuffs attached at my waist.

3 Q. Okay. When were you first provided this  
4 special cuffing chrono?

5 A. Identical had the special cuffing chrono  
6 at least since 2010 about 2010.

7 Q. And has the special cuffing chrono been  
8 continuous since 2010?

9 MR. FREEDMAN: Objection. Vague.

10 BY MR. MAIORINO:

11 Q. Sir, you can answer.

12 A. I believe so. I believe so, yes.

13 Q. Okay. So, let's see, in your declaration  
14 you identified two incidents at KVSP, two dates, and I  
15 believe we discussed them. We've mentioned them  
16 earlier, those dates, 9-16-19 and 6-6-20, correct?

17 MR. FREEDMAN: Objection, compound. Vague.

18 BY MR. MAIORINO:

19 Q. You can answer.

20 A. There's actually three issues.

21 Q. Okay. Well you identified an incident  
22 where you provided us with a date of September 16th,  
23 2019, correct?

24 A. Yes, I did.

25 Q. Okay. And then June 6th, 2020, correct?

1 A. That is correct.

2 Q. Okay. And then what's the third date that  
3 you're referring to?

4 A. December 16th, 2019.

5 Q. Okay. So let's -- if I understand your  
6 housing history, you arrived at Kern Valley in  
7 August 19th of 2019, correct?

8 A. That is correct.

9 Q. Okay. Then you left October 15th of 2020,  
10 correct?

11 A. Yes.

12 Q. Okay. And during -- between those dates  
13 you also went at various times to Salinas Valley,  
14 correct?

15 A. Assigned out to medical, medical doctors  
16 and specialists, yes.

17 Q. Okay. So let's talk about the June 6th,  
18 2020 incident. I understand from your declaration that  
19 you were housed on B Yard in Building 7, correct?

20 MR. FREEDMAN: Objection. Vague as to time.

21 BY MR. MAIORINO:

22 Q. On June 6th, 2020 you were in B Yard  
23 Building 7; is that right?

24 A. Yes, I was.

25 Q. Okay. And had you been there since about

1 February of 2020?

2 A. No, I was not.

3 Q. Okay. When were you housed in B Yard  
4 Building 7? When did you arrive at that housing?

5 A. It was after I came back from my last  
6 court date, which might have been February. You're  
7 right, it might have been February of 2020, yeah.

8 Q. Okay.

9 A. That was only after I was in -- I was kept  
10 in B1 in a suicide precaution cell with no electricity,  
11 and then they find me -- after I came off the lockdown,  
12 I believe it was in March, they did an institutional  
13 search and then they moved me over there to a regular  
14 housing unit.

15 Q. Okay. So the incident of June 6th, 2020  
16 that you describe in your declaration you describe that  
17 as happening on the B Yard patio; is that correct?

18 A. That is correct.

19 Q. Okay. And just in your own words, can you  
20 describe the B Yard patio area?

21 A. The B Yard patio is where all the  
22 administration buildings are. The medical building is  
23 there, the program office is there, the education and  
24 law library entrances is there. The chapel is there,  
25 laundry room is there, and it's basically a long

1 walkway with a whole bunch of doors that lead to  
2 offices.

3 Q. Okay.

4 A. Encased in a chain link fence and made of  
5 fault. The pavement is asphalt.

6 Q. And is it outside?

7 A. Yes, it is.

8 Q. Okay. And I think that you stated you  
9 were in line for medication at the medication window;  
10 is that correct?

11 MR. FREEDMAN: Objection. Vague as to time.

12 THE REPORTER: I didn't get the answer.

13 THE WITNESS: I didn't answer.

14 MR. MAIORINO: Can you read back the question,  
15 please.

16 (Whereupon the last question was read back.)

17 BY MR. MAIORINO:

18 Q. You can answer, sir.

19 A. Okay. Yes, I was in line.

20 Q. And what time of day was it, was it --  
21 what time of day was it; if you recall?

22 A. It was later than the regular time. We  
23 usually get our medications around a quarter till 8:00,  
24 and we're usually one of the first ones that called.  
25 So we didn't go out till about 8:30.

1 Q. Okay.

2 A. Which is late.

3 Q. And in your declaration you identified  
4 Officer Welch and Officer Reed as officers who worked  
5 the B Yard area; is that correct?

6 A. They did.

7 Q. And had they worked there since your  
8 arrival in this housing facility in February of 2020?

9 A. I did not know Welch. This was my first  
10 time ever running into Welch.

11 Q. Okay.

12 A. Reed I do know only because in March he  
13 retaliatory came in and broke my typewriter with  
14 another officer, and also he had went to one of my  
15 neighbors in Building 5, B 5 block cell and did a  
16 search there. So that's really how I know Reed.

17 Q. Okay. So besides those two incidents, had  
18 you ever seen Reed before this incident?

19 A. I seen him all the time. I never knew who  
20 he was.

21 Q. Okay. And can you give me a brief  
22 describe of Officer Welch, his height, his weight, his  
23 race; if you know?

24 A. Officer Welch is about my -- he's probably  
25 about 5'11, roughly.



1 Q. Uh-huh.

2 A. He weighs approximately 200 and, I would  
3 say between 230, 245 pounds, give or take in my  
4 estimate. Muscular, very muscular, like he use  
5 enhancement drugs or medication, or like weightlifter.  
6 He's white. Makes no distinguishing -- makes no  
7 mistake about his love for America and the American  
8 flag and CDCR and his job.

9 That would be my description of Welch.

10 Q. What about Officer Reed, can you give me a  
11 description of Officer Reed's height, his weight, if  
12 you know?

13 A. Officer Reed is approximately 6'2, weighs  
14 approximately 320 -- between 320 and 340 maybe even 50  
15 pounds. Because he wears a jumpsuit most of the time  
16 and has a vest, he's big. He's a big guy. Very big  
17 guy.

18 Q. Do you know his race?

19 A. He's white.

20 Q. Okay. Sir, I believe in your declaration  
21 you said there's a third officer near the window; do  
22 you recall that, sir?

23 A. That's not where he was at.

24 Q. The third officer? Where was the third  
25 officer at about 8:30 when you were in line at the

1 window?

2 A. Officer Reed?

3 Q. No, I'm sorry.

4 A. I understand the question.

5 Q. Okay.

6 A. The officer that you referring to and  
7 Officer Reed are sitting on front of bench in front of  
8 the medical entrance for the inmates. Officer Welch  
9 was standing in front of them speaking to them at the  
10 bench that they were sitting at in front of the  
11 entrance to medical, Facility B medical.

12 Q. And this third officer that was seated on  
13 the bench at this time, can you describe that officer  
14 for me?

15 A. Yes. He might have been maybe 5'8, 5'7.  
16 No more than 170 pounds, Hispanic, short hair. That  
17 day he was wearing his beige top and green pants and  
18 black shoes, I remember that, and to me he appeared  
19 more as a quiet type of officer.

20 Q. And before June --

21 A. I should say reserved.

22 Q. Okay. Before June 6th, 2020, had you seen  
23 this officer before?

24 A. Never.

25 Q. Okay. Let's see, directing your attention

1 to paragraph 10, you stated that Welch told you to tuck  
2 in your shirt, and where was Welch located when he said  
3 that to you, sir?

4 A. Where I previously stated, he was standing  
5 in front of the bench and talking to Reed and the  
6 Hispanic officer.

7 Q. Okay. And what about where was Reed, was  
8 he in the same previously described location as well?

9 A. Yes, sitting on the bench.

10 Q. Okay. And was the third officer on the  
11 bench at that time?

12 A. Yes, sitting next to Reed closest to the  
13 door.

14 Q. Okay. And besides those three officers,  
15 were there any other officers on the B Yard patio?

16 A. Yes. There were several.

17 Q. Okay. And where were they located?

18 A. You had the officers that I originally had  
19 to walk through or pass through coming to the entrance  
20 gate from what we call the B upper yard, which consists  
21 of Building B 5 through B 7, and the gate that I had to  
22 walk through. So there were two officers there. They  
23 didn't come on the patio.

24 They were holding inmates off when the  
25 incident transpired. Then you had on B lower side by

1 their entrance gate up in the gun tower were  
2 approximately about five, six officers standing there  
3 holding back the inmates from coming out of the patio  
4 with our side to go to the medical window for their  
5 medication.

6 Q. I'm sorry, where were the five to six  
7 officers located, sir?

8 A. The lower side entrance side to the patio.

9 Q. Okay. And how far is that lower side  
10 entrance gate from the window that you were lined up  
11 to?

12 A. Can you tell me which one are you talking  
13 to? Are you talking about the gate on the upper side  
14 or the lower side, because one is further than the  
15 other.

16 Q. Okay. Why don't -- can you tell me both?

17 A. Yes, I can.

18 Q. Okay. Why don't you do that?

19 A. The B Yard lower gate is closest to the  
20 window. That is approximately 3 to 400 feet I would  
21 say, about 300, 400 feet to the actual window where  
22 we're at. The walkway I have to come through is maybe,  
23 if I said it in yards, I would say something like  
24 20,000 yards.

25 Q. Okay.

1           A. If that's even right. It's -- if I had to  
2 estimate a guess, I would say it would take me maybe  
3 about 300 steps to get from that gate to the patio  
4 window.

5           Q. Okay. When you say "that gate" are you  
6 referring to the upper side?

7           A. Yes, I am.

8           Q. Okay. Can you just describe for me the  
9 location of the bench in reference to the window, what  
10 was the distance between the bench and the window?

11          A. The distance between the bench and the  
12 window is approximately 20 feet.

13          Q. Okay. And I understand that you did  
14 comply and you did tuck in your shirt, is that what you  
15 state in your declaration that's what you did?

16          A. I did.

17          Q. Okay. And during this interaction, after  
18 being told this by Welch, did you make a statement to  
19 Mr. Welch?

20          A. I made several statements to Mr. Welch.

21          Q. Okay. And before you complied by tucking  
22 in your shirt, what did you tell him?

23          A. You said before?

24          Q. Right, immediately before tucking in your  
25 shirt?

1           A. When I entered the patio and was  
2 approaching the pill line window Officer Welch turned  
3 around and said he could see my T-shirt little bit  
4 hanging from my up under my jacket and told me to tuck  
5 it in, and I had asked him why do I got to tuck in my  
6 shirt if I got my jacket on?

7           Q. Uh-huh.

8           A. He responded, well if I have to tuck in my  
9 shirt while I'm on the patio, so do you. So, again,  
10 without trying to go into argument with him, but as I'm  
11 tucking in the shirt anyway I said well where does it  
12 say that you have to tuck your shirt in in the DOM if  
13 you're wearing your jacket, and once I tucked the shirt  
14 in I proceeded to go in and try to end the  
15 conversation, and that's where he made the remark where  
16 he made.

17          Q. Uh-huh. And what was that remark?

18          A. That remark was now you look presentable  
19 like me. Now you look like a presentable inmate.

20          Q. And what did you say in response to that,  
21 sir?

22          A. I told him, No. 1, I look nothing like  
23 him; No. 2, I ain't no inmate, and at that time I  
24 turned back around and was in front of the window.

25          Q. Okay. At that moment were there -- how

1 many other people were in line with you, and I'm  
2 talking about incarcerated people?

3 A. I know for a fact directly in front of me  
4 was an Inmate [REDACTED] who I actually was walking on the  
5 patio with, or was trying to catch up with because he's  
6 also a Muslim. He was at the window in front of me.  
7 Then there was a Hispanic inmate that was on the patio,  
8 but because I didn't turn around and see exactly where  
9 he was at, I couldn't tell you exactly where he was at.

10 Q. And besides the Hispanic person and  
11 Mr. [REDACTED] any other incarcerated people that were at  
12 the window that you think may have heard the  
13 interaction between you and Mr. Welch?

14 A. There was no other inmates from my  
15 peripheral vision that I could see. On the patio there  
16 was no inmates to my right and there was no inmates to  
17 my front of me. So as far as in back of me, I'm not  
18 paying attention to people in back of me.

19 I'm focused on the officer.

20 Q. Okay. Do you know the name of the  
21 Hispanic person that you stated was in the area?

22 A. Before I answer that question I'd like to  
23 talk to my attorney, please.

24 Q. Okay. Let me just -- let's put that  
25 question aside, okay?

[REDACTED]

1           So can I ask you, have you ever seen the  
2 Hispanic incarcerated person, have you ever seen him  
3 before?

4           A. No, I have not.

5           Q. Okay. And after this incident that you  
6 detailed in your declaration of June 6th, 2020, did you  
7 speak to this Hispanic incarcerated person?

8           MR. FREEDMAN: Objection. Vague as to time.

9 BY MR. MAIORINO:

10          Q. You can answer.

11          A. I was able to locate him after the  
12 incident, yes.

13          Q. Okay.

14          A. A day or so after the incident, yes.

15          Q. Okay. And a day or so after the June 6th  
16 incident, did you talk to him about the incident  
17 described in your declaration?

18          A. I did not talk to him about the incident.  
19 I did ask him -- I was directed to him and was told he  
20 was in the patio and that he might assist me as a  
21 witness, and that's when I did talk to him and he  
22 explained to me the terms and gave me his name and his  
23 CDC number.

24          Q. And what does "the terms" mean?

25          A. This inmate is an active inmate on the



1 prison mainline. That means he runs with a selected  
2 group of Hispanics.

3 Q. Uh-huh.

4 A. The inmate is Hispanic, is what we call  
5 active in the prison. An active prisoner is someone  
6 that they are not SNY, sensitive needs, and they run  
7 with a known functional group inside the prison. So it  
8 wasn't as far as much of him not knowing or not being  
9 identified, he didn't want the flak for his race  
10 getting on him or saying something to him or  
11 threatening him not to say nothing for speaking up on  
12 my behalf because of the racial divide in prison  
13 between blacks, Hispanics and the whites.

14 Q. And so after speaking to this Hispanic  
15 incarcerated person, he explained the terms to you, did  
16 you ever go back and talk to him about the June 6th  
17 incident described in your declaration?

18 A. I did not do that, but what I did do is I  
19 showed him the 115 that I got, the write-up, and that's  
20 when he proceeded to write me a, what we call a kite.

21 Q. Uh-huh.

22 A. And he said, look man, just call me. I  
23 see what happened. Just call me. Have them talk to  
24 me.

25 Q. Okay. Did you refer his name to anybody?

1 A. Yes, my attorney has it.

2 Q. Okay. And what about Mr. [REDACTED] did you  
3 talk to Mr. [REDACTED] after -- at any time after the  
4 June 6th, 2020 incident described in your declaration?

5 A. I've talked to Mr. [REDACTED]. They tried to  
6 call us up. He's a Muslim.

7 Q. Uh-huh.

8 A. He's part of the congregation. So I  
9 interact with him, not frequently, but frequently  
10 enough, and I really didn't speak to him other than  
11 also showing him the 115, the write-up I got, and he  
12 was like, you know, and referred his name to the  
13 officer that did the disciplinary hearing, or our  
14 investigation, and that was the extent of it.

15 Q. Okay. Did he ever provide you with  
16 anything in writing relating to what he may have seen  
17 on June 6th 2020 concerning the incident between you  
18 and Officer Welch and Officer Reed?

19 A. He did.

20 Q. Okay. What did you do with that writing?

21 A. I have a copy that I secured in my cell  
22 that's attached to part of my legal action.

23 Q. Uh-huh.

24 A. I sent a copy to attorneys r Rosen Bien  
25 & Galvan. I sent a copy to the internal affairs. I

1 sent a copy to the Director of Corrections. I sent a  
2 copy to the State Auditor. I filed a copy with my  
3 state writ of mandate in Kern County.

4 Q. So at any time after he provided you with  
5 that written statement have you spoken to him?

6 A. No, I have not.

7 Q. Okay. And then let me just ask you about  
8 a statement. Did you say to Officer Welch, "I ain't no  
9 Fing inmate and I don't have to do shit you say you  
10 Fing pig bitch"?

11 A. No. I never never made those statements.

12 Q. Okay. And let's see, directing your  
13 attention to paragraph 12, can you take a moment just  
14 to review paragraph 12, sir?

15 A. Okay.

16 Q. Okay. And so in paragraph 12, I just want  
17 to ask you a few questions about that, how do you know  
18 that your left shoulder popped out of its socket?

19 A. Cause I felt it.

20 Q. Okay. And what did it feel like, sir?

21 A. It felt like the bone shifted from the  
22 natural position that it should have been in.

23 Q. Has this ever happened to you before?

24 A. Never.

25 Q. Okay.

1           A. I take that back. It had -- the way  
2 you're speaking of right now for this incident it has  
3 never happened, but over the years playing football in  
4 my younger days -- you see, I had shoulder injuries.  
5 They say now I got partial arthritis, so I got a  
6 grinding in it, but it was never popped out of the  
7 socket like on this incident here.

8           Q. Okay. And then, let's see, I wanted to  
9 direct your attention to paragraph 13.

10          A. Okay.

11          Q. Take a moment to read that, please?

12          A. Okay.

13          Q. And I think in paragraph 13 when it says I  
14 think you stated that there are four or five officers  
15 standing near the patio gate, is this the lower side  
16 entrance that you were discussing earlier?

17          A. Yes, it is.

18          Q. Okay. And I think if I recall, it's about  
19 3 to 400 feet from the window; is that right?

20          A. More or less, yes.

21          Q. Okay. More or less.

22                 So, and I know it's an estimate, four to five,  
23 five to six, but can you describe these multiple  
24 officers for me? Hang on just one second. Okay. Can  
25 you describe these officers for me?

1           So let's take the first officer, do you recall  
2 what that officer looked like?

3           A. I could not tell you what none of them  
4 looked like. Only thing I can tell you is I seen  
5 bodies when I went to the patio, cause I'm facing that  
6 way. I know they were mixed, Hispanic and white  
7 officers, and I was informed that when they jumped on  
8 me and had my head pinned down and I could not move my  
9 head that it was at least four or five officers that  
10 jumped up on me from that on the lower side.

11           Q. The four or five officers that were by the  
12 gate?

13           A. Yes.

14           Q. Okay. And so the four or five officers,  
15 do you know if they were male or female?

16           A. I would say the majority of the them that  
17 were at the gate that I noticed were male.

18           Q. Okay. And just sort of going a little bit  
19 further on those that you noticed, the male officers,  
20 are you able to differentiate how many were Hispanic  
21 and how many were Caucasian?

22           A. When I first really saw him there was at  
23 least one white, and the rest were Hispanic.

24           Q. Okay. So that would be one Caucasian?

25           A. And the rest Hispanic or of a darker --

1 not white. I'll just say that. No blacks.

2 Q. Okay. Are you able to estimate the  
3 heights of any of these individuals, the four to five?

4 A. No. No, I cannot.

5 Q. Okay. And are you able to estimate the  
6 weight of any of these individuals, the four to five  
7 individuals that were at the gate?

8 A. I could give you -- I could give you an  
9 estimate but I would say their combined weight I would  
10 say would be over 1,800 pounds.

11 Q. Uh-huh.

12 A. And as far as sizes, they're anywhere from  
13 5'6 to maybe 6'1.

14 Q. Okay.

15 A. I didn't see no one of them that appeared  
16 to be as tall as Reed.

17 Q. Okay. And of these four to five officers  
18 that were at the lower side entrance of the gate, had  
19 you ever seen them -- any independent recollection of  
20 ever seeing any one of them before June 6th, 2020?

21 A. My vision is so bad to where I couldn't  
22 see that far. The glasses I had on at that time and  
23 the time of night, no, I could not distinguish none of  
24 that.

25 Q. And directing your attention back to

1 paragraph 13, they did put two sets of handcuffs on  
2 you; is that right?

3 A. After a while they did, maybe after --  
4 well, to me it seemed like forever, but to me -- yeah,  
5 they did, but they put them behind my back, and I'm not  
6 supposed to be cuffed behind my back.

7 Q. And can you describe for me how they did  
8 that? Do they attach two ends of the handcuffs to make  
9 a longer set of handcuffs, is that what they did, or  
10 did they do something else?

11 A. What they did was, pretty much like you  
12 said, there's a port for the hand. So the one in the  
13 middle they attach those two, and then once they turn  
14 back around and had me pushed back to the ground they  
15 forced my hands behind my back and they forced the  
16 cuffs on me, yes.

17 Q. Okay. And then I understand it was  
18 Officers Welch and Reed who escorted you from the B  
19 Yard patio area away from the B Yard patio area,  
20 correct?

21 A. Reed and Welch escorted me from where they  
22 picked me up all the way to the program office and into  
23 the program facility, program office holding cages.

24 Q. Uh-huh. Anyone besides Reed and Welch  
25 participate in that escort to the holding cages?

1 A. No.

2 Q. And I think you state that you felt your  
3 shoulder pop back into its socket?

4 A. Correct.

5 Q. Okay. And why do you believe that it  
6 popped back into your socket?

7 A. The Officer Reed stated to me, all right,  
8 get up mother fucker, and excuse my language because as  
9 a Muslim I'm not supposed to curse. I'm saying this  
10 because this is a verbatim account of what he said. He  
11 said alright, get up mother fucker, and he assisted me  
12 from the lying position where they had my face pinned  
13 down to sit on my butt, and then he was getting himself  
14 up and when he was getting himself up he put his hand  
15 on the back of my neck and was pushing my head and my  
16 neck down my shoulder area towards my lap.

17 When he told me to get up now mother fucker,  
18 it was at this time he laced his arms through mine  
19 behind my back and he began to lift my arm backwards up  
20 towards the back of my head going in a -- in the  
21 direction it's not supposed to be going in. When he  
22 started doing that and picked me up with my weight and  
23 his force, the shoulder actually you heard a knock, a  
24 pop knock, and I screamed at that time when it went out  
25 of place, and that's when he made the comment oh, yeah,



1 you cry now mother fucker. We're gonna see how tough  
2 you are.

3 Q. And this was Officer Reed?

4 A. Yes, it was. No. No. It was  
5 Officer Welch.

6 Q. I'm sorry, Officer Welch.

7 Where was Officer Reed at the time that you  
8 were -- when -- that you just described, where was he  
9 at?

10 A. Officer Reed, upon seeing how he was  
11 lifting me up with my left arm, Officer Reed did the  
12 same with my right arm, but Officer Reed was not doing  
13 no speaking.

14 Q. Okay. Now let's go -- I want to direct  
15 your direction to paragraph 16. If you'd just take a  
16 moment to review that, please.

17 A. Okay.

18 Q. Okay. So I know that you told us you were  
19 taken from the B Yard patio to the holding cages. So  
20 once you got to the holding cages area by the program  
21 office, what other officers were at that location?

22 A. Inside the program office?

23 Q. Yes.

24 A. The officers, I don't know them.

25 Q. Okay.

1           A. I don't interact with officers. I don't  
2 go to the yard, so the two that were there was also the  
3 ones that responded, as did Sergeant Dyer. I take that  
4 back.

5           I can't -- I can't identify the officer by  
6 name, but there were two of them that were outside, and  
7 then I was in the program office they had been inside  
8 the front office talking to Sergeant Dyer.

9           Q. Okay. So let me just see if I heard you  
10 correctly, there were two inside the program office  
11 when you arrived?

12          A. Correct.

13          Q. And then there was Sergeant Dyer, Dryer or  
14 Dyer, I'm sorry, that was inside the program office  
15 when you arrived?

16          A. He was standing at the doorway, and he was  
17 more or less was looking as I was bent over, and he  
18 turned back around and walked in and continued walking  
19 towards the patio.

20          Q. And was there another officer outside of  
21 the program office when you arrived?

22          A. I couldn't tell you how -- the way I was  
23 bent over and as mad as I was at that time, I could not  
24 affirmatively say so.

25          Q. Okay. So I understand when you arrived at

1 the program office there were three people inside of  
2 the office; is that right?

3 A. Inside the sergeant's office, yes.

4 Q. Okay. And then besides you,  
5 Officers Welch and Reed, was there anyone else at the  
6 program office?

7 A. I was bent over, so I couldn't tell you.

8 Q. Okay. What about when you were placed in  
9 the holding cell, was there anyone in that area of the  
10 holding cell, anyone else?

11 A. Inside the holding cell area, no.

12 Q. Okay.

13 A. I was told to face the wall. I did what I  
14 was told. I faced the wall.

15 I did not look to my left, I did not look to  
16 my right. I then had my face slammed into the  
17 clipboard.

18 Q. Okay. Let me first ask you about the two  
19 officers that were inside the program office, had you  
20 ever seen them before June 6th, 2020?

21 A. I can't say affirmatively.

22 Q. Okay. Are you able to give me any  
23 testimony regarding their appearance, their height,  
24 weight, race gender?

25 A. I can because they were the ones that

1 escorted me back to the building. One of the ones was  
2 when I took the T-shirt, the bloody T-shirt, and the  
3 officer would not leave me alone to talk with the nurse  
4 about writing the staff conduct complaint.

5 Q. Okay. Can you describe that officer for  
6 me, was he male, female?

7 A. Both of them were Hispanic.

8 Q. Okay.

9 A. Approximately 5'9, 5'10.

10 Q. Okay.

11 A. Both of them.

12 Q. Okay.

13 A. One weighed approximately 180. The other  
14 one probably weighed around 200, give or take, either  
15 or, going either way, pounds. One was wearing a hat.  
16 One was wearing a CC black hat with their insignia on  
17 it.

18 That's basically it.

19 Q. Okay. Any facial hair that you recall?

20 A. No. Clean shaven. They were clean  
21 shaven.

22 Q. And just to be clear, you don't know the  
23 names of either one of these officers; is that correct?

24 A. I do not.

25 Q. Okay. Okay. Let's go to paragraph 18.

1 If you can take a moment to review that.

2 MR. FREEDMAN: Trace, before you ask a  
3 question here, I think it might be a good time for a  
4 short break, like five minutes, not more than that. I  
5 don't think we need more than that unless you need more  
6 than that, Mr. [REDACTED]. Maybe about five minutes?

7 THE WITNESS: I do cause I'm looking at the  
8 monitor now and it's 2:8 and I have another prayer  
9 right now, and I also have to use the restroom.

10 MR. FREEDMAN: Okay. How much time would you  
11 like, Mr. [REDACTED]

12 THE WITNESS: It won't be no more than  
13 15 minutes.

14 MR. FREEDMAN: Is that alright with you,  
15 Trace?

16 MR. MAIORINO: Yeah, that's fine. We can do  
17 20, just in case.

18 THE WITNESS: That will be good.

19 MR. FREEDMAN: Okay. Let's do 20 minutes.

20 Mr. [REDACTED] I'll get back with you once you've  
21 had your opportunity to pray and use the restroom,  
22 okay?

23 THE WITNESS: Okay.

24 (Whereupon a break is taken.)

25 BY MR. MAIORINO:

[REDACTED]

1 Q. We're back on the record, sir, after a  
2 short break. Are you prepared to proceed with your  
3 deposition?

4 A. I am.

5 Q. Okay. Great. Do you still have  
6 Exhibit 2, your declaration filed in this action in  
7 front of you?

8 A. I do.

9 Q. And I think when we broke we were at  
10 paragraph 18. Have you had a chance to review  
11 paragraph 18?

12 A. I have.

13 Q. Okay. And I understand that you state in  
14 your declaration you were subjected to a search. Who  
15 was the officer that conducted that search, if you  
16 recall?

17 A. Those were the same two officers that I  
18 told you had escorted me to the building afterwards,  
19 and, again, I don't know who they are because I don't  
20 interact with staff.

21 Q. Okay. And those two individuals were the  
22 two Hispanic males?

23 A. Yeah. Yeah.

24 Q. Okay. That you previously described to  
25 us?

1 A. Exactly.

2 Q. Okay. Thank you.

3 If you could refer your attention to  
4 paragraph 19. If you can quickly review that and let  
5 me know when you're done.

6 A. Okay.

7 Q. And had you ever seen LVN White before  
8 June 6th, 2020?

9 A. Never.

10 MR. FREEDMAN: Objection. States facts not in  
11 evidence.

12 BY MR. MAIORINO:

13 Q. Okay. And paragraph 19, you had contact  
14 with LVN White, correct?

15 A. I didn't have contact with her until she  
16 actually came to do the 7219, but she was administering  
17 medication at the pill call window to the inmate that  
18 was in front of me.

19 Q. Okay. And before seeing her at the pill  
20 call window, had you ever seen LVN White before that  
21 time?

22 A. Never.

23 Q. Okay. And you seen the 7219 that she  
24 completed on June 6th, 2020; is that correct?

25 A. I did.

1 Q. Okay. I do have a copy of that for you.  
2 Let's see, do you have Exhibit 3 in front of you?

3 A. I do.

4 Q. Okay. So just keep it in front of you for  
5 now, but let me just -- if you could direct your  
6 attention to paragraph 21, and review paragraph 21 of  
7 Exhibit 2 of your declaration and then let me know when  
8 you're done.

9 A. Okay. Okay.

10 Q. In paragraph 21 you state LVN White went  
11 to the program office away from the holding cell and  
12 spoke to Sergeant Dyer?

13 A. Yeah, but I would like to clarify that.

14 Q. Sure.

15 A. Okay. The sergeant's office is right next  
16 door on the same side but separated by a wall to the  
17 holding cages.

18 Q. Okay.

19 A. So it's not across to where you would say  
20 it would be horizontal, it's vertical. So when she's  
21 walking back up towards going out like back out the  
22 patio, the sergeant's door is actually beneath that  
23 patio door. So she walked up in there and I guess  
24 walked inside and that's when the conversation took  
25 place.



1 Q. Okay. So when LVN White was inside the  
2 office, were you able to see her?

3 A. You can't see, but can hear.

4 Q. What's the distance between the holding  
5 cage and the door to that program office?

6 A. Well the door is going to be further. The  
7 door is going to be at least 20 to 30 feet.

8 Q. Uh-huh.

9 A. I would say.

10 Q. Uh-huh.

11 A. But the cages are in a room to where if  
12 you put a wall -- the cage is probably -- the distance,  
13 I know it's hard to estimate, but maybe three feet in a  
14 room, and the wall is right there, and the sergeant's  
15 desk is against that wall. So you can hear. It's  
16 paper thin, really.

17 Q. What's the wall made out of, if you know?

18 A. I believe it's sheetrock.

19 Q. Okay. Is there a window to this program  
20 office?

21 A. To the program office? There are several  
22 windows, but where I'm at in the holding cage room,  
23 there's no window.

24 Q. Okay. And I think in your declaration you  
25 state you heard Dyer say something along the lines of

1 don't worry about it. I'll take care of it. Is that  
2 right?

3 A. Yes.

4 Q. Okay. And immediately before he said  
5 that, who, if anyone, was talking?

6 A. Before that happened Officer Reed and  
7 Officer Welch were in there having a conversation with  
8 the Sergeant Dyer while the nurse was filling out the  
9 7219 on me, and though I was trying to talk to her, I  
10 could hear parts of the conversation going on between  
11 Sergeant Dyer, CO Welch telling him his actual version  
12 of what happened, and then parts of what Dyer was  
13 saying, okay, this is how you write it up.

14 Q. When LVN White was inside the office were  
15 you able to hear her speak?

16 A. Vaguely. Very vaguely.

17 Q. Okay. And what do you mean by "vaguely"?

18 A. Well when she was in there doing the 7219  
19 on me she actually marked down some items that I said  
20 was wrong with me. She at least appeared to be writing  
21 them down on the 7219. During the period of time she  
22 walked back up to the hallway and into the sergeant's  
23 office, I guess towards the back of the desk, to where  
24 you could hear her commenting about certain things that  
25 I said, No. 1 about being a complaint I want to file,

1 and then she indicated that I had injury and if he  
2 wanted copies or how was she going to do the copies,  
3 and then she said to the line, you know, well, look,  
4 then, look, don't worry about it. Let me talk to him.  
5 Let me take care of it. Don't worry about it.

6 That was the extent of the full conversation I  
7 heard him have with her.

8 Q. Okay. After she was inside the program  
9 office did she return to you, look at it in the holding  
10 cage?

11 A. No.

12 Q. What did she do?

13 A. I can't tell you what she did because  
14 there's a wall right there and I can't see, but I know  
15 as soon as that the sergeant came and talked to me. So  
16 I'm assuming she went back to the medical clinic.

17 Q. Okay. And why don't you take Exhibit 3  
18 and review Exhibit 3. It's Bates No. [REDACTED] 055 to  
19 [REDACTED] 072, and then take a moment to review [REDACTED] 071.

20 A. Okay.

21 Q. Do you recognize [REDACTED] 071 as the 7219  
22 completed by LVN White on June 6th, 2020?

23 A. This was the 7219 that was attached to the  
24 disciplinary rule violation packet. So I wasn't shown  
25 what she wrote down. She wouldn't let me see it, but

1 this was attached to my disciplinary hearing results.

2 Q. Okay. And you seen this document before,  
3 correct?

4 A. I have.

5 Q. Okay. And on this 7219, [REDACTED] 071, she  
6 circled no, indicating no injuries were found. Do you  
7 see that on the 7219?

8 A. I do.

9 Q. Okay. And you already told us you  
10 disagree with that, correct?

11 A. Yes, and I requested that proper 7219 get  
12 done.

13 Q. Okay. Turning to the next page [REDACTED] 072,  
14 Exhibit 3. At the top it says "Holding Cell Log." Did  
15 you receive a copy of this as well?

16 A. I did. I did.

17 Q. Okay. Let's see, it bears a date of  
18 June 6, 2020, and then in the middle of [REDACTED] 072 do  
19 you see the column that says "Time Checked"?

20 A. I do.

21 Q. Okay. And then at numeral 1 under column  
22 "Time Checked" it says 2055 or 8:55; do you see that,  
23 sir?

24 A. I do.

25 Q. Okay. And then the next -- let's see.

1 The column to the right, so it would be the fourth  
2 column on [REDACTED] 072, there's a title "Comments"; do you  
3 see that, sir?

4 A. I do.

5 Q. Okay. And the first entry is "Placed in  
6 holding cell." Do you agree with being placed in the  
7 holding cell at 8:55?

8 MR. FREEDMAN: Objection. Vague.

9 What do you mean by "agree"?

10 BY MR. MAIORINO:

11 Q. Do you agree it was 8:55 or thereabouts  
12 when you were placed in the holding cell, sir?

13 A. I would estimate. Probably a little  
14 earlier than that.

15 Q. Okay.

16 A. Because we were let out 8:30.

17 Q. Okay?

18 A. So I would more less comment it was  
19 approximately about 20, maybe 2040, or thereabouts.

20 Q. Okay. And in that column with the title  
21 that says "Columns,", the third entry says "Released  
22 from holding cell"; do you see that, sir?

23 A. I do.

24 Q. And then the third entry under the column  
25 entitled "Time Checked" the time is 2112; do you see

1 that, sir?

2 A. I do.

3 Q. Okay. So doing the math it means based on  
4 [REDACTED] 072 of this document it indicates that you were  
5 in the holding cell for approximately 17 minutes. Do  
6 you agree with that estimation of being in the holding  
7 cell for approximately 17 minutes on June 6th, 2020?

8 A. I do not.

9 Q. Okay. What is your estimate of the  
10 length of time that you were in the holding cell on  
11 June 6th, 2020?

12 A. It was almost shift change when I was  
13 escorted back to my building. So shift change is  
14 basically almost at 10 o'clock. They had done what  
15 they call the bar lock which is after the 9 o'clock  
16 count they come by and they hit the paddle box that  
17 puts the bars through all the doors so they can't be  
18 opened at night so people can't escape, and that have  
19 to be reopened.

20 So they don't usually close that until after  
21 9:30 in case there an emergency and after the shift  
22 change. So none of this what happened here is what  
23 actually transpired except being in the holding cage,  
24 and I was released but not at this time.

25 Q. Okay. And can you give me your best

[REDACTED]

1 estimate of when you were placed from the holding cage?

2 A. I was placed in the holding cage, and then  
3 I was strip searched, keeping me naked up in there, and  
4 the nurse came approximately 15 minutes after that and  
5 they gave me my boxers back. So I had to put my boxers  
6 on for me to be seen by the nurse. After the nurse  
7 came, she went and talked to the sergeant and they had  
8 their conversation.

9 During that time me and Welch had a  
10 conversation. Then he came and talked to me for at  
11 least a good 20 to 25 minutes. After that I was taken  
12 back.

13 So my estimate would be anywhere from 45  
14 minutes on that all this transpired in that time limit.

15 Q. And, sir, since we have Exhibit 3 in front  
16 of you right now, let's just review it as will. I'll  
17 ask you a few questions. I understand that you did  
18 receive a rules violation report based on the  
19 June 6th, 2020 incident, correct?

20 A. I did.

21 Q. Okay. And Exhibit 3 is a copy of that  
22 Rules Violation Report, the RVR, and have you seen this  
23 before, sir?

24 MR. FREEDMAN: Objection. Is there a question  
25 about whether it is the RVR or not?

1 MR. MAIORINO: I'm asking if he saw it.

2 BY MR. MAIORINO:

3 Q. Have you seen this, sir?

4 A. I have.

5 Q. Okay. And there was a guilty finding,  
6 correct?

7 A. I didn't go to the hearing. That's what I  
8 was told, yes.

9 Q. Okay. And that's sort of what I was going  
10 to ask you too cause on page, let's see, [REDACTED] 062 of  
11 Exhibit 3, do you see that under the title "Hearing"?  
12 Do you just want to take a moment to read that in the  
13 middle of the page [REDACTED] 062 as under the heading  
14 "Hearing"?

15 A. Okay.

16 Q. And you elected not to attend the hearing,  
17 correct?

18 A. I did.

19 Q. And why was that?

20 A. Because I was in fear for my safety.

21 Q. Okay. And how did you learn there was a  
22 guilty finding at the hearing?

23 A. Finalized copy was dropped off and given  
24 to me during a mail call instead of the regular  
25 procedure where a disciplinary officer would come and



1 deliver it to you. So I received it in the mail with a  
2 disposition on it.

3 Q. Okay. And if you could go to [REDACTED] 056  
4 and review to yourself, you don't have to read it out  
5 loud, please, the paragraph in the middle of that page?

6 A. Okay.

7 Q. Okay. And sort of in the second paragraph  
8 there's a statement attributed to you, "What the F you  
9 going to do now, bitch." Did you ever say that to the  
10 officer?

11 A. Never did I say that.

12 Q. Okay. Further down it states that while  
13 prone out on the ground they attribute to you that you  
14 continue to yell obscenities. Did you yell obscenities  
15 during the prone out period of June 6th, 2020 at the  
16 officers?

17 A. The obscenities I was yelling about was  
18 for them to get the F off me and they messed up my  
19 shoulder, and I cursed there. As far as like I said  
20 what they were doing to me at that time, I had not  
21 cursed them, per se.

22 Q. Okay. Let's set that RVR aside for now,  
23 and I think we were at -- could you review paragraph 27  
24 of your declaration that's been marked as Exhibit 2,  
25 and just let me know when you've reviewed this

1 paragraph?

2 A. Okay.

3 Q. And those are -- you've itemized some  
4 injuries that you attribute to the June 6th, 2020  
5 incident; is that right?

6 A. Correct.

7 Q. Okay. And so let's just go through those.  
8 I think you state that in the hours and days after the  
9 June 6th, 2020 incident you defecated blood; is that  
10 right?

11 A. Yeah. More -- I was defecating blood  
12 already, but it was more profuse.

13 Q. Uh-huh.

14 A. Thicker.

15 Q. Uh-huh.

16 A. And happening more frequently.

17 Q. Okay. So let's go through that. So after  
18 the incident on June 6th, 2020, when did you first  
19 notice as you've described as this increase in  
20 defecation of the blood?

21 A. I had an accident, an incontinence  
22 accident maybe about four hours afterwards, and I felt  
23 something coming down my leg and I got up to change  
24 myself and it was -- my incontinence diaper was soiled.

25 Q. Uh-huh.

1           A. And my boxers also had blood on them. So  
2 that's where it actually happened, like four hours  
3 later.

4           Q. And so this one instance that happened  
5 about four hours after the June 6th, 2020, how many  
6 other incidents of defecating blood occurred that you  
7 attribute to the June 6th, 2020 incident?

8           A. Roughly? I mean, I still have problems  
9 right now.

10          Q. Uh-huh.

11          A. So it hasn't stopped. It's just not as  
12 frequent, and sometimes it's light blood, sometimes  
13 dark blood, but it's definitely with my stomach and the  
14 issues I have from being assaulted.

15          Q. And let me see when you say it's less  
16 frequent, can you give me the sense of the frequency of  
17 defecating blood after June 6th, 2020?

18          A. For about I would say 20 days after that,  
19 approximately 20, 25 days after that. I was probably  
20 bleeding, per day, in a 24 hour period, probably like a  
21 good 6 hours, but, like, again, sometimes it would be  
22 heavy. Sometimes it would be light. What was  
23 happening -- it was happening almost every day.

24          Q. Okay. So I'm trying to understand what  
25 you mean by heavy and light. What does "heavy" mean?

1           A. When I'm having these issues with my  
2 stomach, the blood in my stool, sometimes it's dark, a  
3 dark dark like almost maroon base darker red color, to  
4 where other times it looks like it's mixed with some  
5 other fluid to where it's like a lighter red, or it  
6 might not even be like it's blood, it just have blood  
7 stains, but it have the stains in my diaper. I guess  
8 it's from intestinal fluid I have that comes down with  
9 it, and sometimes fecal matter with that, but it will  
10 be to what I look at my fecal matter, my fecal matter  
11 is red to where I got fecal matter that's brown, but  
12 when I put it on napkin to trace the blood, it's very  
13 very light, and you see some other body fluids.

14           Q. So when you're saying it's light, are you  
15 referring to a bright red?

16           A. It's a brighter red when I say heavy, yes.

17           Q. Okay. And when you say "heavy" that's  
18 when you're referring to the darker maroon color?

19           A. Maroon, almost black.

20           Q. Okay. I know that you had mentioned that  
21 you had this issue before. When did you first notice  
22 you had -- you were defecating blood?

23           MR. FREEDMAN: Objection. Vague as to time.

24           BY MR. MAIORINO:

25           Q. Could you remember the very first time

1 that you were defecating blood before June 6th, 2020?

2 A. When they did the -- took me out on the  
3 emergency transport to San Joaquin, now Adventist  
4 Health in Bakersfield. I believe that was in 2017, or,  
5 wait, I take it back, 2017. Like June of 2017.

6 Q. Okay. And so I think you should have --  
7 there's some medical records attached to Exhibit 27.  
8 Do you see Exhibit 27, sir?

9 A. Give me a half second. I got pages that  
10 are -- what exhibit was it?

11 Q. Exhibit 27.

12 A. What page?

13 Q. Okay. It says it's May -- let's see. I'm  
14 sorry, Exhibit 27, [REDACTED] 343.

15 A. Okay.

16 Q. And I'll represent to you that this is a  
17 progress note made during a May 22, 2020 visit, and do  
18 you see [REDACTED] 343, it's the second paragraph?

19 A. 343, second paragraph. What side are you  
20 talking about?

21 Q. Do you see [REDACTED] 343?

22 A. Yes, I do.

23 Q. Okay. So is there a heading that says  
24 "Progress Note"?

25 A. Yes, there is.

1 Q. Okay. And there's a paragraph right  
2 underneath progress note, and then there's a space and  
3 then there's a second paragraph. Do you see that  
4 second paragraph?

5 A. I do.

6 Q. Okay. And I'll read those two sentences,  
7 it says, and this is [REDACTED] 343, "The patient is also  
8 here to follow up on his abdominal symptoms. He says  
9 his current problem is that he has had chronic symptoms  
10 of increased frequency of bowel movements with blood in  
11 it." That statement is attributed to you. Did you  
12 make that statement to a medical professional?

13 A. Yes, it was.

14 Q. Okay. And what did you mean by "increased  
15 frequency of bowel movements with blood in it"?

16 A. I didn't -- I wasn't having a lot of blood  
17 in my fecal matter. I was having problems retaining my  
18 fecal matter in my intestines. A while after that I  
19 started having periodic, and this was very very few  
20 periodic with the blood. When I had the blood up in  
21 there it was nothing like I'm experiencing now from  
22 this incident.

23 Q. Okay. And how was it different?

24 A. Well, before, like I said, it's like the  
25 first time when I told you I have the fecal matter and

1 then there would be blood on the lining of the diaper I  
2 wear, but it would be also some other intestinal  
3 fluids.

4 Q. Okay.

5 A. This time it's like different because it's  
6 like either straight blood with no fecal matter, or  
7 fecal matter, I learned to find out, with blood that's  
8 so saturated that it's like almost black.

9 Q. Okay. The condition that you described  
10 where it's blood with no fecal matter in it, what color  
11 is that blood?

12 A. It's going to be the lighter -- the  
13 lighter red.

14 Q. Okay. And when you say "light" you mean  
15 bright red?

16 A. Along those lines, yes.

17 Q. Okay. And then let's go, again,  
18 Exhibit 27, 363, Bates No. [REDACTED] 363.

19 A. Okay.

20 Q. Okay. And this is a May 12th, 2020  
21 notation. Do you see that column with the typewritten  
22 portion that begins with "Left knee and left arm pain"?

23 A. I do.

24 Q. Okay. And then it states "I/P. Also put  
25 a 7363 in the frequent BMs and some blood in them." Do

1 you remember making that statement on May 12th, 2020 to  
2 a health care professional?

3 A. I do.

4 Q. Okay. What did you mean by that?

5 A. It's just as I answered prior, that I'm  
6 having these bowel movements and I'm having blood,  
7 various traces of blood in my bowel movements and  
8 having stomach cramping and stomach issues as far as  
9 pain.

10 Q. Okay. You also complained of left knee  
11 and left arm pain on June 12th, 2020, correct?

12 A. Yes.

13 Q. What sort of pain were you feeling in your  
14 left knee and left arm?

15 MR. FREEDMAN: Objection. Compound.

16 BY MR. MAIORINO:

17 Q. You can go ahead and answer, sir.

18 A. Stiffness. They're talking it was  
19 arthritis. Sometimes my leg, in the bed, when I lay on  
20 that side it wakes me up because of it being painful.  
21 You see I might turn a certain way or certain way and  
22 the pain actually wakes me up.

23 Q. And the pain that actually wakes you up,  
24 is that in your left knee?

25 A. It can vary. It can be my back. I can be



1 the leg.

2 Q. Okay. If you can move to, let's see,  
3 [REDACTED] 371. Do you see that, sir, of your Exhibit 27?

4 A. I do.

5 Q. Okay. So, again, on [REDACTED] 371 there's a  
6 column, a typed written material of April 22, 2020. Do  
7 you see the chief complaint abdominal pain and blood in  
8 stool; do you see that, sir?

9 A. I do.

10 Q. Okay. And, let's see, it also states that  
11 "I/P has had upper abdominal pain and he states he's  
12 been having five to seven stools today and periodically  
13 he has been having blood in stool"; do you see that?

14 A. I do.

15 Q. Do you remember making that complaint on  
16 April 22, 2020?

17 A. I do.

18 Q. Okay. And what did you mean by that, that  
19 you were having, periodically, blood in your stool?

20 A. I believe at this time, during this time  
21 they did a minor surgery when they were doing a scope,  
22 like a colonoscopy I would say it is with they down  
23 through my throat. They had to open up my upper tract  
24 through my throat because they're saying that my  
25 intestine or my intestine was being blocked because of

1 the closure, the narrowness of the vessels up in my  
2 top. So that's where my pain -- they thought it was  
3 acid reflex or whatnot, and I couldn't digest food, and  
4 that's the issue with that.

5 Q. Okay. So after the June 6th, 2020  
6 incident did you ever receive any medication for your  
7 complaint of defecating blood?

8 A. I don't recall. I do remember getting  
9 suppositories. I do remember getting antacid tablets.  
10 As far as medication wise, I cannot say.

11 Q. Okay. And then still in paragraph 27 you  
12 complain of blurry vision. When was the onset of this  
13 condition after the June 6th, 2020 incident?

14 A. Can you repeat the question, please?

15 Q. Oh, sure. Going back to paragraph 27 of  
16 your declaration, Exhibit 2, I think that one of the  
17 conditions you're attributing to the June 6th, 2020 is  
18 blurry vision, and I'm asking you what was the onset of  
19 this condition after the June 6th, 2020 incident?

20 A. They have diagnosed me as having increased  
21 floaters in my eyes. They're saying I'm scheduled I,  
22 think within the next couple of days, to be seen by the  
23 specialist again. They were more or less concerned  
24 about a detached retina.

25 They thought that might have been an issue,

1 the retina was detached, and they done a couple tests  
2 and they make sure, you know, what you're going to have  
3 are the floaters. The retina they're saying is not  
4 detached and that I cannot stand really anymore head  
5 injuries.

6 Q. And what do you mean when you say  
7 "floaters"?

8 A. They're saying the membrane in the back of  
9 my eye that over a period of time I guess separates and  
10 they drift in your eyeball.

11 Q. Okay.

12 A. So that skin or whatever that membrane is,  
13 that's coming off the back end, that's what's in my  
14 eye.

15 Q. And have you seen diagnosed with floaters  
16 before June of 2020?

17 A. They diagnosed with the floaters for the  
18 vision, but they've also diagnosed me just recently as  
19 having more severe.

20 Q. Okay. Do you recall when did they first  
21 diagnose you with having floaters in your eyes?

22 A. I can't recall.

23 Q. Okay. But was it before June 6th, 2020?

24 A. I believe so.

25 Q. Okay. And how long before June 6th, 2020

1 did you receive that diagnosis?

2 A. I would be guessing.

3 Q. Okay. When you say -- when you -- so is  
4 it your understanding that the floaters cause blurred  
5 vision; is that right?

6 A. The floaters are causing partial blocking  
7 of the vision.

8 Q. Okay.

9 A. Not blurry vision, partial blocking  
10 vision.

11 Q. Okay. Paragraph 27, I think you also  
12 attribute migraines to the June 6th, 2020 incident.  
13 When was the onset of this condition after  
14 June 6th, 2020?

15 A. I still have them now. I got one in right  
16 now but --

17 Q. I thought --

18 A. I have them frequently, but because I  
19 don't have the Ibuprofen or the Naproxen or the regular  
20 Tylenol, that's what my issue is right now.

21 Q. Okay. Had you ever experienced a migraine  
22 headache before June 6th, 2020?

23 A. I have, but never like I'm feeling now.

24 Q. Okay. What do you mean never like you  
25 have been feeling now; what do you mean by that?

1           A. Those migraines are to where it's like,  
2 okay, my head feels like it's gonna pop up the top.  
3 The ones I feel right now is to where my vision will be  
4 blocked and I cannot see. If I hold up my hand to kind  
5 of demonstrate, if I hold my hand right here to the  
6 right side outer side of my eye, I can't see nothing  
7 out of my peripheral.

8           I have no peripheral, let's put that that way,  
9 and my head is pounding to where I need to take my  
10 medication and lay down, and probably after maybe an  
11 hour, hour and 45 minutes I can open my eyes because I  
12 got my vision back and the pain has subsided.

13 (Indicating)

14           Q. And had you experienced this condition  
15 before June 6th, 2020?

16           A. No.

17           Q. When was the onset of the first migraine  
18 after June 6th 2020 if you recall?

19           A. I do not recall.

20           Q. Okay.

21           A. But soon after, yes.

22           Q. By soon do you mean a day after or longer?

23           A. It probably was even shorter than a day  
24 because I complained about I thought I might have  
25 sustained brain damage or a fractured skull. So during

1 that time soon after for maybe a period of five days I  
2 always went to medical to get, in fear of my life now  
3 by walking that patio again or my safety, I should say,  
4 and trying to get the nurse that passed out the pill  
5 medication to document on my sick call slip or a 7219  
6 of my injuries and my complaints about my injuries.

7 Q. And what's the frequency of your migraine  
8 headaches after the June 6th, 2020 incident?

9 MR. FREEDMAN: Objection. Vague.

10 THE WITNESS: I would agree with my attorney  
11 because at times it be frequent and at times it  
12 wouldn't be infrequent.

13 BY MR. MAIORINO:

14 Q. Uh-huh.

15 A. Because you're not pinpointing a time  
16 limit or time span, I cannot answer that question.

17 Q. Okay. So would you agree that after  
18 June 6th, 2020 you experienced migraine headaches  
19 intermittently?

20 A. No. Frequently.

21 Q. Okay. And by frequently, what does that  
22 mean? Are you experiencing migraine headaches on a  
23 weekly basis?

24 A. Biweekly.

25 Q. Okay.

1           A. Well I would say I get an actual migraine  
2 probably within a seven day period, probably four to  
3 five days of that time period.

4           Q. Okay. And let me see if I understand your  
5 testimony, are you saying that you experience a  
6 migraine headache every four to five days?

7           A. No. More frequently than that. Almost  
8 every day less than 24 hours apart.

9           Q. Okay. Since June 6th, 2020?

10          A. Yes.

11          Q. Okay. And what's the -- have you received  
12 medical treatment for these migraines besides I think  
13 you said Ibuprofen?

14          A. They're -- they did the scans. They  
15 checked my eyes, that's getting ready to be treated.  
16 I'm getting ready to have that treated.

17          As far as my head injuries now, I was only  
18 given a vastration (phonetic) or an antibiotic ointment  
19 to put on the cuts and they scheduled me for X-rays.

20          Q. Okay. Before June 6th, 2020 can you tell  
21 me the frequency that you experienced migraine  
22 headaches?

23          A. You said before?

24          Q. Before June 6th, 2020.

25          A. I mean, I get one maybe, within a 30 day

1 period, maybe once, maybe twice at the most.

2 MR. FREEDMAN: Sorry, was that -- I just  
3 couldn't hear that. Was that 3 or 30?

4 THE WITNESS: Within -- prior to that, this  
5 incident, I probably had maybe two serious migraines  
6 within a 30 day period.

7 BY MR. MAIORINO:

8 Q. Okay. I think that within paragraph 27  
9 you also complained of aching collarbone shoulders and  
10 back. Do you see that in paragraph 27 of your  
11 declaration, Exhibit 2?

12 A. I do.

13 Q. Okay. And when was the onset of this  
14 aching condition?

15 A. Soon after this incident.

16 Q. Okay. And by soon after do you mean  
17 within one day?

18 A. No. As soon as this incident happened.

19 Q. Okay. And how long did you experience  
20 this aching condition to your collarbone, shoulders and  
21 back that you attribute to the June 6th, 2020 incident?

22 A. I'm scheduled for an operation some time  
23 this month. They're gonna do a consultation on the  
24 6th, on November 6th, and the collarbone, they did a  
25 nerve conduction study test on it and they're saying



1 that's probably why my neck and back and arm is falling  
2 asleep on me. They found I do have nerve damage.

3 They're gonna remove the bone spur from my arm  
4 and they're saying that it's possible that when they do  
5 that they're going have to repair some tendons or  
6 ligaments in my elbow. So I'm having these issues as  
7 we speak today.

8 Q. Okay. Let me just ask a few followup  
9 questions. You mentioned nerve damage, who told you  
10 that you have nerve damage?

11 A. The specialist, when she referred me  
12 saying she going to put the referral to conduct the  
13 operation on me.

14 Q. Okay. Do you know the name of the  
15 specialist?

16 A. Yes. It's Ms. Smith.

17 Q. Okay.

18 A. She's mentioned in here.

19 Q. Okay. What's she a specialist in?

20 A. I -- neurology, I believe. Nerve  
21 conduction.

22 Q. Where do you have nerve damage?

23 A. They say my shoulder. My shoulder, my  
24 collarbone area. The ulnar nerve area, I believe it  
25 says. (Indicating)

1 Q. Okay.

2 A. Yeah.

3 Q. And you made a reference to your left  
4 shoulder collarbone area; is that right?

5 A. I did.

6 Q. Is that where this person advised that you  
7 were suffering nerve damage to your left collarbone  
8 shoulder area?

9 A. Yes.

10 Q. Okay. You experienced though aching pain  
11 to your shoulders, your back and your collarbone before  
12 June 6th, 2020; is that right?

13 MR. FREEDMAN: Objection. Misstates prior  
14 testimony.

15 BY MR. MAIORINO:

16 Q. You can still answer, sir.

17 A. Never like this.

18 Q. Okay.

19 A. Never like this.

20 Q. What's the difference? When you say  
21 "never like this," what's the difference?

22 A. I'm in pain to where it's affecting my  
23 daily living, that's the difference, to where I'm  
24 frequently taking pain medication because I can't --  
25 we're not allowed to have narcotics in here for the

1 pain. I've been trying to get medical attention and I  
2 can't get medical attention. It's to the point to  
3 where I can't sleep, and if I do sleep it's very  
4 minimal.

5 I can't go out to the yard because if an  
6 incident happen out there, I won't be able to defend  
7 myself. I won't be able to defend myself with a celly  
8 because of my injuries.

9 Q. Uh-huh.

10 A. It's just tearing me up. It's tearing me  
11 up. Physically it's tearing me up and it's tearing me  
12 up mentally.

13 Q. And, sir, we'll get to the left elbow when  
14 we discuss the other incident, but you did mention a  
15 bone spur, and was the bone spur to your left elbow?

16 A. Yes. That's what's being removed.

17 Q. Okay. When you say "removed," they're  
18 going to perform surgery to remove your bone spur on  
19 your left elbow; is that right?

20 A. Yes. The fracture -- it's fractured and  
21 it's just in there. They figured that that's what was  
22 contributing to it, the elbow pain, and it still have  
23 it, so they're gonna remove it.

24 Q. Okay. In 20 -- paragraph 27 of Exhibit 2,  
25 your declaration, you also state that you had cuts and

1 bruises on your legs and your arms; is that right?

2 A. Yes.

3 Q. Where were the cuts located on your legs,  
4 if you could tell me?

5 A. Down low, below my calf area. I believe  
6 that was the two areas I had there from when they were  
7 on my feet.

8 Q. Okay. And when you say they were on your  
9 calf area, were they near the ankle or were they higher  
10 up on the back of --

11 A. More or less towards the ankle.

12 Q. Okay. And this was on the left and right?

13 A. Yes.

14 Q. And where were the bruises located on your  
15 legs?

16 A. In the inside and outer portions of the  
17 leg and the thigh area.

18 Q. Okay. And when you say leg area, what  
19 area are you referring to?

20 A. I mean, I had like big bruises on my left  
21 leg, one by the calf, one down low by the ankle like I  
22 told you, and one was mid thigh.

23 Q. Uh-huh.

24 A. And like I said, because of my  
25 pigmentation in my skin you can't tell unless you know

1 what you're looking at, and I had discoloration there,  
2 and then on my right leg it was towards the knee/calf  
3 area around there that it was just worn.

4 Q. Okay.

5 A. And it wasn't big.

6 Q. Okay. And on your arms, where were the  
7 cuts located on your arms?

8 A. My wrist. The elbow. I had a cut on --  
9 those were the ones that I visually seen.

10 Q. When you say you had cuts on your wrist,  
11 was it the right and left wrists?

12 A. It was both from the handcuffs, and I had  
13 cuts on my knuckles.

14 Q. Left or right knuckles?

15 A. Both of them.

16 Q. Okay. And when you said cuts on your  
17 elbow, do you mean your right or left elbow?

18 A. I had it on my left elbow.

19 Q. Okay. Any other cuts on your arms or legs  
20 that you haven't told me about yet?

21 A. I don't believe so.

22 Q. Okay. How long did it take for the cuts  
23 on your arms to heal?

24 A. I couldn't tell you.

25 Q. Okay. And how long did it take for the

1 cuts on your legs to heal?

2 A. Again, I couldn't tell you.

3 Q. Okay. And you also in paragraph 27 of  
4 your declaration, Exhibit 2, attribute abrasions to  
5 your face and neck from the June 6th, 2020 incident.  
6 Where exactly were the abrasions on your face?

7 A. Above my cheekbone, above my eye, on both  
8 sides right here, No. 1, and right below my left eye  
9 and T-bone area right by my right eye. I had down to  
10 the back side of my neck.

11 Q. I'm sorry, I didn't catch the last  
12 statement, sir.

13 A. The back to the right side of my neck.

14 Q. And that was an abrasion of the right side  
15 of your neck?

16 A. Yeah. That's where it was determined by  
17 Nurse Davis to be abrasions.

18 Q. Okay.

19 A. Cuts/abrasion.

20 Q. And that was on June 15th of 2020,  
21 correct?

22 A. That she seen me?

23 Q. That she made a notation related to  
24 abrasions?

25 MR. FREEDMAN: Objection. Assumes facts not

1 in evidence.

2 THE WITNESS: Yeah, I don't know the date  
3 exactly, but it was soon after the 6th. So I think it  
4 might have been before --

5 BY MR. MAIORINO:

6 Q. Okay.

7 A. -- the 15th, but I'm not sure.

8 Q. Okay. We can -- I don't want you to  
9 guess, but I think I may have a medical record we'll  
10 get to in just a little bit.

11 A. Okay.

12 Q. Then you also attribute nose bleeds to the  
13 June 6th, 2020. Have you ever experienced nose bleeds  
14 before June 6th, 2020?

15 A. Yeah. We all have nose bleeds, yes, but  
16 not like this.

17 Q. Okay. After the June 6th, 2020, when was  
18 the onset of these nose bleeds that you attribute to  
19 this incident?

20 A. I had three. I don't know the dates  
21 because I didn't bring none of my records here. I do  
22 keep a journal where I documented them. I just don't  
23 know the dates as I speak.

24 Q. Okay. So if I understand your testimony  
25 correctly, you've experienced three nose bleeds since

1 June 6th, 2020?

2 A. Yeah, at that time, and prior to seeing, I  
3 believe, the specialist.

4 Q. When was the first of these three nose  
5 bleeds after June 6th, 2020?

6 A. I would say maybe a day-and-a-half  
7 afterwards.

8 Q. Okay. And then how much time elapsed  
9 between the second of these nose bleeds attributed to  
10 June 6th, 2020?

11 A. I couldn't tell.

12 Q. Then how much after the second nose bleed  
13 was the third bleed that you attribute to the  
14 June 6th, 2020 incident?

15 A. Again, I couldn't tell you. I would have  
16 to look at my journal.

17 Q. Okay. Then why is it then you attribute  
18 these three nose bleeds to the June 6th, 2020 incident?

19 A. Because I never had the nose bleeds or the  
20 head injuries prior to that, and the last time I had a  
21 nose bleed from that, the way it was bleeding then,  
22 been years, many many years.

23 Q. Okay. I think another condition that you  
24 attribute to the June 6th, 2020 incident is cracked  
25 front teeth, correct?



1 A. Correct.

2 Q. And did you experience one front tooth  
3 that was cracked or two front teeth that were cracked?

4 A. I have my two front teeth in front right  
5 here, they have horizontal cracks or splits in them,  
6 and I might have been misstating when I said a crack.  
7 Well it is a crack. A chip is what I was talking  
8 about.

9 Q. Okay. I'm a little confused, but maybe in  
10 your declaration, I believe it, it says cracks. Should  
11 it say something different?

12 A. No.

13 Q. So what do you mean by cracked front  
14 teeth?

15 A. I have a line going both down straight up  
16 and down on both these teeth when they hit my head  
17 against the metal piece of the clipboard attached to  
18 the wall.

19 Q. And did you receive treatment from a  
20 dentist after June 6th, 2020 for this condition?

21 A. We are, behind the COVID -- behind the  
22 COVID they haven't done what they supposed to be doing,  
23 and as of recently, when we came back on Thursday, a  
24 tooth that supposed to have a crown on it needs to be  
25 pulled now because of the duration of the COVID, and it

1 has it at the route. I'm having all kinds of problems.  
2 These tooth are loose, and that's probably why I'm  
3 having to sustain the pain.

4 Q. Who told you your tooth was loose?

5 A. A doctor, I can't even pronounce his name.  
6 It start with a T, at Kern Valley.

7 Q. Okay. And had you ever been diagnosed  
8 with a crack tooth before June 6th, 2020?

9 A. No. I had perfect teeth.

10 Q. Okay. Let's refer you to paragraph 29.  
11 If you can take a moment to review that, and let me  
12 know when you're done.

13 A. Okay.

14 Q. Okay. I think in paragraph 29 of your  
15 declaration, Exhibit 2, you state that you believed the  
16 alleged incident occurred because of your filing of  
17 civil lawsuits and complaints against officers and  
18 staff at KVSP; is that correct, sir?

19 A. It is.

20 Q. Okay. And did you ever talk about your  
21 prior lawsuits with Officer Welch or Officer Reed?

22 A. Never.

23 Q. Okay. And how was it that you believe  
24 Officer Reed knew that you had filed lawsuits before  
25 June 6th, 2020?

1           A. On March, I will say 13th, after we had  
2 our housing unit search on the yard and we were still  
3 on lockdown, all yards for complete institutional  
4 search of inmate cells in outer area, we had just been  
5 hit, I believe, two days, three days prior to that, and  
6 during these lockdowns we're escorted where only  
7 critical workers come out to work. I had no type of  
8 traffic or nobody hanging outside of my cell. I was  
9 pulled out after sending a letter to  
10 Associate Warden Starks.

11           She in turn -- well, I don't think she in  
12 turn. In turn, Welch and officer, and I can't even  
13 think of his name right now, Officer Reed,  
14 Officer Cunningham.

15           Q. Oh, Cunningham?

16           A. Officer Reed and Cunningham, again, I said  
17 I knew who Reed was from the interaction with my  
18 neighbor prior to that, and he's on the patio, but  
19 Cunningham is on the patio with him as well, and  
20 Cunningham always makes remarks on the patio about not  
21 wearing a wool hat and whatnot, but I always ignore  
22 him. Anyway, we came in and either him or Cunningham  
23 or both busted my typewrite to stop me from litigating  
24 and filing staff complaints.

25           Q. Okay. And what about Officer Welch, why

1 is it that you believe he knew of your prior civil  
2 litigation filings?

3 A. I'm not saying Welch knew.

4 Q. Okay.

5 A. What I was saying was that it was  
6 indicated to me by Sergeant Dyer specifically that  
7 saying maybe I shouldn't be filing staff complaints and  
8 threatening letters to Associate Warden Elizabeth  
9 Starks.

10 Q. Okay. What about LVN White, do you have  
11 any reason to believe that she would have any knowledge  
12 about any prior lawsuit that you may have filed?

13 A. No. None at all.

14 Q. Okay. Okay. Let's refer to paragraph 34.  
15 Just give you a moment to review that paragraph.

16 A. Paragraph 3 and 4 of what?

17 Q. Of your declaration, Exhibit 2?

18 A. Okay.

19 Q. Okay. And in paragraph 34 you state  
20 "Medical staff have refused to fully address my pain  
21 and injuries from the assault." Do you see that in  
22 your declaration, Exhibit 2?

23 A. Did you say 34 or 3 and 4?

24 Q. 34.

25 A. I thought you said 3 and 4.

1 Q. I'm sorry, paragraph 34 on [REDACTED] 016,  
2 Exhibit 2.

3 A. Okay.

4 Q. Okay. And I understand that you had an  
5 X-ray on your collarbone on June 24th of 2020; is that  
6 right?

7 MR. FREEDMAN: Objection. Assumes facts not  
8 in evidence.

9 BY MR. MAIORINO:

10 Q. You can go ahead and answer, sir.

11 A. I wouldn't know the exact date.

12 Q. Okay. Have you, since June 6th, 2020,  
13 have you had an X-ray on your collarbone?

14 A. Yes, I have.

15 Q. Okay. Since June 6th, 2020 have you had a  
16 CT Scan on your chest?

17 A. Yes, I have.

18 Q. Okay. And then since June 6th, 2020 have  
19 you had an X-ray on your shoulder?

20 A. Yes, I have.

21 Q. Okay. So what other medical treatment do  
22 you think that you should have gotten following your  
23 June 6th, 2020 incident?

24 A. Well the first thing was the duration of  
25 time it took to get the X-rays, to find out what was

1 going on with me.

2 Q. Uh-huh.

3 A. I was in pain and I couldn't get no  
4 medication, and for whatever reason they did not let me  
5 see the Dr. Patel who is the primary care physician of  
6 the institution, of that facility. Instead I was  
7 always referred to the RN, RN J. Davis.

8 Q. Uh-huh.

9 A. I'm assuming she's the one that got the  
10 doctor to sign the orders for the X-rays, but I was  
11 never seen by the doctor, and then -- so when I say to  
12 be able to -- the medical care, I shouldn't be having  
13 to talk to a nurse. I'm supposed to talk to the  
14 primary care physician about what's going on. The  
15 duration of time it took for me to see somebody --

16 Q. Uh-huh.

17 A. -- that's another issue I had because I  
18 could have had a broken bone. I could have had  
19 bleeding in my brain. I could have had separations of  
20 my eye, and this was not being addressed.

21 Q. Okay. And these meetings or evaluations  
22 or examinations with J. Davis occurred in person; is  
23 that correct?

24 A. Yes.

25 Q. Okay. Why don't -- I wanted to discuss

1 with you a few of the documents attached to your  
2 declaration?

3 MR. FREEDMAN: Trace, we've been going for  
4 about another hour. You think we can maybe take a  
5 short five minute break?

6 MR. MAIORINO: Yeah, that's perfect. Okay.

7 MR. FREEDMAN: All right.

8 MR. MAIORINO: Sir, is that acceptable to you?

9 THE WITNESS: Yes, it is.

10 MR. MAIORINO: Off the record.

11 (Whereupon a break is taken.)

12 BY MR. MAIORINO:

13 Q. Hello, Mr. [REDACTED]. We're back after a  
14 short break. Are you prepared to proceed with your  
15 deposition?

16 A. I am.

17 Q. Okay. And, sir, Exhibit 2, your  
18 declaration, paragraph 35, could you review that  
19 briefly, please?

20 A. Okay. 35, right?

21 Q. Yes, 35.

22 A. Okay. I'm done.

23 Q. Okay. And at the start of the deposition  
24 I think that you listed some psychotropic medications.  
25 So my question is, since June 6th, 2020, have your

1 psychotropic medications changed to your knowledge?

2 A. They want to change them. I don't want my  
3 medication changed. That's my choice.

4 Q. Okay. And when you say "they" who's they,  
5 sir?

6 A. The psychologist. Excuse me. The  
7 psychiatrist, a Dr. Messenger, he's one. He got to the  
8 point to where -- cause I had stopped taking them for a  
9 while and it got so bad that they wanted to increase my  
10 mental health status to possibly put me in the  
11 psychiatric service, ESU, EOP, and I end up going to  
12 Ad. Seg behind this incident right here on the pretense  
13 of an investigation to the 602 I filed on this two  
14 months prior, and so when I got off the line and didn't  
15 have to face going up to that patio with Reed and all  
16 the others there, and after I started taking my  
17 medication in Ad. Seg, and then I went to A Yard pre  
18 transfer, and then they in turn was bringing my  
19 medication here.

20 Q. Sir, if you can review Bates No. [REDACTED] 022  
21 that's attached to Exhibit 2?

22 A. Got you.

23 Q. Okay. And do you recognize this document,  
24 sir?

25 A. Yes, I do.



1 Q. Is this your handwriting?

2 A. Yes, it is.

3 Q. Okay. And [REDACTED] 022 of Exhibit 2 is a  
4 7362 Health Care Services Request Form, correct?

5 A. Correct.

6 Q. Okay. And just what's your general  
7 understanding of the purpose of this form?

8 A. What I was trying to do was, as I said  
9 priorly, I heard what was going on inside the  
10 sergeant's office with Nurse White. So this is the  
11 medical form I wrote immediately after to have  
12 documentation for somebody showing that I had these  
13 injuries on my face and I complained about the  
14 dislocated shoulder and whatnot because they already  
15 said they gonna cover it up. They indicated they were  
16 gonna cover it up.

17 Unless I had some type of documentation, I  
18 couldn't be able to proof this.

19 Q. Okay. And you completed this form,  
20 there's a date of June 7th, 2020, is that when you  
21 completed the form, sir?

22 A. Yes, I did.

23 Q. Okay. And is a 7362 form, to your  
24 knowledge, a means to request medical treatment?

25 A. It's for medical treatment, but my purpose

1 was to get a 7219 done documenting my injuries showing  
2 that I was assaulted immediately after the incident  
3 happened.

4 Q. And this document, [REDACTED] 022, the 7362  
5 dated June 7th, 2020, you didn't complain of throwing  
6 up blood, correct?

7 MR. FREEDMAN: Objection. Misstates prior  
8 testimony.

9 THE WITNESS: And it does state about throwing  
10 up blood.

11 BY MR. MAIORINO:

12 Q. Okay. And did you complain about blurry  
13 vision in this 7362 dated June 7th, 2020?

14 A. I did not, and there's a reason for that.

15 Q. What's the reason?

16 A. You see how many lines we have? We're  
17 limited to line space. So I could only put what was in  
18 there, and I'm racing to try to get stuff documented  
19 about what transpired.

20 Q. In this form 7362, [REDACTED] 022 dated  
21 July 7th, 2020, you didn't complain of bloody feces,  
22 did you?

23 A. No, there is not.

24 Q. Okay. Did you complain about bruises or  
25 cuts to your arms and legs in this 7362?

1 A. Not that I've written down here, no.

2 Q. Did you complain about abrasions to your  
3 face or neck on this 7362 dated June 7th, 2020?

4 A. Excuse me. I need to re correct that  
5 because at the very top of the page, of this 22, after  
6 looking at it, if you look at the very top it says no,  
7 and I put need and request a new CDCR 7219 be written  
8 to reflect these injuries are in refusing to document  
9 cuts on the inside of lip slammed into program office  
10 wall. So that's for my lips I put on there because I  
11 didn't have no room, and the other ones I couldn't put  
12 up in there because my whole focus was I could have a  
13 fractured skull and have a broken shoulder. They bone,  
14 the muscle skeletal (sic) problem was my painful most  
15 worrisome issues.

16 Q. Okay. And in this 7362 dated June 7th,  
17 2020, you did not complain about cracked parts of your  
18 teeth; is that correct?

19 A. This has to be done in a different one.  
20 If you look at the top, one's for medical, one's for  
21 mental health, one's for dental and one's for medical  
22 refill. You cannot put all of these in the same issue.

23 If I have a dental issue, I must mark the box  
24 dental, and then I complain about the dental issue. If  
25 I have a mental health issue, I mark the box and raise

1 the mental health issue. I have medication refills, I  
2 mark the box for medication refills.

3 So I did file a dental one on here, and as  
4 well as a mental health on here, and I filed a couple  
5 more on the medical about the abrasions, but from what  
6 I can tell you, I don't have them here.

7 Q. Okay. When did you file the dental  
8 request for services concerning your front teeth?

9 A. Soon after. I don't know the exact date,  
10 but when I was perusing your documents I seen some  
11 indication where they say about the dental request.

12 Q. Okay. Do you know if it was within a day  
13 of June 6th, 2020?

14 A. I don't know verbatim.

15 Q. Okay. Okay. Did you complain about nose  
16 bleeds in this 7362 dated June 7th, 2020?

17 A. I did not.

18 Q. Okay. When do you recall having contact  
19 for the first time with Nurse Davis after the incident  
20 on June 6th, 2020.

21 A. The day she actually -- I talked to her  
22 before about medications and what not, but regarding  
23 this incident, it was -- it have to be soon after. So  
24 I would say probably after the June -- June 11 to 15th  
25 may be correct.

1 Q. So if I can get you to review [REDACTED] 024  
2 and [REDACTED] 025 attached to Exhibit 2. They're going  
3 to be -- there's a contact with Nurse Davis dated  
4 June 10th, 2020.

5 A. These are not stapled all the way  
6 correctly, so give me a second.

7 Q. Okay.

8 A. You say 024?

9 Q. 024.

10 A. Okay.

11 Q. And 025?

12 A. 024, 025. Okay. I have them here.  
13 What's the date on this, 6-10?

14 Q. So at the bottom of [REDACTED] 024 there's a  
15 date of June 10th, 2020.

16 A. Okay. What page?

17 Q. I'm sorry?

18 A. What page?

19 Q. What page do you have in front of you,  
20 sir?

21 A. I was looking for 24, [REDACTED] 024, 025, and  
22 I had just done with page 026.

23 Q. Okay. So why don't you refer back to 025.

24 A. Okay. I'm on 25.

25 Q. And that's a June 10th, 2020 entry by

1 Nurse Davis. Do you see the middle of the page where  
2 it says no bruising or cuts to face noted?

3 A. Okay. I'd like to comment on that too.

4 Q. And I'll ask you, do you disagree with  
5 that notation by your statements?

6 A. Okay. I see it. No, I don't agree with  
7 that, no.

8 Q. Okay. Is it your contention you had  
9 bruises and cuts on your face on June 10th, 2020?

10 A. It's -- yes and not only do I know that's  
11 my contentions, but the nurse is the one that actually  
12 inquired with me well how would you describe them, when  
13 she was typing in the computer, and I said they cuts,  
14 bruises, and then she was like, abrasions, and she  
15 said, yeah, and then she actually gave me some  
16 antibiotic ointment to put on my lacerations in the  
17 back of my neck.

18 Q. And when did you -- did you do this on  
19 June 10th, 2020?

20 A. Yes. This is the first time I'm seeing  
21 this. Yes, she did this where she actually typed it  
22 in. I know for a fact that she did this because when I  
23 access the 7219 and getting a copy of it she went into  
24 the nurses' station up front where the pill call window  
25 is, and she wasn't sure of the procedure of the 7219.

1           The custody officer inside came in and was  
2 listening to the confidential conversation she was  
3 having about the 7219, and that's when they called the  
4 sergeant to come and talk to me, and this is a sergeant  
5 that lied to me and falsified documents before, and  
6 when he took me out of the holding cell and he rolled  
7 his eyes, okay, what's go on? I told him, I'm not  
8 talking to you, you know what I'm saying. You know,  
9 I'm good. I'm going back, because I was already done  
10 with my appointment.

11           As I referred to my attorney, that these  
12 documents, this is my first time I'm seeing them, but I  
13 knew she had wrote about the abrasions and cuts on me.  
14 So that's why I said, you know, what I said.

15           Q. Well let me direct you to [REDACTED] 035  
16 attached to Exhibit 2, and then do you see the notation  
17 that was entered by Nurse Davis --

18           A. Yes.

19           Q. -- and the dates of June 15th, 2020.

20           Did you see on 035 of Exhibit 2 where it  
21 states "Ointment for his face and check"?

22           A. I do. I do.

23           Q. And then "I/P has some abrasions to his  
24 face and right side of his neck that are (comment pink  
25 looking. He has one above his right eyebrow, left

1 cheek, right cheek and right neck. I/P reported that  
2 he has had three nose bleeds since last saw him and  
3 he's been feeling drowsy"; do you see that, sir?

4 A. I do.

5 Q. Okay. And so do you still believe that  
6 Nurse Davis provided you with ointments on June 10 of  
7 2020?

8 A. Yeah. She did it the first time I seen  
9 her. That was -- and I believe this was the first time  
10 that I seen her, and actually this is what she gave me.

11 Q. Okay, sir.

12 MR. FREEDMAN: Can we take a very short break,  
13 like three minutes?

14 MR. MAIORINO: Yes. We'll take five minutes.

15 MR. FREEDMAN: Sure. Five minutes, fine.

16 (Whereupon a break is taken.)

17 BY MR. MAIORINO:

18 Q. Hello, sir. Are you prepared to proceed  
19 with your deposition?

20 A. I am.

21 Q. We're back on record after a short break  
22 and we're discussing some of the medical records  
23 attached to Exhibit 2 which is your declaration filed  
24 in this action. You saw Nurse Davis on June 10th,  
25 2020, correct?



1 A. I did.

2 Q. And you didn't tell her about the blood in  
3 your feces on that date; is that correct?

4 A. I do not recall.

5 Q. Okay. And you saw Nurse Davis on  
6 June 15th, 2020, correct?

7 MR. FREEDMAN: Objection. Assumes facts not  
8 in evidence.

9 THE WITNESS: Again, I can't recall. I know I  
10 seen him twice.

11 BY MR. MAIORINO:

12 Q. Okay. Moving onto Exhibit 2, [REDACTED] 031.  
13 Sir, do you have that in front of you?

14 A. I do.

15 Q. And what are they -- do you recognize this  
16 document, sir?

17 A. I do.

18 Q. And what do you recognize it as?

19 A. This is a request that again was asking me  
20 to document on this form right here where it's a record  
21 of my injuries.

22 Q. Okay. And [REDACTED] 031 is a 7362 form that  
23 bears a date of June 11th, 2020, correct?

24 A. Correct.

25 Q. Okay. And you completed this form on

1 June 11th, 2020?

2 A. Yes, I did.

3 Q. Okay. And in this request for health care  
4 services you didn't itemize the injuries that you  
5 itemized in paragraph 27 of Exhibit 2 your declaration;  
6 is that correct?

7 A. No, I did not.

8 Q. And why didn't you do that, why didn't you  
9 itemize the conditions that you were experiencing on  
10 June 11th of 2020?

11 A. As you can see, I filed several other ones  
12 prior to this and soon after this to where you're only  
13 limited so many lines. So I am repeatedly trying to  
14 get everything I have to say on paper and get it  
15 documented that this is true, yes, this is true, yes,  
16 this is true, and it's not being done.

17 Q. After submitting this 7362 dated  
18 June 11th, 2020, that's when you had contact with  
19 Nurse Davis on June 15, 2020; is that correct?

20 MR. FREEDMAN: Objection. Assumes facts not  
21 in evidence.

22 THE WITNESS: I don't understand the question.

23 BY MR. MAIORINO:

24 Q. This 7362 is dated June 11th, and did you  
25 have any contact with Nurse Davis at any time between

1 June 11th -- after June 11th but before June 15th?

2 A. Oh, I don't believe so.

3 Q. Let's move to [REDACTED] 032 of Exhibit 2.

4 Sir, can you take a moment to review that?

5 A. Yes, I do.

6 Q. Okay. And this is your handwriting; is  
7 that correct?

8 A. Yes, it is.

9 Q. Okay. And it bears a date of June 12,  
10 2020; is that correct?

11 A. It does.

12 Q. Okay. And in this medical request form  
13 you didn't itemize the injuries you received from  
14 June 6th, 2020 concerning blood in your feces, cracked  
15 front teeth, nose bleeds, aches and pains to your  
16 shoulder or back; is that correct?

17 A. That is correct.

18 Q. And why didn't you do that, sir?

19 A. Because I had previously itemized those  
20 injuries on the ones prior to this one being filed.

21 Q. Okay. Okay. And let's move on to the  
22 next page, Exhibit 2, Bates No. [REDACTED] 033. Can you  
23 take a moment to review that, sir?

24 A. Okay.

25 Q. Okay. This is another 7362 that bears a

1 date of June 14th, 2020, correct?

2 A. Yes, it is.

3 Q. Okay. And you recognize this document,  
4 sir?

5 A. I do.

6 Q. Okay. Is this your handwriting?

7 A. It is.

8 Q. Okay. And when you submitted this request  
9 for health care services you didn't itemize all of the  
10 injuries you itemized on paragraph 27 of your  
11 declaration, Exhibit 2; is that right?

12 A. On this document, no, but the other  
13 documents as I stated before previously filed they're  
14 documented.

15 Q. Okay. Let's move on.

16 A. Can I expand on one more issue?

17 Q. Sure.

18 A. Just to point out, if you also look at the  
19 bottom of that same document of 033 it says, and it  
20 says this on no other documents, inmate able to file on  
21 6-15-20, and this is documented. So what's she saying  
22 is my injuries are documented on a 615 issue, and  
23 that's when she seen me.

24 Q. Okay.

25 A. None of these other documents have that on

1 there, if you notice that.

2 Q. And that handwriting, is that J. Davis,  
3 RN, is that how you read that?

4 A. I couldn't tell you, but that's what I  
5 would assume, yes.

6 Q. Okay. And I think that we've previously  
7 reviewed the medical record that relates to June 15,  
8 2020 with Nurse Davis; is that right?

9 A. Yes.

10 Q. Okay. Sir, let's take a quick look at  
11 Bates No. [REDACTED] 042 attached to Exhibit 2, your  
12 declaration, and if you can just take a moment to read  
13 that.

14 A. What page was that again?

15 Q. [REDACTED] 042.

16 A. Okay.

17 Q. And do you recognize this document, sir?

18 A. I do.

19 Q. Is this your handwriting?

20 A. It is.

21 Q. Okay. Then you recognize this as a 7362  
22 Health Care Services Request Form with the date of  
23 June 19th, 2020, correct?

24 A. It is.

25 Q. Okay. And in this 7362 you didn't itemize

[REDACTED]

1 all of your alleged injuries that you itemized in  
2 paragraph 27 of your declaration; is that correct?

3 A. This one is not a medical request. It's  
4 to see mental health, and that's what's circled at the  
5 top. So, no, it's documented as medical. This is  
6 documented as a mental health request.

7 Q. Okay. But you didn't itemize your  
8 injuries that you purported to have received on  
9 June 6th, 2020 in this document; is that right?

10 A. Again, as I said previously, they're not  
11 documented, but I'm not required to document my medical  
12 to my mental health.

13 Q. Okay. If you could turn to [REDACTED] 042 of  
14 Exhibit 2.

15 A. Okay.

16 Q. If you can take a moment to read that.

17 A. Okay.

18 Q. Okay. Do you recognize this document,  
19 sir?

20 A. I do.

21 Q. Okay. And it's a 7362 Health Care  
22 Services Request Form that bears a date of June 21,  
23 2020?

24 A. Yes, it does.

25 Q. Okay. And it looks like it was received

1 and reviewed by Nurse Davis; is that right?

2 A. Again, yes.

3 Q. Okay. And in this document, [REDACTED] 043,  
4 you didn't itemize all of your purported injuries that  
5 you itemized in paragraph 27 of your declaration; is  
6 that right?

7 A. I did not, and there's a reason for that.

8 Q. Okay. Tell me the reason, please.

9 A. As it stipulates in this document, it's  
10 been 16 days since I've seen her, and I'm not sure  
11 exactly what date that puts me at, that I've would have  
12 been supposed to have had X-rays taken. If you read  
13 her notes she's stipulating that the X-ray machine is  
14 broken. So, again, I'm concerned about my health and  
15 my headache and my pain I'm having in my body, and  
16 she's saying I'm supposed to get X-rays, but there's no  
17 X-rays transpiring, and, again, I'm like, well how long  
18 do I got to wait before I get X-rays for my injuries.

19 Q. Okay. Earlier in your testimony following  
20 the June 6th, 2020 incident you said that as a result  
21 of that incident your daily life activities have been  
22 affected; do you recall that testimony?

23 A. What number are you on?

24 Q. I'm not on any number. I'm just referring  
25 to earlier, the earlier part of this deposition.

1 A. Okay.

2 Q. As a result of the June 6th, 2020  
3 incident, your daily life had been affected, your daily  
4 activities?

5 MR. FREEDMAN: Objection. Misstates prior  
6 testimony.

7 BY MR. MAIORINO:

8 Q. Do you recall saying that, sir?

9 A. Not to that effect.

10 Q. Okay. Have your daily activities been  
11 affected after June 6th, 2020?

12 A. Yes.

13 MR. FREEDMAN: Objection. Calls for a legal  
14 conclusion.

15 BY MR. MAIORINO:

16 Q. And when you say that your daily  
17 activities have been affected, are you still able to go  
18 to the law library or at least actively pursue your  
19 litigation, whether it's criminal or civil?

20 MR. FREEDMAN: Objection. Compound.  
21 Argumentative. Confusing.

22 THE WITNESS: Since the COVID we not able to  
23 have no program here.

24 BY MR. MAIORINO:

25 Q. Okay. I'm not talking about that, I'm



1 talking about since June 6th, 2020?

2 A. We have been we -- have been on a modified  
3 program to where the law library shut down, all the so  
4 called programs are shut down. One building on the  
5 yard. So in the sense you asked that question, no, I  
6 have not been able to have no program here.

7 Q. Okay. And I'm not speaking of  
8 specifically going to any area of the prison for any  
9 particular activity, but earlier in your testimony you  
10 identified six pending civil lawsuits that you were  
11 working on.

12 A. Correct.

13 Q. Okay. Are those six pending lawsuits part  
14 of your daily activities?

15 MR. FREEDMAN: Objection. Argumentative.  
16 Asks for a legal conclusion. Confusing.

17 THE WITNESS: It's too broad a question for me  
18 to answer.

19 BY MR. MAIORINO:

20 Q. Let me ask you on your civil lawsuits,  
21 daily or weekly?

22 A. I try to do it when I have time and  
23 depending on how I'm feeling.

24 Q. Okay. Have you been able to work on your  
25 civil lawsuits since June 6th, 2020?

1 A. I have.

2 Q. Okay. You are aware that prisons keep  
3 track of legal mail, correct?

4 A. I am.

5 Q. You, in fact, have filed 602s related to  
6 legal mail?

7 MR. FREEDMAN: Objection. Assumes facts not  
8 in evidence.

9 THE WITNESS: I have.

10 BY MR. MAIORINO:

11 Q. You have though, right, sir?

12 A. Yes, I did.

13 Q. Okay. So why don't we look at Exhibit 15.  
14 Exhibit 15 is marked [REDACTED] 161 through 169.

15 A. Okay.

16 Q. Okay. As part of your 602 concerning  
17 legal mail, you actually got to review legal mail logs,  
18 correct?

19 MR. FREEDMAN: Objection. Assumes facts not  
20 in evidence.

21 THE WITNESS: I'm unclear about the question  
22 you're asking.

23 BY MR. MAIORINO:

24 Q. Okay. Earlier you told me you filed a 602  
25 concerning your legal mail?

1 A. I did.

2 Q. And have you filed more than one 602  
3 related to your legal mail?

4 A. Not legal mail, but mail, yes.

5 Q. Okay. And as part of your 602 concerning  
6 legal mail did you attach portions of your legal mail  
7 log?

8 A. I did.

9 Q. Okay. I'll represent to you that this is  
10 your legal mail log from Kern Valley State Prison for  
11 the approximate one year that you were housed at  
12 Kern Valley. Can you take a look at [REDACTED] 164, 165 to  
13 166?

14 A. Okay.

15 Q. Okay. So on [REDACTED] 164 do you see an entry  
16 for June 8, 2020?

17 A. On 164, June 8. Yes, I do.

18 Q. Okay. And then 166 continues through  
19 June, July, August, September 2020; do you see that on  
20 [REDACTED] 165?

21 A. I do.

22 Q. Okay. And then on [REDACTED] 166 continues  
23 from September through October 13th of 2020.

24 A. What number?

25 Q. [REDACTED] 166.

1 A. I do.

2 Q. Okay. So -- I mean since June 6, 2020,  
3 that's approximately 120 days, I'll represent to you  
4 that I've counted from June 8, 2020 to 10-13-2020,  
5 there's like 105 entries of legal mail. So has the  
6 June 6th 2020 affected your ability to correspond  
7 concerning your legal and pending lawsuits?

8 MR. FREEDMAN: Objection. The document  
9 speaks for itself. Vague. Argumentative.

10 THE WITNESS: There's is specific time that  
11 I'm speaking on that I have evidence of, I've sent out  
12 legal mail to Rosen Bien Galvan, Attorney General, the  
13 Office of Internal Affairs on page 165 --

14 Q. Uh-huh.

15 A. -- and that specific due with the time  
16 period of 7-2-20 to 7-14-202. I have my 22 forms  
17 signed by the officer --

18 Q. Uh-huh.

19 A. -- who specifically states that he  
20 received my mail from me between these dates and that  
21 he processed these mail between these dates from the  
22 building and the legal mail room log.

23 Q. Okay.

24 A. The legal mail supervisor, named Trujillo,  
25 say he not there between this day and the 14th when he

1 got back, and I also have documentation showing that  
2 the mail that I sent out did not get up there.

3 Q. And thank you for that, sir, but I'm not  
4 asking you about the specific instance of your legal  
5 mail 602, because based on this legal mail log there's  
6 105 legal mail entries within the last 120 days since  
7 the June 6th, 2020 incident. So my question to you is  
8 how has the June 6th, 2020 incident affected your  
9 ability to correspond concerning your lawsuits that are  
10 pending?

11 A. So, again, I'm not saying that this has  
12 been the issue. The issue I'm specifically speaking of  
13 with the legal mail deals with me notifying individuals  
14 about the incident, my attorney and this period of time  
15 specifically that I got the evidence for proving my  
16 legal mail and not went out.

17 MR. FREEDMAN: Okay. Trace, let's go off the  
18 record for a second.

19 MR. MAIORINO: Sure.

20 (Whereupon a break is taken.)

21 BY MR. MAIORINO:

22 Q. Okay. Sir, Mr. [REDACTED] are you prepared  
23 to proceed after the brief break?

24 A. Yes. Yes, I am.

25 Q. Okay. Let me just ask you a few questions

[REDACTED]

1 about the June 6th, 2020 incident, and you did file an  
2 inmate grievance concerning this incident, correct?

3 MR. FREEDMAN: Objection. Misstates testimony  
4 and assumes facts not in evidence.

5 BY MR. MAIORINO:

6 Q. Okay. Sir, did you file an inmate  
7 grievance concerning the June 6th, 2020 incident?

8 A. I did.

9 Q. Okay. And why don't you take a look at  
10 Exhibit, I believe it's Exhibit 4 and 5, and Exhibit 4  
11 is Bates No. [REDACTED]074 through [REDACTED]083, and Exhibit 5  
12 is Bates No. [REDACTED]085 through [REDACTED]092?

13 A. Okay. I'm familiar with them.

14 Q. Okay. Exhibit 4, do you recognize that  
15 document, sir?

16 A. I do.

17 Q. Okay. And what do you recognize that  
18 document to be?

19 A. This was the first original 602 I filed on  
20 the use of force, I believe.

21 Q. Okay. And it bears a date of June 7th,  
22 2020, correct?

23 A. It does.

24 Q. Okay. And then looking at Exhibit 5, do  
25 you recognize that document?

1 A. I do.

2 Q. And is that your handwriting, sir?

3 A. It is.

4 Q. And what do you recognize this document to  
5 be?

6 A. This is the document I filed for the  
7 cancellation of the first 602 of June 7th.

8 Q. Okay. And so the June 7th grievance,  
9 that's been marked as Exhibit 4, what was the outcome  
10 of this grievance, if you know?

11 A. There has been several things that have  
12 happened. I filed an appeal, the next one you're  
13 talking about, Exhibit 5. They had come to talk to me,  
14 or tried to talk to me at least three times with the  
15 video interview.

16 I was supposed to be scheduled to talk to  
17 internal affairs. I believe it was prior to me coming  
18 up here. Nothing has become of these interviews that I  
19 am aware of.

20 Q. Okay. Sir, I wanted to focus your  
21 attention to Exhibit 4, the inmate grievance that bears  
22 the June 7th, 2020 date.

23 A. Okay.

24 Q. And the status of this grievance is what,  
25 sir? Is this the one that was cancelled?

1 A. It's been reinstated.

2 Q. Okay. Let's go first with the  
3 cancellation. When was it that you learned it was  
4 cancelled?

5 A. I believe it might have been this day.  
6 That's the day I wrote it.

7 Q. What day would that be, sir?

8 A. Let me take a second to read it.

9 Q. Okay. Sure.

10 MR. FREEDMAN: I'm going to switch my location  
11 briefly, but there's no need to stop the deposition.  
12 I'll just carry my laptop to do that.

13 I'm going to hide my picture very briefly,  
14 but, Trace, you can keep going. I will object orally  
15 if I need to.

16 THE WITNESS: Okay. What was the question you  
17 asked me?

18 BY MR. MAIORINO:

19 Q. We were -- you had mentioned that it was  
20 cancelled and then it was reinstated. So going back to  
21 Exhibit 4, that's the grievance with the June 7th, 2020  
22 date, and when was it that you learned that that  
23 grievance was cancelled?

24 A. I believe I got the notification on the  
25 26th.



1 Q. Okay. And then so Exhibit 5 is a  
2 grievance that bears a date of July 26th; is that  
3 right?

4 A. Correct.

5 Q. Okay. And then so did you prepare  
6 Exhibit 5 on the date that you received the  
7 cancellation of Exhibit 4?

8 A. I believe so.

9 Q. And why did you submit Exhibit 5, that  
10 grievance?

11 A. Because per Title 15 when you want to make  
12 a staff complaint of use of force they cannot cancel  
13 it. They must investigate it regardless of the time  
14 frame it is.

15 Q. Okay. And then that leads me to my next  
16 question, you mentioned that Exhibit 4 that's the  
17 June 7th, 2020 grievance was reinstated; do you recall  
18 that, sir?

19 A. I do.

20 Q. Okay. What do you mean by reinstated?

21 A. It was -- I appealed the cancellation. I  
22 took it to the director's level of appeals. The  
23 director had them reinvestigate it.

24 The Office of Internal Affairs sent some  
25 sergeant down for me to be re interviewed again from

1 the letter in the complaint I filed with them and  
2 rejection notice. So that's why it was reopened again.

3 Q. Okay. And, let's see, has it been -- when  
4 you say it's reopened and reinstated, is it being  
5 reviewed by the third level?

6 A. I can't speak to that. Only thing I can  
7 speak on was they originally -- they went to do a video  
8 of a staff complaint interview with me. I have refused  
9 to do the interview with Kern Valley staff because I  
10 already know they were going to cover this situation  
11 up or try to downplay it, and they were trying to find  
12 out the identity of the witnesses, my secondary  
13 witnesses.

14 So, therefore, knowing what's going on in the  
15 street and the issue with people with officers out  
16 there, I knew that this would be a breeding ground for  
17 that to happen and to get away with it, and experience  
18 has shown me that they had done this and got away with  
19 it.

20 Q. Okay. And I think earlier in your  
21 testimony you told us that you do have a pending  
22 lawsuit related to this incident?

23 A. I do, but I don't know the status of it.

24 Q. Okay. I think we can put Exhibit 4 and 5  
25 to the side, and then do you have Exhibit 29 in front

1 of you?

2 A. Exhibit 29? I do.

3 Q. Okay. Can you take a moment to read  
4 Exhibit 29, it's Bates No. 438, 439?

5 A. Yeah, I see this.

6 Q. Okay. And do you recall pushing a cart on  
7 June 17th, 2020?

8 A. I do.

9 Q. Okay. Do you recall what items were on  
10 the cart?

11 A. I do.

12 Q. And what were those items?

13 A. My property, my legal boxes of property,  
14 my DME, my equipment, my TV, things of that nature.

15 Q. Okay. And how many boxes of legal  
16 property did you have?

17 A. I have no idea.

18 Q. Okay. You have no idea how many boxes you  
19 had on June 17th, 2020?

20 A. No, I don't. I don't even think I had  
21 boxes. I believe I had to wrap them up in sheets  
22 because they don't give you boxes.

23 Q. Okay. And at the end of that paragraph  
24 Officer Maldonado who wrote this chrono states "I  
25 observed [REDACTED] moving around pushing a large cart

1 without any struggle, pain or inconvenience." Do you  
2 agree that you were able to push the large cart without  
3 any struggle, pain or inconvenience?

4 A. No. I was in pain, and it took me longer  
5 than ten minutes and I kept on stopping. So this is  
6 inaccurate.

7 Q. Okay. Why don't you move on to  
8 Exhibit 30, and Exhibit 30 is [REDACTED] 440 to [REDACTED] 441.

9 A. Okay.

10 Q. If you can take a moment to review that?

11 A. Okay.

12 Q. And do you recall mopping yourself on  
13 June 17th, 2020?

14 A. I do, with some difficulties.

15 Q. Okay. Is that something you do regularly,  
16 mop your own cell?

17 A. I never mop my cell. We are not afforded  
18 a mop.

19 Q. Okay.

20 A. We have to do it by hand or by a towel.  
21 The cell was so dirty, and I specifically asked for  
22 somebody to clean it out. The officers are required to  
23 clean the cells out, and they did not, so I was forced  
24 to do it myself.

25 Q. Okay. And Officer Davidson who drafted

1 this chrono at the end of the first paragraph states  
2 "While observing [REDACTED] clean and mop his cell it  
3 should be noted that he was not struggling, in pain and  
4 using full range of motion with both arms? Do you  
5 agree with that statement?

6 A. Not only do I disagree, how does that  
7 officer, any officer tell what I am feeling, and that's  
8 my answer.

9 Q. Okay. Thank you, sir. Let's put that  
10 aside.

11 I'm going to ask you a few questions about the  
12 September 16, 2020 incident that we briefly touched on  
13 at the beginning of your depo, okay?

14 A. Okay.

15 Q. And I think that's in paragraph 4 of  
16 Exhibit 2. If you can just review that for a moment  
17 and then let me know when you're done.

18 A. Okay. I'm done.

19 Q. Okay. And you don't describe the  
20 circumstances of the injury that you're claiming  
21 occurred on September 16th, 2020; can you tell me the  
22 circumstances?

23 MR. FREEDMAN: Objection. Relevance.

24 THE WITNESS: I'm kind of lost at what you  
25 want me to specifically describe.

1 BY MR. MAIORINO:

2 Q. Let's see. In paragraph 4 on [REDACTED] 008,  
3 Exhibit 2, it states "I also have been wearing a left  
4 arm sling since March 2020 after sustaining injuries to  
5 my left elbow and shoulder in an incident where staff  
6 assaulted me on A Yard around September 16th, 2019."  
7 Did I read that correctly?

8 A. You did.

9 Q. Okay. So where it says "where staff  
10 assaulted me on A Yard around September 16, 2019," can  
11 you identify for me the staff that you're speaking of  
12 in this declaration?

13 MR. FREEDMAN: Objection. Relevance.

14 THE WITNESS: Yes, I can.

15 BY MR. MAIORINO:

16 Q. Okay. Who was that?

17 MR. FREEDMAN: Objection. Relevance.

18 THE WITNESS: It was CO Castellanos,  
19 D. Castellanos. It was CO Figueroa. It was a CO  
20 Negrette. It was a Sergeant Andersen.

21 It was an unknown female officer there that I  
22 don't know who she was, and to the best of my  
23 recollection those are the ones I do remember their  
24 names off the top of my head.

25 BY MR. MAIORINO:

1 Q. Okay. Let me just repeat that back to  
2 you. So I understand D. Castellanos. Is that, if you  
3 know, spelled C-a-s-t-e-l-l-a-n-o-s?

4 A. Yes, it is.

5 MR. FREEDMAN: Objection. Relevance.

6 BY MR. MAIORINO:

7 Q. And Figueroa, is that F-i-g-u-e-r-o-a?

8 MR. FREEDMAN: Objection. Relevance.

9 THE WITNESS: Yes, it is.

10 BY MR. MAIORINO:

11 Q. Okay. Do you know of the first initial?

12 MR. FREEDMAN: Objection. Relevance.

13 THE WITNESS: I believe it's A.

14 BY MR. MAIORINO:

15 Q. Okay. And Negrete spelled N-e-g-r-e-t-e?

16 MR. FREEDMAN: Objection relevance.

17 THE WITNESS: T-t-e. Two T's, e.

18 BY MR. MAIORINO:

19 Q. Okay. Do you have a first initial?

20 MR. FREEDMAN: Objection. Relevance.

21 THE WITNESS: I don't know. I do not.

22 BY MR. MAIORINO:

23 Q. Okay. And Sergeant Anderson,

24 A-n-d-e-r-s-o-n?

25 MR. FREEDMAN: Objection. Relevance.

1 THE WITNESS: S-e-n, I believe.

2 BY MR. MAIORINO:

3 Q. Okay. And then because you identified one  
4 unknown female officer, is Castellanos, Figueroa,  
5 Negrette and Andersen, are they all male?

6 A. Yes, they are.

7 MR. FREEDMAN: Objection. Relevance.

8 THE WITNESS: Yes, they are.

9 MR. FREEDMAN: Just make sure to wait for me,  
10 Mr. [REDACTED]

11 THE WITNESS: Okay.

12 BY MR. MAIORINO:

13 Q. And what is it that you're alleging  
14 occurred on September 16th, 2019 that resulted in an  
15 injury to your left elbow and shoulder?

16 MR. FREEDMAN: Objection. Relevance.

17 THE WITNESS: On June -- on September 16th I  
18 had an early morning medical ducat for chronic care I  
19 believe. I came on the patio the first time and I had  
20 my legal documents in which the officers told me that  
21 because I'm going to the patio I can take to the law  
22 library window drop off to get a photocopy. After a  
23 period of waiting for the patio before I get on the  
24 patio and getting on the patio Castellanos approached  
25 me and told me I can't take my stuff down there to the



1 law library.

2 He forced me to go back to my building and  
3 drop it off. Upon coming back to the law library, or  
4 to the patio, again, a substantial wait, he yells at me  
5 to come on the patio. I come on the patio and he wants  
6 me to -- I'm waiting for him to actually get to me, and  
7 he wants me to turn around and spread my legs and put  
8 my hands over my head.

9 I can't do that. I can't spread my legs. I  
10 can't straddle chairs, none of that. I tried to do  
11 that to him, and he tells me to turn around anyway. So  
12 I turn around. He wants me to raise my arms.

13 BY MR. MAIORINO:

14 Q. Uh-huh.

15 A. I raise my arms, but I can't hold my arms  
16 up. He in turn grabbed me by the back of my, you know,  
17 what he did was he told me -- okay, he had me by the  
18 back of my hand, my shirt, and back of my shirt bald up  
19 in a fence, and he told me to spread my legs. I spread  
20 it as far as I can go because of my injury.

21 He said you can go a little further. I said  
22 no, I can't. He kicks my leg wide. I hallow out in  
23 pain.

24 The other officers on the patio see what's  
25 going on, and there's no inmates out there at this

1 time.

2 Q. Okay?

3 A. I'm walking down there towards him. He  
4 grabbed me, forced me, pulled me by the back of my  
5 shirt. Seeing that his co workers were coming, he  
6 forced me against the wall and threw my hands up there,  
7 and the other hand he threw up there and I told him I  
8 can't go that high, so he grabbed me by my back of my  
9 back arm and he slammed my arm, my left arm into the  
10 wall. When it hit, that's where the bone broke off at.  
11 (Indicating)

12 Q. Okay. And at the time that this happened,  
13 let me just see if I understand, was your back facing  
14 the wall?

15 MR. FREEDMAN: Objection. Relevance.

16 THE WITNESS: No. My face was facing the  
17 wall.

18 BY MR. MAIORINO:

19 Q. Okay. And what did he do to your left arm  
20 that caused it to make contact with the wall?

21 MR. FREEDMAN: Objection. Relevance.

22 THE WITNESS: Because my hand can't be put up  
23 over my head I had it where it was face high, he  
24 grabbed me by the back of my arm and he wants me to --  
25 he's pushing me flat against the wall, all the way

1 against the wall, and while he's doing that he has my  
2 elbow and shoved my arm against the wall, and his  
3 sergeant and everyone else is coming up there and  
4 they're routing him on.

5 BY MR. MAIORINO:

6 Q. So if I understand you correctly then  
7 you're facing the wall, and did you have both your  
8 right and left palm on the wall?

9 MR. FREEDMAN: Objection. Relevance.

10 THE WITNESS: At that time, yes, I did.

11 BY MR. MAIORINO:

12 Q. Okay. And were your elbows then tucked  
13 next to your lower chest or rib area?

14 MR. FREEDMAN: Objection. Relevance.

15 THE WITNESS: More or less the rib area.

16 BY MR. MAIORINO:

17 Q. Okay. And was there any space between,  
18 you know, your arm and your chest area, or were they  
19 snuggling up against your chest?

20 MR. FREEDMAN: Objection. Relevance. Vague  
21 and ambiguous.

22 THE WITNESS: And I can't tell you for sure  
23 how it happened.

24 BY MR. MAIORINO:

25 Q. Okay. And then so if I understand you

1 correctly, it was Officer Castellanos, and then he  
2 pushed you from behind and he caused your left elbow  
3 then to make contact with the wall?

4 MR. FREEDMAN: Objection. Compound. Vague.  
5 Misstates prior testimony.

6 BY MR. MAIORINO:

7 Q. You can answer.

8 A. Almost like that.

9 Q. Okay. Can you just tell me what's not  
10 right about that?

11 A. When he grabbed me from the back of my  
12 shirt he had me -- he had this hand up here behind my  
13 shirt, and I'm showing you right in the back of my  
14 shirt with his hand on my back arm of my left arm and  
15 my hand is at the equal distance of my face.

16 Q. Okay.

17 A. And he slams, as you can see, he slams my  
18 elbow, my back arm going forward, like so, against the  
19 wall. (Indicating)

20 Q. Okay.

21 A. And then he pushes me to the wall.

22 Q. Okay. And your elbow, when you're  
23 referring to your elbow, it's the left elbow, correct?

24 A. That is correct.

25 Q. And have -- what's the injury that you're

1 attributing to this [REDACTED] to your left elbow?

2 MR. FREEDMAN: Objection. Relevance.

3 THE WITNESS: I have a broken bone spur  
4 scheduled to be removed.

5 BY MR. MAIORINO:

6 Q. Okay. Other than the left elbow, any  
7 other injuries you're attributing to this incident?

8 MR. FREEDMAN: Objection. Relevance.

9 THE WITNESS: That was my main primary  
10 concern.

11 BY MR. MAIORINO:

12 Q. Okay. Let me just ask you a few  
13 questions. Did you sustain an RVR because of this  
14 incident with Officer Castellanos?

15 MR. FREEDMAN: Objection. Relevance.

16 THE WITNESS: I did not.

17 BY MR. MAIORINO:

18 Q. Okay. And I think earlier in the  
19 deposition you said that you did file a federal lawsuit  
20 but that it was dismissed; is that right?

21 MR. FREEDMAN: Objection. Relevance.

22 THE WITNESS: Yes, I did.

23 BY MR. MAIORINO:

24 Q. Okay. And do you remember the basis for  
25 the dismissal? Was it based on the three strikes that

1 we discussed earlier, or something else?

2 MR. FREEDMAN: Objection. Relevance.

3 THE WITNESS: Primarily the three strikes. I  
4 did claim imminent danger, and they're still trying to  
5 force me to pay the money before I can proceed.

6 BY MR. MAIORINO:

7 Q. Okay. Do you have any reason why  
8 Officer Castellanos did this?

9 MR. FREEDMAN: Objection. Relevance.

10 THE WITNESS: I have my personal beliefs, yes.

11 BY MR. MAIORINO:

12 Q. Okay. What is -- what do you think the  
13 motivation was, if you know?

14 MR. FREEDMAN: Objection. Calls for  
15 speculation. Relevance.

16 THE WITNESS: On August 22nd I was taken  
17 (sic) out to court. I transferred to Kern Valley on  
18 the 16th, and I was taken back out to court on the 22nd  
19 and I didn't have any orthopedic shoes. The shoes I  
20 had at that time were regular tennis shoes with  
21 orthopedic insoles.

22 He's demanding that prisoners have state  
23 issued shoes on the patio. I do not have state issued  
24 shoes. So upon waiting to go to the gait and get in  
25 the waste chance to go to R&R for my classification a

1 sergeant came out and I told the sergeant what he was  
2 trying to do as far as demand I have shoes on that I  
3 don't have, and we got into -- when I told the sergeant  
4 this, the lieutenant, whose name is L. Martinez,  
5 Castellanos got mad about that and actually stated  
6 we'll talk when you get back. We'll talk when you get  
7 back.

8 BY MR. MAIORINO:

9 Q. Okay. And that's -- is that the extent of  
10 your answer, sir?

11 A. Yes, it is.

12 MR. FREEDMAN: Objection. Relevance.

13 BY MR. MAIORINO:

14 Q. And, let's see, if you can review -- go  
15 back to Exhibit 27. If you can go to Exhibit 27,  
16 Bates 432.

17 A. Okay.

18 Q. Okay. And there's a progress note dated  
19 5-22-20.

20 A. Okay.

21 Q. Okay. And, let's see, so it's the first  
22 full paragraph from the bottom that begins with "The  
23 patient"; do you see that?

24 A. I do.

25 Q. Okay. So this is on [REDACTED] 342 of

1 Exhibit 27, and it reads "The patient is here to follow  
2 up on his left elbow. He says that back in September  
3 of last year an officer restrained him by placing his  
4 left arm behind his back."

5 MR. FREEDMAN: Objection.

6 BY MR. MAIORINO:

7 Q. That sounds different to me than what you  
8 just described.

9 MR. FREEDMAN: Objection. Relevance.

10 THE WITNESS: You have arms behind your back  
11 and you have back arms.

12 BY MR. MAIORINO:

13 Q. Okay.

14 A. I said back arms.

15 Q. Okay. Let's go to 344, Bates No. 344 of  
16 Exhibit 27. It's a progress note dated 11-21-2019. At  
17 the first paragraph it begins with "Examination"; do  
18 you see that, sir?

19 A. I do.

20 Q. Okay. And I think -- let's see. It  
21 states "Soft tissue swelling is present overlying a  
22 large olecranon spur which is now a fracture from the  
23 olecranon. No additional fracture or disc location is  
24 seen." Do you see that, sir?

25 A. I do.



1 Q. Okay. Then it goes on, "Impression" 1.  
2 Fracture of the large olecranon spurs, age  
3 indeterminate." Then it's MD first initial D., last  
4 name looks like it's Goller, Goller; do you see that?

5 A. I do.

6 (Whereupon a break is taken.)

7 BY MR. MAIORINO:

8 Q. Okay. And you see that, sir, on [REDACTED] 344  
9 on Exhibit 27?

10 A. I do.

11 Q. Okay. And it's basically it's a fracture  
12 that was diagnosed on 11-21-2019; is that your  
13 understanding?

14 A. Yes.

15 MR. FREEDMAN: Objection. Calls for expert  
16 opinion.

17 BY MR. MAIORINO:

18 Q. Okay. Have you been told that your left  
19 elbow was fractured before November 21, 2019?

20 MR. FREEDMAN: Objection. Relevance.

21 THE WITNESS: No. I was told on -- on or  
22 about December 17, 18th when I had a medical  
23 appointment out at Salinas Valley.

24 BY MR. MAIORINO:

25 Q. Okay. Let's go to 358. So that's

1 Bates No. 358, Exhibit 27.

2 So, [REDACTED] 358, Exhibit 27, in the middle of  
3 that page there's a paragraph that begins with  
4 "Comments: Inmate with a history of slip and fell  
5 injury and sustained injury in his left elbow area.  
6 X-ray revealed that he has large olecranon process  
7 fracture. Recently evaluated by Dr. Smith orthopedic  
8 surgery. Recommended that he can benefit from steroid  
9 injections."

10 The name after that paragraph is Palomino, and  
11 the date is March 26th, 2020; do you see that, sir?

12 A. Yeah.

13 Q. Okay. And this attributes the left elbow  
14 to slip and fall injury?

15 MR. FREEDMAN: Objection. Sorry, go ahead.

16 THE WITNESS: I never said that. I never  
17 talked to nobody about a slip and fall never.

18 BY MR. MAIORINO:

19 Q. Okay. But you had -- you've had pain to  
20 your elbow before September of 2019; is that correct?

21 MR. FREEDMAN: Objection. Misstates prior  
22 testimony.

23 THE WITNESS: I don't recall. I don't -- I  
24 can't recall that.

25 BY MR. MAIORINO:

1 Q. Why don't you -- maybe if we go to  
2 Bates No. 411, [REDACTED] 411 of Exhibit 27.

3 A. Okay. I'm there.

4 Q. Okay. Exhibit 27, [REDACTED] 411, the bottom  
5 part of the page there's an entry on June 25, 2019 by  
6 Inneh, I-n-n-e-h, RN, and there's a notation concerning  
7 a chief complaint. "I/P reported my eyes are really  
8 dry and itching. I also have a cyst in my left  
9 shoulder and mid lower back and also my elbow is  
10 aching. The Ibuprofen I'm taking is not working."

11 Do you agree with that statement, sir?

12 A. More or less, yes.

13 Q. Okay. So you did complain about your left  
14 elbow before September 2019; is that correct?

15 A. I have.

16 Q. Okay. Okay. Do you recall when you first  
17 felt pain in your left elbow?

18 A. I felt pain for a minute. I felt a severe  
19 pain after Castellanos threw me against the wall and I  
20 knew something was wrong with my elbow because it  
21 swelled up.

22 Q. Okay. I'm talking about before September  
23 of 2019 and before this June 2019 complaint. Did you  
24 ever feel pain in your left elbow before the June '19  
25 entry by the nurse?

1 A. I'm sure I had.

2 Q. Okay. Do you recall when?

3 A. No. I do not recall.

4 Q. Okay. And then I know we talked about a  
5 health care grievance earlier in the deposition. Did  
6 you submit a non health care grievance concerning this  
7 incident?

8 MR. FREEDMAN: Objection. Asked and answered.

9 THE WITNESS: It's health care, but a  
10 different branch of health care.

11 BY MR. MAIORINO:

12 Q. Okay. What branch would that be?

13 A. Dental.

14 Q. Okay. So you submitted a dental grievance  
15 concerning the September 16th, 2019 incident; is that  
16 true?

17 A. I have.

18 Q. Okay. I'm trying to find out what inmate  
19 grievance you may have submitted concerning the  
20 incident between you and Officer Castellanos that you  
21 say occurred on September 16th of 2019. Did you submit  
22 a non health care inmate grievance concerning that  
23 incident?

24 A. The grievance itself had issues about the  
25 fractured elbow, about the assault and the conditions

1 of the assault. So I believe what they did was they  
2 picked out one of the titles I had or one of the issues  
3 I was complaining about and has listed that instead of  
4 the actual staff complaint of what happened.

5 Q. And when you say "they," who is they?

6 A. It would be the appeals coordinator's  
7 office, Kern Valley State Prison.

8 Q. Okay. Do you recall how soon after  
9 September 16th, 2019 did you submit your grievance?

10 A. I do not recall. I would have to look at  
11 my notes.

12 Q. Okay. Okay. And can you review  
13 paragraph 36 of your declaration, Exhibit 2, please and  
14 let me know when you're done?

15 A. Okay.

16 Q. Okay. So what sort of incontinence  
17 supplies do you require?

18 A. I'm supposed to have -- well I got a  
19 diaper.

20 Q. Okay.

21 A. I have adult diapers I must wear. I have  
22 suppositories. I have rash cream I need to put on  
23 myself because of the chafe and other infections I  
24 usually get sometimes for being too long in my fecal  
25 matter.

1 I supposed to have toilet paper when I need  
2 it. I'm supposed to be able to get out for a shower  
3 during regular program hours when I need to. I'm not  
4 getting -- I'm not given none of this stuff.

5 Q. Okay. When were you first prescribed  
6 these supplies, if you know?

7 A. I do not know.

8 Q. Okay. And was it within the last year?

9 A. Yes, it was.

10 Q. Okay. And have you filed an inmate  
11 grievance concerning this?

12 A. No, I have not.

13 Q. Okay. And why not?

14 A. Because I can go around to get another  
15 prisoner or porter to bring me toilet paper.

16 Q. Uh-huh.

17 A. I don't have a celly, so I can bathe in my  
18 cell. That's why I block out my windows at times. I  
19 can get state soap from people also that are the  
20 porters, and I refuse to give them the power to tell me  
21 no for something I'm supposed to be entitled to, so I  
22 don't ask them.

23 Q. Okay. And while you were housed at  
24 Kern Valley did you ever have a cellmate?

25 A. No.

1 Q. Okay. And it's your preference not to  
2 have a cellmate; is that correct?

3 A. I have been designated single celled.

4 Q. Okay. When were you designated single  
5 celled?

6 A. I have been designated single cell several  
7 times.

8 Q. Okay. And that was true when you were at  
9 Kern Valley?

10 A. No. They hid the paperwork which is no  
11 longer in my file for my single cell status.

12 Q. When you say "they," who are you referring  
13 to?

14 A. Whoever controls the electronic records or  
15 our C-Files.

16 Q. Are you able to give me a name?

17 A. Behind a recent incident, I feel it's  
18 Elizabeth Starks, or she has something to do with it.

19 Q. Okay. Let me ask you real quick about  
20 some of the equipment that you identified earlier in  
21 the deposition. I think you mentioned a back brace,  
22 correct?

23 A. Correct.

24 Q. And do you have a back brace with you at  
25 CSP Sacramento?

1 A. Yes, I do.

2 Q. Okay. And when were you first prescribed  
3 that bark brace?

4 A. Possibly 2005, 2004.

5 Q. Okay. And did you have it continuously  
6 while you were at Kern Valley?

7 A. Yes.

8 Q. Okay. And I think you also mentioned knee  
9 braces, correct?

10 A. Correct.

11 Q. Okay. And if you recall, when were you  
12 first prescribed knee braces?

13 A. I know when I was at Corcoran State Prison  
14 they ordered the first time I was in the Corcoran SHU.  
15 The knee brace I had was a full knee open knee brace  
16 with a side stay or supports that were plastic, and  
17 that's been periodically reissued to me, and because  
18 the one that I had was worn out, I had got another one  
19 prior to the transferred to Kern Valley, and when I  
20 went out to the courts on August 22nd and came back,  
21 that brace was no longer inside my property, so they  
22 had to reissue me another one.

23 Q. And was that August 2020?

24 A. No, that was August -- the day they took  
25 -- the day they took -- I'm assuming they took my



1 property was August 21st, 2019, and when I came back  
2 from Salinas Valley court trying to get my property, my  
3 brace -- the brace I transferred with was not there.

4 Q. So Kern Valley reissued you a new one; is  
5 that correct?

6 A. After seeing the orthopedic specialist,  
7 the orthopedic specialist referred them to reissue the  
8 one I had, and they reissued me the wrong one.

9 Q. And that was at Kern Valley in August of  
10 2019?

11 A. I don't believe I seen the orthopedic  
12 specialist until later, maybe November, possibly  
13 December of 2019.

14 Q. Okay. And after they issued you the wrong  
15 one, then what happened?

16 A. I mean, there's nothing I can do. I was  
17 going through the therapy. He even thought that it's  
18 best I have a brace.

19 I pray frequently, so that's another reason  
20 why they talk about my knee popping out and giving me  
21 problems, and that I need a brace that has a side stay  
22 support on it, but they gave me one that doesn't have  
23 the support stays on it.

24 Q. Okay. When did you -- so did you keep the  
25 knee brace that you say was the wrong one that was

1 issued to you, did you keep that brace?

2 A. I did, because if you refuse it then they  
3 don't need to issue one.

4 Q. Then was it ever replaced with a different  
5 brace some time later?

6 A. I just got a new brace here.

7 Q. Okay. In Sacramento, correct?

8 A. Yes.

9 Q. Okay. I think you had also mentioned  
10 compression socks and inserts for your shoe, correct?

11 A. Correct.

12 Q. Okay. And did you have those items the  
13 entire time while you were housed at Kern Valley State  
14 Prison?

15 A. I did. Just so you know, besides the  
16 inserts I have arch supports, and I have a one inch  
17 left leg lift.

18 Q. Okay.

19 A. So it's Styrofoam.

20 Q. So the inserts and the arch supports are  
21 two different things?

22 A. Yes, they are.

23 Q. And you had -- you had all of that  
24 equipment the entire time while you were at Kern Valley  
25 State Prison?

1           A. It was ordered there. They were ordered  
2 after I seen the podiatrist.

3           Q. Oh, at Kern Valley; is that correct?

4           A. Yes.

5           MR. MAIORINO: Okay.

6           Let's take a quick break and then see if we  
7 can finish up. So if we can go off the record for  
8 about five minutes.

9           (Whereupon a break is taken.)

10          BY MR. MAIORINO:

11           Q. Okay. Good evening, sir. I just have one  
12 last question for you, and I want -- I know at the  
13 beginning of the deposition we talked about your  
14 glasses. I just want to make sure that throughout the  
15 deposition you were able to review and read the  
16 documents to the best of your ability?

17           A. I was.

18           MR. MAIORINO: Okay. And I think that's all  
19 the questions I have for you.

20           I appreciate you coming to this deposition. I  
21 appreciate you dealing with the premarked exhibits out  
22 of order and responding to my questions. So, thank you  
23 very much, sir.

24           I have no more questions for you. Thank you  
25 very much.

1 MR. FREEDMAN: I have a couple questions but I  
2 need a quick break. I'm sorry, but I'll go as fast as  
3 I can.

4 (Whereupon a break is taken.)

5 EXAMINATION

6 BY MR. FREEDMAN:

7 Q. Mr. [REDACTED] during the deposition today  
8 you were asked some questions about pushing a cart on  
9 June 17th; is that right?

10 A. It is.

11 Q. Before you pushed that cart yourself did  
12 you ask anyone to provide you with assistance pushing  
13 that cart?

14 A. I did.

15 Q. Who did you ask?

16 A. I asked the officers that working that day  
17 if they can have someone assist me, and I asked an  
18 inmate -- I actually got an inmate that would have been  
19 willing to assist me to push the cart over there.

20 Q. What did the officer say?

21 A. The officer said he's not going to help me  
22 because he can't leave his housing unit to go to  
23 another facility, and he wouldn't let the inmate come  
24 over there to help me because he's not an ADA/worker,  
25 and I'm not ADA.

1 Q. Did the officer do anything to attempt to  
2 attain an ADA worker for you?

3 MR. MAIORINO: Objection. Vague and  
4 ambiguous. Calls for speculation.

5 THE WITNESS: No, he didn't. He just looked  
6 at me and kind of rolled his eyes.

7 BY MR. FREEDMAN:

8 Q. Why did you have to move your property  
9 that day?

10 A. Because it had to be removed out of that  
11 cell. I was in an ADA cell. They put me on C status,  
12 restricted program status, and there is no other way  
13 for me to take my property, and really the only thing  
14 of value to me, to where my new housing gonna be.

15 Q. So before you were pushing your property,  
16 where was your cell? What was the location of your  
17 cell?

18 A. I was in B 7, cell 112.

19 Q. And where were you moving your property  
20 to, what was the new cell?

21 A. I was going, if you need more  
22 clarification, that housing unit was on the upper side.  
23 I was going on the lower side to B 2, and I was being  
24 put in cell 114, I believe.

25 Q. Did officers order you to move from the

1 cell in B 7 to the cell in B 2?

2 A. Yes, they did.

3 Q. So did you have any choice about whether  
4 to move from the cell in B 7 to the cell in B 2?

5 A. No, I did not.

6 Q. What would have happened if you refused to  
7 move from the cell in B 7 to the cell in B 2?

8 MR. MAIORINO: Objection. Vague and  
9 ambiguous. Calls for speculation.

10 THE WITNESS: I would have been issued another  
11 115 disciplinary series violation as a three tier  
12 offender for refusing assigned housing.

13 BY MR. FREEDMAN:

14 Q. In your experience when an incarcerated  
15 person has to move from one side to another, who is  
16 responsible for moving that person's property from the  
17 one cell to the other cell?

18 MR. MAIORINO: Objection. Vague and  
19 ambiguous. Lacks foundation. Calls for speculation.

20 THE WITNESS: The person who that property  
21 belongs to.

22 BY MR. FREEDMAN:

23 Q. So on June 17th was it your responsibility  
24 to move your property from the cell if B 7 to the cell  
25 in B 2?

1           A. Yes. It was solely my personal  
2 responsibility.

3           Q. When the officers refused your request for  
4 assistance to move that property did you have any  
5 choice regarding how to get your property to your new  
6 cell other than to push it yourself?

7           A. No, I did not, but I like to further  
8 elaborate. They also kept some of my property in their  
9 utility room, which was my electronic appliances, my  
10 TV, my fan, my ADA speaker. The majority of my  
11 property was kept there because that day I was put on a  
12 housing restriction and all my appliances -- basically  
13 everything was taken.

14           Q. When did you transfer from KVSP to  
15 CSP Sacramento?

16           A. Last month on October 15th, 2020.

17           Q. When you arrived at CSP Sacramento were  
18 you provided with all of your property?

19           A. I was given nothing. Nothing at all.

20           Q. Have you received any of your property to  
21 date?

22           A. I had -- let me clarify that. On the bus  
23 I was able to transport some of my ADA supplies, my  
24 items, which was my back brace, my knee brace, my arm  
25 sling, and those are the only -- and one pair of

1 glasses. Those are the only items I had. Everything  
2 else insists on being inside of my property.

3 Q. When you say in your property, were they  
4 in boxes?

5 A. I have 14 boxes currently. I was only  
6 issued items out of certain boxes.

7 Q. As of right now are there -- strike that.  
8 As of today, have you been provided with all  
9 of your property?

10 A. No.

11 Q. This morning did you ask any officers for  
12 help obtaining pieces of your property that you haven't  
13 yet been provided?

14 A. My property and ADA items, yes.

15 Q. And what officers did you make that  
16 request to?

17 A. It's my building officers that I've been  
18 assigned to in Building 3. They're Officers R. Reyes,  
19 Officer E. Sanchez, but I also made the request to the  
20 warden who came by, or, excuse me, the associate warden  
21 named A. Scotland who actually came by and gave me the  
22 chrono for today's deposition this morning. So he was  
23 the second one I talked to about this.

24 Q. And when you made the request to the  
25 officers, what did you request that they get for you?



1           A. I asked the officers to get my reading  
2 glasses. I asked officer to get my cream, my  
3 suppositories, my one inch shoe lift for my left shoe,  
4 my arch support, my readers, my pain medication, my  
5 hemorrhoidal cream and my ADA supplies as far as my  
6 electronics, which are my ADA supplies for mental  
7 health. That's my TV, my radio, my CDs, my cassettes,  
8 all those items.

9           Q. All of those items that you listed, you  
10 don't have any of those currently in your possession in  
11 your cell at CSP Sacramento?

12           A. No, I do not.

13           Q. When you're referring to the ADA items,  
14 are those the television -- what are the ADA items  
15 again?

16           A. My electronic items up under the ADA are  
17 for my mental health. I'm CCCMS. Those have to do  
18 with a 602 filed -- well I had that since 2007  
19 originally at this prison, and reinstated again, or  
20 renewed on 2013, and I've had it since Corcoran which  
21 granted the appeal, because I went to Ad. Seg, and  
22 Ad. Seg, you can't have your radio. You either have to  
23 have a radio or a TV in there, and basically what I did  
24 was because I knew I had the 1824 reasonable  
25 accommodation chrono, I asked for these items, and I

1 said yeah, I'm supposed to have all of it because all  
2 of your appliances are designated ADA by the mental  
3 health.

4 Q. And what are those specific ADA mental  
5 health items you're talking about?

6 A. It has to do with my television, my CD  
7 player, my books on tape machine. I have a hearing  
8 amplifier, kind of like a little speaker that I can  
9 plug into my devices, TV, radio and book machine, or  
10 even to a telephone. It's my cassette player, excuse  
11 me, my cassette tapes, my CDs, my fan.

12 I have a secondary fan and I have an actual  
13 speaker and an ADA speaker that they have yet to send  
14 from Kern Valley.

15 Q. And those items are prescribed to you as  
16 an accommodation by mental health staff?

17 A. Yes. A senior -- actually, a senior  
18 psychologist, and since the 602 got granted it has been  
19 referred to in chronos from various -- of my various  
20 clinicians.

21 Q. Now you've listed a number of items that  
22 you requested that officers get for you from your  
23 property, right?

24 A. I did.

25 Q. What was the response from the officers

1 when you asked them for help getting those items out of  
2 your property?

3 A. CO E. Sanchez who I've never met before,  
4 never seen before, first time even trying to talk to  
5 him, after talking to him earlier upon bringing me over  
6 here I asked him for them and he said what the fuck you  
7 need these -- what the fuck you need these items for?  
8 Why the fuck are you here if you're that fucked up,  
9 basically.

10 Q. And so what did you interpret that  
11 statement to mean?

12 A. I mean, I took it for what it was. He  
13 saying what my condition is. He know I need these  
14 items of my ADA, and he's like saying dude, you're in a  
15 Level 4. You're here and you're supposed to be messed  
16 up, and now you're asking me to get you something  
17 saying to where like he's saying screw you.

18 Q. As far as you're aware, did he obtain  
19 those items from your property for you?

20 A. Nobody obtained nothing except when you  
21 asked them to get the readers in one of the breaks.  
22 They just went and got me my reader glasses.

23 Q. And that was during our deposition today,  
24 correct?

25 A. It is, yes.

1 MR. FREEDMAN: Okay. All right. Let's go off  
2 the record and then we'd like to go into a breakout  
3 room for just a couple minutes and then we ought to be  
4 able to conclude the deposition.

5 (Whereupon a break is taken.)

6 MR. FREEDMAN: Mr. [REDACTED] Mr. Mariano is just  
7 going to ask you just like a couple more clarifying  
8 questions, okay?

9 THE WITNESS: Okay.

10 RE-EXAMINATION

11 BY MR. MAIORINO:

12 Q. Mr. [REDACTED] we're back on the record. I  
13 just have one or two questions.

14 I think that when you were answering questions  
15 posed by your attorney you mentioned an officer that  
16 told you he couldn't leave and go to another facility  
17 with you. I was just wondering if you happen to know  
18 the name of that officer?

19 A. Officer Bennett at Kern Valley, and I got  
20 the other name written down. I just don't know it  
21 right now, but I know Bennett for sure.

22 Q. Okay. And do you know the first initial  
23 on Bennett?

24 A. I couldn't tell you off the cuff right  
25 now.

1 Q. Is that --

2 A. Excuse me, it's not Bennett, I rephrase  
3 that. It's Bettencourt.

4 Q. Bettencourt?

5 A. Bettencourt, yeah, and I want to say it's  
6 either D. Or B. Bettencourt.

7 Q. Okay. And was there, if I understand you  
8 correctly, was there another officer standing next to  
9 Officer Bettencourt?

10 A. There was his partner inside the building  
11 up in Salinas, because I also asked him about my ADA,  
12 my electronic appliances, and they said they were gonna  
13 bring them later because that was a lot of property  
14 right there that was not inside of that cart to make it  
15 really really heavy.

16 Q. And do you know the name of that second  
17 officer?

18 A. I do not recall.

19 Q. Okay. Do you know a brief description?

20 A. I couldn't tell you.

21 Q. Okay. It was a man?

22 A. Yes.

23 Q. Okay.

24 A. As a matter of fact -- as a matter of  
25 fact, it was Stainer. It was Stainer. It was a white

1 guy. White CO. He's like 53, 52. Stainer, yeah.

2 Q. Is Stayner, S-t-a-y-n-e-r?

3 A. It's Stainer, I believe.

4 Q. Okay. Thank you.

5 And then when you first mentioned  
6 Officer E. Sanchez, did you also mention Reyes,  
7 R-e-y-e-s?

8 A. Yes. With the first initial R.

9 Q. Okay. And, let's see, was Officer Reyes  
10 standing or within earshot of Officer Sanchez when he  
11 made that statement to you that you told us about?

12 A. He was walking ahead. He was walking  
13 ahead to go get that elevator key.

14 Q. Okay.

15 A. To bring me up there.

16 MR. MAIORINO: Okay. And I think that's all  
17 the questions I have for you, sir. So I think we're --  
18 I think the deposition is concluded.

19 I do again appreciate your participation.  
20 Thank you for dealing with the exhibits the way you  
21 did. Thank you.

22 \*\*\*

23 THE REPORTER: First before we go completely  
24 off the record I just want to confirm that this is  
25 expedited, Thursday, preferably, end of business Friday

1 at the latest?

2 MR. MAIORINO: Yes.

3 THE REPORTER: And hard copy and email for  
4 both attorneys?

5 MR. FREEDMAN: I don't need a hard copy. Just  
6 and electric. Just the bare -- just the minimum, you  
7 know, one electronic copy.

8 THE REPORTER: And your office's normal  
9 orders, both, Mr. Maiorino?

10 MR. MAIORINO: Me?

11 THE REPORTER: Yes.

12 MR. MAIORINO: Yes.

13

14 (Whereupon the matter concluded at 6:32 p.m.)

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I, [REDACTED] do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_ (State).

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REPORTER'S CERTIFICATION

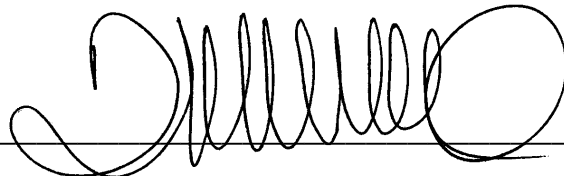
I, Theresa G. Mendoza, Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

Reading and signing not requested.

IN WITNESS WHEREOF, I have subscribed my

Name this 4th day of November, 2020.



Theresa G. Mendoza, CSR No. 12338



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[REDACTED]

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		[REDACTED]	[REDACTED]	[REDACTED]
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# **Exhibit 20**



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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JOHN ARMSTRONG, et al,  
Plaintiffs,  
vs.  
GAVIN NEWSOME, et al.,  
Defendants.



C 94-2307 CW

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VIDEOCONFERENCE DEPOSITION OF

[REDACTED]

November 12, 2020

ATKINSON-BAKER, INC.  
(800) 288-3376  
www.depo.com

REPORTER BY: ISLEEN CHAVEZ, CSR NO. 13389

FILE NO.: AE07FAD

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JOHN ARMSTRONG, et al,                   C 94-2307 CW  
  Plaintiffs,  
vs.  
GAVIN NEWSOME, et al.,  
  Defendants.

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Videoconference deposition of [REDACTED],  
taken on behalf of Defendants, commencing at 7:18 a.m.,  
Thursday, November 12th, 2020, before Isleen Chavez, CSR  
No. 13389.

[REDACTED]

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A P P E A R A N C E S

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I N D E X

WITNESS: [REDACTED]

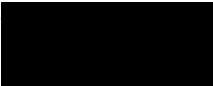
EXAMINATION	PAGE
By Mr. Tartaglio	6

E X H I B I T S

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1	Notice of Deposition	12
2	LexisNexis	20
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4	MCSPB-18-02024	26
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6	MCSP-B-18-02728	27
7	MCSP-B-19-00207	28
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[REDACTED]

1	NUMBER	DESCRIPTION	PAGE
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NOVEMBER 12, 2020; 7:18 A.M.

THE COURT REPORTER: Hi, my name is Isleen Chavez, a Certified Court Reporter, and this deposition is being held via videoconferencing equipment. The witness and reporter are not in the same room. The witness will be sworn remotely.

[REDACTED]

having been first duly sworn,  
testifies as follows:

EXAMINATION

BY MR. TARTAGLIO:

Q. Good morning, Mr. [REDACTED]

A. Good morning.

Q. Or is it [REDACTED]? I want to make sure I get it right.

A. [REDACTED].

Q. Okay. I'm going to read out a few instructions to you as we get going here. So I am a lawyer representing CDCR and the governor's office in in lawsuit. Do you understand that?

A. Yes.

Q. What is your full name, please?

A. [REDACTED]

Q. Do you have a CDCR number?

[REDACTED]

1 A. [REDACTED]

2 Q. Do you understand that your testimony here  
3 today is under oath and that it's a similar oath to what  
4 you would take testifying in court?

5 A. Yes.

6 Q. Your answers today need to be verbal because  
7 the stenographer will have difficulty recording  
8 something like a nod of the head or shrugging of the  
9 shoulders, that sort of thing. Do you understand?

10 A. Yes.

11 Q. From time to time I'll ask you to review an  
12 exhibit. And when I do that you should take whatever  
13 time you need to familiarize yourself with the document.  
14 Okay?

15 A. Yes.

16 Q. The court reporter cannot take down more  
17 than one person speaking at the same time, so it's  
18 important that we try not to speak over each other.  
19 Okay? If you don't understand a question, you should  
20 ask me to clarify it. All right?

21 A. Okay.

22 Q. And if you answer I'm going to assume that  
23 you understood, so that's why it's important to ask if  
24 you don't understand it. Breaks are allowed so let me  
25 know if you need to take a break and we'll go ahead and

[REDACTED]

1 take one. Okay?

2 A. Okay.

3 Q. So in this deposition today I want to  
4 quickly draw distinction between guessing and  
5 estimating. So I'm allowed to ask you to estimate if  
6 you have a basis for that estimation but you shouldn't  
7 guess if you don't know the answer to a question. For  
8 example, if I ask you that table you're at how much does  
9 it weigh, you could estimate. But, you know, how much  
10 the table that I'm sitting at weighs, you wouldn't  
11 really have any basis to speculate. Okay? I'll briefly  
12 explain that the Fifth Amendment and the right to remain  
13 silent works a little differently in civil cases than it  
14 does in criminal cases. Okay?

15 A. Okay.

16 Q. One important difference is that in a  
17 criminal case when the defendant takes the Fifth and  
18 chooses not to testify, prosecutor is not allowed to  
19 suggest to the jury that he's remaining silent because  
20 he has something to hide.

21 Do you understand that?

22 A. Yeah.

23 Q. In a civil case however when a witness takes  
24 the Fifth, the other side is allowed to suggest that the  
25 reason he's doing so is because he doesn't want to give



1 testimony that would incriminate him.

2 A. Okay.

3 Q. That's an important thing between these  
4 types of of cases. Okay?

5 A. Yes.

6 Q. The reason we're here today is because of a  
7 declaration that you submitted that's been filed in  
8 court by the plaintiffs in this class action.

9 You understand that?

10 A. Yes.

11 Q. And if we get to a point today where you  
12 don't want to answer my questions, you don't want to be  
13 here, defense position is that so long as the  
14 declaration is pending we're entitled to you ask you  
15 questions about it. Okay?

16 A. Okay.

17 Q. Flip side of that is that if you don't want  
18 to be here, you can withdraw the declaration and then we  
19 don't have to be here. Because I'm here today asking  
20 about the declaration. Okay?

21 A. Okay.

22 Q. So if at any point you feel like you don't  
23 want to continue and you'd rather withdraw the  
24 declaration and stop the deposition, let me know.

25 A. Okay.

1 Q. Sitting right here, is that something that  
2 you would be interested in?

3 A. No. I'm already here.

4 Q. Okay. Are you taking any medications now?

5 A. Abilify and Depakote.

6 Q. Do those effect your memory at all?

7 A. No.

8 Q. Are you currently taking any drugs that  
9 might effect your memory?

10 A. No.

11 Q. Do you have a medical condition that might  
12 effect your memory?

13 A. No.

14 Q. Do you have a mental health condition that  
15 might effect your memory?

16 A. Not my memory, no.

17 Q. Do you need any medical equipment to hear me  
18 properly such as hearing aids?

19 A. No.

20 Q. Do you have any vision problems that might  
21 impact your ability to read a document?

22 A. No.

23 Q. Do you have paper exhibits with you by the  
24 way?

25 A. Yes.

1 Q. Okay. We'll go through those in a little  
2 bit. What kind of housing are you in currently?

3 A. Single cell.

4 Q. Is it EOP or G --

5 A. EOP. EOP. Well EOP, single cell.

6 MR. SHINN-KRANTZ: Objection. I'm not sure if  
7 that's the correct information.

8 MR. TARTAGLIO: Okay. Well...

9 THE WITNESS: Well I'm in the PIP.

10 BY MR. TARTAGLIO:

11 Q. And for the record what does PIP stand for?

12 A. Psychiatric inpatient program.

13 Q. Is that temporary placement as far as you  
14 know?

15 A. Yes, it's temporary.

16 Q. I'd like you to take a look at the notice of  
17 deposition in your exhibits there. Hopefully it's the  
18 first one, but perhaps you got it out of order. I'm not  
19 sure?

20 A. All right.

21 Q. Did you search for any documents in response  
22 to this notice of deposition?

23 A. Did I search for any documents?

24 Q. Correct.

25 A. What do you mean?

1 Q. Well sometimes people before a deposition  
2 they'll search for documents and read them to prepare  
3 for the deposition.

4 A. Only what I was given.

5 Q. Okay. And just for the benefit of the court  
6 reporter, let's go ahead and mark this exhibit as [REDACTED]  
7 1.

8 (Whereupon, Exhibit 1 was marked for identification  
9 purposes only.)

10 MR. TARTAGLIO: And opposing Counsel, do you have  
11 copies of these documents?

12 MR. SHINN-KRANTZ: Yes, I do. And they're  
13 numbered 1 through 90 but not consecutively. We will be  
14 using the numbering I was provided, or will you be  
15 providing that in real time?

16 MR. TARTAGLIO: Those are just place holder  
17 numbers, so I'll just announce them as we go through.

18 MR. SHINN-KRANTZ: Okay.

19 BY MR. TARTAGLIO:

20 Q. So Mr. [REDACTED], other than the exhibits  
21 you've been provided with, did you bring any documents  
22 with you today?

23 A. No.

24 Q. What did you do to prepare for your  
25 deposition today?

1 A. I just briefly went through everything.

2 Q. Did you do any legal research to prepare for  
3 your deposition today?

4 A. No.

5 Q. I'm going to give you a brief instruction  
6 now about the attorney-client privilege, which is that  
7 you should not tell me today the substance of any  
8 conversations you had with a lawyer about these matters.

9 A. Okay.

10 Q. So without talking about the substance, did  
11 you speak with any lawyers to prepare for the deposition  
12 today?

13 A. No. Just Marc Shin-Krantz.

14 Q. Okay. So you did meet with Mr. Shinn-Krantz  
15 to prepare for the deposition or did you have a phone  
16 call to prepare for the deposition?

17 A. We met in person.

18 Q. How long was that meeting?

19 A. Three hours.

20 Q. Did you speak with anyone else to prepare  
21 for the deposition today?

22 A. No.

23 Q. What is your understanding of -- if you have  
24 one -- the Armstrong Class and who falls in it?

25 A. People that are -- have a disability.

1 Q. Do you consider yourself to be part of the  
2 Armstrong Class?

3 A. Yes.

4 MR. SHINN-KRANTZ: Objection, that calls for a  
5 legal conclusion.

6 BY MR. TARTAGLIO:

7 Q. On what basis?

8 MR. SHINN-KRANTZ: Mr. [REDACTED] can speak about what  
9 his physical and psychiatric disabilities are, but  
10 whether or not he's a member of Armstrong or Pullman  
11 Class is a legal conclusion.

12 MR. TARTAGLIO: I should've clarified that I was  
13 asking that to Mr. [REDACTED], so I'll rephrase my question.

14 BY MR. TARTAGLIO:

15 Q. Mr. [REDACTED], why is it that you believe  
16 you're a member of the Armstrong Class?

17 A. Because I have a disability.

18 Q. What's your disability?

19 A. I'm suffer from anxiety and diagnosed with  
20 bipolar.

21 Q. Have you read a legal document that lays out  
22 the definition of who falls within the Armstrong Class?

23 A. No.

24 Q. So what's your basis then for concluding  
25 that those illnesses you just mentioned bring you within

1 the class?

2 A. Because I'm diagnosed with disability, my  
3 mental disorder.

4 Q. I'm going to read out a definition for you.  
5 This is one definition of the class that I've seen.  
6 "California state prisoners and parolees with mobility,  
7 hearing, or vision, speech, or kidney impairments,  
8 developmental or learning disabilities that  
9 substantially limit a major life activity."

10 A. Okay.

11 Q. So --

12 A. It does have an impact on my daily activity.  
13 With my bipolar I can't sleep. I've gone restless.  
14 Become manic. Become depressed. It effects my daily  
15 life.

16 Q. Do you have a developmental disability?

17 A. Huh?

18 Q. Do you have a developmental disability?

19 A. What do you mean by "developmental"?

20 Q. Someone who's mental development has been  
21 arrested by a disability.

22 A. I'm not sure what that means.

23 Q. Do you have a learning disability?

24 A. No.

25 Q. Have you ever requested any accommodations

1 for disability?

2 A. Not for disability.

3 Q. Do you have any opinion about CDCRs well --  
4 strike that.

5 Based on your personal experience do you  
6 have any opinion about CDCR responsive to requests for  
7 disability accommodations?

8 A. No.

9 Q. Let's turn to the next exhibit. This is a  
10 document that the top right-hand corner says page 1744.

11 A. I didn't receive that. I only have the  
12 papers that I was given from last time, so you'd have to  
13 describe the exhibit.

14 Q. It says DPP disability accommodations.

15 A. It says what?

16 Q. DPP disability accommodations.

17 A. I don't know what that is.

18 Q. Should be after the notice of deposition  
19 hopefully.

20 A. No, no, no. They give me a stack last time.  
21 This time they didn't give me the stack, so whatever  
22 you're referring to I didn't get, I didn't receive.

23 Q. What papers do you have with you right now?

24 A. I have the stack of the papers that they  
25 gave me when I reviewed the deposition.



1 Q. They should be same.

2 A. Yeah, they're the same but I mixed them all  
3 up.

4 Q. Oh. Well we can skip this one?

5 A. All right.

6 Q. I guess I'll just quickly ask: Do you  
7 consider yourself to be have a physical disability?

8 A. Not a physical. Mental. Oh, I have a  
9 physical disability. Yeah, I have muscle atrophy in my  
10 neck. I was hit with a machete in my neck and it  
11 severed my nerve and I ended up losing all my muscle on  
12 the left side of my neck, on the left side of my chest,  
13 and the left side of neck right here. So I do have a  
14 physical disability.

15 Q. When did that happen?

16 A. It happened in 2011.

17 Q. Have you ever asked CDCR for any  
18 accommodations?

19 A. Yes. I have. They give a chrono for a  
20 lower bunk because I have a hard time getting on my top  
21 bunk of it and I have limited mobility in my left arm.

22 Q. Besides the lower bunk --

23 A. They ordered that I couldn't lift over  
24 10 pounds.

25 Q. Besides the lower bunk chrono and the heavy

1 lifting chrono, did you get any other accommodations?

2 A. No.

3 Q. Besides the muscle problem we just discussed  
4 do you have any other physical disabilities?

5 A. No.

6 Q. Are you satisfied with the accommodations  
7 that CDCR has made for your back problem, your muscle  
8 problem?

9 A. Yes.

10 Q. Have you ever sat for a deposition before  
11 besides this one?

12 A. No.

13 Q. Have you ever testified at a trial before,  
14 civil or criminal?

15 A. My own trial, criminal.

16 Q. Just once?

17 A. Once.

18 Q. How long ago was that?

19 A. 2011.

20 Q. So I'm going to explain something now to you  
21 which is that -- well actually I'll just ask you: So do  
22 you have an understanding of what a petition for habeas  
23 corpus is?

24 A. Yes.

25 Q. What is your understanding of that?

1           A.    It's a writ you can file petition to court  
2 for whatever reason; patrol conditions, conditions  
3 confined in, all kinds of stuff.

4           Q.    So these next couple of questions I'm going  
5 to draw a distinction between the habeas petition and  
6 the civil rights action.

7                    Do you have --do you have any questions  
8 about that distinction?

9           A.    No, I don't.

10          Q.    So have you ever filed any civil rights  
11 actions against CDCR staff?

12          A.    No.

13          MR. SHINN-KRANTZ:  Vague --

14          MR. TARTAGLIO:  Sorry, what was that?

15          MR. SHINN-KRANTZ:  I was objecting here to your  
16 question as vague.

17          MR. TARTAGLIO:  Well what was Mr. ██████'s answer?

18          THE WITNESS:  Against CDCR no I have not filed any  
19 lawsuits against CDCR.  The only lawsuits I filed were  
20 against my county jail.

21          BY MR. TARTAGLIO:

22          Q.    Have you ever filed any civil rights  
23 lawsuits against individual staff who work within CDCR?

24          A.    No, not yet.

25          Q.    Let's take a look at an exhibit that is a

1 printout from LexisNexis.

2 A. Okay. I have that.

3 Q. Lets go ahead and have this marked as [REDACTED]

4 2. This is a printout for a search of cases at  
5 LexisNexix.

6 (Whereupon, Exhibit 2 was marked for identification  
7 purposes only.)

8 So let me know when you're done reviewing  
9 this document, Mr. [REDACTED].

10 A. I'm done. You can just go ahead.

11 Q. Okay. So are of these cases lawsuits that  
12 you filed?

13 A. Yes, they're all mine.

14 Q. Let's take a look at [REDACTED] versus Folsom  
15 State Prison from the Eastern U.S. District --

16 A. Okay.

17 Q. Do you see that?

18 A. Yeah. Got it.

19 Q. What was that case about if you remember?

20 A. My criminal case. The habeas corpus. Is  
21 that what you're referring to, the habeas corpus?

22 MR. SHINN-KRANTZ: I'm sorry, Mr. Tartaglio.  
23 Could you direct us to which portion of this exhibit you  
24 are referring to. I see three cases about Folsom.

25 ///

1 BY MR. TARTAGLIO:

2 Q. Okay. It's about halfway down the page.

3 Case No. 2:15cv829.

4 A. Yeah.

5 Q. So what was that?

6 A. Oh, you know what? Civil rights. I don't  
7 know what that was about. I don't really remember to be  
8 honest with you. I believe I remember I filed a lawsuit  
9 but I don't recall -- I think it might have been -- I  
10 think it might have been because of a grievance process.  
11 Over the grievance process, but I can't recall for sure.

12 Q. Do you feel confident that does refer to a  
13 case that you filed?

14 A. Yes.

15 Q. Let's go down a little bit.

16 A. Okay.

17 Q. To [REDACTED] versus Warren, et al. Do you see  
18 that?

19 A. Yeah.

20 Q. 2:18cv24.

21 A. Yeah.

22 Q. Is that a lawsuit that you filed?

23 A. Yes.

24 Q. What was that lawsuit about?

25 A. Lawsuit is about them rejecting my mail.

1 They rejected my mail on two instances. One because it  
2 printed from the internet. The other because I received  
3 mail from the United States District, Northern District  
4 and it had spiral binding and they rejected my mail  
5 because it had spiral binding.

6 Q. What about the case [REDACTED] versus Bouldin,  
7 et al.? Is that a case you filed?

8 A. Yes. Bouldin was over -- I believe it was  
9 over due process rights and right of procedures. They  
10 weren't providing written notice of the charges like  
11 they were supposed to.

12 Q. Did you file the [REDACTED] versus Woodman case?

13 UNIDENTIFIED SPEAKER: Here are the rest of the  
14 documents.

15 THE WITNESS: I got the documents.

16 BY MR. TARTAGLIO:

17 Q. Okay. Let me know when you're ready to  
18 resume.

19 A. I'm ready.

20 Q. Okay. The case below that is [REDACTED] v.  
21 Woodman case. Is that a case you filed?

22 A. Yes.

23 Q. Do you remember what that case is about?

24 A. Yes. She open my legal mail outside of my  
25 presence.

1 Q. What about the case below that; [REDACTED] v.  
2 Sullivan. Is that a case you filed 4?

3 A. Yes. That was about him disciplinary  
4 write-up were they -- or it was one course of conduct,  
5 one incident and they slit the write-ups into two. So I  
6 tried to do them under due process violations.

7 Q. Below that is [REDACTED] versus Melgarejo. Is  
8 this one that you filed?

9 A. Right.

10 Q. Do you remember what that was about?

11 A. Yeah. It's about them leaving me in cruel  
12 and unusual conditions inside of the safety cell where  
13 deprived me of showers, mattress, clothing. Didn't let  
14 me use hygiene. Nothing. They left me in there for  
15 12 days.

16 Q. The last case is [REDACTED] versus Martinez. Do  
17 you see that?

18 A. Yes. That was the same as 1629 about the  
19 write-ups when they didn't provide written notice of the  
20 charges. I had to file two separate lawsuits over the  
21 same issues because there were so many write-ups that I  
22 couldn't all the -- the whole thing into one lawsuit  
23 because of the limitation on the number of pages I was  
24 allowed which was 25 pages. But I had to separate it  
25 into two separate lawsuits but it was the same issue.

1 Q. Having gone through this document here  
2 [REDACTED] Exhibit 2, could you tell me how many civil  
3 lawsuits you filed against the CDCR staff excluding  
4 habeas --

5 A. Against CDCR?

6 Q. Yes. So how many lawsuits have you filed  
7 against CDCR staff excluding habeas petitions?

8 A. None.

9 Q. How many?

10 A. None.

11 Q. Well we just went through --

12 A. This is against my county jail. All of  
13 them. This isn't CDCR.

14 Q. All right. So do you understand what an  
15 inmate appeal is in the prison context?

16 A. Yes.

17 Q. What is your understanding of that?

18 A. If you have -- if you're dissatisfied with  
19 any act of the department, you can -- you have a right  
20 to grief.

21 Q. And you understand that those are called  
22 grievances now?

23 A. Huh?

24 Q. Do you understand that those are now called  
25 grievances under the new --



1 A. Right.

2 Q. Just want to make sure that we under each  
3 other when we're talking about appeals and grievances;  
4 okay?

5 A. Okay.

6 Q. How many appeals have you filed since 2018?

7 A. 10 maybe. I don't know.

8 Q. And I guess I should be more precise. So do  
9 you have an estimate for how many appeals or grievances  
10 you filed have since 2018?

11 A. My estimate would be around 10.

12 Q. Okay. Give me give a me a second here. All  
13 right. Well I'll circle back to this in a bit.

14 So do you feel that you are able to file  
15 inmate appeals or grievances --

16 A. Yes.

17 Q. I wasn't done.

18 A. Okay.

19 Q. But thank you. Do you feel that you're able  
20 to file inmate appeals or grievances without being  
21 retaliated against from staff?

22 A. I don't know about not being retaliated, but  
23 I'm going to exercise my rights no matter what.

24 Q. And it sounds like you've have done so by  
25 filing about 10 appeals within the last couple years.

1 A. Yeah.

2 Q. Is that correct?

3 A. Yes.

4 Q. All right. Do you have a stack of documents  
5 that begin with an appeal that was classified as  
6 DVI181275?

7 A. Yes.

8 Q. Okay. Let's mark this as [REDACTED] 3. Is this  
9 an appeal that you filed?

10 (Whereupon, Exhibit 3 was marked for identification  
11 purposes only.)

12 A. Yes.

13 Q. Let's move onto an appeal that was  
14 classified with the Number MCSPB-18-02024. Do you see  
15 that?

16 A. Yes.

17 Q. Let's mark this [REDACTED] 4 I think we're at;  
18 is that right?

19 (Whereupon, Exhibit 4 was marked for identification  
20 purposes only.)

21 A. Yes.

22 Q. Okay. Is this an appeal that you filed?

23 A. Yes.

24 Q. Let's move on to the next one which is  
25 classified as MCS --

1 A. Hold on a second.

2 UNIDENTIFIED SPEAKER: Sorry for the interruption.  
3 We've got to do a body count. What's your (inaudible)?

4 THE WITNESS: [REDACTED].

5 All right go ahead.

6 BY MR. TARTAGLIO:

7 Q. So the next one is MCSP-18-0239. Do you see  
8 that one?

9 A. Yes.

10 Q. Is that an appeal that you filed?

11 A. Yes.

12 Q. Okay. And I believe this one is [REDACTED] 5,  
13 just for the record.

14 (Whereupon, Exhibit 5 was marked for identification  
15 purposes only.)

16 So let's go to the next one. Appeal  
17 MCSP-B-18-02728. Do you see this one?

18 A. Yes.

19 Q. For the record I believe this would be  
20 [REDACTED] 6.

21 (Whereupon, Exhibit 6 was marked for identification  
22 purposes only.)

23 A. Yes.

24 Q. Is this an appeal that you filed?

25 A. Yep.

1 Q. Let's go to the next one then. This is  
2 appeal MCSP-B-19-00207. Do you see this one?

3 A. Yes.

4 Q. And so for the record we're up to [REDACTED] 7,  
5 I believe.

6 (Whereupon, Exhibit 7 was marked for identification  
7 purposes only.)

8 Is this an appeal that you filed,  
9 Mr. [REDACTED]?

10 A. Yes.

11 Q. Let's go to the next one, which has a log  
12 number 18-05167. Do you see this one?

13 A. Yes.

14 Q. For the record I believe we're at [REDACTED] 8  
15 now.

16 (Whereupon, Exhibit 8 was marked for identification  
17 purposes only.)

18 Is this an appeal that you filed,  
19 Mr. [REDACTED]?

20 A. Yes.

21 Q. Let's go to the next one. This is appeal  
22 MCSP-C-19-01095. Do you see what I'm looking at here?

23 A. Yes.

24 Q. And I believe this is [REDACTED] 9.  
25 Is that correct, Ms. Reporter?

1 (Whereupon, Exhibit 9 was marked for identification  
2 purposes only.)

3 THE COURT REPORTER: Yes.

4 BY MR. TARTAGLIO:

5 Q. What was this appeal about?

6 A. It was about them messing with my property.  
7 I believe -- let me -- do you mind if I read it?

8 Q. Sure. Go ahead.

9 A. Yeah, that's right. So they had my  
10 property. I refused to go on the bus. And he  
11 threatened that I if didn't get on the bus that he was  
12 going to do something with my property. So they ended  
13 up transferring to High Desert Prison in a van, and they  
14 didn't put my property in the van. When I got to High  
15 Desert they didn't have my property. So I filed a 602  
16 against the sergeant for threatening to remove my  
17 report.

18 Q. And it looks you -- was filed accusing  
19 Sergeant Vega in particular; is that right?

20 A. Yes, sir.

21 Q. Let's look at the next one then. Do you see  
22 appeal HDSP-B-19-01303?

23 A. Yes.

24 Q. I believe this is [REDACTED] 10, so I'm going to  
25 have this marked as an exhibit.

1 (Whereupon, Exhibit 10 was marked for identification  
2 purposes only.)

3 But is this an appeal that you filed.

4 A. I don't -- is this about mail? Yes, it is.

5 Q. All right. Let's move on to the next one.

6 So this is appeal HDSP-B-19-01653. Do you see this  
7 document here?

8 A. Yes.

9 Q. We'll have this marked as Exhibit I believe  
10 we're up to Exhibit 11.

11 (Whereupon, Exhibit 11 was marked for identification  
12 purposes only.)

13 Is this an appeal that you filed?

14 A. Yes. Yes.

15 Q. Let's move on to the next one. This is  
16 appeal HDSP-19-01835 and I believe we're up to 11 now.  
17 Let's see. I think this is 12 actually, but in any  
18 event we'll have this marked.

19 (Whereupon, Exhibit 12 was marked for identification  
20 purposes only.)

21 Is this an appeal that you filed.

22 A. Yes.

23 Q. All right let's move on to the next one  
24 which is appeal HDSP-O-19-02836. For the record I  
25 believe we're up to Exhibit Number 13, but in any event

1 we'll have this one marked.

2 (Whereupon, Exhibit 13 was marked for identification  
3 purposes only.)

4 Mr. [REDACTED], is this an appeal that you  
5 filed?

6 A. Yes.

7 Q. And what was the this appeal about?

8 A. This appeal was about an incident that  
9 happened at High Desert. I told them that I was  
10 suicidal. And he decided to place me an interview room  
11 inside of the cage. And they had somebody observing me  
12 outside of the door sitting in the chair. Had my  
13 handcuffs behind my back. And I had taken my handcuffs  
14 from behind, moved them to the front. And the guy said,  
15 "oh, You need to put your handcuffs behind your back."  
16 Well all these guys came in and they said, "You need to  
17 put your handcuffs behind your back. Well I tried, I  
18 attempted to do so. My handcuffs had tightened. And I  
19 told them, "No, you're going to have to take these  
20 handcuffs off and have to rehandcuff me." And he said,  
21 "No, fuck that. Turn around, face the wall." So I  
22 faced the wall and they opened the door, slammed my head  
23 in the back of the cage. They got me on the ground and  
24 they all started kicking me and punching me.

25 Q. So to kind of sum it up, is it fair to say

1 that this is an appeal in which you reported to CDCR  
2 that you had been physically assaulted by correctional  
3 staff?

4 A. That is right.

5 Q. Is that fair to say?

6 A. Yes.

7 Q. Let's move on to the next one. This is  
8 appeal HDSP-0-19-03513. Do you see this one here?

9 A. Yep.

10 Q. And for -- we'll have this marked as an  
11 Exhibit. I believe it's 14.

12 (Whereupon, Exhibit 14 was marked for identification  
13 purposes only.)

14 Is this an appeal that you wrote?

15 A. Yes.

16 Q. Let's go to the next one. Almost done.

17 A. All right.

18 Q. So this one was classified as LACD-19-0423.

19 We'll mark this one as an exhibit. We'll figure out the  
20 numbering later. At this point I've lost track.

21 (Whereupon, Exhibit 15 was marked for identification  
22 purposes only.)

23 Is this an appeal that you filed?

24 MR. SHINN-KRANTZ: Objection, I'm sorry. I'll let  
25 you finish your question.



1 MR. TARTAGLIO: That was my question.

2 BY MR. TARTAGLIO:

3 Q. Is that an appeal that you filed?

4 MR. SHINN-KRANTZ: Objection, that invades the  
5 constitutional right against self-incrimination under  
6 the the Fifth Amendment of The U.S. Constitution. I'm  
7 instructing the witness not to answer.

8 MR. TARTAGLIO: You're instructing him not to  
9 answer whether he submitted this appeal?

10 MR. SHINN-KRANTZ: That's right.

11 MR. TARTAGLIO: He obviously did. I have a copy  
12 of it.

13 MR. SHINN-KRANTZ: That's fine.

14 BY MR. TARTAGLIO:

15 Q. So what was this appeal about, Mr. [REDACTED]?

16 A. An assault that took place in LAC. They had  
17 alleged -- well I told them that I had safety concerns,  
18 and they ignored my safety concerns. They told me that  
19 they were going to get me out, they never did. And I  
20 later told them that i was suicidal. They said "Oh,  
21 we'll get your clinician." My clinician came. He said,  
22 "Don't worry. We're going to get you to a crisis bed."  
23 He left me in my cell. He never got me to a crisis bed.  
24 And so later on they alleged that I gassed them. They  
25 opened -- they opened the door. He sprayed me with

1 mace. They told me to get on -- to get on the ground,  
2 crawl out. I crawled out of the cell. Complied with  
3 their order. They told me to put my hands behind my  
4 back. I complied with their order. Officer Oliver then  
5 punched me in my eye twice. As I was then escorted to  
6 handcuff me. Then they escorted me to a gymnasium where  
7 -- with Officer Mobley and some other unidentified  
8 officers. They shut door and they kicked me on the  
9 ground, they all began to punch and kick me some more.  
10 And then they took me to -- well they briefly put me in  
11 a cage inside the jail room. And they took me out of  
12 the cage. The took me to a TTA to have my wounds  
13 addressed. And they determined that I needed to go to  
14 an outside hospital. So I got to the hospital. They  
15 determined that my eye socket was broken in multiple  
16 places. I received I believe nine stitches. I had  
17 scratch marks all over my body. That's what happened.

18 Q. And so this appeal here LAC-0-19-04923, is  
19 this appeal discussing the same incident that was  
20 discussed in the declaration that you executed on behalf  
21 of plaintiffs?

22 A. Yes.

23 Q. So I'd like you to look at the 602 portion  
24 of this appeal. Okay?

25 A. Yes.

1 Q. Is this an appeal that you wrote?

2 MR. SHINN-KRANTZ: Objection. Again, invades the  
3 constitutional right against self-incrimination.

4 And could you also direct us, Mr. Tartaglio,  
5 which page of this -- I believe it's a six page  
6 document, which page you're referring to.

7 MR. TARTAGLIO: So I'm looking at the first page  
8 where it says 602.

9 MR. SHINN-KRANTZ: The first typed page?

10 MR. TARTAGLIO: This is the first page with  
11 handwritten material.

12 MR. SHINN-KRANTZ: I'm sorry. I got a six page  
13 document in front of me that you provided that is a page  
14 of typed material -- there's two pages of typed material  
15 and then page 3 I believe is the first page of --

16 MR. TARTAGLIO: Yeah.

17 MR. SHINN-KRANTZ: My objection remains. I  
18 instruct not the witness not to answer.

19 BY MR. TARTAGLIO:

20 Q. So Mr. [REDACTED], are you going to -- are you  
21 going to plead the Fifth?

22 A. Yes. I'm going to take advise of my  
23 counsel.

24 Q. Did you sign this document?

25 MR. SHINN-KRANTZ: Objection. I'll instruct the

1 witness not to answer for the same reasons.

2 BY MR. TARTAGLIO:

3 Q. And you'll take his advice, Mr. [REDACTED]?

4 A. Yes.

5 Q. Isn't true that this document says, "Oliver  
6 came to my door and I gassed him"?

7 MR. SHINN-KRANTZ: Objection. I'm going to  
8 instruct the witness not to answer for the same reasons.

9 BY MR. TARTAGLIO:

10 Q. And you'll take your lawyer's advice?

11 A. Yes.

12 Q. Did you gas Oliver during this incident?

13 MR. SHINN-KRANTZ: Objection. Sorry, I'll let you  
14 finish your question.

15 BY MR. TARTAGLIO:

16 Q. My question was: Did you gas Oliver during  
17 this incident?

18 MR. SHINN-KRANTZ: And my objection remains the  
19 same. This invades the constitutional rights against  
20 self-incrimination under the Fifth Amendment of the U.S.  
21 Constitution. I'm instructing the witness not to  
22 answer.

23 MR. TARTAGLIO: All right. I'm going to make a  
24 statement. It's not really a question, so Mr. [REDACTED]  
25 can sit tight. But he submitted a declaration to the

1 court that talks about this event in great detail. I  
2 just asked him a question about it. He answered the  
3 question in great detail. Whether he gassed Oliver or  
4 not is I would certainly think a material part of this  
5 whole exchange. And so I don't know what advice you've  
6 been giving Mr. [REDACTED] about the Fifth Amendment, but he  
7 can't pick and choose which parts of this incident he  
8 wants to testify about it. It's all or nothing thing.  
9 Either he pleads the Fifth and he withdraws his  
10 declaration and the deposition is over, or he answers my  
11 questions. That's how the Fifth Amendment works. Okay?  
12 And I sent a letter to that effect. I got a total  
13 nothing burger of a response from Gay Grunfeld. It did  
14 nothing to change my mind. And I want to make sure that  
15 Mr. [REDACTED] understands that's how the Fifth Amendment  
16 actually works. I don't know what you've been telling  
17 him. So I think the instructions to answer are complete  
18 improper. And now that my speech is over, I'm going go  
19 ahead and ask again.

20 MR. SHINN-KRANTZ: And I'm just going to object to  
21 that to the extent that you're providing legal advice to  
22 my client. You can ask questions and he can answer  
23 questions and I'm going to instruct him not to answer  
24 any questions, Mr. Tartaglio, that seeks to invade his  
25 constitutional rights.

1 MR. TARTAGLIO: And to be clear, Mr. [REDACTED], I'm  
2 not your lawyer. If you don't agree with my advice, you  
3 can tell me to, you know, stick it where the sun don't  
4 shine. But that's defendants position in this case that  
5 these Fifth Amendment invocations are improper, and I'm  
6 going to ask the judge to infer that the reason you're  
7 not answering is because you know the answer would  
8 incriminate you, so just so you know that.

9 MR. SHINN-KRANTZ: And, again, we're -- just to be  
10 clear, that's fine. We're not withdrawing the  
11 declaration and nor are we stopping the deposition. You  
12 can of course stop the deposition if that is your  
13 choice. But, otherwise, I suggest that you continue to  
14 ask questions.

15 MR. TARTAGLIO: Having made my long speech, I'll  
16 ask Mr. [REDACTED] again.

17 BY MR. TARTAGLIO:

18 Q. Mr. [REDACTED], did you write appeal  
19 LAC-0-19-14923?

20 MR. SHINN-KRANTZ: Objection. Same reasons that  
21 invades the constitutional right against  
22 self-incrimination under the Fifth Amendment. I'm going  
23 to instruct the witness not to answer that question.

24 BY MR. TARTAGLIO:

25 Q. You're going to take his advice?

1 A. Yes, sir.

2 Q. All right. I'm going to switch gears. If  
3 you guys wanted to take a break, now would be a good  
4 time. But I'm perfectly happy to keep going considering  
5 the timeframe we have.

6 MR. SHINN-KRANTZ: I think that we are okay to  
7 going on my end for another, you know, half hour or so  
8 and taking a break.

9 But Mr. [REDACTED], how are you doing?

10 THE WITNESS: I'm not doing great, but I think we  
11 should just keep going.

12 MR. SHINN-KRANTZ: Okay.

13 BY MR. TARTAGLIO:

14 Q. All right. So having gone through this big  
15 stack -- or actually there's one more so -- strike that.

16 So the next exhibit it's a one pager. And  
17 it's -- the top it says, "Offender grievance/appeals."  
18 Do you see that, Mr. [REDACTED]?

19 A. Yes.

20 Q. We'll have this marked as an exhibit. I've  
21 lost count, but we'll figure that out later.

22 (Whereupon, Exhibit 16 was marked for identification  
23 purposes only.)

24 Do you -- well I'll represent to you that  
25 this is from your strategic management system file.

1 Okay? And there are two grievances here that are  
2 described; right?

3 A. Okay. Yes.

4 Q. So I'm going to ask about the first one, log  
5 number 47617. Do you see that?

6 A. Yes.

7 Q. Is that a grievance or -- strike that.

8 Does that look like a grievance that you  
9 filed?

10 A. I don't know because I don't know what  
11 that's referring to so I can't answer that question.

12 Q. Did you file a grievance around October 7th  
13 at High Desert State Prison?

14 A. Can I take a look at the grievances?

15 Q. I'm sorry?

16 A. Can I take a look at the grievances?

17 Q. Unfortunately, I don't have copies. This is  
18 --

19 A. Oh, October 7, 2020.

20 Q. 2020. Correct.

21 A. Yes. I believe that was in regard to my  
22 property.

23 Q. And then the next appeal here is Log Number  
24 47248. Do you see that?

25 A. Yes.



1 Q. And it looks that was received by California  
2 Health Care Facility Stockton; right?

3 A. Yes.

4 Q. Do you remember what that appeal was about?

5 A. It's about my property. My property when I  
6 was in High Desert they took all my property, all my  
7 legal stuff and they never gave it back. And I've been  
8 trying to get it back. I've filed multiple grievances.  
9 They never answer. So finally I wrote this one. They  
10 finally acknowledged receipt. And I haven't had my  
11 property since May 31st, 2019. So I'm trying to get me  
12 my property back.

13 Q. Do these two grievances relate to the same  
14 property issue?

15 A. Yeah. They've been messing with my property  
16 the whole time I've been in here. They've been taking  
17 it and then giving it back. And then taking it and  
18 giving it back. Well this time they took it and they're  
19 not giving it back. And I haven't had my legal stuff  
20 for over a year and a half.

21 Q. So we've just gone through a stack of  
22 appeals. Are you able to say now how many appeals that  
23 -- well strike that.

24 As I counted I see 1, 2, 3, 4, 5, 6, 7, 8,  
25 9, 10, 11, 12, 13 appeals that we read. Does that sound

1 right?

2 A. Maybe.

3 Q. You can count the documents if you want to  
4 make sure. Perhaps you should because I do want to make  
5 sure we get a firm number here.

6 MR. SHINN-KRANTZ: Objection. This is confusing.  
7 The two October 7, 2020 appeals that Mr. [REDACTED] does not  
8 have in front of him are -- seem to be filed within a  
9 minute of each other at two different institutions that  
10 may be a function of CDCR's own routing system.

11 BY MR. TARTAGLIO:

12 Q. Yeah. I'll get to those two grievances.  
13 But for now, the appeals where you have the individual  
14 printouts, want to make sure how many you have those?

15 A. Yes. 13 you said?

16 Q. I count 13, but I think you should count  
17 just to make sure.

18 A. 13.

19 Q. And turning to the last exhibit we looked  
20 at, the grievance printout. I don't know this for sure,  
21 but I think what happened is that you filed the one  
22 grievance around the time you got transferred so it got  
23 numbers for each of the two prisons. So you don't have  
24 to accept that, I just think that's probably what  
25 happened.

1                   In any event looks, it like there's at least  
2 one grievance here that was filed in October of 2020;  
3 right?

4                   A.    Yeah.  I was moving my property.

5                   Q.    So looks like there are 13 appeals and 1  
6 grievance that you filed; right?

7                   A.    Yeah.

8                   MR. SHINN-KRANTZ:  Objection to the -- I just want  
9 to clarify one more time that I'm instructing Mr. [REDACTED]  
10 not to answer on -- with regard to appeal number -- one  
11 moment -- LACD-19-04923.

12 BY MR. TARTAGLIO:

13                  Q.    Putting that one aside, it looks like you  
14 filed at least 12 appeals and one grievance; right?

15                  A.    Yes.

16                  Q.    Do you feel that there's a culture of  
17 retaliation within -- sorry about that.  Maybe we can  
18 take a break and I can -- let me just see if I can set  
19 up in a different room here.  I'm sorry about this.

20                  A.    It's all right.

21                  Q.    So given the appeals that we've just went  
22 through, do you feel that there's a closer with -- a  
23 retaliation from CDCR that prevents you from filing  
24 inmate appeals?

25                  A.    Sure.  They always retaliate.  Like they're

1 retaliating with my property. I can't get it back.  
2 That's one example.

3 Q. Sorry. I see a few messages from Tamiya  
4 here. Maybe those are old.

5 Okay. I'm going to ask you about your  
6 relationship with certain CDCR staff. Okay?

7 A. Okay.

8 Q. And I believe these people were all at LAC  
9 Prison.

10 A. Okay.

11 Q. All right. And specifically I'm going to  
12 ask you about interactions with them before October 1,  
13 2019.

14 A. Okay.

15 Q. Which that's the date of this incident with  
16 Oliver in your declaration.

17 A. Okay.

18 Q. So do you know who CO correctional officer  
19 T. Oliver is?

20 A. Yes.

21 Q. Before October 1, 2019, did you have any  
22 interactions with Oliver that you can remember?

23 A. Yeah. I believe I told him that I was  
24 suicidal one time and he told me, "I don't give fuck."

25 Q. Other than that, do you remember any

1 interactions?

2 A. Just other things like, you know, I boarded  
3 up one time and he opened the trace light and ripped the  
4 sheet out and he said, "You need to quit fucking doing  
5 that kind of shit." Just little stuff, you know he  
6 could kind of pick on me. One time I was at somebody's  
7 door that was across the redline giving them something.  
8 He forced me to rehouse. Just little stuff like that.  
9 Yeah. Multiple incidents with him.

10 Q. Do you remember anything else?

11 A. No.

12 Q. Do you know who Sergeant J. Ramsey is?

13 A. I don't know who that is.

14 Q. And for the record, his last name is  
15 R-a-m-s-e-y.

16 A. Not off the top of my head I don't know what  
17 that is.

18 Q. Do you know correctional officer R. Aguilera  
19 is?

20 A. No.

21 Q. For the record, the last name is  
22 A-g-u-i-l-e-r-a.

23 Do you remember any interactions with  
24 correctional officer D. Avalos?

25 A. No.

1 Q. And for the record, A-v-a-l-o-s.

2 Do you remember any interactions with  
3 correctional officer Y. Carrasco?

4 A. No.

5 Q. For the record, C-a-r-r-a-s-c-o.

6 Do you remember any interactions with  
7 correctional officer R. Castellanos?

8 A. No.

9 Q. For the record, C-a-s-t-e-l-l-a-n-o-s.

10 And as you can tell, Mr. [REDACTED], sometimes I  
11 just got to be repetitive, but I appreciate you hanging  
12 with me.

13 A. That's fine. All right.

14 Q. Do you recall any interactions with  
15 correctional officer X. Gurdian?

16 A. No.

17 Q. And for the record, that's G-u-r-d-i-a-n.

18 Do you remember any interactions with  
19 correctional officer D. Mobley?

20 A. Yes. He was in the unit. He was also one  
21 of the officers that assaulted me in the gym.

22 Q. What do you remember of your interactions  
23 with -- well besides the assault, what do you remember  
24 your interactions with Mobley?

25 A. Nothing. I was kicking my door before. I'd

[REDACTED]

1 kick my door, yell out the door. He would come to me  
2 and tell me knock that shit off and stuff like that.  
3 But aside from that, nothing.

4 Q. And do you remember any interactions with  
5 psychiatric technician A. Hughes?

6 A. Who?

7 Q. A. Hughes?

8 A. I don't know who that is.

9 Q. Okay. And for the record Mobley is spelled  
10 M-o-b-l-e-y. And Hughes is H-u-g-h-e-s.

11 Do you recall any interactions with Sergeant  
12 M. Rosales?

13 A. No.

14 Q. And for the record, that's spelled  
15 R-o-s-a-l-e-s.

16 Do you remember any interactions with  
17 Sergeant F. Villalobos?

18 A. No.

19 Q. And for the record, that's  
20 V-i-l-l-a-l-o-b-o-s.

21 So you mentioned briefly this October 1 --  
22 well you gave a description of this October 1, 2019  
23 incident, but I want to ask about some of the details  
24 now. This is the incident with Oliver.

25 So how did this incident start?

1           A.    I already described how it started.  I told  
2 him that I had safety concerns.  They didn't address my  
3 safety concerns.  They didn't pull me out.  I then told  
4 them that I was suicidal.  They said they would get my  
5 clinician.  My clinician came to my cell.  He said,  
6 "Don't worry.  Well get you to a crisis bed."  They  
7 never got me to a crisis bed.  Then they alleged that I  
8 gassed them.  Then they sprayed me -- opened the door,  
9 sprayed me with a bunch of mace.  They told me to get on  
10 the ground.  Told me and I complied.  They told me to  
11 crawl out of the cell.  I complied.  Told me put my  
12 hands behind my back.  I complied.  Oliver then punched  
13 me in my eye twice.  Handcuffed me.  Escorted me to the  
14 gymnasium with Officer Mobley and other unidentified  
15 officers.  They shut door.  They kicked me on the  
16 ground.  They all began to punch and kick me some more.

17           Q.    So when Oliver was assaulting you, was there  
18 any other correctional staff there with him?

19           A.    Yeah.  There was a bunch.  There was a whole  
20 bunch of COs because they were cell feeds.  And the  
21 kitchen crew was in there.  There was probably 15 COs in  
22 the building at that time.  10, 15 COs.  There was a lot  
23 of COs in that building.

24           Q.    When you were at your cell with Oliver, do  
25 you remember if there were any -- well strike that.



1                   When you were at your cell with Oliver on  
2 this day, do you remember the identities of any  
3 correctional staff nearby besides Oliver obviously?

4                   A.    Mobley.

5                   Q.    Besides Mobley and Oliver, can you remember  
6 who else was around there, your cell on October 1, 2019?

7                   A.    The COs?

8                   Q.    Yeah. Do you remember?

9                   A.    No, not other COs. I don't remember their  
10 names. I just know Mobley and Oliver. They're in my  
11 unit.

12                  Q.    What did Mobley say to you if anything  
13 during this incident?

14                  A.    I don't believe he said anything.

15                  Q.    What did Oliver say to you if anything?

16                  A.    Did he say anything? No. He just punched  
17 me in my eye twice. That was it. And he walked off.

18                  Q.    Okay. And you also talked about being  
19 beaten in the gym; correct?

20                  A.    Yes.

21                  Q.    Who was there in the gym when that happened?

22                  A.    Mobley and a couple other COs. Maybe two or  
23 three other COs.

24                  Q.    Besides Mobley do you remember any of their  
25 other names?

1 A. No. I don't know their names.

2 Q. When you're in the gym --

3 A. And because of the mace in my eye it was  
4 swollen shut. I couldn't see so I couldn't read their  
5 nametags after the assault.

6 Q. When you're in the gym what did Mobley say  
7 to you?

8 A. He didn't say anything. They just beat me  
9 and they stuck me in a little cage and they took me TTA.

10 Q. Do you remember what anyone else said while  
11 you were in the gym?

12 A. No. They didn't say anything to me, I don't  
13 believe. Not to me they didn't say anything.

14 Q. Did you say anything to them?

15 A. No.

16 Q. Back when you were at your cell with Oliver  
17 and Mobley, did you say anything to them?

18 A. Mobley wasn't there on the tier when that  
19 happened with Oliver. He was downstairs, I believe.  
20 Mobley was only in the gym. He was the one that  
21 assaulted me in the gym. He wasn't on the tier with  
22 Oliver. He may or may not have been a witness. I don't  
23 know.

24 Q. When Oliver punched you on the tier, do you  
25 remember any of the identities of CDCR staff that was

1 nearby?

2 A. Yeah. There was officers on the tier doing  
3 cell feeds. And there wre officers down below that were  
4 helping put food on the plates.

5 Q. But do you remember the identity of any --

6 A. I don't know their identities. No.

7 Q. Before Oliver punched you on the tier, did  
8 you gas him?

9 MR. SHINN-KRANTZ: Objection. I'm going to  
10 instruct my client, the witness not to answer any  
11 questions that invade his constitutional right against  
12 self-incrimination.

13 BY MR. TARTAGLIO:

14 Q. Are you going to take that advice?

15 A. Yes.

16 Q. What does it mean to gas somebody?

17 A. It means to throw bodily fluid on somebody.

18 Q. Did you submit -- well strike that.

19 Do you know what a Form 22 is?

20 A. Yes.

21 Q. Did you submit a Form 22 request about this  
22 incident with Oliver and then at the gym?

23 MR. SHINN-KRANTZ: Objection. I'm not -- there is  
24 no Form 22 that I'm aware of that's been admitted as an  
25 exhibit, so I don't know what Mr. Tartaglio was getting

1 at. But to the extent that this asks Mr. [REDACTED] to  
2 self-incriminate, I instruct him not to answer.

3 BY MR. TARTAGLIO:

4 Q. Are you going to answer?

5 A. No.

6 Q. Did you file a 602 appeal about the incident  
7 with Oliver on October 21, an incident at the gym?

8 MR. SHINN-KRANTZ: Objection. Same objection as  
9 before. Invades the constitutional right against  
10 self-incrimination. I'd also ask Mr. Tartaglio to not  
11 try to trip up Mr. [REDACTED] into saying something that  
12 invades his constitutional right against  
13 self-incrimination.

14 BY MR. TARTAGLIO:

15 Q. Are you going to take his advice?

16 A. Yes.

17 Q. What injuries did you receive as a result of  
18 being struck by Mr. -- or correctional officer Oliver?

19 A. Well all together I don't know who did what.  
20 But I received a broken orbital bone. I think in  
21 multiple places was fractured in multiple places. I  
22 receive nine stitches. I had two black eyes. I had  
23 scratches, and marks, and bruises all over my body.

24 Q. Do you remember how long it took for your  
25 stitches to fall out?



1 Q. What's your understanding of what a 7219  
2 form is?

3 A. To describe your injuries.

4 Q. And this is from October 1, 2019; correct?

5 A. Yes.

6 Q. And your name and CDCR number are in this  
7 form; correct?

8 A. Yes.

9 Q. And if we look at the bottom left it looks  
10 like this was filled out by psychiatry technician A.  
11 Hughes. Is that -- that's what it says; right?

12 A. Yes.

13 Q. And I believe earlier we talked about A.  
14 Hughes and you said you didn't remember that person;  
15 right?

16 A. I don't remember, no. Yeah.

17 Q. Do you see the brief statement in subjects  
18 words around the third of the way down on the page?

19 MR. SHINN-KRANTZ: I'm going to object to  
20 questions about this as well. This is hearsay document.  
21 Mr. [REDACTED] did not create this document.

22 MR. TARTAGLIO: Well it's not hearsay. It's a  
23 government record, but your objection is noted.

24 BY MR TARTAGLIO:

25 Q. So do you see the brief statement here,

1 Mr. [REDACTED]?

2 A. Yes, I see it.

3 Q. What does it say?

4 MR. SHINN-KRANTZ: I object. This -- I instruct  
5 Mr. [REDACTED] not to answer. This is a statement that is  
6 potentially self-incriminating, written by somebody else  
7 on a government document. And Mr. Tartaglio, you're  
8 trying to get Mr. [REDACTED] to say an incriminating  
9 statement. It invades his constitutional rights. So  
10 I'm going to instruct him not to answer.

11 BY MR. TARTAGLIO:

12 Q. And you're going to follow that instruction?

13 A. Yes.

14 Q. Did you tell A. Hughes that you gassed  
15 Oliver?

16 MR. SHINN-KRANTZ: Objection. I'm going to  
17 instruct the witness not to answer. Invades the  
18 constitutional right against self-incrimination.

19 BY MR. TARTAGLIO:

20 Q. Do you have any reason to believe -- well  
21 strike that.

22 Do you accept that instruction?

23 A. Yes.

24 Q. Is there any reason you have to believe that  
25 A. Hughes would make up the statement that you gassed

1 Oliver?

2 A. Sure. To back them up. To be on their  
3 side.

4 Q. Didn't we talk about it earlier how you  
5 didn't remember A. Hughes?

6 A. I don't remember A. Hughes.

7 MR. TARTAGLIO: All right. How about we take a  
8 quick break while I gather my thoughts. Maybe like  
9 10 minutes, so come back at 8:35.

10 (Recess.)

11 MR. TARTAGLIO: Back on the record.

12 BY MR. TARTAGLIO:

13 Q. Mr. [REDACTED], I'd like to you turn to the next  
14 exhibit which is the medical record. I believe this is  
15 going to be Exhibit 18. And for the record this is a  
16 document where the top of it says Antelope Valley  
17 Hospital 1600 West Avenue J. Do you see what I'm  
18 looking at, Mr. [REDACTED]?

19 (Whereupon, Exhibit 18 was marked for identification  
20 purposes only.)

21 A. Yes.

22 Q. Have you ever seen this document before?

23 A. Yes.

24 Q. Well besides preparation for this deposition  
25 have you ever seen this document before?



1 A. No.

2 Q. Looking at this document, the patient is  
3 you; correct?

4 A. Yes.

5 Q. And looks likes the service date/time is  
6 October 1, 2019 at around 9:24 p.m.; right?

7 A. Yes.

8 Q. After the incident with Oliver and then in  
9 the gymnasium, did you go to Antelope Valley Hospital?

10 A. Yes.

11 Q. I'm going to read this notation where it  
12 says, "Basic information initial HPI." There's some  
13 acronyms here, but it says, "PT involved in altercation  
14 in a prison." Is that referring to you do you think?

15 A. Yes.

16 Q. And it says, "Laceration to right eye with  
17 swelling." Is that a symptom you were exhibiting on  
18 October 1st, 2019?

19 A. Yes.

20 Q. The next sentence says, "Denies KO." Do you  
21 know what that refers to?

22 A. No.

23 Q. Did you have a discussion at Antelope Valley  
24 Hospital about whether you had been knocked out?

25 A. I don't believe so.

1 Q. The next sentence says, "XA schizophrenia."  
2 Does that mean history of schizophrenia?

3 A. I believe in the past I've been diagnosed  
4 with schizophrenia, but now I'm not schizophrenic. They  
5 diagnosed me with bipolar disorder, so I believe that's  
6 incorrect.

7 Q. Okay. Let's go down to -- about halfway  
8 down the page where it says documentation.

9 A. All right.

10 Q. And it says, "Patient was involved in an  
11 altercation and hit in the face with fist while in  
12 prison." Do you see that sentence?

13 A. Yes.

14 Q. Is that something you told the doctor at  
15 Antelope Valley Hospital?

16 A. Yes.

17 Q. In that sentence it says, "The current level  
18 of pain is moderate." Is that something you told the  
19 doctor at Antelope Valley Hospital?

20 A. Yes.

21 Q. The next sentence says, "There was no loss  
22 of consciousness, confusion, seizer, or memory  
23 impairment." Is that something you told the doctor at  
24 Antelope Valley Hospital?

25 MR. SHINN-KRANTZ: That's asked and answered. I

1 think he said already that he did not have a memory of  
2 speaking with them about losing consciousness.

3 THE WITNESS: No.

4 MR. TARTAGLIO: Please try to keep your speaking  
5 objections to a minimum, Counsel.

6 BY MR. TARTAGLIO:

7 Q. And please answer my question, Mr. [REDACTED]?

8 A. I agree with him. I never told him anything  
9 about losing consciousness.

10 Q. Do you see the sentence where it says,  
11 "Patient denies any problem with vision"?

12 A. Yes.

13 Q. Is that something you told the doctor?

14 A. Yes.

15 Q. Just one second here. The next exhibit,  
16 this will be 19, I believe. Let me know when you've had  
17 a chance to review this.

18 (Whereupon, Exhibit 19 was marked for identification  
19 purposes only.)

20 A. Okay. It's only one page; right? Yeah.

21 MR. SHINN-KRANTZ: What is the next exhibit?

22 BY MR. TARTAGLIO:

23 Q. So for the record this is an exhibit that  
24 says, "Medical Documentation" near the top from LAC  
25 California State Prison Los Angeles County. Let me know

1 when your ready to discuss this, Mr. [REDACTED].

2 A. I'm ready.

3 Q. Okay. Looking at the bottom half of this  
4 page it looks like -- well strike that.

5 So is this a page from your medical records  
6 as far as you know?

7 A. As far as I know, yeah.

8 Q. At the bottom of this page says that there  
9 is an ENT consult on October 15, 2019. Do you see that?

10 A. Uh-huh.

11 Q. Do you know what ENT stands for?

12 A. No.

13 Q. Well I'm pretty sure it's ear, nose and  
14 throat. So does that jog your memory at all?

15 A. No. I don't recall that happening. I mean,  
16 could have, it's possible, but I don't remember that  
17 happening.

18 Q. So this October 15 appointment was about  
19 two weeks after the incident with Oliver and the gym;  
20 right?

21 A. Yeah.

22 Q. Did you have a doctor's appointment about  
23 two weeks after the incident with Oliver in the gym?

24 A. To be honest, I don't recall.

25 Q. Well it looks like Chen Wu filled out -- or

1 strike that.

2 Looks like Chen Wu performed this consult;  
3 correct?

4 A. Yes, that's what it says.

5 Q. Does PS stand for physician and surgeon?

6 A. Yes.

7 Q. Okay. Looking at the notes here near the  
8 bottom it says "Per ENT specialist, patient has no  
9 benefits of surgical procedure for his orbital floor  
10 fracture." Do you see that?

11 A. Yes.

12 Q. Do you remember being told that in October  
13 2019?

14 A. No.

15 Q. The next sentence is "General condition is  
16 stable and improving. Continue to monitor." Do you see  
17 that?

18 A. Yes.

19 Q. Do you remember being told in October of  
20 2019 that your orbital fracture was stable and improving  
21 and go should be continued to to be monitored?

22 MR. SHINN-KRANTZ: Objection. Unclear. You said  
23 October 2019?

24 MR. TARTAGLIO: That's what I wanted to say.

25 MR. SHINN-KRANTZ: Unclear timeframe.

1 MR. TARTAGLIO: Well I'll re-ask it.

2 BY MR. TARTAGLIO:

3 Q. Have you had any surgery for your orbital  
4 fracture?

5 A. Huh-uh.

6 Q. Looking at the top half of this page, looks  
7 like there's an ophthalmology consultation; correct?

8 A. Yeah.

9 Q. And there is notes here that say -- "she"  
10 should probably have been "he." "Had ophthalmology  
11 consult done this morning in Bakersfield." Do you  
12 remember getting an ophthalmology consultation in the  
13 middle of October?

14 A. Yes.

15 Q. Okay. And this notes say, "Per report both  
16 eyes unremarkable. Follow-up as needed in one year."  
17 Do you see that?

18 A. Yes.

19 Q. Is that consistent with your recollection  
20 of --

21 A. Yeah. Yes.

22 Q. Did you have a one year follow-up?

23 A. No I did not.

24 Q. So after the October 1 incident that was  
25 discussed in your declaration, did you have an interview

1 with any CDCR staff about the incident?

2 A. Yes.

3 Q. Who -- well strike that.

4 Do you remember who from CDCR conducted the  
5 interview?

6 A. I don't remember.

7 Q. Do you remember who was in the room with  
8 you?

9 A. There was two COs. Two COs.

10 Q. Do you remember -- well strike that.

11 What did they ask you during that interview?

12 A. About what happened.

13 Q. Do you remember specifically well --

14 A. I don't remember specifically what I told  
15 them.

16 MR. SHINN-KRANTZ: Mr. [REDACTED], I'd just like to  
17 instruct you to please wait for Mr. Tartaglio to finish  
18 his questions before you answer.

19 THE WITNESS: Okay.

20 BY MR. TARTAGLIO:

21 Q. Do you remember with any specificity -- well  
22 strike that.

23 Beyond the fact that they asked you about  
24 the incident, do you have any specific recollection  
25 about what it is that they you asked you during this

1 interview?

2 A. Just what happened and I described what  
3 happened just as I described to you what happened.

4 Q. Did they ask you if there were any witnesses  
5 who saw the incident?

6 A. I believe so. And I believe I named my  
7 neighbors, [REDACTED] and [REDACTED], both sides of me on the  
8 tier.

9 Q. Let's take a look at the next exhibit. For  
10 the record this is inmate interview for GPI and SPI  
11 worksheet.

12 (Whereupon, Exhibit 20 was marked for identification  
13 purposes only.)

14 And Mr. [REDACTED], let me know when you've had  
15 a chance to look at this.

16 A. Yeah. Okay.

17 Q. So does this look like a summary of an  
18 interview that was performed with you after the October  
19 1, 2019 incident?

20 MR. SHINN-KRANTZ: Objection, lack of foundation  
21 or calls for speculation.

22 BY MR. TARTAGLIO:

23 Q. Well the document says -- I'm looking at the  
24 first box Number 2, that the interview happened on  
25 October 2nd, 2019, 1107 hours; correct?



1 A. Yes.

2 Q. Does that -- strike that.

3 Is that consistent with your memory of when  
4 the interview happened?

5 A. Yes.

6 Q. And then below Number 3 in that first box it  
7 says, "Inmate [REDACTED] receiving serious bodily injury.  
8 Broken orbital bone to right eye and nine sutures to his  
9 right eye." Do you see that?

10 A. Yes.

11 Q. All right. Does that description of your  
12 injuries seem consistent with your memory?

13 A. Yes.

14 Q. And then below that is your name and CDCR  
15 number; right?

16 A. Yes.

17 Q. Okay. So moving to the second box Number 1  
18 it says that the incident occurred on October 1st, 2019,  
19 Facility D, Building 3; right?

20 A. Yes.

21 Q. Is that consistent with your recollection of  
22 where the incident happened?

23 A. Yes.

24 Q. Going down to Number 4 it says, "During the  
25 evening meal on October 1, 2019, inmate [REDACTED] stated he

1 gassed Officer Oliver through his cell door." Do you  
2 see that?

3 A. Yes, I see it.

4 Q. Is that something you said during the  
5 interview?

6 MR. SHINN-KRANTZ: Objection. Invades the  
7 constitutional right against self-incrimination under  
8 the Fifth Amendment of the U.S. Constitution. I  
9 instruct the witness not to answer.

10 BY MR. TARTAGLIO:

11 Q. And you're going to take that advice?

12 A. Yes.

13 Q. Let's go down to Number 5. Do you see that?

14 A. Yes.

15 Q. It looks like you're asked to identify staff  
16 witnesses; correct?

17 A. Yes.

18 Q. And you identified officers Oliver and  
19 Mobley; correct?

20 A. Yes.

21 Q. Moving down to Number 6 it looks like you're  
22 asked to identify inmate witnesses; correct?

23 A. Yes.

24 Q. And it looks like you identified inmates  
25 [REDACTED] and [REDACTED]; correct?

1 A. Yes.

2 Q. Lets look at the next exhibit. And I  
3 believe this is 22, but those appeals got me all mixed  
4 up. Might have to fix that later.

5 (Whereupon, Exhibit 22 was marked for identification  
6 purposes only.)

7 But do you see this document herein?

8 For the record this is a document that says  
9 Rules Violation Report.

10 A. Yes, I see it.

11 Q. All right. Have you seen a document like  
12 this one before?

13 A. Yes.

14 Q. And to be more specific, do you recall if  
15 getting a rules violation report about the incident  
16 happened on October 1, 2019?

17 A. Yes.

18 Q. What were you charged with in this rules  
19 violation report?

20 A. Gassing.

21 Q. Is it fair to say that was classified as  
22 battery on a peace officer? If you look at the bottom  
23 of page 1.

24 A. Yes, that's what I was charged with.

25 Q. And specifically CDCR charged you with

1 gassing at least one correctional officer; right?

2 A. Yes.

3 Q. And specifically, CDCR charged you with  
4 tossing feces through the perforations of the door. And  
5 I'm quoting there. That's what they're charging you  
6 with; right?

7 A. Yes.

8 Q. Did this RBR end up being heard by senior  
9 hearing officer?

10 A. No. It's pending. They're waiting to see  
11 if there's going to be criminal prosecution so it's  
12 pending until -- probably determine whether or not the  
13 prosecution is going to pick the case up or not.

14 Q. Do you have a criminal case pending  
15 regarding this incident on October 1, 2019?

16 A. It's up to the district attorney at this  
17 point. I don't know whether they're going to file or  
18 not.

19 Q. So your understanding is that district  
20 attorney is still thinking about whether to bring  
21 charges to this.

22 A. Right.

23 Q. What are the potential consequences if  
24 you're found guilty of a rules violation report?

25 MR. SHINN-KRANTZ: Objection. Vague, and lacks

1 foundation, calls for speculation.

2 BY MR. TARTAGLIO:

3 Q. Go ahead and answer if you can.

4 A. I'm going to take the advice of counsel.

5 MR. SHINN-KRANTZ: I'm sorry, I did not instruct  
6 you not to answer.

7 THE WITNESS: Oh, okay. Okay.

8 MR. SHINN-KRANTZ: Vagueness of the question.

9 THE WITNESS: Okay. Okay.

10 BY MR. TARTAGLIO:

11 Q. I'll re-ask the question.

12 A. I can't hear you.

13 Q. I'll re-ask the question.

14 A. All right.

15 MR. FREEDMAN: Not to interrupt you, but your  
16 audio keeps jumping in and out, you're getting kind of  
17 muffled, so I don't know if there's a way -- I don't  
18 know what's going on, but it's getting more difficult to  
19 understand you.

20 MR. TARTAGLIO: I'll try to get a little closer to  
21 my computer.

22 THE WITNESS: There you go.

23 MR. TARTAGLIO: If it's really bad, I'll switch to  
24 my phone.

25 ///

1 BY MR. TARTAGLIO:

2 Q. Is it your understanding, Mr. [REDACTED], that  
3 as a consequence of being found guilty of the Rules  
4 Violation Report you might lose good conduct credits?

5 A. That's correct.

6 Q. What are the consequences of losing good  
7 conduct credits?

8 MR. SHINN-KRANTZ: Objection. Vague. You may  
9 answer the question, though.

10 THE WITNESS: The consequences are you stay  
11 incarcerated longer.

12 BY MR. TARTAGLIO:

13 Q. So in other words, your release date may get  
14 pushed out if you lost credits.

15 A. That's correct.

16 Q. And can you also lose other privileges --  
17 well strike that.

18 Can you lose certain privileges as a result  
19 of being found guilty of the Rules Violation Report?

20 A. Yes. You can lose yard. You can lose  
21 packages.

22 Q. Canteen privileges maybe as well?

23 A. Canteen, yes.

24 Q. Or phone privileges?

25 A. Well I don't know about phone. I'm not

1 sure.

2 Q. And for serious rules violation reports you  
3 might get put into solitaire -- not solitaire --  
4 security housing unit or something like that; right?

5 A. Yes.

6 Q. Or administrative segregation.

7 A. Yes.

8 Q. So turning back to this exhibit here, the  
9 Rules Violation Report, is it possible that if you're  
10 found guilty of this Rules Violation Report, you might  
11 get released later from prison as a result of that?

12 MR. SHINN-KRANTZ: Objection, calls for  
13 speculation.

14 BY MR. TARTAGLIO:

15 Q. You can answer.

16 A. Yes.

17 Q. I'd like to talk now about the last exhibit.  
18 I believe this is Exhibit 22, which is the declaration.  
19 So why don't you pull that up and let me know when  
20 you're ready to discuss it.

21 A. Yeah, I got it.

22 Q. For the record this is (inaudible) of [REDACTED]  
23 [REDACTED]?

24 A. Yes.

25 Q. Well strike that.

1                   This is a declaration that you assisted in  
2 preparing; correct?

3                   A.    Yes.

4                   Q.    Did you get a chance to read this before it  
5 was submitted to the court?

6                   A.    I got a chance to read it when I met up with  
7 Marc first.

8                   Q.    And that was in the last couple of weeks?

9                   A.    Yes.

10                  MR. SHINN-KRANTZ:  Objection.  This is unclear.  
11 The question did not ask whether the declaration is read  
12 to him over the telephone.

13                  THE WITNESS:  Yeah, that's true.

14 BY MR. TARTAGLIO:

15                  Q.    So I'll represent to you this got filed in  
16 September of this year.  Before that happened was this  
17 declaration read to you over the phone?

18                  A.    Yes, it was.  It was read to me over the  
19 telephone.

20                  Q.    And when that happened, did you understand  
21 the contents of the declaration?

22                  A.    Yes.

23                  Q.    When the declaration was read to you did you  
24 agree with the contents of the declaration?

25                  A.    Yes.



1 Q. When the declaration was read to you was it  
2 your understanding that the declaration would be  
3 submitted to a Federal judge?

4 A. Yes.

5 Q. And when the contents of the declaration  
6 were read to you, did you understand that this  
7 declaration would be submitted under penalty of perjury?

8 A. Yes.

9 Q. Let's take a look at Paragraph 6.

10 A. Okay.

11 Q. So is that accurate that you were at LAC  
12 Prison from August 22, 2019 to October 23rd, 2019?

13 A. Yes.

14 Q. That's about two months; right?

15 A. Yes.

16 Q. Let's go to Paragraph 9. Do you see that?

17 A. Yes.

18 Q. And the paragraph says that another inmate  
19 threatened to stab you; correct?

20 A. Yes.

21 Q. Did you file a 602 appeal about that?

22 A. No, I did not.

23 Q. Did you file a Form 22 request for interview  
24 about that?

25 A. No, I did not.

1 Q. Did you submit anything written to the  
2 prison about --

3 A. No. I just told them verbally.

4 Q. Let's look at Paragraph 11. And this  
5 paragraph it says that you reported safety concerns to a  
6 female officer. Do you see that?

7 A. Yes.

8 Q. Do you remember what that officer was?

9 A. I don't know her name.

10 Q. So the answer is no?

11 A. The answer is no.

12 MR. SHINN-KRANTZ: I'm unclear. I believe  
13 misstates prior testimony. Mr. [REDACTED] said he didn't  
14 remember who it was, not that he didn't know who it was.

15 BY MR. TARTAGLIO:

16 Q. Well sitting here today can you remember who  
17 the female officer referred to in Paragraph 11 was?

18 A. I remember seeing her. I don't remember her  
19 name.

20 Q. Did you ever -- well strike that. Let's  
21 look at Paragraph 12.

22 A. All right.

23 Q. Paragraph 12 discusses a clinician; right?

24 A. Yes.

25 Q. Sitting here today do you remember who this

1 clinician was referred to in Paragraph 12?

2 A. Yes.

3 Q. Who was it?

4 A. I don't know his name. I don't know his  
5 name.

6 Q. But you remember it was a man?

7 A. It was a man.

8 Q. Anything more specific than that?

9 A. I don't know. He was older. He was maybe  
10 in his 60s. He was kind of tall.

11 Q. But you don't remember his name?

12 A. I don't remember his name.

13 Q. Going back to Paragraph 11 you stated that  
14 the female officer made you wait for two hours; right?

15 A. Yes.

16 Q. Did you submit a 602 appeal about the fact  
17 that she made you wait two hours?

18 A. No.

19 Q. Did you submit a Form 22 about the fact that  
20 she made you wait two hours?

21 A. No.

22 Q. Did you submit any sort of written complaint  
23 about CDCR about the fact that she made you wait for  
24 two hours?

25 MR. SHINN-KRANTZ: Objection to the extent this is

1 asking him to refer to the appeal that was previously  
2 identified regarding this incident. I instruct the  
3 witness to not answer. But to the extent that it's a  
4 question about other appeals or form 22s, it's okay to  
5 answer.

6 BY MR. TARTAGLIO:

7 Q. So what is your response, Mr. [REDACTED]?

8 A. What was the question?

9 Q. Did you submit any sort of written complaint  
10 to CDCR about the fact that the female correctional  
11 officer made you wait two hours after telling you we'll  
12 get you out of this unit?

13 A. No, I did not.

14 Q. Turning back to Paragraph 12. Well actually  
15 strike that.

16 Paragraph 13 said you you waited in your  
17 cell for seven hours after you being told that you would  
18 be taken to crisis bed; right?

19 A. Yes.

20 Q. Sorry, one second here.

21 Did you ever file a 602 appeal about the  
22 fact that you were made to wait seven hours as described  
23 in Paragraph 13?

24 A. No.

25 Q. Did you ever file a Form 22 about the fact

1 that you were forced to wait for seven hours as  
2 described in Paragraph 13?

3 A. No.

4 Q. Did you file any sort of written complaint  
5 to CDCR about the fact that you were forced to wait  
6 seven hours as described in Paragraph 13?

7 MR. SHINN-KRANTZ: Objection to the extent that  
8 this is asking about the appeal previously referenced as  
9 an exhibit. Then Mr. [REDACTED] should not answer.

10 BY MR. TARTAGLIO:

11 Q. Let's turn to Paragraph 15.

12 A. Okay. Yes.

13 Q. The second sentence here it says, "At this  
14 point LAC staff members allege that I through bodily  
15 fluids toward Officer Oliver." Do you see that?

16 A. Yes.

17 Q. Did you throw bodily fluids toward Officer  
18 Oliver?

19 MR. SHINN-KRANTZ: Objection. Invades his  
20 constitutional rights and self-incrimination under the  
21 Fifth. I instruct the witness not to answer.

22 BY MR. TARTAGLIO:

23 Q. And you're going to take that instruction?

24 A. Yes.

25 Q. Do you think that whether you gassed Oliver

1 or not was relevant to the items discussed in this  
2 declaration?

3 MR. SHINN-KRANTZ: Objection. Unclear. Assumes  
4 that Mr. [REDACTED] gassed Oliver. I instruct the -- calls  
5 for a legal conclusion and it's vague. And I instruct  
6 Mr. [REDACTED] not to answer.

7 BY MR. TARTAGLIO:

8 Q. And you're going to take that instruction?

9 A. Yes.

10 Q. Turn to Paragraph 17. Are you there?

11 A. Yeah. Yes.

12 Q. Near the end of the paragraph says "I  
13 believe I lost consciousness during the assault." Do  
14 you see that?

15 A. Yes.

16 Q. Did you lose consciousness during the  
17 assault?

18 A. Yes. I did very briefly.

19 Q. Did the medical record earlier say that you  
20 did not lose consciousness?

21 A. Yes it did.

22 Q. Was that medical record incorrect?

23 A. Yes.

24 Q. Let's look at Paragraph 19. Let me know  
25 when you're there.

1 A. I'm there.

2 Q. Did you -- do you see the sentence near the  
3 bottom of the page it says, "The officer did not ask me  
4 for the names of witnesses to the incident and ended the  
5 interview after only 10 minutes." Do you see that?

6 A. Yes.

7 Q. Well isn't it true that the officers who  
8 interviewed you on October 2nd, 2019, asked you for  
9 staff witnesses to the incident?

10 A. Yeah, you know what, I believe they did.  
11 And I believe at the time that I made this statement I  
12 may have forgot.

13 Q. Isn't it true that on October 2nd, 2019 when  
14 you were interviewed that you were in fact asked about  
15 inmate witnesses to the incident?

16 A. Yes.

17 Q. So is this sentence here in the declaration  
18 correct?

19 A. No.

20 Q. Turn to Paragraph 20. Let me know when  
21 you're there?

22 A. Okay.

23 Q. First sentence says, "I filed the 602 about  
24 the incident the morning after I was assaulted." Do you  
25 see that?

1 A. Yes.

2 Q. Did you file a 602 the day after you were  
3 assaulted namely October 2nd, 2019?

4 MR. SHINN-KRANTZ: Objection. This invades the  
5 constitutional right against self-incrimination under  
6 Fifth Amendment. I instruct the witness not to answer.

7 BY MR. TARTAGLIO:

8 Q. You're going to take that instruction?

9 A. Yes.

10 MR. TARTAGLIO: So I'll just say this is more for  
11 the lawyers than you that it's completely improper for  
12 him to refuse to answer a question that is literally  
13 about a sentence in his declaration. That is as  
14 material as it gets. And if he doesn't want to talk  
15 about his declaration, he has a pending criminal case.  
16 I get it. He doesn't want to waive his right to plead  
17 the Fifth. But he can't have it both ways. Either he  
18 takes the Fifth and he says nothing and he withdraws the  
19 declaration, or he answers my questions. Okay? And the  
20 fact that he's refusing to ask a question about a  
21 sentence in his own declaration is very telling.

22 MR. SHINN-KRANTZ: All right. Thank you for that.  
23 Let's take a quick break so that I can confer with the  
24 witness in a breakout room.

25 MR. TARTAGLIO: Fine.



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(Recess.)

MR. SHINN-KRANTZ: Back on the record.

So we may be able to withdraw our prior objection. Could I ask the court reporter to read the last question before my last objection.

(Whereupon, the requested question was read back by the court reporter.)

MR. SHINN-KRANTZ: I do withdraw that objection.

THE WITNESS: Yes.

BY MR. TARTAGLIO:

Q. Sorry, Mr. [REDACTED], were you trying to say something?

A. I was saying yes to the question.

Q. Looking at paragraph -- sorry. Give me a second here. Looking back at Paragraph 20. The paragraph says that you never heard anything back -- well strike that.

Paragraph 20 says that you never heard anything back about a 602 you filed; correct?

A. That's what it says. Yes.

Q. Let's turn back to the 602 appeal for LAC-0-019-04923. The October 4th, 2019 appeal.

MR. SHINN-KRANTZ: And I'm going to object. I mean you can ask the question and I will object after you ask the question.

1 MR. TARTAGLIO: Yes. I'm anticipating objections  
2 and instructions, but I'm going to ask any ways.

3 BY MR. TARTAGLIO:

4 Q. Let me know when you're at the exhibit,  
5 Mr. [REDACTED].

6 A. I believe I have it. Okay.

7 Q. I'd like you now to turn Page 4 of this  
8 exhibit which has a box that says, "Second level staff  
9 use only," kind of near the top.

10 A. It says what?

11 Q. On the 602 Page 2 of the 602 itself there's  
12 a box that says, "Second level staff use only." Do you  
13 see that?

14 A. No.

15 Q. Are you looking at the handwritten portion  
16 or typed up portion?

17 A. I'm looking at this.

18 Q. Sorry. One second. Let me -- okay. Yeah.  
19 If you can just ahead a few pages to the second page of  
20 the handwritten portion.

21 A. All right.

22 Q. And do you see on that page about a third of  
23 the way down the page there's a box that says, "Second  
24 level staff use only"?

25 A. Yes.

1 Q. And there's a box there for your appeal  
2 issue is in a box that's checked for granted and part;  
3 correct?

4 A. Yes.

5 Q. And below that box in Section F there's a  
6 section that says, "If you are dissatisfied with the  
7 second level response explain reason below"; correct?

8 A. Uh-huh. Yes.

9 Q. And then below that there's some handwriting  
10 there in Section F; correct?

11 A. Yes.

12 Q. So it looks like Section F, whoever wrote  
13 this appeal, was responding to what the staff said in  
14 the box in Section E; correct?

15 A. Yes.

16 Q. I'd like to turn back now to the  
17 declaration.

18 A. Okay.

19 Q. Paragraph 20.

20 A. Okay.

21 Q. In Paragraph 20 the second sentence says, "I  
22 have never heard anything back about it." Meaning the  
23 602 appeal.

24 Is it true that you never heard back about  
25 the appeal that you filed?

1           A.    At the time I believe that I had forgot.  
2   And looking at it now, I believe that I did hear back  
3   from them.

4           Q.    So the second sentence of Paragraph 20 is  
5   not correct?

6           A.    That's correct.

7           Q.    And just to make we have a clean record.  
8   Would you agree that the second sentence of Paragraph 20  
9   is not correct?

10          A.    It's not correct.   Yes.

11          MR. TARTAGLIO:   Well, that's all the question that  
12   I have, unless Tamiya wanted me to ask anything.   Okay.  
13   Well hearing nothing from Tamiya, that's all the  
14   questions I have.

15                 Something we might want to do while we're  
16   still on the record here.   So for the exhibits I sent  
17   over 23 to the court reporter, but there's one that I  
18   don't believe I used.   The second one which is DPP  
19   Information, I don't believe I used that.   But otherwise  
20   I went through the exhibits in chronological order.   So  
21   hopefully we should be able to mark them without too  
22   much trouble.   I know it's a little hard since we're not  
23   together physically.

24          MR. FREEMAN:   Madam Court Reporter, were you able  
25   to keep track of which exhibits were being discussed or

1 is that something that would be worth going over now to  
2 make sure that the record is accurate?

3 THE COURT REPORTER: He was pretty descriptive, so  
4 yeah. But I think I got them.

5 MR. TARTAGLIO: Off the record.

6 (Recess.)

7 MR. TARTAGLIO: Back on the record.

8 BY MR. TARTAGLIO:

9 Q. I just have a couple of questions.

10 So Mr. [REDACTED], please turn to Paragraph 20  
11 of your declaration.

12 A. Okay.

13 Q. I'm going to read out the first sentence but  
14 I am going to replace "The morning after I was  
15 assaulted" with "October 4, 2020" okay? Just to make  
16 sure you understand my next question.

17 A. Okay.

18 Q. So my question is: Is it true that you  
19 filed a 602 about the October 1, 2019 incident on  
20 October 4, 2019?

21 A. Yes.

22 Q. Is that document appeal LAC-0-19-04923?

23 MR. SHINN-KRANTZ: Objection. Invades the  
24 constitutional right against self-incrimination. I  
25 instruct witness not to answer that question.

1 MR. TARTAGLIO: Well I'm a little confused because  
2 he just said that he filed the appeal.

3 MR. SHINN-KRANTZ: He said he filed an appeal and  
4 I'm instructing the witness not to answer that question  
5 that you just asked.

6 BY MR. TARTAGLIO:

7 Q. Mr. [REDACTED] look at Paragraph 20 of your  
8 declaration, please.

9 A. Okay.

10 Q. Did you file a 602 appeal within a few days  
11 of the October 1, 2019 incident with Oliver and the  
12 gymnasium?

13 A. Yes.

14 MR. TARTAGLIO: Okay. Well -- so Marc, what's  
15 going on here? I mean, is he going to answer my  
16 questions or not because he just said that he filed the  
17 appeal. But then I ask about the appeal and you  
18 instruct him not to answer.

19 MR. SHINN-KRANTZ: That's right.

20 MR. TARTAGLIO: Well can you explain to me what's  
21 going on? That seems fairly inconsistent I would say.

22 MR. SHINN-KRANTZ: He said that he filed an appeal  
23 about the incident. But to the extent that the appeal  
24 that you're referencing -- I don't have the number in  
25 front of me -- but the LAC appeal to the extent that is

1 a document that has potentially self-incriminating  
2 statements, I'm instructing him not to answer questions  
3 about that appeal. Defendants of course have a copy of  
4 that exhibit and have marked it for entry.

5 MR. TARTAGLIO: All right. I don't think we're  
6 going to get anywhere else. I don't have anymore  
7 questions.

8 THE COURT REPORTER: Marc, would you like a copy.

9 MR. SHINN-KRANTZ: Yes, we would like a copy of  
10 the transcript I think as quickly as possible, but we  
11 don't need any of the other sort of frills. No mini  
12 version or anything like that.

13 (Discussion held off the record.)

14 MR. FREEDMAN: If we can have it by the 17th.

15 THE COURT REPORTER: Okay. Got it.

16 MR. TARTAGLIO: And I think defendants will  
17 actually need a copy even faster. We have something due  
18 on the 17th. We could even do a rough if that's the  
19 best we can do. Would it be possible to get something  
20 by close of business tomorrow?

21 THE COURT REPORTER: If you want it expedited by  
22 tomorrow, I can do that too.

23 MR. TARTAGLIO: Yeah, I mean we would like it by  
24 close of business tomorrow. "We" being defendants.

25 (Whereupon, the deposition concluded at 9:58 a.m.)

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REPORTER'S CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify that the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

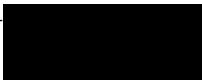
I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have subscribed my name.

Signed on November 13th, 2020.



Isleen Chavez  
CSR No. 13389



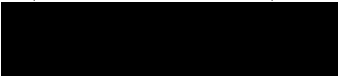
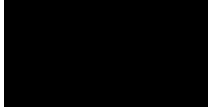


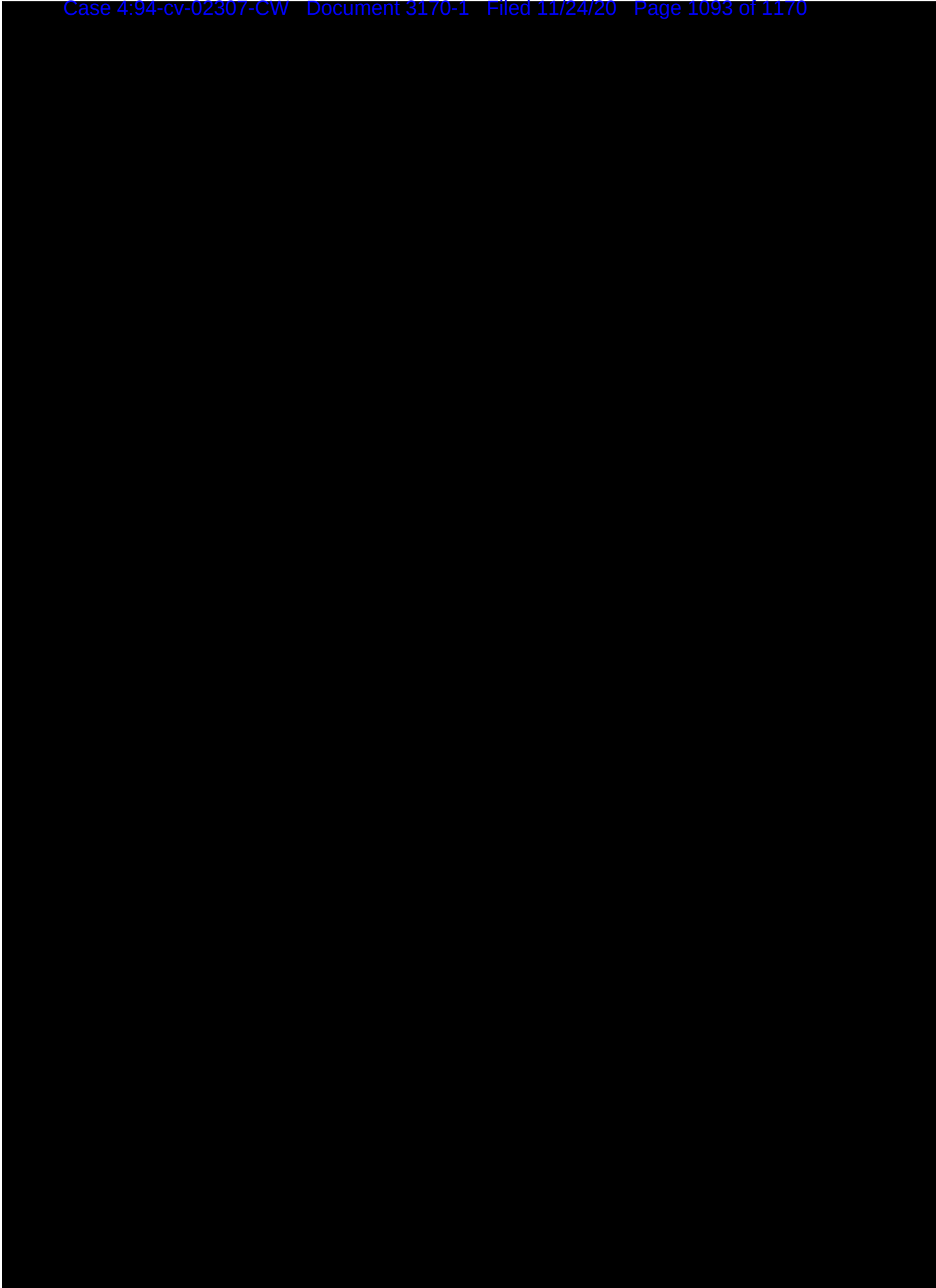






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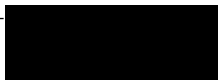


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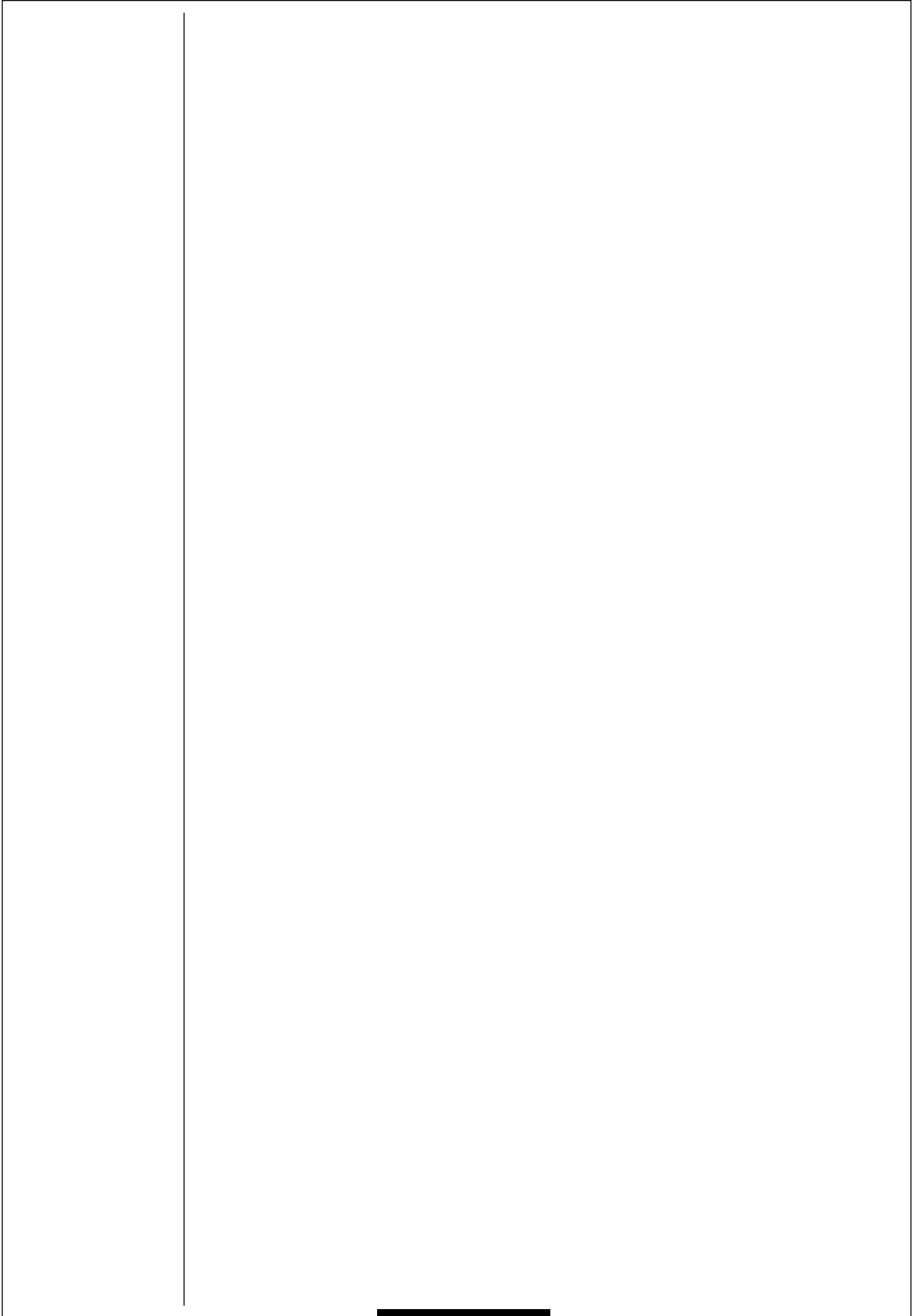


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# **Exhibit 21**

Filed Under Seal

# **Exhibit 22**

# Two former California prison guards charged in cover-up of inmate's death in 2016

By [Richard Winton](#) Staff Writer Nov. 19, 2020 5:18 PM

Two former state prison guards have been charged with attempting to cover up how an inmate died inside California State Prison Sacramento in 2016, and one of them is accused of depriving the inmate of his civil rights.

Arturo Pacheco, 38, and Ashley Marie Aurich, 31, were charged in connection with an incident in September 2016 that resulted in the death of a 65-year-old inmate who fell while his hands were handcuffed behind his back as he was being escorted by the pair.

Federal prosecutors, in an indictment unsealed Thursday, accused Pacheco of bending down and pulling the inmate's legs backward on Sept. 15, 2016, causing the handcuffed man to "immediately fall forward violently with his head and upper torso striking the concrete floor." The unidentified inmate died two days later of his injuries, according to court documents.

Pacheco was indicted by a federal grand jury on two counts of willfully depriving the inmate of his rights under the color of law and two counts of falsifying records in a federal investigation.

Aurich was charged separately with one count of falsifying records in a federal investigation.

The indictment did not reveal the inmate's identity, and the California Department of Corrections and Rehabilitation did not issue a news release

about the incident at the time, as is the practice with such deaths. Pacheco and Aurich were both fired in June 2018.

"The department conducted a thorough investigation into this incident in collaboration with the Federal Bureau of Investigation. After substantiating allegations of misconduct and dishonesty, the officers involved were promptly dismissed from the department," Dana Simas, a spokeswoman for the corrections department, said in a statement.

According to the indictment, the two guards were escorting the inmate from a cell in Building A6 to a new cell in Building A7. They entered a rotunda in the second building when the inmate "stopped walking," the indictment said. At that point, Pacheco responded by releasing his grip on the inmate's left arm, then wrapped his arms around the inmate's legs and pulled them back, causing the violent fall, according to court documents. At least three correctional officials were present at the time, and the inmate was taken to a hospital.

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Federal prosecutors allege Pacheco and Aurich then began to conduct a cover-up, filing incident reports "intentionally concealing the presence" of one of the other three guards and falsely reporting that the inmate "spun to his left and lunged forward," breaking Pacheco's grip, according to the indictment. Aurich also stated in a report that Pacheco had not "used immediate force" against the inmate, the indictment said.

"Pacheco abused his position of authority to harm an inmate," U.S. Atty. McGregor Scott said in a statement. "Instead of upholding and enforcing the law, he went on to conceal his actions and asked others to assist him."

Pacheco is also charged in a second incident in which he is accused of filing



another false report stemming from his use of state-issued pepper spray on an inmate May 19, 2016. Prosecutors allege Pacheco sprayed the 54-year-old inmate in the face even though the inmate was cooperating with the correctional officer's orders.

Pacheco reported he confronted an inmate who had a piece of glass in his hand and ordered him to drop it, turn around and prepare to be handcuffed, the indictment stated. "In order to stop [Victim 1] from self-harming himself and causing serious bodily injury or death to himself, I used immediate force, utilizing an approximate 3-second burst from my MK-9 OC pepper spray," Pacheco wrote in an incident report, according to the indictment.

## **Advertisement**

But the indictment alleged that the inmate did not have a piece of glass and that Pacheco ordered him to come closer and open his eyes before spraying him in the face.

"Pacheco falsified and made the foregoing false entry in a record knowing that Victim 1 had not been holding glass at the time," the indictment stated. "And, in truth and in fact, Pacheco falsified and made the foregoing false entry in a record knowing that Pacheco did not order Victim 1 to submit to handcuffs before spraying him with pepper spray."

Pacheco faces up to 10 years in prison and a \$250,000 fine if convicted on the deprivation of rights charges. Both former correctional officers face up to 20 years in prison and a \$250,000 fine if convicted on the falsifying records counts.

# **Exhibit 23**

---

**From:** Wesley, Roy <wesleyr@oig.ca.gov>  
**Sent:** Friday, November 20, 2020 10:52 PM  
**To:** Gay C. Grunfeld  
**Subject:** Re: Sac Bee -- California prison guards charged in inmate's death, alleged cover-up scheme [IWOV-DMS.FID3579]

Good evening. Sorry for the delay. The victim was a Coleman class member.

Roy W. Wesley  
Inspector General  
Cell (916) 708-2360

On Nov 20, 2020, at 4:47 PM, Gay C. Grunfeld <GGrunfeld@rbgg.com> wrote:

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

Hi Roy,

Are you able to tell us if the victim was an Armstrong or Coleman class member? I will call you to discuss.

Thanks, 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

## California prison guards charged in inmate's death, alleged cover-up scheme

[By Sam Stanton](#)

November 19, 2020 01:42 PM / Updated November 19, 2020 03:13 PM  
<image001.png>

Two former prison guards have been charged in connection with the 2016 death of an inmate at [California State Prison, Sacramento](#), and alleged efforts to cover up how he died.

Arturo Pacheco, 38, was indicted Thursday by a federal grand jury with two counts of deprivation of rights under color of law and two counts of falsifying records in a federal investigation.

Ashley Marie Aurich, 31, was charged separately with one count of falsifying records in a federal investigation.

Neither Pacheco nor Aurich could be reached for comment Thursday.

According to court records, the two were escorting a 65-year-old inmate with his hands cuffed behind his back at the prison — commonly known as New Folsom — on Sept. 15, 2016, when Pacheco bent down and yanked the inmate's legs backward out from under him.

U.S. Attorney McGregor Scott issued a statement Thursday saying the inmate, who suffered a broken jaw and teeth, was taken to a hospital and died two days later.

"Pacheco abused his position of authority to harm an inmate," Scott said. "Instead of upholding and enforcing the law, he went on to conceal his actions and asked others to assist him.

"The U.S. Attorney's Office will continue to hold accountable correctional officers who violate the public's trust by harming inmates or by covering up wrongdoing."

The inmate is not identified in the indictment, and the California Department of Corrections and Rehabilitation did not issue a news release about the incident at the time.

Court records say the two guards were escorting the inmate from his cell in Building A6 to a new cell in Building A7, and that when the guards and inmate entered the rotunda in A7 the inmate stopped walking.

Pacheco allegedly responded by releasing his grip on the inmate's left arm, then wrapped his arms around the inmate's legs and pulled them backward, court documents say. Three other guards also were present, court records say.

Following the incident, Pacheco and Aurich filed incident reports "intentionally concealing the presence" of one of the other three guards and falsely reporting

that the inmate “spun to his left and lunged forward,” breaking Pacheco’s grip, court records say.

Aurich also allegedly reported that Pacheco had not “used immediate force” against the inmate and that the inmate had landed “on his stomach face down,” court records say.

### **Separate incident involving pepper spray**

The indictment also alleges that Pacheco filed another false report stemming from a May 19, 2016, incident when he used his department-issued pepper spray canister to spray a second inmate in the face despite the fact that the inmate was cooperating with Pacheco’s orders.

In that incident, Pacheco claimed he confronted an inmate who was holding a piece of glass and ordered him to drop it, turn around and prepare to be handcuffed, the indictment says.

“In order to stop (Victim 1) from self-harming himself and causing serious bodily injury or death to himself, I used immediate force, utilizing an approximate 3 second burst from my MK-9 OC pepper spray,” Pacheco wrote in an incident report, according to the indictment.

The indictment tells a different story, saying the 54-year-old inmate did not have a piece of glass and that Pacheco ordered him to come closer and open his eyes, and that the guard then sprayed him.

“Pacheco falsified and made the foregoing false entry in a record knowing that Victim 1 had not been holding glass at the time,” the indictment says. “And, in truth and in fact, Pacheco falsified and made the foregoing false entry in a record knowing that Pacheco did not order Victim 1 to submit to handcuffs before spraying him with pepper spray.”

Pacheco faces up to 10 years in prison and a \$250,000 fine on the deprivation of rights counts, and both former guards face up to 20 years in prison and a \$250,000 fine on the falsifying records counts.

State corrections officials say both guards were dismissed from their jobs June 25, 2018.

“The department conducted a thorough investigation into this incident in collaboration with the Federal Bureau of Investigation,” CDCR said in a statement.

“After substantiating allegations of misconduct and dishonesty, the officers involved were promptly dismissed from the department.

“CDCR has a zero-tolerance policy for any form of dishonesty. All reports of dishonesty or misconduct are investigated thoroughly, and proper disciplinary action is taken.”

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# **Exhibit 24**



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016		2017											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CCI</b>	Possession of Cell Phone(s)	1	1	1	1	0	0	2	0	1	3	5	3	1	
	Possession of a Wireless Communication Device(s)	0	1	0	0	1	0	0	0	0	0	0	0	0	
	Disturbance, Riot, or Strike	0	0	0	0	0	0	0	0	0	1	0	0	0	
	Fighting	39	44	50	42	52	36	61	45	45	55	52	39	36	
	Threats	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	1	6	5	5	2	3	6	6	2	2	5	6	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	2	1	0	3	2	0	3	0	0	0	1	1	3	
	Attempted Murder	0	2	0	0	0	0	1	0	0	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	47	76	92	62	105	111	97	70	55	58	120	78	59	
	Number of RVRs Involving Mental Health Inmates	66	80	91	94	122	102	111	94	79	90	99	105	89	
	<b>Number of Incidents</b>														
	Number of Incidents	34	35	42	41	47	40	55	52	54	36	51	37	49	
Per 100 inmates	0.91	0.94	1.10	1.05	1.21	1.05	1.44	1.36	1.40	0.93	1.34	0.96	1.28		
Number of Voided Incident Reports	0														
Documented Use of Force	26	24	26	35	35	30	38	32	35	27	26	24	35		
Per 100 inmates	0.70	0.64	0.68	0.90	0.90	0.79	0.99	0.84	0.91	0.70	0.68	0.62	0.91		
Departmental Executive Use of Force Review	0														
Departmental Executive Review Committee								0	0	0	0	0	1		
Total Number of Overdue UOF Reviews - 30 Days	0	0	0	16	13	17	12	18	10	19	0	0	0		
Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	3	4	10	12	18	9	0	0	0		
Lockdown/Modified Programs	0														





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
CCI	Modified Programs								1	2	3	3	1	1	
	Lockdown								0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	21	18	20	26	28	23	26	23	26	20	18	17	26	
	Physical Force	6	5	5	4	4	6	7	6	7	3	4	7	8	
	Baton	2	3	3	3	5	2	4	3	6	1	2	1	2	
	CN	0	3	6	6	5	4	1	2	4	8	4	4	1	
	37 mm/40 mm	4	6	3	7	11	7	8	10	9	7	7	4	8	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	1	
	Non-Conventional Force		0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	1	0	0	1	0	0	0	0	0	
	<b>Incidents</b>														
	Controlled Substance Involved/U.A.	1													
	Controlled Substances/Stimulants/Sedatives		0	1	0	1	1	0	5	2	1	4	1	0	
	Methamphetamine	0	0	0	0	0	0	0	3	1	3	7	0	0	
	Methamphetamine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	16.53	1.70	0.59	87.47	0.00	0.00	
	Marijuana	0	0	0	0	0	0	0	1	1	0	2	0	0	
	Marijuana Quantity		0.00	0.00	0.00	0.00	0.00	0.00	3.05	0.62	0.00	11.51	0.00	0.00	
	Heroin	0	0	1	0	0	0	0	2	1	0	1	0	0	
Heroin Quantity		0.00	1.42	0.00	0.00	0.00	0.00	6.68	0.29	0.00	10.62	0.00	0.00		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Amphetamine	1	0	0	0	1	1	0	0	0	0	0	0	0		
Amphetamine Quantity		0.00	0.00	0.00	12.03	8.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0		
Barbiturates Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CCWF, CHCF, CIW, CMF, FSP



		2016	2017											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>CIW</b>	Number of RVRs Involving Mental Health Inmates	107	101	91	119	104	83	72	105	84	88	78	78	59
	<b>Number of Incidents</b>													
	Number of Incidents	23	26	34	29	40	21	37	30	40	18	23	28	28
	Per 100 inmates	1.18	1.32	1.73	1.47	2.07	1.11	1.93	1.57	2.14	0.94	1.23	1.50	1.50
	Number of Voided Incident Reports	0												
	Documented Use of Force	11	11	16	11	19	4	14	12	14	6	3	9	9
	Per 100 inmates	0.56	0.56	0.82	0.56	0.98	0.21	0.73	0.63	0.75	0.31	0.16	0.48	0.48
	Departmental Executive Use of Force Review	0												
	Departmental Executive Review Committee		0	1	1	1	1	1	1	1	0	0	0	0
	Total Number of Overdue UOF Reviews - 30 Days	0	0	3	2	0	0	0	0	1	0	0	0	0
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
	Lockdown/Modified Programs	0												
	Modified Programs		1	0	0	0	0	1	0	0	0	0	0	0
	Lockdown		0	0	0	0	0	0	0	0	0	0	0	0
	<b>Type of Force</b>													
	OC	1	3	7	5	7	1	4	2	5	0	2	6	5
	Physical Force	9	9	10	7	11	4	12	11	10	6	1	3	4
	Baton	1	1	1	2	1	0	3	1	1	0	1	1	1
	CN	0	0	0	0	0	0	0	0	0	0	0	0	0
	37 mm/40 mm	0	0	0	0	0	0	0	1	1	0	0	0	0
Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
Non-Conventional Force		0	0	0	1	0	0	0	0	0	0	1	0	
Other	0	0	1	0	0	0	0	0	0	0	0	0	0	





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>COR</b>	Positive U.A.	43	49	6	22	48	32	48	34	30	16	3	35	29	
	U.A. Refusal	28	28	17	37	29	18	25	10	18	13	17	13	15	
	Indecent Exposure (IEX)	4	4	5	2	4	1	2	6	8	7	5	0	3	
	Sexual Disorderly Conduct	6	6	7	3	4	1	2	6	9	7	5	0	3	
	Possession of Cell Phone(s)	30	25	14	18	16	26	15	14	20	20	16	30	30	
	Possession of a Wireless Communication Device(s)	3	3	4	1	4	3	2	1	3	2	0	2	2	
	Disturbance, Riot, or Strike	0	0	1	0	1	3	0	0	0	0	0	0	1	
	Fighting	33	72	37	53	34	64	52	52	61	38	51	26	30	
	Threats	0	0	0	0	0	0	0	0	0	0	0	1	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	7	6	11	6	5	15	4	12	8	7	6	7	5	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	2	2	3	6	1	3	5	3	3	2	1	3	2	
	Attempted Murder	0	1	0	0	0	0	0	0	0	2	1	0	2	
	Murder	0	0	0	0	0	0	0	0	0	1	0	0	0	
	Other	75	112	105	149	81	98	110	101	101	89	116	81	79	
	Number of RVRs Involving Mental Health Inmates	124	180	131	165	140	159	154	152	150	117	129	112	116	
	<b>Number of Incidents</b>														
		Number of Incidents	67	83	70	91	72	84	86	95	107	82	98	86	91
	Per 100 inmates	1.96	2.37	2.01	2.71	2.18	2.74	2.76	2.93	3.27	2.57	3.12	2.81	2.97	
	Number of Voided Incident Reports	0													
	Documented Use of Force	35	51	35	42	32	40	39	41	49	35	42	29	41	
	Per 100 inmates	1.02	1.46	1.01	1.25	0.97	1.30	1.25	1.27	1.50	1.10	1.34	0.95	1.34	
	Departmental Executive Use of Force Review	0													
	Departmental Executive Review Committee								0	0	0	0	0	1	



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016		2017											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>COR</b>	Total Number of Overdue UOF Reviews - 30 Days	112	128	105	96	95	111	85	69	44	44	3	0	1	
	Total Number of Overdue UOF Reviews - 90 Days	94	103	89	66	56	72	69	43	51	50	0	0	0	
	Lockdown/Modified Programs	0													
	Modified Programs		1	0	1	0	0	0	2	2	1	1	1	0	
	Lockdown		0	0	0	0	0	0	0	0	0	0	1	0	
	<b>Type of Force</b>														
	OC	17	27	19	20	18	24	18	25	23	19	21	14	17	
	Physical Force	17	22	17	18	18	12	19	16	18	15	15	13	19	
	Baton	2	8	4	3	2	3	2	4	6	3	5	3	3	
	CN	0	0	0	0	0	1	1	0	1	2	2	0	1	
	37 mm/40 mm	3	9	8	11	5	8	8	6	14	4	12	4	7	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force		1	0	0	1	2	4	0	0	0	0	1	0	
	Other	0	0	0	0	0	1	0	1	0	1	0	0	3	
<b>Incidents</b>															
Controlled Substance Involved/U.A.	4														
Controlled Substances/Stimulants/Sedatives		7	7	15	9	6	18	14	13	16	12	13	14		
Methamphetamine	2	0	4	6	6	1	13	4	1	2	3	2	7		
Methamphetamine Quantity		0.00	0.70	29.20	178.60	0.30	24.40	0.40	0.30	24.90	1.00	21.80	16.30		
Marijuana	5	16	4	6	3	2	8	9	4	12	16	14	14		
Marijuana Quantity		54.00	1.10	51.10	79.50	1.90	71.60	231.60	40.70	139.00	77.82	730.97	279.40		
Heroin	4	3	3	11	5	3	17	7	9	8	3	2	2		
Heroin Quantity		4.60	2.60	14.70	162.10	0.70	31.00	21.80	1.60	64.20	2.20	0.90	6.00		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>KVSP</b>	Threats	1	0	1	2	1	1	0	0	1	1	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	0	2	5	3	3	5	10	8	4	3	6	2	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	9	12	7	5	1	17	6	8	4	5	4	0	0	
	Attempted Murder	0	0	1	3	2	0	0	2	0	0	0	2	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	68	74	165	130	70	127	96	97	112	90	101	83	57	
	Number of RVRs Involving Mental Health Inmates	99	105	133	135	99	132	120	132	138	122	114	99	68	
	<b>Number of Incidents</b>														
	Number of Incidents	63	66	55	69	47	74	82	85	87	81	56	61	78	
	Per 100 inmates	1.70	1.76	1.47	1.86	1.27	1.98	2.22	2.33	2.37	2.19	1.51	1.63	2.08	
	Number of Voided Incident Reports	1													
	Documented Use of Force	28	28	36	37	24	41	47	49	43	54	27	36	47	
	Per 100 inmates	0.75	0.75	0.96	1.00	0.65	1.10	1.27	1.34	1.17	1.46	0.73	0.96	1.26	
	Departmental Executive Use of Force Review	0													
	Departmental Executive Review Committee		2	0	0	1	1	1	0	0	1	0	1	1	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	1	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Lockdown/Modified Programs	0													
	Modified Programs		0	1	1	2	2	1	1	0	0	1	0	0	
	Lockdown		0	0	0	0	0	0	0	0	0	0	0	0	
<b>Type of Force</b>															
OC	16	16	23	31	19	22	31	28	17	34	18	20	31		
Physical Force	8	10	6	6	3	12	10	12	11	10	8	9	9		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>KVSP</b>	Baton	3	0	1	1	4	2	1	1	1	4	3	4	2
	CN	4	3	5	6	5	10	8	8	8	5	3	5	9
	37 mm/40 mm	7	7	8	7	6	14	15	16	16	18	3	8	16
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Non-Conventional Force		0	0	0	0	0	0	0	0	0	0	0	0
	Other	1	0	0	0	0	0	0	0	0	0	0	0	1
	<b>Incidents</b>													
Controlled Substance Involved/U.A.	5													
Controlled Substances/Stimulants/Sedatives		8	3	6	8	2	1	2	7	3	3	9	2	
Methamphetamine	4	3	3	3	4	1	0	0	7	0	2	7	8	
Methamphetamine Quantity		53.42	27.50	18.10	102.00	2.20	0.00	0.00	57.43	0.00	0.34	7.40	49.90	
Marijuana	1	3	3	4	6	0	0	1	4	1	0	12	6	
Marijuana Quantity		11.01	14.03	59.73	69.30	0.00	0.00	3.80	60.40	110.40	0.00	28.96	36.50	
Heroin	1	5	6	3	12	9	1	3	5	2	1	3	1	
Heroin Quantity		30.18	25.38	0.23	93.80	30.00	0.00	55.40	41.87	0.70	17.39	14.14	54.20	
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0	
Cocaine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0	
Amphetamine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0	
Barbiturates Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Codeine	0	0	0	0	0	0	0	0	0	0	0	0	0	
Codeine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Morphine	0	0	0	0	0	0	0	0	0	0	1	0	0	
Morphine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.05	0.00	0.00	
Synthetic Marijuana - Spice		0	0	0	0	0	0	0	0	0	0	0	0	





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>LAC</b>	Possession of Cell Phone(s)	22	79	46	45	55	57	21	54	56	47	42	57	35	
	Possession of a Wireless Communication Device(s)	0	2	1	5	3	5	5	4	5	7	3	4	0	
	Disturbance, Riot, or Strike	0	0	0	0	0	0	0	0	1	0	0	0	2	
	Fighting	38	57	58	57	79	36	45	41	44	61	59	43	20	
	Threats	0	0	0	0	1	0	0	0	0	0	2	1	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	4	4	7	4	1	5	6	4	4	2	4	2	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	4	5	3	3	3	2	2	8	3	2	8	3	0	
	Attempted Murder	0	0	0	0	0	0	0	1	1	0	0	0	1	
	Murder	1	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	66	86	81	101	97	103	82	103	114	124	82	77	77	
	Number of RVRs Involving Mental Health Inmates	167	197	208	259	233	193	155	191	203	220	178	149	118	
	<b>Number of Incidents</b>														
	Number of Incidents	78	69	76	85	90	89	55	79	75	86	83	67	75	
	Per 100 inmates	2.30	2.00	2.22	2.46	2.70	2.66	1.61	2.32	2.17	2.46	2.40	1.96	2.19	
	Number of Voided Incident Reports	2													
	Documented Use of Force	28	39	44	48	54	48	30	48	36	42	44	39	35	
	Per 100 inmates	0.83	1.13	1.28	1.39	1.62	1.43	0.88	1.41	1.04	1.20	1.27	1.14	1.02	
	Departmental Executive Use of Force Review	0													
	Departmental Executive Review Committee		1	0	0	0	0	0	1	0	0	0	0	0	
Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	1	1	0	0	0		
Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0		
Lockdown/Modified Programs	0														



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
LAC	Modified Programs		1	0	0	0	4	0	0	0	0	1	1	1	
	Lockdown		0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	12	21	28	32	32	27	19	23	21	22	26	20	25	
	Physical Force	15	14	13	17	15	19	9	17	12	10	12	16	7	
	Baton	4	6	2	6	7	5	5	3	5	6	4	9	6	
	CN	0	1	5	7	3	1	1	2	1	0	3	4	2	
	37 mm/40 mm	3	10	11	12	18	12	7	14	12	18	12	14	16	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force		0	0	0	0	0	1	0	0	0	0	0	0	
	Other	0	1	0	0	1	0	0	0	1	0	0	0	0	
	<b>Incidents</b>														
	Controlled Substance Involved/U.A.	5													
	Controlled Substances/Stimulants/Sedatives		8	3	7	10	3	2	8	12	6	4	4	9	
	Methamphetamine	1	4	0	4	2	0	1	4	1	1	3	0	2	
	Methamphetamine Quantity		60.40	0.00	17.80	59.90	0.00	18.00	94.96	0.30	0.00	16.00	0.00	3.60	
	Marijuana	4	4	2	4	10	1	2	3	5	3	3	2	8	
	Marijuana Quantity		29.20	0.00	123.65	122.75	0.70	50.70	60.10	27.88	3.15	57.60	3.20	3.10	
	Heroin	0	1	2	3	0	0	0	4	6	1	3	1	3	
Heroin Quantity		0.40	5.10	40.48	0.00	0.00	0.00	7.40	32.52	0.10	62.20	0.06	57.80		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Amphetamine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0		
Barbiturates Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SATF</b>	Threats	0	0	0	0	0	1	0	0	0	1	1	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	1	2	3	4	5	3	4	2	4	2	6	2	3	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	7	4	5	2	14	3	4	2	3	6	2	3	2	
	Attempted Murder	0	0	0	0	0	0	0	0	1	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	83	98	138	145	115	146	124	105	144	95	142	99	107	
	Number of RVRs Involving Mental Health Inmates	116	119	134	155	125	148	146	133	177	111	143	145	147	
	<b>Number of Incidents</b>														
	Number of Incidents	52	49	46	45	40	47	52	38	54	36	34	27	36	
	Per 100 inmates	0.95	0.89	0.82	0.79	0.71	0.83	0.91	0.66	0.95	0.62	0.59	0.47	0.63	
	Number of Voided Incident Reports	6													
	Documented Use of Force	22	18	20	22	12	14	18	16	22	17	11	14	18	
	Per 100 inmates	0.40	0.33	0.36	0.39	0.21	0.25	0.32	0.28	0.39	0.29	0.19	0.25	0.32	
	Departmental Executive Use of Force Review	0													
	Departmental Executive Review Committee		0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	1	0	0	0	0	0	5	6	2	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Lockdown/Modified Programs	2													
	Modified Programs		1	1	2	2	1	1	0	3	4	2	0	2	
	Lockdown		0	0	0	0	0	0	0	0	0	0	0	0	
<b>Type of Force</b>															
OC	11	11	10	9	6	6	10	6	8	5	5	10	11		
Physical Force	8	5	6	9	8	3	5	6	9	9	2	2	6		



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SATF</b>	Baton	1	0	1	1	1	0	0	1	2	1	0	2	0	
	CN	0	0	0	1	0	0	0	0	0	0	0	0	0	
	37 mm/40 mm	5	6	5	8	2	5	4	5	5	4	6	6	5	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force		0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	0	0	0	0	0	1	1	0	0	
	<b>Incidents</b>														
	Controlled Substance Involved/U.A.	5													
	Controlled Substances/Stimulants/Sedatives		6	7	7	6	7	5	3	7	1	2	2	1	
	Methamphetamine	1	19	1	4	2	2	1	0	4	0	2	0	0	
	Methamphetamine Quantity		10.01	28.40	8.70	73.00	14.10	2.10	0.00	99.00	0.00	33.70	0.00	0.00	
	Marijuana	3	17	3	7	13	7	3	4	3	2	2	3	2	
	Marijuana Quantity		12.80	86.20	39.15	238.30	238.90	88.10	13.40	25.10	5.60	36.50	35.30	45.60	
	Heroin	24	3	7	1	3	2	4	1	1	0	1	4	0	
	Heroin Quantity		4.80	173.20	0.80	39.17	92.40	50.60	1.30	0.10	0.00	2.30	135.70	0.00	
	Cocaine	0	0	0	0	0	1	0	0	0	0	0	0	0	
	Cocaine Quantity		0.00	0.00	0.00	0.00	8.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Amphetamine	2	0	0	0	0	0	1	0	0	0	0	0	0	
	Amphetamine Quantity		0.00	0.00	0.00	0.00	0.00	44.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Barbiturates Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Codeine	0	0	0	1	0	0	0	0	0	0	0	0	0	
	Codeine Quantity		0.00	0.00	12.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Morphine	0	0	1	0	0	0	0	0	0	0	0	0	0	
	Morphine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Synthetic Marijuana - Spice		1	0	0	0	0	0	0	0	0	0	0	0	







# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SVSP</b>	Possession of Cell Phone(s)	27	25	46	23	7	41	20	21	17	11	19	20	11	
	Possession of a Wireless Communication Device(s)	1	2	2	0	0	0	0	1	3	0	1	1	0	
	Disturbance, Riot, or Strike	0	0	0	1	1	0	0	0	0	0	0	1	0	
	Fighting	59	56	49	46	53	53	53	54	48	52	36	39	13	
	Threats	0	1	0	0	1	0	0	1	1	1	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	1	10	6	7	3	2	3	0	0	1	2	0	0	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	8	4	6	2	1	3	6	7	5	2	2	0	0	
	Attempted Murder	3	0	0	2	1	0	0	0	0	0	0	0	1	0
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	87	71	55	81	85	95	101	74	80	79	78	64	29	
	Number of RVRs Involving Mental Health Inmates	157	148	116	127	137	152	158	133	142	119	112	94	39	
	<b>Number of Incidents</b>														
		Number of Incidents	52	84	64	67	65	65	74	70	83	79	65	85	78
	Per 100 inmates	1.39	2.44	1.88	1.91	1.78	1.78	2.04	1.96	2.32	2.20	1.84	2.36	2.17	
	Number of Voided Incident Reports	0													
	Documented Use of Force	28	51	33	34	36	33	42	35	37	35	36	44	32	
	Per 100 inmates	0.75	1.48	0.97	0.97	0.99	0.90	1.16	0.98	1.03	0.97	1.02	1.22	0.89	
	Departmental Executive Use of Force Review	0													
	Departmental Executive Review Committee		0	0	0	0	1	0	0	1	1	0	1	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	2	0	1	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Lockdown/Modified Programs	6													



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-12-2018

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2016	2017												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
SVSP	Modified Programs		2	1	1	2	2	1	3	3	4	2	5	3	
	Lockdown		0	0	0	0	0	0	0	1	0	0	0	0	
	<b>Type of Force</b>														
	OC	21	30	21	22	24	20	28	30	23	27	21	32	19	
	Physical Force	6	19	13	10	8	8	13	7	7	8	13	11	14	
	Baton	0	1	2	3	1	0	1	1	0	1	1	2	0	
	CN	2	0	4	2	2	2	1	1	1	0	1	2	1	
	37 mm/40 mm	7	6	7	11	8	12	8	8	13	8	13	11	11	
	Mini 14 - Shots	2	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	1	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force		0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	2	0	0	1	0	0	1	0	0	0	
	<b>Incidents</b>														
	Controlled Substance Involved/U.A.	7													
	Controlled Substances/Stimulants/Sedatives		10	12	9	8	8	6	5	3	8	8	19	11	
	Methamphetamine	1	4	8	5	6	5	3	6	1	6	6	9	4	
	Methamphetamine Quantity		29.52	28.59	93.17	142.23	13.83	13.47	181.70	0.50	168.15	119.32	450.33	78.37	
	Marijuana	5	14	5	1	4	3	2	3	3	3	4	16	4	
	Marijuana Quantity		17.57	38.46	55.00	89.98	1.06	5.66	120.46	14.07	89.13	305.65	419.16	64.35	
	Heroin	2	8	7	4	2	1	2	4	1	6	5	12	11	
Heroin Quantity		32.45	17.45	61.41	12.87	0.30	0.04	360.44	0.20	52.65	72.42	162.54	39.55		
Cocaine	7	0	1	0	3	0	0	0	0	0	1	0	0		
Cocaine Quantity		0.00	1.00	0.00	6.60	0.00	0.00	0.00	0.00	0.00	6.14	0.00	0.00		
Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Amphetamine Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0		
Barbiturates Quantity		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CCI</b>	Audio/Video Evidence			11	80	0	19	30	35	11	22	45	21	42	
	Impact - Guilty			3	2	0	1	0	0	0	0	2	0	2	
	Impact - Reduced			0	0	0	0	0	0	0	0	0	0	0	
	Impact - Not Guilty			0	0	0	0	0	0	0	0	1	0	0	
	Impact - None			5	0	0	10	0	0	0	0	0	0	40	
	No Audio/Video Evidence			187	192	123	194	201	132	213	144	284	213	215	
	<b>Number of Incidents</b>														
	Number of Incidents	49	47	46	46	27	40	46	43	61	47	78	61	67	
	Per 100 inmates	1.28	1.38	1.36	1.39	0.83	1.23	1.38	1.28	1.78	1.30	2.04	1.52	1.64	
	Documented Use of Force	35	33	33	28	13	31	28	31	43	33	61	40	47	
	Per 100 inmates	0.91	0.97	0.98	0.85	0.40	0.95	0.84	0.92	1.25	0.91	1.60	1.00	1.15	
	Departmental Executive Review Committee	1	0	1	1	1	1	0	1	1	0	1	1	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	3	4	2	0	1	4	0	0	7	3	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	1	1	0	2	6	0	1	0	2	0	1	0	1	
Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0		
<b>Type of Force</b>															
OC	26	25	26	22	11	26	22	24	28	30	51	29	35		
Physical Force	8	8	6	9	4	5	6	2	10	3	6	4	7		
Baton	2	2	3	3	2	1	3	4	3	3	6	2	3		
CN	1	1	9	6	2	4	2	7	4	8	9	5	4		
37 mm/40 mm	8	9	8	9	1	10	5	8	11	6	18	14	12		
Mini 14 - Shots	0	0	0	1	0	0	0	0	0	0	0	0	0		
Mini 14 - Warning Shots	1	0	0	2	0	0	0	0	0	0	0	0	0		
Non-Conventional Force	0	0	0	0	0	0	0	0	0	0	0	0	0		
Other	0	0	0	0	0	0	0	0	0	0	0	0	0		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019  
 Location(s): CCWF, CHCF, CIW, CMF, FSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CIW</b>	Attempted Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	63	56	62	64	104	104	66	51	59	56	65	55	34	
	Number of RVRs Involving Mental Health Inmates	105	88	106	112	131	112	79	68	89	72	78	66	30	
	<b>Inmate Disciplinary Audio Video Surveillance</b>														
	Audio/Video Evidence			1	0	0	0	2	0	0	0	1	0	0	
	Impact - Guilty			0	0	0	0	2	0	0	0	0	0	0	
	Impact - Reduced			0	0	0	0	0	0	0	0	0	0	0	
	Impact - Not Guilty			0	0	0	0	0	0	0	0	0	0	0	
	Impact - None			0	0	0	0	0	0	0	0	0	0	0	
	No Audio/Video Evidence			102	40	118	108	83	76	93	52	27	40	103	
	<b>Number of Incidents</b>														
	Number of Incidents	28	30	39	40	35	24	39	40	40	26	40	33	20	
	Per 100 inmates	1.50	1.62	2.12	2.20	1.87	1.30	2.11	2.15	2.09	1.36	2.12	1.71	1.04	
	Documented Use of Force	9	6	17	11	11	10	14	14	21	9	19	10	9	
	Per 100 inmates	0.48	0.32	0.92	0.61	0.59	0.54	0.76	0.75	1.10	0.47	1.00	0.52	0.47	
	Departmental Executive Review Committee	0	0	0	0	0	1	0	1	0	0	0	1	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	0	1	0	0	0	0	0	0	0	0	1	1	0	
Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0		
<b>Type of Force</b>															
OC	5	2	5	7	4	7	7	6	3	5	8	4	4		
Physical Force	4	5	13	4	8	3	8	8	18	6	11	6	6		



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019  
 Location(s): CCWF, CHCF, CIW, CMF, FSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CIW</b>	Baton	1	0	1	0	0	0	1	0	1	1	3	0	0	
	CN	0	0	0	0	0	0	0	0	0	0	0	0	0	
	37 mm/40 mm	0	0	0	0	0	0	1	1	0	0	0	0	0	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	3	10	12	11	2	2	4	11	3	6	8	9	4	
	Methamphetamine	2	5	5	4	1	0	4	3	1	0	6	7	1	
	Methamphetamine Quantity	5.60	41.60	15.30	54.90	21.00	0.00	53.88	37.72	21.40	0.00	124.20	122.10	12.70	
	Marijuana	1	1	1	1	0	0	0	0	0	0	0	0	0	
	Marijuana Quantity	1.00	5.40	0.68	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Heroin	2	3	3	4	0	3	0	0	1	1	0	1	0	
	Heroin Quantity	4.60	18.10	12.84	17.56	0.00	22.00	0.00	0.00	0.08	4.10	0.00	4.40	0.00	
	Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Amphetamine	0	0	2	0	1	0	0	0	0	0	1	0	0	
	Amphetamine Quantity	0.00	0.00	2.84	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5.70	0.00	0.00	
	Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Barbiturates Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Codeine	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Codeine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Morphine	0	0	0	0	0	0	0	0	0	0	0	0	1	
	Morphine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8.10	
	Synthetic Marijuana - Spice	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Synthetic Marijuana - Spice Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	







# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017		2018										
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>COR</b>	No Audio/Video Evidence			0	49	185	339	226	256	348	230	210	236	400
	<b>Number of Incidents</b>													
	Number of Incidents	91	91	112	124	109	112	80	108	122	93	106	116	101
	Per 100 inmates	2.97	2.94	3.57	3.91	3.41	3.52	2.48	3.31	3.81	2.88	3.26	3.46	3.09
	Documented Use of Force	41	47	46	54	44	50	46	62	50	42	49	41	55
	Per 100 inmates	1.34	1.52	1.47	1.70	1.38	1.57	1.43	1.90	1.56	1.30	1.50	1.22	1.69
	Departmental Executive Review Committee	1	0	0	0	0	1	0	1	1	0	2	2	1
	Total Number of Overdue UOF Reviews - 30 Days	1	0	2	1	0	0	0	0	0	0	0	3	4
	Total Number of Overdue UOF Reviews - 90 Days	0	0	2	1	0	0	0	0	0	0	0	0	0
	Modified Programs	0	0	0	0	1	2	2	0	1	1	2	2	1
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0
	<b>Type of Force</b>													
	OC	19	24	25	33	20	30	34	36	30	30	28	24	36
	Physical Force	19	22	19	14	17	16	11	25	14	11	27	15	20
	Baton	4	7	1	2	1	6	4	3	8	1	4	2	2
	CN	1	0	0	1	0	1	1	0	0	0	1	0	1
	37 mm/40 mm	8	9	10	15	10	11	8	6	16	6	4	9	6
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	1
	Non-Conventional Force	0	0	0	0	0	0	0	1	0	0	0	1	1
	Other	1	0	0	1	0	0	0	0	0	0	0	0	0
<b>Incidents</b>														
Controlled Substances/Stimulants/Sedatives	14	13	24	17	10	18	7	8	10	8	2	6	6	
Methamphetamine	8	5	7	5	3	2	4	2	2	1	0	3	2	
Methamphetamine Quantity	79.20	6.80	68.50	15.50	10.40	0.45	1.92	0.11	3.40	0.20	0.00	4.00	29.70	





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>KVSP</b>	Sexual Disorderly Conduct	1	3	4	0	3	4	1	1	2	4	3	4	1	
	Possession of Cell Phone(s)	21	35	27	41	54	35	18	39	26	18	30	23	13	
	Possession of a Wireless Communication Device(s)	2	0	3	1	3	3	0	0	2	1	1	1	0	
	Disturbance, Riot, or Strike	1	0	0	0	0	0	1	0	0	0	0	1	0	
	Fighting	64	67	53	56	36	91	100	111	102	77	86	86	55	
	Threats	0	1	0	0	0	0	0	0	0	0	2	1	0	0
	Willfully Resisting, Delaying or Obstructing a Peace Officer	4	4	6	8	7	5	3	9	3	5	6	5	1	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	8	16	9	13	6	19	7	14	10	6	5	5	4	
	Attempted Murder	1	0	0	0	4	0	2	0	0	0	1	0	0	0
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	92	144	94	124	132	147	169	162	160	160	160	135	127	
	Number of RVRs Involving Mental Health Inmates	105	181	114	133	133	168	210	223	180	164	181	143	118	
	<b>Inmate Disciplinary Audio Video Surveillance</b>														
Audio/Video Evidence				0	0	0	0	0	2	0	0	0	0	0	
Impact - Guilty				0	0	0	0	0	0	0	0	0	0	0	
Impact - Reduced				0	0	0	0	0	0	0	0	0	0	0	
Impact - Not Guilty				0	0	0	0	0	0	0	0	0	0	0	
Impact - None				0	0	0	0	0	0	2	0	0	0	0	
No Audio/Video Evidence				364	528	367	378	440	462	497	412	408	588	416	
<b>Number of Incidents</b>															
Number of Incidents		78	84	85	97	77	100	127	139	137	120	115	108	111	
Per 100 inmates		2.08	2.32	2.45	2.83	2.26	2.88	3.58	3.89	3.72	3.26	3.10	2.89	2.95	
Documented Use of Force		47	49	41	51	40	49	79	78	71	63	67	57	50	
Per 100 inmates		1.26	1.35	1.18	1.49	1.17	1.41	2.23	2.18	1.93	1.71	1.81	1.53	1.33	



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>KVSP</b>	Departmental Executive Review Committee	1	0	0	0	1	0	0	1	0	1	0	1	1	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	0	0	0	1	4	0	0	0	0	0	0	0	0	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	31	32	31	28	23	37	45	37	43	33	38	24	23	
	Physical Force	9	10	6	14	16	7	15	22	17	11	9	8	9	
	Baton	2	3	3	6	6	8	6	4	6	1	9	1	3	
	CN	9	7	8	8	1	10	11	9	6	6	8	4	4	
	37 mm/40 mm	16	14	11	17	11	12	30	34	15	22	11	11	9	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	2	0	0	0	0	0	0	1	0	0	
	Other	1	0	0	0	0	0	0	0	2	9	20	23	24	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	2	3	16	26	15	15	13	20	22	26	10	11	23	
	Methamphetamine	8	2	9	17	13	2	7	12	13	12	9	12	9	
	Methamphetamine Quantity	14.40	37.90	133.10	402.70	300.80	20.41	70.32	139.19	138.50	174.10	58.40	65.60	137.21	
Marijuana	6	2	2	8	3	6	1	5	14	15	4	6	15		
Marijuana Quantity	8.20	72.90	19.40	328.20	35.10	169.33	30.80	94.60	145.30	218.89	66.98	67.30	152.80		
Heroin	3	2	9	16	5	7	13	7	13	17	8	5	15		
Heroin Quantity	0.00	0.02	83.70	193.33	19.00	1.68	127.51	6.41	15.57	207.49	162.00	50.50	236.00		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>LAC</b>	Sexual Disorderly Conduct	4	2	9	4	7	5	9	7	6	5	10	7	2
	Possession of Cell Phone(s)	38	75	81	58	55	29	37	62	71	21	39	37	23
	Possession of a Wireless Communication Device(s)	0	2	1	5	6	1	1	3	0	4	2	1	1
	Disturbance, Riot, or Strike	3	0	0	0	0	0	0	0	1	0	1	0	0
	Fighting	36	63	59	37	51	68	38	53	49	56	50	64	49
	Threats	0	1	0	2	0	0	1	1	1	0	1	0	0
	Willfully Resisting, Delaying or Obstructing a Peace Officer	3	1	3	4	9	4	5	7	9	5	8	9	1
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	4	7	9	6	12	4	5	2	7	4	9	7	1
	Attempted Murder	1	0	0	0	1	1	0	1	2	0	0	0	0
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	109	113	90	101	117	140	108	130	113	113	125	152	87
	Number of RVRs Involving Mental Health Inmates	186	220	234	222	229	241	153	199	195	187	183	203	116
	<b>Inmate Disciplinary Audio Video Surveillance</b>													
	Audio/Video Evidence			5	1	3	4	5	2	6	4	6	4	0
	Impact - Guilty			3	1	3	4	3	2	6	4	6	4	0
	Impact - Reduced			0	0	0	0	0	0	0	0	0	0	0
	Impact - Not Guilty			0	0	0	0	0	0	0	0	0	0	0
	Impact - None			0	0	0	0	0	0	0	0	0	0	0
	No Audio/Video Evidence			0	0	0	0	0	0	0	0	0	0	0
<b>Number of Incidents</b>														
	Number of Incidents	75	95	91	77	94	108	80	97	107	113	102	96	60
	Per 100 inmates	2.19	2.81	2.75	2.36	2.91	3.34	2.54	3.03	3.35	3.53	3.18	3.01	1.89
	Documented Use of Force	35	44	45	41	41	56	41	51	54	56	47	48	31
	Per 100 inmates	1.02	1.30	1.36	1.26	1.27	1.73	1.30	1.59	1.69	1.75	1.47	1.51	0.97



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>LAC</b>	Departmental Executive Review Committee	0	1	0	0	1	1	0	2	1	0	0	1	1	
	Total Number of Overdue UOF Reviews - 30 Days	0	1	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	1	1	0	1	0	0	0	1	0	0	0	0	0	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	25	26	25	25	23	27	18	24	34	39	29	28	16	
	Physical Force	7	14	15	15	15	24	20	15	19	13	17	10	11	
	Baton	6	3	4	3	4	2	2	3	7	6	5	9	3	
	CN	2	0	3	3	1	4	3	3	4	3	7	5	0	
	37 mm/40 mm	16	19	12	9	14	18	11	19	14	14	14	18	9	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	1	0	0	0	0	0	
Other	0	0	0	0	0	1	1	0	0	0	0	0	0		
<b>Incidents</b>															
Controlled Substances/Stimulants/Sedatives	9	11	6	7	13	14	14	10	17	16	10	18	9		
Methamphetamine	2	4	1	4	2	3	0	2	1	8	1	10	2		
Methamphetamine Quantity	3.60	15.57	0.10	67.20	0.20	8.70	0.00	91.00	2.00	64.45	0.19	186.50	6.50		
Marijuana	8	10	3	3	7	6	7	6	11	3	2	11	5		
Marijuana Quantity	3.10	58.35	9.50	5.68	0.77	54.05	108.80	36.96	4.52	46.20	0.80	142.21	38.86		
Heroin	3	3	3	1	5	5	9	4	6	5	9	3	8		
Heroin Quantity	57.80	7.00	62.70	0.00	10.44	3.70	192.23	5.89	22.70	9.12	42.12	0.37	16.21		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		







# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>SATF</b>	Sexual Disorderly Conduct	3	3	4	0	2	7	3	2	1	1	8	4	1
	Possession of Cell Phone(s)	16	11	46	8	32	32	52	25	64	30	43	25	40
	Possession of a Wireless Communication Device(s)	1	3	2	0	1	0	0	4	0	2	1	0	0
	Disturbance, Riot, or Strike	0	0	0	0	1	0	0	0	0	0	1	1	0
	Fighting	43	44	29	42	66	58	28	52	40	68	35	56	38
	Threats	0	2	0	0	0	0	0	0	1	0	0	0	0
	Willfully Resisting, Delaying or Obstructing a Peace Officer	3	1	4	0	2	2	1	1	3	3	1	1	1
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	3	12	8	6	8	0	3	5	3	1	4	4	2
	Attempted Murder	0	0	1	3	0	0	0	0	0	0	0	0	0
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	114	149	142	150	150	248	185	194	204	167	220	246	169
	Number of RVRs Involving Mental Health Inmates	164	171	154	150	172	250	195	191	192	153	175	214	141
	<b>Inmate Disciplinary Audio Video Surveillance</b>													
Audio/Video Evidence				0	0	0	0	0	0	0	0	0	0	0
Impact - Guilty				0	0	0	0	0	0	0	0	0	0	0
Impact - Reduced				0	0	0	0	0	0	0	0	0	0	0
Impact - Not Guilty				0	0	0	0	0	0	0	0	0	0	0
Impact - None				0	0	0	0	0	0	0	0	0	0	0
No Audio/Video Evidence				256	220	467	397	363	320	370	408	347	336	369
<b>Number of Incidents</b>														
Number of Incidents		39	51	53	59	61	49	46	50	59	59	57	62	54
Per 100 inmates		0.69	0.90	0.92	1.00	1.01	0.81	0.77	0.85	1.00	1.01	1.00	1.09	0.96
Documented Use of Force		18	16	16	22	30	17	15	25	19	24	18	25	18
Per 100 inmates		0.32	0.28	0.28	0.37	0.50	0.28	0.25	0.42	0.32	0.41	0.31	0.44	0.32



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SATF</b>	Departmental Executive Review Committee	0	1	0	0	0	0	0	0	1	0	0	0	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	1	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	2	4	2	3	0	0	3	1	3	4	1	0	0	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	11	8	9	10	16	11	9	19	11	16	12	18	9	
	Physical Force	6	4	6	7	6	4	4	6	4	3	4	5	8	
	Baton	0	2	2	2	1	3	0	3	2	4	1	2	1	
	CN	0	0	0	0	0	0	0	0	0	0	0	1	0	
	37 mm/40 mm	5	6	1	7	16	5	5	9	9	8	5	6	4	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	1	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	2	0	1	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	4	2	5	4	5	7	5	6	7	9	9	8	9	
	Methamphetamine	1	1	5	7	8	4	1	3	2	21	14	1	11	
	Methamphetamine Quantity	3.70	0.00	138.60	37.70	183.60	62.51	26.50	45.10	6.60	91.20	207.90	0.10	146.50	
Marijuana	7	0	0	1	2	3	2	2	3	6	1	3	4		
Marijuana Quantity	69.50	0.00	0.00	9.40	7.50	11.10	4.00	16.30	13.80	60.40	62.50	2.30	33.80		
Heroin	0	1	3	0	8	2	2	5	9	9	3	12	1		
Heroin Quantity	0.00	0.60	11.30	0.00	0.70	0.10	1.60	86.00	19.61	271.60	33.80	23.10	0.10		
Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>SVSP</b>	Sexual Disorderly Conduct	15	17	18	10	7	4	6	7	7	7	3	7	2
	Possession of Cell Phone(s)	20	16	30	37	32	33	32	44	38	39	36	67	20
	Possession of a Wireless Communication Device(s)	2	2	2	1	1	1	1	0	1	3	0	1	3
	Disturbance, Riot, or Strike	0	0	0	0	0	0	0	0	3	0	0	0	0
	Fighting	39	60	58	77	54	64	35	52	44	66	49	38	39
	Threats	1	0	0	0	0	0	1	0	0	0	0	0	0
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	4	1	3	8	9	3	2	6	5	8	3	1
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	0	2	7	3	3	9	6	5	11	4	3	13	3
	Attempted Murder	0	0	2	3	2	0	0	0	1	1	0	0	0
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	68	73	88	126	102	110	99	146	125	141	149	127	80
	Number of RVRs Involving Mental Health Inmates	129	146	148	176	141	150	115	145	160	181	146	166	88
	<b>Inmate Disciplinary Audio Video Surveillance</b>													
	Audio/Video Evidence			1	1	1	1	2	0	2	1	3	1	0
	Impact - Guilty			0	0	0	0	0	0	0	0	2	3	0
	Impact - Reduced			0	0	0	0	0	0	0	0	0	0	0
	Impact - Not Guilty			0	0	0	0	0	0	0	0	0	0	0
	Impact - None			0	0	0	0	0	0	0	0	0	0	0
	No Audio/Video Evidence			298	375	314	321	308	432	364	398	365	421	303
<b>Number of Incidents</b>														
	Number of Incidents	79	87	97	128	101	97	86	97	104	121	107	105	95
	Per 100 inmates	2.20	2.43	2.75	3.68	2.98	2.94	2.67	3.03	3.17	3.61	3.18	3.06	2.79
	Documented Use of Force	32	33	47	59	54	44	38	44	48	62	55	43	55
	Per 100 inmates	0.89	0.92	1.33	1.70	1.59	1.33	1.18	1.37	1.46	1.85	1.64	1.25	1.62



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2019

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2017	2018												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SVSP</b>	Departmental Executive Review Committee	0	0	0	0	0	0	1	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	3	3	1	3	2	0	0	2	2	3	3	1	2	
	Lockdown	0	1	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	19	16	33	36	37	23	19	27	28	49	27	23	28	
	Physical Force	14	17	8	19	19	16	15	11	19	11	18	19	16	
	Baton	0	0	0	1	0	1	0	0	0	0	0	2	3	
	CN	1	0	0	2	2	1	1	4	0	5	4	1	2	
	37 mm/40 mm	11	4	14	18	14	13	10	13	11	11	16	7	16	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	0	0	0	1	0	0	
	Other	0	0	1	0	2	0	0	0	1	0	7	7	7	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	11	12	12	26	23	12	17	13	16	24	16	9	13	
	Methamphetamine	4	6	5	13	11	2	10	6	8	10	6	1	5	
Methamphetamine Quantity	78.37	47.88	51.09	294.12	222.61	27.26	216.80	114.08	61.25	77.08	105.90	0.50	13.13		
Marijuana	4	3	13	22	18	6	9	4	11	7	5	5	10		
Marijuana Quantity	64.35	73.40	131.76	360.12	201.45	14.36	390.15	26.20	276.87	242.10	109.20	2.10	64.79		
Heroin	11	12	8	16	6	6	7	5	18	15	8	7	4		
Heroin Quantity	39.55	245.06	48.91	193.46	57.19	62.02	9.20	318.71	155.17	120.80	71.88	20.03	23.46		
Cocaine	0	1	0	0	0	0	0	0	0	0	0	0	0		
Cocaine Quantity	0.00	33.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CCI</b>	Under the Influence of a Controlled Substance/Stimulant/Sedative	0	1	0	1	0	2	0	0	1	0	1	0	0	
	Distribution/Introduction of a Controlled Substance	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Positive U.A.	0	1	9	2	11	6	7	5	6	9	5	2	4	
	U.A. Refusal	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Indecent Exposure (IEX)	0	0	2	0	0	1	1	0	1	1	0	0	0	
	Sexual Disorderly Conduct	0	0	3	1	0	3	2	1	2	1	1	0	1	
	Possession of Cell Phone(s)	5	5	8	4	3	8	9	13	18	6	8	6	3	
	Possession of a Wireless Communication Device(s)	0	1	1	1	0	0	1	1	0	0	0	0	0	
	Disturbance, Riot, or Strike	0	0	0	1	5	0	0	0	0	0	0	0	0	
	Fighting	48	59	47	52	55	48	69	34	38	67	65	23	12	
	Threats	0	0	0	0	0	0	0	1	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	7	5	8	5	9	3	3	2	0	2	2	2	1	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	12	3	7	4	2	2	2	7	3	1	0	3	0	
	Attempted Murder	0	0	0	0	1	1	0	2	1	1	0	1	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	128	147	148	170	184	161	111	125	105	133	79	59	45	
	Number of RVRs Involving Mental Health Inmates	127	149	161	147	175	151	126	108	114	131	104	61	43	
	<b>Number of Incidents</b>														
	Number of Incidents	67	63	56	53	56	73	64	56	53	63	36	37	42	
	Per 100 inmates	1.64	1.54	1.39	1.34	1.43	1.88	1.70	1.51	1.42	1.66	0.95	0.99	1.13	
Documented Use of Force	47	44	33	38	40	57	47	26	35	46	27	28	31		
Per 100 inmates	1.15	1.08	0.82	0.96	1.02	1.47	1.25	0.70	0.94	1.21	0.72	0.75	0.83		
Departmental Executive Review Committee	0	0	1	0	1	1	1	0	0	1	1	0	1		



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
CCI	Total Number of Overdue UOF Reviews - 30 Days	3	11	35	28	48	55	33	16	10	1	1	3	2	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	3	17	21	10	14	18	8	10	4	3	1	
	Modified Programs	1	0	1	1	2	1	1	2	2	2	1	2	1	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	35	37	23	28	29	38	36	21	26	35	17	7	9	
	Physical Force	7	7	9	7	7	13	8	5	4	3	1	5	0	
	Baton	3	5	1	0	3	5	4	1	0	1	1	0	1	
	CN	4	7	10	6	5	10	10	4	6	10	5	2	2	
	37 mm/40 mm	12	11	12	15	13	26	19	10	15	16	14	2	2	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	3	
	Mini 14 - Warning Shots	0	0	0	0	1	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	0	0	0	0	0	0	3	16	22	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	6	6	4	2	1	4	5	5	5	4	2	2	4	
	Methamphetamine	4	2	1	0	0	1	1	2	1	3	1	2	1	
	Methamphetamine Quantity	3.64	7.50	7.10	0.00	0.00	143.60	14.20	0.30	0.00	80.70	29.20	14.70	0.40	
	Marijuana	0	1	1	0	0	1	1	0	1	0	0	0	0	
	Marijuana Quantity	0.00	11.76	40.80	0.00	0.00	47.60	10.60	0.00	29.10	0.00	0.00	0.00	0.00	
	Heroin	3	3	4	1	1	3	4	5	1	2	1	0	1	
	Heroin Quantity	2.16	45.63	0.05	0.43	2.69	2.07	145.97	276.10	0.00	34.80	6.80	0.00	0.79	
Cocaine	0	1	0	0	0	0	0	0	0	0	0	0	2		
Cocaine Quantity	0.00	129.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	44.10		
Amphetamine	0	0	0	0	0	0	1	0	0	0	0	0	0		
Amphetamine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.62	0.00	0.00	0.00	0.00	0.00	0.00		







# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020  
 Location(s): CCWF, CHCF, CIW, CMF, FSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CIW</b>	Distribution/Introduction of a Controlled Substance	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Positive U.A.	0	0	0	4	5	2	1	9	0	2	1	0	2	
	U.A. Refusal	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Indecent Exposure (IEX)	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Sexual Disorderly Conduct	6	2	0	0	4	4	0	2	4	6	2	1	0	
	Possession of Cell Phone(s)	4	27	0	2	0	9	0	1	7	5	3	2	1	
	Possession of a Wireless Communication Device(s)	0	3	0	1	0	0	1	0	0	0	0	0	0	
	Disturbance, Riot, or Strike	0	0	0	0	1	0	0	0	1	0	0	0	0	
	Fighting	5	19	13	14	9	13	19	12	9	25	7	9	1	
	Threats	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	2	0	1	4	7	3	2	3	0	1	0	2	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	0	1	0	3	2	2	1	0	0	0	0	0	1	
	Attempted Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	65	54	90	86	74	99	60	60	70	80	80	58	27	
	Number of RVRs Involving Mental Health Inmates	65	85	84	99	85	102	67	67	68	95	72	51	25	
	<b>Number of Incidents</b>														
		Number of Incidents	20	24	21	23	39	30	32	21	26	34	22	16	31
		Per 100 inmates	1.04	1.28	1.13	1.26	2.18	1.65	1.76	1.18	1.50	1.98	1.28	0.94	1.81
	Documented Use of Force	9	6	5	7	14	10	13	11	10	12	6	4	13	
	Per 100 inmates	0.47	0.32	0.27	0.38	0.78	0.55	0.71	0.62	0.58	0.70	0.35	0.23	0.76	
	Departmental Executive Review Committee	0	1	1	1	0	1	1	0	0	1	0	0	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020  
 Location(s): CCWF, CHCF, CIW, CMF, FSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>CIW</b>	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	4	4	2	3	7	4	4	5	1	5	3	3	2	
	Physical Force	6	3	3	4	7	6	10	6	9	8	4	1	11	
	Baton	0	0	0	0	0	0	0	0	1	1	0	0	0	
	CN	0	0	0	0	0	0	0	0	0	0	0	0	0	
	37 mm/40 mm	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	4	4	8	2	7	6	2	4	2	3	4	3	2	
	Methamphetamine	1	2	4	1	2	1	1	4	2	1	2	2	0	
	Methamphetamine Quantity	12.70	8.40	14.90	13.90	26.20	0.00	72.40	71.00	60.70	3.50	22.40	16.70	0.00	
	Marijuana	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Marijuana Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Heroin	0	0	2	0	3	0	0	2	1	0	0	0	1	
	Heroin Quantity	0.00	0.00	7.40	0.00	18.90	0.00	0.00	3.20	17.70	0.00	0.00	0.00	0.40	
	Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Amphetamine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>COR</b>	Threats	0	0	2	0	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	12	7	139	6	11	21	8	11	10	6	7	5	10	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	5	5	6	10	5	9	12	7	4	1	3	4	1	
	Attempted Murder	4	0	1	0	0	0	0	1	0	0	1	1	0	
	Murder	0	0	0	1	0	0	0	0	0	0	0	0	0	
	Other	148	184	239	219	208	259	179	154	205	253	233	111	99	
	Number of RVRs Involving Mental Health Inmates	172	219	225	231	217	276	175	173	190	211	192	102	80	
	<b>Number of Incidents</b>														
	Number of Incidents	102	133	125	153	121	103	106	106	101	87	87	73	64	
	Per 100 inmates	3.13	4.00	3.69	4.51	3.69	3.19	3.29	3.31	3.12	2.66	2.66	2.28	2.01	
	Documented Use of Force	55	57	59	61	60	54	62	52	48	50	41	42	24	
	Per 100 inmates	1.69	1.71	1.74	1.80	1.83	1.67	1.92	1.62	1.48	1.53	1.25	1.31	0.75	
	Departmental Executive Review Committee	1	1	1	0	1	0	2	7	0	3	4	2	3	
	Total Number of Overdue UOF Reviews - 30 Days	4	0	0	12	12	5	0	3	0	0	0	4	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	1	
	Modified Programs	1	1	1	1	2	1	2	3	2	1	2	2	3	
	Lockdown	0	0	0	0	0	0	2	0	0	0	1	0	0	
	<b>Type of Force</b>														
	OC	36	39	35	40	28	28	28	27	27	23	16	15	13	
	Physical Force	20	19	30	24	30	33	34	23	18	21	21	30	8	
Baton	2	8	5	3	4	5	4	4	8	2	3	2	1		
CN	1	1	0	0	0	1	0	0	0	1	5	1	2		
37 mm/40 mm	6	8	4	2	12	4	6	5	9	9	2	1	4		



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>COR</b>	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	1	1	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	1	1	0	1	1	0	0	0	0	0	0	1	0	
	Other	0	1	0	2	1	0	1	0	0	0	4	2	2	
	<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	7	4	10	12	13	6	10	13	25	6	17	9	15	
	Methamphetamine	2	2	5	4	1	3	3	4	3	5	5	4	7	
	Methamphetamine Quantity	29.70	4.30	24.60	86.20	0.20	73.30	2.50	63.90	41.10	42.12	91.41	100.00	89.10	
	Marijuana	5	4	9	6	8	3	6	6	16	4	11	1	5	
	Marijuana Quantity	138.70	10.89	58.32	73.50	147.60	25.60	68.40	77.76	238.60	67.00	664.20	0.80	20.50	
	Heroin	4	0	2	7	6	3	6	5	14	4	6	4	8	
	Heroin Quantity	23.70	0.00	23.70	121.40	80.21	12.00	109.10	59.10	125.20	79.20	47.10	5.40	124.80	
	Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	1	
	Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.70	
	Amphetamine	0	0	0	0	0	0	0	0	1	1	0	0	1	
	Amphetamine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3.30	0.10	0.00	0.00	0.70	
	Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Barbiturates Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Codeine	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Codeine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Morphine	0	0	0	0	0	0	0	1	0	0	0	0	0		
Morphine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.90	0.00	0.00	0.00	0.00	0.00		
Synthetic Marijuana - Spice	0	0	0	0	0	0	0	0	0	0	0	0	0		
Synthetic Marijuana - Spice Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Other Controlled Substances/Stimulants/Sedatives	0	0	0	1	0	0	1	1	0	1	0	1	0		
Drug Paraphernalia	0	0	0	0	0	0	0	0	0	0	0	0	0		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>KVSP</b>	Threats	0	0	0	1	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	5	8	11	8	10	12	10	7	4	6	1	4	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	10	18	3	10	9	4	10	4	6	5	3	1	4	
	Attempted Murder	3	1	1	1	1	0	0	1	0	1	3	0	0	
	Murder	0	0	1	0	0	0	0	0	0	0	0	0	0	
	Other	214	191	128	218	207	224	179	230	200	141	172	116	102	
	Number of RVRs Involving Mental Health Inmates	175	205	142	181	175	217	175	185	168	112	132	141	118	
	<b>Number of Incidents</b>														
	Number of Incidents	112	90	91	112	95	107	114	105	111	80	92	90	82	
	Per 100 inmates	2.98	2.41	2.44	2.98	2.56	2.91	3.14	2.91	3.07	2.23	2.55	2.47	2.26	
	Documented Use of Force	50	53	59	58	57	58	69	52	64	44	57	57	54	
	Per 100 inmates	1.33	1.42	1.58	1.55	1.54	1.58	1.90	1.44	1.77	1.23	1.58	1.56	1.49	
	Departmental Executive Review Committee	1	3	1	1	2	0	0	0	1	0	3	1	2	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	0	2	1	3	0	0	0	0	1	1	1	1	1	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	23	40	29	37	30	32	38	26	33	27	32	37	25	
Physical Force	9	9	12	17	12	13	18	11	13	7	9	8	15		
Baton	3	2	4	2	6	3	6	0	4	1	4	4	1		
CN	4	10	5	5	5	7	9	9	6	5	3	4	4		
37 mm/40 mm	9	14	17	14	16	16	23	15	21	13	17	7	18		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>KVSP</b>	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Mini 14 - Warning Shots	0	0	0	0	1	0	0	0	0	0	0	0	0
	Non-Conventional Force	0	1	0	0	0	0	0	0	0	1	0	1	0
	Other	24	14	21	8	16	12	15	19	8	11	11	9	12
<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	23	15	13	25	15	27	19	23	18	13	15	12	10
	Methamphetamine	9	7	11	16	11	9	9	11	2	3	4	8	8
	Methamphetamine Quantity	137.21	92.10	190.20	292.23	79.75	223.32	48.50	112.86	6.40	3.30	53.40	110.26	60.36
	Marijuana	15	11	1	8	5	16	7	4	2	6	1	4	0
	Marijuana Quantity	152.80	147.14	0.70	41.30	106.16	156.91	162.02	165.90	13.70	123.90	48.00	47.21	0.00
	Heroin	15	6	4	7	5	22	15	13	13	4	8	7	5
	Heroin Quantity	236.00	74.20	37.40	44.80	53.61	242.68	147.56	156.82	83.20	1.90	35.70	236.47	16.38
	Cocaine	0	1	0	0	0	0	1	0	0	0	0	0	0
	Cocaine Quantity	0.00	53.10	0.00	0.00	0.00	0.00	3.90	0.00	0.00	0.00	0.00	0.00	0.00
	Amphetamine	0	0	0	2	2	1	0	1	13	6	9	7	6
	Amphetamine Quantity	0.00	0.00	0.00	19.60	9.40	23.30	0.00	32.11	61.80	122.70	87.30	69.30	62.58
	Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0
	Barbiturates Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Codeine	0	0	0	1	0	0	0	0	0	0	0	0	0
	Codeine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Morphine	0	0	0	0	0	0	0	0	0	0	0	0	0
	Morphine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Synthetic Marijuana - Spice	0	0	0	0	0	0	0	0	0	0	0	0	0
	Synthetic Marijuana - Spice Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Other Controlled Substances/Stimulants/Sedatives	2	4	4	12	5	2	2	6	2	2	3	1	4
	Drug Paraphernalia	0	0	0	0	0	0	0	0	0	0	0	0	0





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>LAC</b>	Under the Influence of a Controlled Substance/Stimulant/Sedative	0	0	0	0	0	0	0	0	0	0	0	1	0	
	Distribution/Introduction of a Controlled Substance	1	1	0	1	0	0	0	0	0	0	0	0	0	
	Positive U.A.	2	16	0	0	9	0	0	1	0	25	1	0	0	
	U.A. Refusal	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Indecent Exposure (IEX)	6	5	4	5	1	8	5	3	4	1	5	0	0	
	Sexual Disorderly Conduct	6	8	7	7	4	11	8	3	5	4	5	3	0	
	Possession of Cell Phone(s)	29	34	55	34	62	55	57	44	37	90	27	14	30	
	Possession of a Wireless Communication Device(s)	1	4	2	3	1	5	0	2	0	6	0	2	2	
	Disturbance, Riot, or Strike	0	0	0	0	6	0	0	0	0	0	1	0	0	
	Fighting	65	71	63	46	54	72	60	94	70	52	47	55	24	
	Threats	0	0	0	0	4	0	1	0	0	0	3	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	5	5	1	4	2	4	2	5	2	3	1	6	2	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	6	7	2	8	9	7	3	8	2	7	0	2	6	
	Attempted Murder	1	2	0	2	0	0	0	2	0	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	120	188	191	202	193	188	196	162	148	135	161	70	70	
	Number of RVRs Involving Mental Health Inmates	173	245	233	227	256	229	227	224	192	189	151	103	70	
	<b>Number of Incidents</b>														
		Number of Incidents	60	92	73	88	104	118	89	107	98	94	105	77	63
		Per 100 inmates	1.89	2.91	2.32	2.78	3.22	3.65	2.75	3.33	3.07	2.98	3.32	2.42	1.95
	Documented Use of Force	31	51	33	46	54	62	41	63	44	47	48	46	33	
	Per 100 inmates	0.97	1.61	1.05	1.45	1.67	1.92	1.27	1.96	1.38	1.49	1.52	1.45	1.02	
	Departmental Executive Review Committee	1	1	1	0	1	0	0	0	3	0	3	0	0	



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
LAC	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	0	0	0	0	1	0	0	0	0	1	1	0	0	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	16	33	17	24	28	48	21	44	25	36	36	33	22	
	Physical Force	11	16	12	16	25	14	19	16	15	12	13	10	9	
	Baton	3	2	4	5	3	5	3	8	3	4	1	1	2	
	CN	0	2	2	5	4	6	3	4	2	0	4	1	1	
	37 mm/40 mm	9	20	10	16	13	16	6	18	14	14	13	13	7	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	0	0	0	0	0	1	0	0	0	0	
	Other	0	0	0	0	0	0	0	1	0	0	0	0	0	
<b>Incidents</b>															
Controlled Substances/Stimulants/Sedatives	9	9	17	10	11	24	12	12	17	18	17	11	11		
Methamphetamine	2	2	9	2	6	10	1	2	4	7	5	3	3		
Methamphetamine Quantity	6.50	39.62	161.91	43.52	122.01	98.15	6.40	27.60	45.30	72.82	84.90	90.36	59.51		
Marijuana	5	6	6	5	7	17	5	4	7	9	10	6	4		
Marijuana Quantity	38.86	35.40	60.20	24.46	497.15	29.86	2.14	0.99	47.30	115.34	155.38	39.43	770.77		
Heroin	8	3	4	5	4	9	8	5	9	12	14	3	9		
Heroin Quantity	16.21	0.54	38.40	1.62	53.45	57.13	100.46	9.30	9.20	117.99	74.66	61.14	72.69		
Cocaine	0	0	0	0	1	0	0	0	0	0	0	0	0		
Cocaine Quantity	0.00	0.00	0.00	0.00	4.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0		
Amphetamine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		





# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SATF</b>	Threats	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	2	3	4	1	7	7	5	5	3	3	2	1	2	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	7	1	2	0	1	1	2	0	2	2	3	5	1	
	Attempted Murder	0	2	0	0	0	0	0	0	0	0	0	0	0	
	Murder	0	0	0	0	0	0	1	0	0	0	0	0	0	
	Other	190	155	229	227	228	231	174	153	180	186	199	141	132	
	Number of RVRs Involving Mental Health Inmates	166	127	193	167	188	194	165	142	187	156	189	121	110	
	<b>Number of Incidents</b>														
	Number of Incidents	54	30	49	56	48	66	51	50	58	47	48	58	36	
	Per 100 inmates	0.96	0.53	0.88	1.01	0.85	1.19	0.93	0.90	1.04	0.85	0.88	1.07	0.67	
	Documented Use of Force	18	10	19	18	24	25	17	20	27	23	20	19	15	
	Per 100 inmates	0.32	0.18	0.34	0.32	0.43	0.45	0.31	0.36	0.48	0.42	0.37	0.35	0.28	
	Departmental Executive Review Committee	0	0	1	0	1	0	0	0	0	0	0	0	0	
	Total Number of Overdue UOF Reviews - 30 Days	0	0	0	0	1	0	0	0	1	0	0	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
Modified Programs	1	3	4	3	0	1	0	0	3	2	2	0	1		
Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0		
<b>Type of Force</b>															
OC	9	4	12	15	15	14	11	12	17	15	13	7	9		
Physical Force	8	4	7	1	7	10	5	5	6	3	5	2	2		
Baton	1	1	0	0	4	5	2	2	3	0	4	0	1		
CN	0	1	0	0	0	0	0	2	1	0	0	1	0		
37 mm/40 mm	4	5	3	5	8	4	3	5	8	11	6	7	5		



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019											
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>SATF</b>	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0
	Non-Conventional Force	0	0	1	0	0	0	0	0	0	0	1	0	0
	Other	0	0	0	1	0	0	0	0	0	0	0	3	4
<b>Incidents</b>														
	Controlled Substances/Stimulants/Sedatives	9	5	8	9	7	14	8	11	10	3	6	11	2
	Methamphetamine	11	3	2	4	4	14	3	4	8	0	10	1	0
	Methamphetamine Quantity	146.50	30.50	28.80	135.20	89.20	27.31	131.90	4.30	56.80	0.00	1.70	10.10	0.00
	Marijuana	4	2	3	3	5	6	0	6	4	3	6	0	1
	Marijuana Quantity	33.80	16.30	73.60	62.10	148.30	78.50	0.00	72.30	29.70	0.20	6.10	0.00	0.10
	Heroin	1	0	2	5	4	15	7	18	4	3	2	11	4
	Heroin Quantity	0.10	0.00	57.70	68.11	4.50	34.04	55.80	82.75	114.40	1.60	57.20	56.30	0.80
	Cocaine	0	0	0	0	0	0	0	0	0	0	0	0	0
	Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Amphetamine	0	0	0	0	0	0	0	0	0	0	0	0	0
	Amphetamine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Barbiturates	0	0	0	0	0	0	0	0	0	0	0	0	0
	Barbiturates Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Codeine	0	0	0	0	0	0	0	0	0	0	0	0	0
	Codeine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Morphine	0	0	0	0	0	0	0	0	0	0	0	0	0
	Morphine Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Synthetic Marijuana - Spice	0	0	0	0	0	0	0	0	0	0	0	0	0
	Synthetic Marijuana - Spice Quantity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Other Controlled Substances/Stimulants/Sedatives	0	0	1	0	4	2	0	0	0	0	0	3	0
	Drug Paraphernalia	0	0	0	0	0	0	0	0	0	0	0	0	0







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Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SVSP</b>	Under the Influence of a Controlled Substance/Stimulant/Sedative	0	0	0	0	1	0	0	0	0	0	0	0	0	0
	Distribution/Introduction of a Controlled Substance	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	Positive U.A.	7	9	4	9	11	18	18	12	9	23	9	10	6	
	U.A. Refusal	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Indecent Exposure (IEX)	6	5	6	3	8	11	10	3	14	4	4	1	2	
	Sexual Disorderly Conduct	6	6	7	6	9	11	13	3	14	5	4	1	2	
	Possession of Cell Phone(s)	24	31	53	55	69	75	91	56	49	38	37	36	34	
	Possession of a Wireless Communication Device(s)	3	3	7	2	7	0	5	3	1	1	0	2	1	
	Disturbance, Riot, or Strike	0	0	1	1	0	0	0	0	0	0	0	0	0	
	Fighting	56	69	62	59	56	55	67	52	57	70	33	50	75	
	Threats	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Willfully Resisting, Delaying or Obstructing a Peace Officer	0	3	5	7	6	3	7	5	48	10	6	7	3	
	Possession, Manufacture or Attempt to Manufacture a Deadly Weapon or Explosive Device	5	9	10	7	11	14	8	8	3	8	4	9	6	
	Attempted Murder	1	0	0	1	0	1	0	0	2	0	0	0	0	
	Murder	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Other	114	187	178	198	189	188	236	188	264	145	183	84	76	
	Number of RVRs Involving Mental Health Inmates	148	194	186	192	187	204	236	169	256	176	130	96	103	
	<b>Number of Incidents</b>														
		Number of Incidents	95	97	120	108	139	128	143	116	99	114	100	98	98
		Per 100 inmates	2.79	2.86	3.45	3.13	4.10	3.95	4.46	3.64	3.19	3.73	3.35	3.25	3.28
	Documented Use of Force	55	51	52	53	52	50	59	54	43	57	30	47	49	
	Per 100 inmates	1.62	1.50	1.50	1.53	1.54	1.54	1.84	1.69	1.39	1.86	1.01	1.56	1.64	
	Departmental Executive Review Committee	0	0	0	0	0	0	0	0	0	1	0	0	0	



# COMPSTAT DAI Statistical Report - 13 Month

Data Analysis 13 Month as of 02-11-2020

Location(s): CAC, CCI, COR, HDSP, KVSP, LAC, PBSP, SAC, SATF, SVSP



		2018	2019												
		Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>SVSP</b>	Total Number of Overdue UOF Reviews - 30 Days	0	5	0	1	0	0	0	0	0	0	1	0	0	
	Total Number of Overdue UOF Reviews - 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Modified Programs	2	5	1	2	2	2	1	4	2	2	0	2	1	
	Lockdown	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<b>Type of Force</b>														
	OC	28	32	36	31	30	31	38	36	25	31	18	28	37	
	Physical Force	16	14	17	16	15	17	16	14	16	17	10	13	9	
	Baton	3	1	0	1	4	2	2	0	0	1	0	1	2	
	CN	2	4	2	1	2	3	5	2	4	2	3	1	1	
	37 mm/40 mm	16	19	11	12	15	14	18	16	11	17	8	9	10	
	Mini 14 - Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Mini 14 - Warning Shots	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Non-Conventional Force	0	0	0	1	0	0	0	0	1	0	0	0	0	
	Other	7	8	6	2	5	4	8	6	7	4	3	5	2	
	<b>Incidents</b>														
Controlled Substances/Stimulants/Sedatives	13	16	25	21	22	16	29	29	17	17	25	13	14		
Methamphetamine	5	3	6	8	6	4	9	11	6	10	5	4	3		
Methamphetamine Quantity	13.13	15.39	2.73	51.78	138.54	259.08	55.38	74.61	309.86	328.69	52.51	32.46	40.95		
Marijuana	10	12	9	10	25	10	17	13	8	11	15	9	7		
Marijuana Quantity	64.79	438.48	127.47	158.04	347.74	824.52	330.78	153.49	391.64	868.65	102.85	221.68	177.79		
Heroin	4	6	17	18	12	11	16	26	13	9	16	5	10		
Heroin Quantity	23.46	43.52	133.62	223.01	83.85	148.22	135.05	214.10	124.39	70.46	78.38	14.94	109.73		
Cocaine	0	0	0	0	0	1	1	1	0	0	0	0	0		
Cocaine Quantity	0.00	0.00	0.00	0.00	0.00	1.50	0.90	7.23	0.00	0.00	0.00	0.00	0.00		
Amphetamine	1	0	0	0	0	0	0	0	0	0	0	0	0		
Amphetamine Quantity	25.40	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		