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17
18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **OAKLAND DIVISION**

21 MARCIANO PLATA, et al.,

22 Plaintiffs,

23 v.

24 GAVIN NEWSOM, et al.,

25 Defendants.
26
27
28

CASE NO. 01-1351 JST

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Judge: Hon. Jon S. Tigar
Date: January 24, 2022
Time: 2:00 p.m.
Crtrm.: 6, 2nd Floor

1 The parties submit the following joint statement in advance of the January 24, 2022
2 Case Management Conference.

3 Because of the particular challenges of gathering information for this statement, the
4 parties have had limited ability to respond to each other's positions below. Shortly after
5 the December 17, 2021, case management conference, Plaintiffs requested that CCHCS
6 and CDCR provide data and information regarding COVID vaccination, staff testing,
7 medical care backlogs, and other matters by January 7, 2022. Plaintiffs also requested a
8 video conference on that date to discuss these and other matters related to COVID in the
9 prisons. The requests to CCHCS and CDCR were substantial and their staff were focused
10 on responding to a significant increase in COVID cases among prison staff and residents.
11 Accordingly, CCHCS informed Plaintiffs that the requested data and information would be
12 ready by the afternoon of Friday, January 14, and a meeting was scheduled for that
13 date. At the meeting, CCHCS informed Plaintiffs that they hoped to provide certain
14 information, specifically regarding staff vaccinations and ventilation, early the week of
15 January 17. Because the information received on January 14 or to be provided after that
16 date was required to prepare most of this statement, the parties could not exchange their
17 position statements until the evening before filing, and thus had limited ability to respond
18 to each other's statements.

19 **I. UPDATES REGARDING THE CURRENT OUTBREAK AND CDCR AND**
20 **CCHCS'S COVID-19 RESPONSE**

21 *Plaintiffs' Position:* Despite measures designed to slow its spread, the extremely
22 infectious Omicron variation has caused a rapid and steep increase of COVID-19 cases in
23 the last approximately 30 days among CDCR prison staff and incarcerated people,
24 impacting every prison. Thousands of people are isolated due to being infected or
25 quarantined due to exposure to COVID-positive staff or fellow residents, and thousands of
26 staff members have not been able to work, for the same reasons.¹

27 ¹ Current active CDCR resident and staff COVID cases are publicly reported. *See*
28

1 In response to these outbreaks, CDCR and CCHCS on January 6 announced a 15-
 2 day statewide modified program, from January 9 to 23, in which movement within prisons
 3 is greatly limited and medical services for all, not just those in isolation or quarantined, are
 4 mostly restricted to matters considered “essential.” See **Exhibit A**.

5 After January 23, facilities with three or more related COVID cases (currently
 6 essentially all prisons) will continue in what CDCR and CCHCS refer to as “Phase 1” of
 7 Reopening, in which programs, including medical services, are limited, until no additional
 8 related outbreak cases are identified for two weeks. Even after “Phase 2” status is reached,
 9 a return to full “new normal” programming (“Phase 3”) can occur only if no related cases
 10 are identified for an additional two weeks.² As such, and given the huge numbers of new
 11 cases identified daily, restrictions on programming and limitations on medical services will
 12 likely continue for weeks or longer.

13 As of January 14, the most recent date for which CCHCS has provided us data,
 14 there were three COVID-related patient hospitalizations.³ Serious morbidity and mortality
 15 lags among those infected with COVID, and thousands in the prisons were infected
 16 relatively recently. As of the date this Statement is filed, it is not clear whether the current
 17 surge has peaked. We believe patients continue to be at serious risk from the virus,
 18 including from death, serious illness, and possibly long-lasting effects from long-haul
 19 COVID.

20 _____
 21 <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (population; showing 4,975
 22 active cases of January 19, 2022) and [https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-
 23 19-status/](https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/) (staff; showing 4,676 active cases of January 19, 2022). Quarantined numbers
 24 are not publicly reported. However, our review of the CCHCS “COVID Monitoring
 25 Custody” registry shows that as of January 19, almost 20,000 incarcerated people were
 26 quarantined, in addition to the thousands in isolation. On January 10, 2022, we asked
 27 CCHCS and CDCR to provide data regarding the number of staff off work because they
 28 were identified as having active COVID or were quarantining due to exposure. We have
 not yet received a response.

² See Cal. Dep’t of Corr. & Rehab., *Roadmap to Reopening*, at
<https://www.cdcr.ca.gov/covid19/reopening/roadmap> (last accessed Jan. 17, 2022).

³ We have asked CCHCS to publicly report both current and past COVID
 hospitalization data, as they do for active case numbers and COVID-related deaths.

1 We are also concerned about whether the prisons have the space and staff to
 2 adequately isolate and monitor the thousands of newly identified active COVID patients,
 3 and do the same (plus test) the thousands of others quarantined due to being exposed to the
 4 virus, while at the same time attending to all other serious medical needs. There are
 5 substantial shortages of nursing staff at many prisons, and while CCHCS reported on
 6 January 14 that it was hiring 200 temporary nurses, we remain concerned whether
 7 adequate COVID monitoring and other care can be provided. This concern may become
 8 even more acute if the current outbreak continues to grow at an explosive rate.

9 Most fundamentally, the massive current outbreak shows again the extreme
 10 vulnerability of CDCR-incarcerated people, and the prisons' medical delivery system, to
 11 the air-borne coronavirus. As the Receiver stated last year, "If the coronavirus were
 12 designing its ideal home, it would build a prison."⁴

13 As such, mandating staff vaccinations is necessary to reduce the risk of infections,
 14 and the frequency and breadth of outbreaks (and the consequent interruption of prison
 15 operations, including medical services). The State should also further reduce the prison
 16 population to reduce crowding, so as to protect the particularly vulnerable, limit the
 17 number infected, and protect the medical delivery system. These actions are especially
 18 necessary now, given the possibility of additional variants that may be as or more virulent
 19 than the Alpha and Delta variants and as or more infectious than Omicron.

20 Defendants below state:

21 The CDC advises that because 'anyone with Omicron infection can spread the virus
 22 to others, even if they are vaccinated or don't have symptoms . . . [t]he recent
 23 emergence of Omicron further emphasizes the importance of vaccination and
 24 boosters.' *Id.* In other words, the CDC's year-long guidance regarding vaccines
 25 and the public-health-based approach Defendants have promoted for months holds
 true: while vaccination cannot prevent the spread of COVID-19, *being* vaccinated is
 the best protection against dire effects from COVID-19.

26 ⁴ See Assembly Budget Subcommittee No. 5 on Public Safety, Monday, Feb. 8, 2021,
 27 available at [https://www.assembly.ca.gov/media/budget-subcommittee-5-public-safety-](https://www.assembly.ca.gov/media/budget-subcommittee-5-public-safety-20210208/video)
 28 [20210208/video](https://www.assembly.ca.gov/media/budget-subcommittee-5-public-safety-20210208/video) [at 1:38:25 et seq.].

Defendants misconstrue the CDC’s guidance.⁵ While the CDC recognized that vaccinated individuals who suffer breakthrough Omicron infections can spread the virus to others, it also advised that “[v]accines remain the best public health measure to . . . slow transmission.”⁶

The CDC’s determination that vaccines slow transmission is consistent with the California Department of Public Health’s (CDPH) findings. On December 22, 2021, the CDPH mandated COVID-19 boosters for health care workers because “current vaccine requirements of staff in health care settings are not proving sufficient to prevent transmission of the more transmissible Omicron variant.”⁷ This decision was plainly based upon the CDPH’s determination that the boosters would reduce *transmission* of the

⁵ Defendants also cite to the incorrect CDC website. The language quoted by Defendants is found here: CDC, *Omicron Variant: What You Need to Know* (Dec. 21, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html>.

⁶ CDC, *Omicron Variant: What You Need to Know* (Dec. 21, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html> (*emphasis added*); see also CDC, *Potential Rapid Increase of Omicron Variant Infections in the United States* (Dec. 20, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html> (explaining that the “immunity conferred by . . . vaccination is likely to be reduced compared with Delta but not completely overcome”).

⁷ Cal. Dep’t of Pub. Health, *State Public Health Officer Order of December 22, 2021*, <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx> (*emphasis added*); see also Cal. Dep’t of Pub. Health, *State Public Health Officer Order of December 22, 2021*, <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-Vaccination-Order.aspx> (*mandating boosters for health care workers in correctional settings for the same reasons*); Cal. Dep’t of Pub. Health, *Public Health Order Questions & Answers: Adult Care Facilities and Direct Care Worker Vaccine Requirement* (Jan. 6, 2022), <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Adult-Care-Facilities-and-Direct-Care-Worker-Vaccine-Requirement-FAQ.aspx> (COVID-19 boosters mandated for workers in Adult and Senior Care Facilities for the same reasons).

1 Omicron variant. The State’s position here that “vaccination cannot prevent the spread of
2 COVID-19” is contradictory and unsupported by its own public health guidance.

3 Finally, Plaintiffs note that recent studies suggest that vaccination reduces the
4 infectiousness of those infected with Omicron, meaning that even if vaccinated people
5 suffer breakthrough infections, they are less likely to transmit the virus to others.⁸

6 *Defendants’ Position:* Much of the nation and the world is in the harsh midst of a
7 surge in cases driven by the Omicron variant. A current point-in-time snapshot⁹ of
8 CDCR’s incarcerated population—approximately 81 percent of which is fully vaccinated,
9 ¹⁰ and more than half of which has accepted a booster shot—shows, like the rest of the
10 nation, significant increases in the number of COVID-19 cases and a very small number of
11 hospitalizations. Consistent with COVID-19 public health trends, the Centers for Disease
12 Control and Prevention (CDC) expects current vaccines to protect against severe illness,
13 hospitalizations, and deaths due to infection with the Omicron variant, but also expects
14 breakthrough infections among fully vaccinated people. Ctrs. Disease Control &

15 ⁸ See, e.g., Lyngse et al., *SARS-CoV-2 Omicron VOC Transmission in Danish*
16 *Households* (Dec. 22, 2021), available at

17 <https://www.medrxiv.org/content/10.1101/2021.12.27.21268278v1> (“We found an
18 increased transmission for unvaccinated individuals, and a reduced transmission for
19 booster-vaccinated individuals, compared to fully vaccinated individuals.”).

20 ⁹ As of January 19, 2022, there are 4,975 active COVID-19 cases (*see* Cal. Dep’t
21 Corr. & Rehabilitation, *Population COVID-19 Tracking*,
22 <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (last visited Jan. 19, 2022)).
23 As noted on the website, the active-cases counting rules changed so that cases will no
24 longer be considered active 10 days after the positive test result unless an isolation order
25 remains in place. (*Id.*) There are three hospitalizations among the incarcerated population.
26 Two of the hospitalized patients are unvaccinated. One of the unvaccinated patients is
27 intubated and in a long-term acute care hospital. Tragically, two COVID-19-related
28 patient deaths were reported since the last case management conference. Both patients
were unvaccinated.

¹⁰ Compared to 72.2 percent of California’s population, *see* COVID19.CA.GOV,
Statewide vaccination data, <https://covid19.ca.gov/vaccination-progress-data/#overview>
(last visited Jan. 18, 2022), and a 79.9 percent vaccination rate across the country, *see* Ctrs.
Disease Control & Prevention, COVID-19 Vaccinations in the United States,
https://covid.cdc.gov/covid-data-tracker/-vaccinations_vacc-total-admin-rate-total (last
visited Jan. 18, 2022).

1 Prevention, *Potential Rapid Increase of Omicron Variant Infections in the United States*
 2 (Dec. 20, 2021), [https://www.cdc.gov/coronavirus/2019-](https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html)
 3 [ncov/science/forecasting/mathematical-modeling-outbreak.html](https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html). The CDC advises that
 4 because “anyone with Omicron infection can spread the virus to others, even if they are
 5 vaccinated or don’t have symptoms . . . [t]he recent emergence of Omicron further
 6 emphasizes the importance of vaccination and boosters.” *Id.* In other words, the CDC’s
 7 year-long guidance regarding vaccines and the public-health-based approach Defendants
 8 have promoted for months holds true: while vaccination cannot prevent the spread of
 9 COVID-19, *being* vaccinated is the best protection against dire effects from COVID-19.

10 The CDC predicted a rapid increase in infections of the Omicron variant of
 11 COVID-19 in December. Ctrs. Disease Control & Prevention, *Potential Rapid Increase of*
 12 *Omicron Variant Infections in the United States* (Dec. 20, 2021),
 13 [https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-](https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html)
 14 [outbreak.html](https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling-outbreak.html). That prediction became a reality in California,¹¹ across the country,¹² and
 15 even in the courts,¹³ just as it has in California’s prisons. But although case numbers have
 16 risen, Dr. Anthony Fauci, Chief Medical Advisor to the President of the United States and
 17 Director of the National Institute of Allergy and Infectious Diseases, recently advised that
 18 hospitalization figures are a more accurate measure of the severity of the Omicron variant

19 ¹¹ California currently reports a daily average of 59,604 new cases per day (*see*
 20 Covid19.ca.gov, *Tracking COVID-19 in California*, [https://covid19.ca.gov/state-](https://covid19.ca.gov/state-dashboard/)
 21 [dashboard/](https://covid19.ca.gov/state-dashboard/) (last visited Jan. 11, 2022)).

22 ¹² The CDC reports 60,240,751 new COVID-19 cases across the United States in the
 23 last 30 days (*see* Ctrs. Disease Control & Prevention, *COVID Data Tracker*,
 24 [https://covid.cdc.gov/covid-data-tracker/ - variant-proportions](https://covid.cdc.gov/covid-data-tracker/-variant-proportions) (last visited Jan. 11, 2022)).

25 ¹³ The United States District Courts for the Northern, Central, and Southern Districts
 26 of California temporarily suspended in-person criminal trials and proceedings because of
 27 the rise in cases and the high transmissibility of the Omicron variant. *See* U.S. Dist. Ct.
 28 N.D. Cal., *All Jury Trials Suspended Through January 26, 2022*,
<https://www.cand.uscourts.gov/> (last visited Jan. 11, 2022); U.S. Dist. Ct. C.D. Cal., *Order*
of the Chief Judge 22-001, [https://www.cacd.uscourts.gov/sites/default/files/general-](https://www.cacd.uscourts.gov/sites/default/files/general-orders/Order_22-001.pdf)
[orders/Order 22-001.pdf](https://www.cacd.uscourts.gov/sites/default/files/general-orders/Order_22-001.pdf) (last visited Jan. 11, 2022); and U.S. Dist. Ct. S.D. Cal., *Order of*
the Chief Judge No. 63-G, [https://www.casd.uscourts.gov/_assets/pdf/rules/Chief_Judge](https://www.casd.uscourts.gov/_assets/pdf/rules/Chief_Judge_Order_63-G.pdf)
[Order 63-G.pdf](https://www.casd.uscourts.gov/_assets/pdf/rules/Chief_Judge_Order_63-G.pdf) (last visited Jan. 11, 2022).

1 than traditional case counts of new infections. *See, e.g.* The Guardian, *Fauci:*
 2 *hospitalization figures a better guide to Omicron than case count* (Jan. 2, 2022),
 3 [https://www.theguardian.com/us-news/2022/jan/02/fauci-covid-omicron-hospitalizations-](https://www.theguardian.com/us-news/2022/jan/02/fauci-covid-omicron-hospitalizations-case-count)
 4 [case-count](https://www.theguardian.com/us-news/2022/jan/02/fauci-covid-omicron-hospitalizations-case-count). By this measure, CDCR's consistently low hospitalization numbers are
 5 encouraging.

6 Defendants have implemented multilayered and evolving safety measures since the
 7 start of the pandemic, including by making COVID-19 vaccines and boosters widely and
 8 easily available to the entire incarcerated population. And in response to public health
 9 experts' predictions in December, Defendants recently implemented several additional,
 10 aggressive safety measures to mitigate the spread of COVID-19, consistent with public
 11 health guidance and public safety recommendations.

12 **A. Reactivation of COVID-19 Department Operations Center (DOC)**

13 The DOC is a central location where leadership and experts monitor information,
 14 prepare for known and unknown events, and exchange information to make decisions and
 15 quickly provide guidance to all institutions. In response to a drop in active COVID-19
 16 cases in CDCR's prisons, CDCR and CCHCS demobilized the DOC on March 21, 2021
 17 and transitioned to a COVID-19 Support Team. With the recent development of the
 18 rapidly spreading Omicron variant, CDCR and CCHCS reactivated the DOC on a smaller
 19 scale on January 6, 2022. The DOC currently operates from 8:00 a.m. to 5:00 p.m.,
 20 Monday through Friday. The DOC conducts daily calls with institutions experiencing an
 21 outbreak to assess resource needs, assist with response planning, and share information.

22 **B. Visiting**

23 In-person and family visiting was suspended until further notice on January 8, 2022.
 24 Defendants understand this is a significant hardship for the incarcerated population and
 25 their loved ones, but determined this was a necessary public health measure to reduce the
 26 risk to the incarcerated population, staff, and thousands of visitors to CDCR's institutions
 27 while CDCR and CCHCS work to control the highly transmissible Omicron variant. In
 28

1 lieu of in-person visiting, CDCR will continue to offer video visits at its institutions.
2 CDCR's visitation webpage, <https://www.cdcr.ca.gov/visitors/>, provides the latest updates.

3 **C. Movement and Programming**

4 CDCR implemented a mandatory 15-day modified program statewide on January 9,
5 2022. This is a temporary measure intended to limit movement between and throughout
6 institutions as a necessary step to curb COVID-19 transmission. County jail intake has
7 been suspended at Wasco State Prison since December 29, 2021, and at North Kern State
8 Prison since January 10, 2022. These institutions will remain closed to intake at least
9 through the week of January 24, 2022, after which CDCR will assess the propriety of
10 reopening intake based on COVID-19 cases at those institutions. The Central California
11 Women's Facility currently remains open to intake.

12 During the temporary modified programming, all movement will be restricted to
13 essential moves only and conducted in accordance with the Movement Matrix, a new
14 version of which was released on December 27, 2021 and is available at
15 [https://cchcs.ca.gov/wp-content/uploads/sites/60/COVID19/Appendix13-](https://cchcs.ca.gov/wp-content/uploads/sites/60/COVID19/Appendix13-PatientMovement.pdf)
16 [PatientMovement.pdf](https://cchcs.ca.gov/wp-content/uploads/sites/60/COVID19/Appendix13-PatientMovement.pdf). The Matrix includes quarantine, testing, and isolation mandates for
17 transfers between and throughout institutions and facilities. A memorandum detailing
18 CDCR and CCHCS's current quarantine and isolation practices for the incarcerated
19 population is attached as **Exhibit B**. For example, isolation time for incarcerated people
20 has been changed from 14 days to 10 days. As a matter of course, CDCR keeps the
21 incarcerated population apprised of policy and procedure changes. An example of a recent
22 communication regarding masking and movement policies, in which CDCR advises the
23 incarcerated population of the plan to distribute two procedure masks and offer one N95
24 mask each week, and provides an explanation of quarantine and isolation procedures,
25 which is attached as **Exhibit C**. Healthcare services will be limited to essential clinical
26 services including urgent/emergent and priority needs.

27 Dayroom activity, canteen, and phone calls are still permitted so long as physical
28

1 distancing is maintained. Only one housing unit or dorm will participate in recreation at a
 2 time to avoid mixing units. Meals and education courses, vocation courses, Substance Use
 3 Disorder Treatment courses, and religious programs will be provided directly to the
 4 incarcerated population in their housing units. Incarcerated people can access law libraries
 5 through a paging system¹⁴ or where physical distancing can be maintained. Urgent and
 6 emergency legal visits will be conducted via telephone or video conference.

7 CDCR is closely following the Roadmap to Reopening, available at
 8 <https://www.cdcr.ca.gov/covid19/reopening/>, which follows guidance from the Receiver
 9 and public health experts, and significantly restricts movement, programming, and
 10 visitation at institutions experiencing a current outbreak. The “Reopening tab” of the
 11 Population Tracker, available at [https://www.cdcr.ca.gov/covid19/population-status-](https://www.cdcr.ca.gov/covid19/population-status-tracking/)
 12 [tracking/](https://www.cdcr.ca.gov/covid19/population-status-tracking/), shows each institution’s current reopening phase. All institutions are considered
 13 to be in “Phase I” for the duration of the temporary modified program, but may revert back
 14 to their prior phase at the conclusion of the modified program, provided they did not
 15 experience an outbreak.¹⁵

16 **D. Testing and Vaccination for Staff**

17 CDCR and CCHCS are implementing the California Department of Public Health’s
 18 December 22, 2021 order mandating those in health care settings to receive the vaccine
 19 booster when eligible, discussed in further detail below. Unvaccinated employees must
 20 continue to test twice a week.

21 **E. Testing for the Incarcerated Population**

22 The DOC has directed leadership at each institution to follow Movement Matrix
 23 guidance on testing strategies and to keep the Outbreak Management Tools updated as to
 24 those strategies for both staff and patients. CDCR has sufficient testing supplies to

25 _____
 26 ¹⁴ Incarcerated people use the “paging system” to request that library staff deliver
 27 legal material to them during times when physical access to the law library is not possible,
 28 for example during lockdowns or modified programs.

¹⁵ Even institutions that are not presently experiencing an outbreak are subject to the
 modified program.

1 regularly test its incarcerated population and is in constant communication with current
 2 vendors and the Office of Emergency Services regarding projected testing needs, test
 3 inventories, and delivery status.

4 **F. Entrance Screening**

5 Each employee will complete a daily self-screening for COVID-19 symptoms and
 6 exposure before entering an institution. *See Exhibit D.* Employees shall not come to
 7 work nor enter any institutions, headquarters, regional or field offices, if they:

8 1. Are experiencing COVID-related symptoms not caused by a diagnosed
 9 underlying health care condition or caused by a recent COVID-19 vaccination;

10 2. Have been in close contact with anyone known to have a laboratory-confirmed
 11 COVID-19 test or symptoms consistent with COVID-19 while not wearing appropriate
 12 personal protective equipment in the last 14 days regardless of vaccination status; or

13 3. Tested positive for COVID-19 within the last 10 days.

14 CDCR and CCHCS issued an updated employee quarantine and isolation policy on
 15 January 7, 2022, attached as **Exhibit E**. The current conventional practice requires staff to
 16 take 7 days off work and present a negative COVID-19 test result to return to work. The
 17 current contingency practice is used for critical staffing needs, and permits asymptomatic
 18 employees to return to work and test every day for 7 days post exposure and wear an N95
 19 while at work. These employees can continue to work as long as they test negative.

20 Employees with active COVID-19 may not, under any circumstances, report to work. The
 21 contingency practice may only be implemented if sufficient testing resources are available.

22 **G. Personal Protective Equipment**

23 Starting on January 10, 2022, all employees, contractors, and visitors shall wear an
 24 N95 mask while on CDCR institution grounds and follow current testing directives,
 25 regardless of vaccination status or whether a religious or medical exemption has been
 26 granted. Exceptions to N95 masking requirements apply:

27 1. While actively and briefly eating or drinking, and only if a minimum of six feet
 28

1 of physical distance is maintained from all other individuals;

2 2. When alone in an office with the door closed;

3 3. When alone in a tower or enclosed control booth with no other individuals
4 present; and

5 4. When outdoors, if a minimum of six feet of physical distance is maintained from
6 all other individuals. An appropriate mask shall be kept on person at all times and shall be
7 worn walking or standing within six feet of others.

8 Incarcerated workers must also wear an N95 at all times. Incarcerated workers with
9 work assignments that include indoor contact with others will be provided an N95
10 replacement at the beginning of each work shift and as often as needed or requested. As
11 soon as possible but no later than January 17, 2022, CDCR will make N95 masks available
12 to all incarcerated people who wish to wear them for enhanced protection, and will offer
13 incarcerated people at least one N95 mask per week.¹⁶ Incarcerated people will also be
14 offered at least two disposable procedure masks per week to replace cloth masks that were
15 previously distributed. Currently, N95 or procedure masks are preferred to cloth face
16 coverings.

17 **II. COVID-19 VACCINE**

18 **A. Patients**

19 *Plaintiffs' Position:* We appreciate CCHCS and other staff's efforts over the last 13
20 months to offer and administer the COVID-19 vaccine to patients. As of January 19, 2022,
21 81% of the approximately 99,000 incarcerated in CDCR were fully vaccinated against
22
23
24

25 ¹⁶ On a case-by-case basis, if a patient's primary care clinician determines that the
26 potential for self-harm from being given an N95 outweighs the benefit, the clinician may
27 either exempt the patient from being offered an N95 or authorize provision of an N95
28 without a metal nose clip.

1 COVID. Also, 96% of the approximately 72,000 eligible for a booster shot had been
 2 offered one (about 75% accepted).¹⁷

3 CCHCS and CDCR tell us that they will distribute a written survey regarding
 4 vaccine incentives to approximately one-half of the 17,000 patients who have to date
 5 declined vaccination. They intend to collect the surveys by the end of this month and
 6 provide executive leadership with an analysis and presumably recommendations in
 7 February. We appreciate these efforts, and urge that incentives identified as effective be
 8 offered promptly.

9 *Defendants' Position:* CCHCS began offering the Pfizer booster to eligible patients
 10 shortly after the United States Food and Drug Administration (FDA) amended its grant of
 11 emergency use authorization. Similarly, CCHCS began offering Janssen and Moderna
 12 boosters to patients the third week of October 2021, not long after the FDA released its
 13 emergency use authorization for those vaccines. As of January 19, 2022, 81 percent of the
 14 incarcerated population (amounting to 79,787 people) is fully vaccinated, and another two
 15 percent, or 2,074 people are partially vaccinated. Additionally, 71,747 incarcerated people
 16 are eligible for a booster shot, 54,971 have accepted a booster shot, and 13,576 have
 17 declined. CCHCS continues efforts to offer booster shots to eligible incarcerated people,
 18 and encourage unvaccinated incarcerated people to accept the vaccine. As discussed in
 19 section I above, current statistics show the vaccine continues to protect incarcerated people
 20 as expected based on public health guidance. This is particularly true in light of public
 21 health guidance that vaccination protects against serious illness and death, and does not
 22 prevent the spread of infection. Ctrs. Disease Control & Prevention, *Potential Rapid*
 23 *Increase of Omicron Variant Infections in the United States* (Dec. 20, 2021),

24 <https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/mathematical-modeling->
 25

26 ¹⁷ Most of those eligible for but not offered a booster are either out-to-court or new
 27 arrivals at Reception Centers; we have this week asked CCHCS about those patients
 28 eligible for a booster housed in main-line prisons who appear to not have not been offered
 one.

1 [outbreak.html](#). And current expert opinions that while case counts continue to be an
 2 important barometer, “it is much more relevant to focus on the hospitalizations as opposed
 3 to the total number of cases” and “hospitalization counts are a ‘more objective measure.’”
 4 Newsweek, *COVID Hospitalization Data Should Be Focus Rather Than Daily Case*
 5 *Counts: Experts* (Jan. 4, 2022), [https://www.newsweek.com/covid-hospitalization-data-](https://www.newsweek.com/covid-hospitalization-data-should-focus-rather-daily-case-counts-experts-1665543)
 6 [should-focus-rather-daily-case-counts-experts-1665543](https://www.newsweek.com/covid-hospitalization-data-should-focus-rather-daily-case-counts-experts-1665543). Consistent with current thinking,
 7 CDCR and CCHCS are closely monitoring case counts and, based on case counts, is
 8 modifying programming and movement in addition to implementing quarantine and
 9 isolation as needed. Hospitalization rates remain very low—three as of January 19,
 10 2022—and Defendants continue to make every effort that they remain so.

11 CDCR and CCHCS continue to pursue the best and most effective treatments for
 12 CDCR’s incarcerated population as they become available. For example, as of December
 13 20, 2021 the California Department of Public Health (CDPH) allocated 960 doses of
 14 Evusheld to CDCR. Evusheld is a preventative, monoclonal treatment administered by
 15 injection to high-risk patients who have not been exposed to COVID-19 and who are not
 16 currently infected with COVID-19. The treatment is expected to provide patients with six
 17 months of protection against COVID-19. The FDA authorized emergency use of this
 18 treatment on December 8, 2021 for immunocompromised patients, or those for whom
 19 available COVID-19 vaccines are not recommended. *See* FDA News Release,
 20 *Coronavirus (COVID-19) Update: FDA Authorizes New Long-Acting Monoclonal*
 21 *Antibodies for Pre-exposure Prevention of COVID-19 in Certain Individuals* (Dec. 8,
 22 2021), [https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-](https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-new-long-acting-monoclonal-antibodies-pre-exposure)
 23 [update-fda-authorizes-new-long-acting-monoclonal-antibodies-pre-exposure](https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-new-long-acting-monoclonal-antibodies-pre-exposure).

24 Additionally, CDPH allocated 40 doses of Paxlovid, an oral antiviral treatment, as of
 25 December 28, 2021; 80 doses of Molnupiravir, an oral antiviral treatment, as of December
 26 28, 2021; 204 doses of Sotrovimab, a monoclonal antibody intravenous infusion, as of
 27 January 10, 2022. As of January 18, 2022, these treatments have been administered as
 28

1 follows: 189 doses of Evusheld, 9 doses of Paxlovid, 5 doses of Molnupiravir, and 28
 2 doses of Sotrovimab. CDCR and CCHCS continue to identify patients eligible for these
 3 treatments.

4 CDCR and CCHCS continue to consider Plaintiffs' counsel's November 29, 2021
 5 request to "promptly design and implement a robust incentive program that includes
 6 special meals or food, money, canteen resources, tablet credits, video calls, and any other
 7 meaningful resource to encourage [incarcerated] people to get vaccinated." During the
 8 week of January 17, 2022, CDCR and CCHCS will send individually addressed surveys to
 9 over 9,000 incarcerated people, requesting their feedback regarding incentives that might
 10 persuade them to accept the vaccine. Wardens have been directed to inform their
 11 leadership teams, housing unit staff, and Inmate Advisory Councils that the surveys are
 12 coming; ensure surveys are delivered to appropriate incarcerated people by January 20;
 13 and support efforts to publicize the survey. Fire camps will work directly with institution
 14 leadership to determine the best method to deliver and retrieve surveys. Responses must
 15 be returned by January 30, and results of the survey are expected to be available in
 16 February. Healthcare staff continues to use each healthcare encounter as an opportunity to
 17 encourage unvaccinated patients to accept the vaccine.

18 **B. Staff**

19 *Plaintiffs' Position:* On December 21, 2021, we requested that CCHCS and CDCR
 20 provide us an update on the efforts to verify staff vaccination information, following the
 21 report in December (*see* ECF No. 3762 at 7:7 – 8:13) that there were discrepancies
 22 between the staff vaccine registry and the records of individual employees. We also on
 23 that date requested a meeting in early January to discuss this matter, and to be provided
 24 updated verified staff vaccination data on January 14, 2022, including information
 25 regarding progressive discipline of staff mandated to be fully vaccinated by the California
 26 Department of Public Health (CDPH).

27 At a January 14 meeting, CDCR's Deputy Director, Facility Operations briefly
 28

1 explained, as we understood it, that while a lot of work has been done to verify staff
2 vaccination status, it was not yet complete, even after accounting for the complication of
3 staff transferring between or being newly hired in the prison. A second “drill” is being
4 run, we are told, because the first attempt showed discrepancies. Accurate information is
5 essential, and should be available a month after verification was identified as necessary.
6 Whether a staff person is vaccinated or not is critical. Unless an exemption is obtained,
7 vaccination is CDPH-mandated for essentially all staff at two prisons (California Medical
8 Facility (CMF) and California Health Care Facility (CHCF)) and some staff at all others.
9 Who is and is not vaccinated (and not exempted) must be known in order to properly
10 impose progressive discipline on those not in compliance with those mandates. Further,
11 accurate knowledge of who is unvaccinated is necessary to properly COVID test such staff
12 twice-weekly, as CDCR and CCHCS require. CCHCS indicated on January 14 that they
13 hoped to provide updated staff vaccination data early in the week of January 17.

14 Defendants provided data regarding vaccination compliance by Division of Adult
15 Institution (DAI) staff approximately 90 minutes before the deadline for this Statement to
16 be filed (*see* Exhibit F). We have not yet received data for CCHCS and contractor staff.

17 Most fundamentally, the DAI data shows that vaccine mandates are effective and
18 result in higher vaccination rates for staff. The data shows that 6,090 DAI are subject to
19 the CDPH order statewide, with 1,033 not vaccinated. Of those who are not vaccinated, 49
20 have a granted or pending medical exemption request, according to Defendants. Another
21 213 have a request for a religious exemption pending, and 664 have a granted religious
22 exemption, including more than 150 at California Health Care Facility.¹⁸

23 Defendants say there are 107 DAI staff who are required to be but are not
24 vaccinated and do not have an exemption request granted or pending. For these, Exhibit F
25 includes prison-specific charts with information as to whether or why not corrective or

26
27 ¹⁸ The number of requests for or granted religious exemptions seems unexpectedly
28 high. We are concerned about potential misuse of this exemption, and plan to ask
Defendants for further information.

1 adverse action has been taken, and if such action has been taken, what had been done.
2 Defendants did not provide a summary of that information, thus the charts need to be
3 examined individually to determine the status of the 107 staff members.

4 Some matters seem clear. First, there are approximately two dozen unvaccinated
5 non-exempt DAI staff who are newly assigned to their position. Such staff should not be
6 permitted to work in those positions unless they are fully vaccinated. Defendants should
7 clarify that this is the rule.

8 Second, Defendants' data shows that there are approximately 14 unvaccinated non-
9 exempt DAI staff who have had no action taken against them and another 17 who are
10 "pending" issuance of a Letter of Instruction (LOI). A LOI is a corrective action,
11 generally a first step before formal adverse action. It is astonishing that approximately two
12 months after the CDPH mandate deadline, so many non-compliant staff have not been
13 subject to any progressive discipline.

14 Third, Defendants' data shows that the many other unvaccinated non-exempt DAI
15 staff have had an LOI issued, but of those, only a half-dozen have pending requests for
16 adverse action. In other words, Defendants have not diligently pursued formal discipline.
17 There's no explanation for this.

18 *Defendants' Position:* CDCR's rate of compliance with the August CDPH order
19 has been challenging to determine, but is much higher than past data suggested. Based on
20 CDCR's analysis of data current through November 28, 2021, CDCR's Division of Adult
21 Institutions (DAI) staff, which includes custody staff, were about 98% compliant with the
22 CDPH order. This means that 98% of DAI staff are either fully vaccinated or have
23 requested an accommodation. CDCR and CCHCS should be able to report compliance
24 rates for all remaining staff soon.

25 On January 14, 2021, CDCR and CCHCS gave Plaintiffs' counsel a comprehensive
26 update regarding their efforts to validate staff vaccination data. Over the past month,
27 CDCR and CCHCS have been working together to resolve the staff vaccination data
28

1 discrepancy discussed in the parties' previous Case Management Conference statement.
2 CCHCS and CDCR have gone to great efforts through two manual exercises to drill down
3 on the vaccination data to determine its accuracy and reliability, particularly with respect
4 to staff compliance with the August CDPH order. Each manual review took two weeks,
5 and this process was completed twice. It is anticipated that one additional review will be
6 necessary to ensure that contractor data is accurate and current.

7 The current systems were not designed to track this type of information, and it is
8 therefore challenging to track what is accurate and current at each institution. For instance,
9 the current system could indicate a certain number of staff who are not compliant with the
10 vaccine requirement, but it would not show that those individuals are on extended leave,
11 using up vacation time pending retirement, or on worker's compensation and thus are not
12 entering institutions. It is also unclear in the current system which contractors are
13 presently working in CDCR institutions, and which worked at some point in time for
14 CDCR but are not presently entering institutions.

15 CCHCS/CDCR still needs additional time to complete their manual review of
16 contractors, however, the data that has been cleared to date is showing significant levels of
17 compliance with the CDPH vaccine mandate by CDCR staff. The first manual review
18 looked into the number of staff who were noncompliant with the CDPH mandate as of
19 November 28, 2021. At Avenal State Prison, for instance, CDCR and CCHCS found that
20 out of a total of 1,076 correctional staff, 94 were subject to the CDPH order. The database
21 showed that 13 of the 94 staff were not vaccinated, but 5 had pending religious
22 accommodation requests, 4 had approved accommodation requests, and 4 were in the
23 interactive process (with each of the 4 having received letters of instruction). In other
24 words, Avenal staff were 96% compliant with the CDPH mandate as of the point-in-time
25 inquiry. Similarly, at California Medical Facility, of the 1,085 DAI staff, 976 were subject
26 to the CDPH order as of November 28, 2021. Of those, 108 were not fully vaccinated.
27 However, 2 were pending accommodation requests and 106 had approved accommodation
28

1 requests, thus 100% of all staff were accounted for and either compliant with the CDPH
 2 order or in the process of getting clarity as to their request for accommodation. At other
 3 institutions, they found that a number of vaccinated staff were showing as unvaccinated in
 4 the system, or there were duplicate entries (with some staff entered twice). Thus, the
 5 manual review also entailed fixing a number of errors. But the end result demonstrated
 6 that custody staff were largely—98% statewide—compliant with the CDPH mandate. *See*
 7 **Exhibit F**. Manual verifications require significant time and reallocation of labor. CDCR
 8 and CCHCS do not anticipate future manual verifications, and will continue to focus their
 9 efforts on enhancing automated systems for tracking staff vaccinations.

10 Separately, the CDPH issued a public order on December 22, 2021 requiring
 11 workers subject to the August 19, 2021 public health order to either receive a COVID-19
 12 vaccine booster dose by February 1, 2022, or test twice a week until they receive a booster
 13 shot. *See* Cal. Dep't Pub. Health, *Health Care Worker Vaccine Requirement* (Dec. 22,
 14 2021), [https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx)
 15 [State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx). CDCR
 16 implemented this order in a December 30, 2021 memorandum, attached as **Exhibit G** to
 17 this statement.

18 The December 22 public health order, like the August 19 order, applies to every
 19 worker at the California Health Care Facility, the California Medical Facility, and the
 20 skilled nursing facility at the Central California Women's Facility. *See* **Exhibit G**.
 21 Additionally, at every institution, this order applies to all Correctional Treatment Centers
 22 and similar locations; all Outpatient Housing Units; medical, specialty, mental health, and
 23 dental clinic treatment areas; hospice beds; dialysis units; treatment and triage areas; and
 24 staff identified as assigned to transportation or medical guarding in the community. *Id.*
 25 Additionally, all paid and unpaid regularly assigned workers subject to both CDPH orders
 26 include, but are not limited to clinicians, nurses, nursing assistants, technicians, therapists,
 27 phlebotomists, pharmacists, dietary staff, janitorial and laundry staff, administrative staff,
 28

1 registry staff, contract staff, volunteers, custody, custody staff, health facility maintenance
 2 workers, incarcerated workers, all five-day-a-week posts, and all regular-day-off posts.
 3 The CDPH orders do not apply to non-regularly assigned staff (e.g. relief staff, voluntary
 4 overtime, mandatory overtime, swaps), staff who do not work in the area regularly (e.g.
 5 staff making pick-ups or deliveries, conducting maintenance repairs, conducting tours), or
 6 staff responding to emergencies. *Id.* Noncompliant staff are subject to corrective or
 7 disciplinary action, and noncompliance for registry providers and contract workers will be
 8 reported to the vendor or contractor. Starting on February 2, 2022, assignments will be
 9 ended for registry providers, contractors, and applicable retired annuitants who have not
 10 received a booster dose, and who have neither requested nor received a religious or
 11 reasonable medical accommodation. *Id.*

12 **III. STAFF TESTING AND MASKING REQUIREMENTS**

13 *Plaintiffs' Position:* As previously reported, CDCR policy states that unvaccinated
 14 workers must submit to twice-weekly testing. However, after receiving data from CDCR
 15 and CCHCS documenting that large percentages of unvaccinated custody and nursing staff
 16 were not in compliance with this testing requirement, and were apparently not facing
 17 progressive discipline for violating policy, we wrote to CDCR and CCHCS on December
 18 3, 2021 with our concerns.

19 On January 13, 2022, CDCR and CCHCS provided a written response, explaining
 20 that “[i]n reviewing the non-compliant cases, almost all staff were either on leave, not
 21 scheduled to work, or were included in the disciplinary process for non-compliance.”
 22 During a meeting on January 14, CDCR and CCHCS staff reported they were unable to
 23 determine how many staff were incorrectly identified as noncompliant because they were
 24 sick or on leave, as opposed to truly noncompliant—that is, how many had worked without
 25 complying with testing requirements.

26 We were also told that noncompliant staff are not prohibited from coming into the
 27 prisons. As we understand it, this is because CDCR and CCHCS cannot currently enforce
 28

1 testing requirements in real time. Noncompliance is identified only after an employee has
 2 failed to test and reported to work for a number of days. Previously, CDCR and CCHCS
 3 stationed staff at the entrances to all prisons to screen staff, including for compliance with
 4 testing requirements. *See* ECF No. 3566 at 16. Staff who stated they had not recently
 5 been tested were given a rapid test. *Id.* That entrance screening was stopped in July 2021
 6 (staff are now directed to self-screen for symptoms and exposure), at a time when active
 7 case counts had been very low for several weeks.¹⁹ We believe this real-time check of
 8 compliance with testing requirements should restart, and should have restarted when the
 9 current wave began.

10 Finally, current staff testing compliance reports include only unvaccinated custody
 11 and nursing staff. CCHCS and CDCR stated this is so because there is no centralized
 12 tracking system that shows which other staff (including, for example, other medical and
 13 mental health care staff, as well as food service and maintenance staff who have regular
 14 contact with residents) are physically arriving to the prisons each day. On January 14,
 15 2022, CCHCS reported that compliance with testing requirements for other unvaccinated
 16 staff members is monitored by hand by each prison's CEO and/or Warden. CCHCS also
 17 reported they are working on a way to automatically monitor testing compliance for these
 18 employees.

19 In sum, CDCR and CCHCS continue to face significant challenges in monitoring
 20 and enforcing the twice-weekly testing requirement for unvaccinated staff. Even if the
 21 issues with the data are resolved, real time enforcement will not be possible unless pre-July
 22 2021 practices are immediately reinstated. These challenges underscore the limitations of
 23 testing and the need for the State to adopt additional measures—including mandatory
 24

25 ¹⁹ *See* Cal. Dep't of Corr. & Rehab., *Novel Coronavirus Disease 2019 (COVID-19)*
 26 *New Self-Screening Process*, [https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-](https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-2019-covid-19-new-self-screening-process-and-elearning-course/)
 27 [2019-covid-19-new-self-screening-process-and-elearning-course/](https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-2019-covid-19-new-self-screening-process-and-elearning-course/) (July 12, 2021); Cal.
 28 *Dep't of Corr. & Rehab., Novel Coronavirus Disease 2019 (COVID-19) self-screening*
entrance process – updated, [https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-](https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-2019-covid-19-self-screening-entrance-process-updated/)
[2019-covid-19-self-screening-entrance-process-updated/](https://www.cdcr.ca.gov/covid19/novel-coronavirus-disease-2019-covid-19-self-screening-entrance-process-updated/) (updated Jan. 3, 2022).

1 vaccination policies—to mitigate the risk that staff will introduce and spread the virus in
2 the prisons.

3 *Defendants' Position:* Adherence to masking and testing policies is an important
4 part of a multilayered response to the COVID-19 pandemic. As discussed above,
5 Defendants require unvaccinated workers and workers required to take a booster shot but
6 who have not yet received one to continue testing twice a week. And in light of recent
7 spread of the COVID-19 Omicron variant and increase in cases, CDCR now requires every
8 worker to wear an N95 mask, regardless of vaccination or exemption status and CDCR and
9 CCHCS enforce the mask mandate for all staff, and require unvaccinated workers to
10 submit to twice-weekly testing²⁰. Noncompliant staff will be subject to discipline. The
11 same requirements apply to contractors. However, contractors are not subject to discipline
12 by CDCR or CCHCS because they are not civil servants. Rather, if a contractor is
13 noncompliant, their assignment will be ended. *See Exhibit G*. Defendants continue to
14 encourage staff and the incarcerated population to accept the vaccine in the largest possible
15 numbers.

16 Further, staff are closely tracked to ensure they are compliant with testing
17 requirements. The majority of custody and healthcare staff who have contact with the
18 incarcerated population are tracked very closely with an automated system, Telestaff. A
19 smaller number of contracted and other staff who are not in the Telestaff system are
20 tracked manually by the Wardens and CEOs.

21 Finally, if an institution's Warden and CEO determine (in consultation with their
22 Associate Director and Regional Health Care Executive) that their staffing levels are
23 critical, employees who have had significant exposure to COVID-19 may be permitted to
24 return to work. However, these employees must test daily for seven days and must also
25 leave work immediately if a test is positive. These employees must also wear an N95
26 mask while at work.

27 ²⁰ CDCR and CCHCS must certify their vaccination status with their supervisors so
28 that the supervisors will know what type of mask each person should be wearing.

1 **IV. VENTILATION**

2 *Plaintiffs' Position:* As previously discussed, CDCR reports installing MERV-13
 3 filters in housing unit Air Handling Units (AHUs) that can accommodate them. It is not
 4 known to what degree this will serve to reduce the spread of the airborne virus during cold
 5 weather months, when recirculated air is used for heating. CDCR reports it is continuing
 6 to repair some of its AHUs, while others are scheduled for maintenance. CDCR further
 7 reports it is working to verify that previously-identified AHU repair projects have been
 8 done, and says that such information will be available in February. We will follow up with
 9 Defendants regarding these matters, observing again that CDCR should also engage
 10 experts to evaluate whether and to what degree these AHU filter upgrades and housing unit
 11 ventilation repairs help reduce the spread of the air-borne coronavirus.

12 In early December 2021, CDCR and CCHCS issued a joint memorandum regarding
 13 air filtration requirements for indoor group activity areas, such as classrooms, group
 14 counseling rooms, and dining halls. It requires the placement of portable HEPA or Do-It-
 15 Yourself MERV-13 filters in all indoor spaces used by groups, with the number needed
 16 determined by mathematical formula.

17 On December 17, 2021, we asked about these requirements, including (1) whether
 18 they would result in placement of filters in housing unit dayrooms, (2) for hypothetical
 19 examples showing the number of filters would be required in certain spaces given the
 20 formula, and (3) whether CDCR or CCHCS would check that the prisons appropriately
 21 determined the number of filters needed and had actually placed them in all group areas.

22 On January 13, 2022, a response was received, including a chart showing the
 23 number of filters required in three types of spaces used for indoor group activities. The
 24 response and chart were then discussed at a January 14, 2022 meeting. There, CDCR
 25 reported that the data provided in the chart regarding the number of filters needed—
 26 showing more than a dozen in classroom sized area and hundreds in a typical housing unit
 27 dayroom—were incorrect and needed to be redone (revised results were provided on
 28

1 January 19). It also said that the indoor group area filter requirements would be embodied
 2 in the Department Operations Manual. In the written response and at the meeting, it was
 3 stated that there was no process in place to check on whether prisons had properly
 4 determined the number of filters needed or whether the filters—it said 3,500 had been
 5 purchased statewide—were properly placed, even if only to have the prisons themselves
 6 verify what had been done. A CDCR representative stated that such validation processes
 7 “might” be considered in the future.

8 Having determined that portable filters for indoor group activity areas are
 9 necessary, and adopted a formula for determining the number needed for each space,
 10 CDCR must make sure that the prisons properly determined the number of filters needed
 11 for each group activity area, and placed the number needed in those areas. We have
 12 renewed our request for a concrete plan to verify that prisons accurately determined how
 13 many filters are needed for each group activity area (particularly given that Headquarters
 14 staff’s initial miscalculations suggest the process is complicated), and have placed the
 15 needed number of filters in those areas.

16 Finally with regard to ventilation, CCHCS on January 19 provided a draft report
 17 from CALProtect, regarding its visits to multiple prisons in 2021. We are currently
 18 reviewing the report. It is approximately 250 pages of text and 140 pages of supplemental
 19 material.

20 *Defendants’ Position:* As Defendants reported in the last Case Management
 21 Conference Statements, the air-filter-upgrade project is now complete and MERV-13
 22 filters have been installed in about 630 housing units across the prison system.²¹ Most air-
 23 handling-unit repairs and maintenance are also complete. As of late August 2021, CDCR
 24 had identified 490 air-handling units that were performing below 90% of design

25
 26 ²¹ According to the Centers for Disease Control, the “risk of spreading SARS-CoV-2,
 27 the virus that causes COVID-19, through ventilation systems is not clear at this time.” See
 28 CDC’s Ventilation FAQs at www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html.

1 specifications.²² As specified in the last Case Management Conference Statement, that
 2 number was reduced to about 150 underperforming air-handling units. Continuing efforts
 3 by plant-operations staff and the Facility Planning, Construction, and Management
 4 Division have now further reduced the number of underperforming air-handling units to
 5 about 140, and a schedule is in place for the completion of repairs and maintenance for the
 6 remaining air-handling units.

7 Since December 2020, CDCR has directed correctional plant managers at all
 8 prisons to maximize outside air circulation and to minimize recirculated air in housing
 9 units. That directive was reiterated most recently in a January 5, 2022 memorandum to the
 10 prisons, which included instructions to open windows when feasible to increase the
 11 introduction of outside air. *See Exhibit H.*

12 **V. IMPACT OF COVID-19 ON MEDICAL CARE SERVICES**

13 *Plaintiffs' Position:* As stated above, the current massive outbreaks have resulted in
 14 all prisons being placed on a 15-day modified program. Medical appointments are
 15 restricted to essential clinical services, meaning many medical appointments will be
 16 postponed or canceled, and even after the modified program ends, limited medical services
 17 will continue for weeks as outbreaks continue, with services especially limited for the
 18 thousands in isolation or quarantined.

19 With regard to COVID-related interruptions in primary care, on January 10 we
 20 asked CCHCS to develop and implement written policies or directives regarding, among
 21 other things, how to manage chronic care patients whose appointments are delayed or
 22 cancelled because of the pandemic. Such was recommended by the Office of the Inspector
 23 General (OIG) in a recent draft medical inspection report. The report determined that
 24 while many Primary Care Provider (PCP) appointments were appropriately postponed
 25 because of the pandemic, others were not because the patient's medical conditions required

26
 27 ²² The design specification of an air-handling unit is primarily sized for providing
 28 optimal heating and cooling ability, and typically far exceeds the capacity necessary to
 satisfy code requirements for introducing outside air into a building.

1 prompt assessment and care. The OIG said in one case a PCP rescheduled appointments
2 even though nurses repeatedly requested that the patient be seen, with nurses eventually
3 consulting with a different provider and the patient admitted to a hospital. We look
4 forward to CCHCS's response regarding this matter.

5 With regard to specialty services, CCHCS in response to our request recently
6 provided data showing that as of January 3, 2022 there were approximately 8,500 specialty
7 service orders overdue out of approximately 53,000 pending; the overdue total has not
8 appreciably changed since at least May 2021. A report regarding this matter is being or
9 has been prepared for the Receiver, but as of January 18, 2022 had not been provided to us.
10 Unfortunately, the current massive outbreaks are likely to make substantial reduction of
11 this backlog difficult or impossible in the near future.

12 CCHCS further reported that as of January 3, 2022 there were 846 overdue
13 ultrasound exams for end stage liver patients statewide. This number also has not
14 substantially changed since at least May 2021, and has been of special concern given that
15 the exams are key to the early identification of cancer, and the lack of such timely exams
16 was identified in recent years as a leading cause of possibly preventable deaths.

17 On January 14, 2022, CCHCS informed us of a plan to reduce these overdue
18 cancer-screening ultrasound exams. The plan is said to include obtaining additional
19 ultrasound technicians and contracting with an outside provider which will hold additional
20 ultrasound clinics through February at the prisons with the largest backlogs. According to
21 CCHCS, these clinics will be held even if a prison is on modified program due to a
22 COVID outbreak. We appreciate these efforts, although we believe they should have been
23 undertaken months ago. We will continue to monitor these backlog totals.

24 *Defendants' Position:* Defendants will continue to work with the Receiver and
25 CCHCS to ensure the delivery of medical care services to patients to the full extent
26 possible during the COVID pandemic and the recent spread of the Omicron variant.

VI. INTEGRATED SUBSTANCE USE DISORDER TREATMENT (ISUDT)

Plaintiffs' Position: The number of patients receiving medication assisted treatment (MAT) for substance use disorder continues to slowly increase; just over 13,900 patients now receive such care.²³ However, nearly three thousand patients whom social workers have determined should be evaluated for MAT remain pending an initial addiction medicine Primary Care Provider appointment, most of which are overdue, and approximately 2,500 patients are overdue for a follow-up addiction medicine PCP appointment. Also, tens of thousands of patients are yet to be screened to determine if they have a substance use disorder. Further, only about 40% of MAT patients are receiving cognitive behavioral intervention (CBI), an important element of the ISUDT program, and, as the Receiver indicated last month, the program has presented a medication administration challenge at many prisons that is exhausting and thus not sustainable.

On January 10, 2022, CCHCS, CDCR, and the Governor proposed a very significant increase in ISUDT funding and staffing for the next two fiscal years (commencing July 1). The proposal carefully documents the significant reductions in deaths and sickness related to substance abuse in the prisons since ISDUT was implemented. In addition to those benefits, ISUDT changes many lives for the better. We appreciate and strongly support this budget change proposal which, if enacted by the legislature then fully implemented, should reduce treatment backlogs, provide access to CBI to all receiving MAT, resolve medication administration problems, and expand the availability of ISUDT care to all who require it.

CCHCS, CDCR, and the Governor also on January 10 proposed funding to design and build three classrooms and staff offices at California State Prison, Sacramento for CBI programs, including for ISUDT patients. We appreciate and strongly support this initiative as well. We plan to ask CCHCS and CDCR to describe plans to provide ISUDT-related CBI programs at the other prisons.

²³ See Cal. Corr. Health Care Servs., *ISUDT Program Overview*, <https://cchcs.ca.gov/isudt/dashboard/> (last accessed Jan. 16, 2022).

1 *Defendants' Position:* Defendants look forward to continued collaboration with
 2 their CCHCS partners to expand the ISUDT program's reach and effectiveness within the
 3 incarcerated population. As Plaintiffs describe above, budget change proposals for fiscal
 4 year 2022-2023 include a line item for expansion and enhancements to CDCR's ISUDT
 5 program.

6 **VII. INDIVIDUAL PRISON CONCERNS**

7 **A. California State Prison, Los Angeles County (LAC)**

8 *Plaintiffs' Position:* Data provided by CCHCS shows that as of the end of
 9 December 2021 the Primary Care Provider (PCP) appointment backlog at LAC was
 10 approximately 1,100, still the highest among the state prisons, but reduced by almost one-
 11 half since mid-October 2021, both in absolute numbers and the rate per 100 patients. We
 12 appreciate the efforts undertaken to accomplish this.

13 On January 13, CCHCS informed us that three registry PCP positions had been
 14 authorized for LAC, which the prison was attempting to fill, and that in January and
 15 February a PCP in one of the prison's four main clinics would see patients on Saturdays.

16 We will continue to monitor this matter. We have also asked ask CCHCS what can
 17 be done such that large PCP appointment backlogs that may arise at LAC or other prisons
 18 in the future will be redressed before repeated requests by us.

19 *Defendants' Position:* Defendants will continue to collaborate with the Receiver
 20 and CCHCS as they work to address the backlogs of PCP appointments and responses to
 21 healthcare grievances at LAC. Defendants understand that current efforts are underway by
 22 CCHCS to reduce and resolve the backlog at LAC by April 2022. LAC has received
 23 approval for three registry positions to hire additional physicians and LAC will also hold
 24 Saturday clinics for the months of January and February 2022.

25 **B. Substance Abuse Treatment Facility and State Prison, Corcoran (SATF)**

26 *Plaintiffs' Position:* Over the past year, our office has repeatedly raised concerns
 27 about staff misconduct at SATF, including misconduct by medical staff. *See* ECF No.
 28 3717 at 17-18. Among other issues, we have identified the concerning practice of nurses

1 writing inappropriate and unwarranted Rule Violation Reports (RVRs). Between January
2 1, 2021 and August 17, 2021, nurses at SATF wrote at least 61 RVRs; the majority were
3 written by four nurses. As Defendants described in the last Case Management Conference
4 Statement, on November 8, 2021, the *Armstrong* court issued an order directing the Court
5 Expert to investigate this issue, among others. *See Armstrong v. Newsom*, Case No. 94-cv-
6 2307 CW, ECF No. 3338 (N.D. Cal. Nov. 8, 2021).

7 We received copies of the 61 RVRs on November 23, 2021. Along with our
8 *Armstrong* colleagues, we reviewed the 61 RVRs written by medical staff at SATF and
9 provided our concerns to the *Armstrong* Defendants and Court Expert on December 8,
10 2021 and January 7, 2022. We also shared our concerns and recommendations with the
11 *Plata* Receiver and Defendants on January 18, 2022. As we explained in those
12 submission, we found that the vast majority of these RVRs were issued for conduct that
13 was not serious and did not pose any risk of harm to others—for example, being late to the
14 pill line or forgetting to bring a water cup to the pill line. Many of the RVRs were issued
15 to punish patients for conduct that should simply have been reported to their medical or
16 mental health care teams—for example, not taking medications correctly, or not showing
17 up to take medications at all. These RVRs appeared designed to punish patients for their
18 failure to comply with medication and treatment protocols, rather than to assist patients to
19 get the help and treatment they need. And, again, four nurses were responsible for the
20 majority of these RVRs.

21 On December 7, 2021, we were informed that twenty of these RVRs had been re-
22 reviewed and voided. We are concerned that voiding of these RVRs happened only after
23 inquiries made by Plaintiffs' counsel in both *Armstrong* and *Plata*, and only after the
24 involvement of the Court Expert in *Armstrong*. We believe CDCR and CCHCS need to
25 take further action to ensure this practice is stopped and the culture is improved at SATF.
26 We recently (on January 18) provided our concerns to the Receiver and Defendants; we
27 intend to continue discussions.

1 *Defendants' Position:* On the afternoon of January 18, 2022, Plaintiffs' counsel sent
 2 Defendants an eight-page single-spaced letter regarding the RVRs issued by nursing staff
 3 at SATF. Defendants did not have sufficient time to review Plaintiffs' letter in advance of
 4 the preparation of this statement. Defendants note however, that Plaintiffs' allegations
 5 pertaining to this issue are currently being actively investigated by the *Armstrong* Court
 6 Expert.

7 **VIII. DELEGATIONS**

8 The Receiver has previously delegated authority for medical care back to
 9 Defendants at 19 prisons. On October 29, the Court issued an Amended Receivership
 10 Transition Order, and in an accompanying order stated that the Receiver is developing a
 11 new model for evaluating when it is appropriate to delegate medical care at an individual
 12 prison, and had strengthened the internal expertise of CCHCS to assist with the evaluation
 13 process. The Court also stated the Receiver's evaluations need not be tied to the release of
 14 an Office of Inspector General report on a particular prison. *See* ECF Nos. 3278 and 3279.

15 On November 29, the Receiver informed the parties he was scheduling a meet-and-
 16 confer in late January regarding the delegation of medical care at the California
 17 Rehabilitation Center (CRC), and provided his draft assessment of medical care at that
 18 prison. Since the previous statement was filed, the Receiver rescheduled these meet-and-
 19 confers. They will now take place as follows: CRC, February 24, 2022; Richard J.
 20 Donovan Correctional Facility (RJD), April 26, 2022; Wasco State Prison (WSP), to be
 21 determined; and California State Prison – Solano (SOL), to be determined.

22 *Plaintiffs' Position:* In advance of the meet-and-confer regarding CRC scheduled
 23 for February 24, we have requested medical-care related documents, information related to
 24 the Receiver's expert's assessment of care at the prison, and an early February site visit.
 25 However, this meet-and-confer may need to be deferred, as the prison's current large
 26 COVID outbreak may mean that a site visit is not prudent, both for patient safety reasons
 27 and because the medical delivery system cannot be adequately assessed while CRC has
 28

1 been and remains in Phase 1.²⁴

2 *Defendants' Position:* The receivership last delegated authority over medical care
3 services to CDCR at California State Prison – Corcoran in October 2018. Defendants look
4 forward to resuming the delegation meet-and-confer process.

5 DATED: January 19, 2022

HANSON BRIDGETT LLP

6
7
8 By: /s/ Paul B. Mello

PAUL B. MELLO

9 SAMANTHA D. WOLFF

10 LAUREL O'CONNOR

11 DAVID C. CASARRUBIAS

Attorneys for Defendants

12 DATED: January 19, 2022

ROB BONTA

13 Attorney General of California

14
15 By: /s/ Iram Hasan

16 DAMON MCCLAIN

Supervising Deputy Attorney General

17 IRAM HASAN

18 Deputy Attorney General

Attorneys for Defendants

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26
27 ²⁴ On January 14, the Special Master in the *Coleman* case, at CDCR's request,
28 deferred a site visit scheduled for January 18 through 20 at Mule Creek State Prison due to
a large COVID outbreak at the prison.

1 DATED: January 19, 2022

PRISON LAW OFFICE

2
3 By: /s/ Steven Fama

4 DONALD SPECTER

5 STEVEN FAMA

6 ALISON HARDY

SARA NORMAN

7 RITA LOMIO

RANA ANABTAWI

8 SOPHIE HART

9 LAURA BIXBY

Attorneys for Plaintiffs

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EXHIBIT A

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: **January 6, 2022**

To: Associate Directors, Division of Adult Institutions
Wardens
Regional Health Care Executives
Chief Executive Officers

Subject: **COVID-19 MANDATORY 15-DAY MODIFIED PROGRAM**

The California Department of Corrections and Rehabilitation's priority is to protect the health and well-being of our staff and the inmate population, as well as providing a safe environment. The purpose of the memorandum is to announce measures intended to reduce staff and inmate exposure to the Coronavirus (COVID-19) by minimizing inmate movement throughout the State.

Effective Sunday, January 9, 2022, all institutions shall implement a mandatory 15-day modified program. Each institution shall be responsible for either creating or amending their current Program Status Report taking all of the following information into consideration:

- The entire institution will be affected, except for Restricted Housing Units, Correctional Treatment Centers, and Psychiatric Inpatient Programs, etc.
- Movement will be via escort – maintain increased physical distancing unless security would dictate otherwise (e.g. Administrative Segregation Unit placement). Movement will be in such a fashion as to not mix inmates from one housing unit with another housing unit
- Feeding – Cell feeding is preferred. However, if due to the operational design of your facilities, if you elect to feed in the dining halls it shall be as follows: one housing unit at a time, reduced occupancy, maintaining physical distancing, and disinfecting tables and high touch areas between each use
- Ducats – priority only
- Visiting – no contact or non-contact
- Video-Visiting - only
- Family Visiting - none
- Legal visits – urgent/emergency, via telephone or video conference where available. Board of Parole Hearings will continue with attorney contacts and psychological assessments as required
- Workers – critical and porters. All workers shall use appropriate Personal Protective Equipment (PPE) and wear an N-95 at all times.
 - Refer to attached California-Prison Industry Authority essential Enterprises
 - Inmate Ward Labor or other mission critical, fire, life, safety construction projects shall continue, i.e., roofing projects, health care areas, HVAC, water, etc.
- Showers – maintain distancing and disinfect between each use

Associate Director, Division of Adult Institutions
Wardens
Regional Health Care Executives
Chief Medical Officers
Page 2

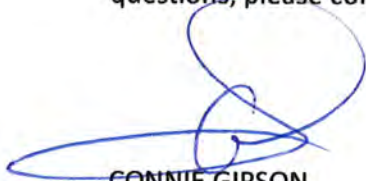
- Health care services – limited to essential clinical services including urgent/emergent and priority duties.
- Request for Health Care Services Forms, CDCR-Form 7362, will be distributed and picked up in the housing units by healthcare staff when access to the 7362 box is restricted by movement.
- Medication(s) distribution – Wardens, please work with your Chief Executive Officers and Chief Nurse Executives to establish a process. When applicable, conduct podium pass within the unit. If movement to the yard, canteen, and/or feeding in the dining halls continues, medication pass shall be maintained at the medication windows, maintaining physical distancing and not mixing inmates from different housing units.
- Law Library – PLU or paging option while maintaining physical distancing in the library
- Dayroom – maintain reduced occupancy to ensure increased physical distancing
- Recreation – One housing unit/dorm at a time. Do not mix inmates from different units.
- Canteen is permitted – shall be conducted in a manner to ensure physical distancing. If unable to accommodate physical distancing, facilitate delivery method
- Packages are permitted
- Phone calls are permitted – ensure physical distancing and disinfect between each use
- Religious programs shall be cell front, or deliver materials to the housing unit/dorm/cells
- Inmate Activity Groups - No in-person groups. Community Based Organization or volunteer program materials to be provided either cell front or to the dorm
- Educational, Vocational and ISUDT – no in-person classes. Educational materials to be provided either cell front, or to the dorm
- Transfer and inmate movement
 - Only essential moves approved via the movement matrix and via Population Management Unit in conjunction with Health Care Population Oversight Program

During this time, Community Resources Managers, Education Department staff, and others designated by the Warden shall facilitate the delivery of increased games, program materials, reading books, or other items to the housing units. Housing unit/dorm officers and supervisors are expected to conduct additional rounds and spot checks of inmates in an effort to reduce self-harm and/or suicide attempts.

All institutions will be required to provide a copy of their Program Status Report, Part-A, to their respective Associate Director each day for this 15-day period. Institutions are expected to brief staff and inmate advisory councils on this directive as this modified program is currently only slated to be in effect for 15-days, through January 23, 2022, or upon further direction.

Associate Director, Division of Adult Institutions
Wardens
Regional Health Care Executives
Chief Medical Officers
Page 3

Thank you for your continued efforts in managing this COVID-19 event. If you have any additional questions, please contact your respective Associate Director, or Regional Health Care Executive.



CONNIE GIPSON
Director
Division of Adult Institutions

DocuSigned by:
Joseph Bick
347167202A8A604
JOSEPH BICK, M.D.
Director
Health Care Services

cc: Kimberly Seibel
Jared D. Lozano
Ron Davis
Rainbow Brockenborough
Patrice Davis



Quality Products * Changed Lives * A Safer California

State of California
Department of Corrections and Rehabilitation

OPEN ENTERPRISES AS OF NOVEMBER 26, 2020- REVISED

Institution	Enterprise
ASP	Egg
ASP	HFM
ASP	Laundry
ASP	Poultry
CAC	HFM
CAL	HFM
CCC	HFM
CCI	HFM
CCWF	HFM
CEN	HFM
CHCF	HFM
CIM	Food & Bev
CIM	HFM
CIM	Laundry
CIW	HFM
CMC	HFM
CMC	Laundry
CMF	HFM
COR	Dairy
COR	Food & Bev
COR	HFM
COR	Laundry
CRC	HFM
CTF	HFM
CVSP	HFM
CVSP	Laundry
DVI	Dairy
DVI	HFM
FSP	HFM
FWF	HFM
HDSP	HFM
ISP	HFM
KVSP	HFM
LAC	Chemical
LAC	HFM
LAC	Laundry
MCSP	Coffee
MCSP	Food & Bev



State of California
Department of Corrections and Rehabilitation

OPEN ENTERPRISES AS OF NOVEMBER 26, 2020- REVISED

MCSP	HFM
MCSP	Laundry
MCSP	Meat Cutting
NKSP	HFM
PBSP	HFM
PBSP	Laundry
PVSP	HFM
RJD	Bakery
RJD	HFM
RJD	Laundry
SAC	HFM
SAC	Laundry
SATF	Food & Bev
SATF	HFM
SEC	HFM
SOL	HFM
SOL	Laundry
SOL	Optical
SQ	HFM
SVSP	HFM
VSP	HFM
VSP	Laundry
VSP	Optical
WSP	HFM
WSP	Laundry

EXHIBIT B



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



MEMORANDUM

Date: January 13, 2022

To: Chief Executive Officers
Wardens, Division of Adult Institutions
Chief Nurse Executives
Chief Medical Executives
Deputy Medical Executives

From: *Rainbow Brockenborough, MBA*
Rainbow Brockenborough, MBA
Co-Incident Commander, Department Operations Center
Regional Healthcare Executive

Ronald Davis
Co-Incident Commander, Department Operations Center
Associate Director

Subject: COVID-19 PATIENT ISOLATION AND QUARANTINE CHANGES

This memorandum is intended to notify changes for COVID-19 number of days required for isolation and updated requirements for quarantine rounds.

New Isolation Timeframe

Effectively immediately, patients in isolation due to COVID-19 may be released after 10 days instead of 14 days if a provider has determined it is safe to do so. All other timeframes on the Movement Matrix remain the same.

New Quarantine Screening Process

The following steps regarding COVID-19 quarantine rounds shall be implemented at each institution approved for critical staffing levels. In lieu of the standard quarantine rounds, effective immediately, quarantine screening shall be conducted once daily and shall be performed by any licensed health care staff as defined in Health Care Department Operations Manual (HCDOM) definitions at the following link: <http://lifeline/PolicyandAdministration/PolicyandRiskManagement/IMSPP/Documents/HCDOM-Definitions.pdf>.

Screening process steps:

1. Provider to enter quarantine order.
2. The institution shall export and print a paper list of patients on quarantine using the *COVID Monitoring Registry*:
<http://qmttools/Reports/report/QM/Registries/COVIDMonitoring>
 - o Staff shall use the paper list to ensure screening is conducted on all patients.
 - o Health care staff shall:

MEMORANDUM

Page 2 of 2

- Ask each patient "Are you feeling sick today?"
 - Visually assess the patient for any signs/symptoms of COVID-19 illness.
 - Staff shall place a check mark next to the patient name on the paper list once they have completed rounding on that individual patient.
 - The list shall be maintained at the institution as proof that screening was conducted.
3. When symptomatic cases are identified, an assessment utilizing existing documentation for *COVID-19: Quarantine Surveillance Rounding Power Form* shall be completed.
- Symptomatic patients shall be referred to a Registered Nurse (RN) or Provider for further evaluation as needed.

Utilization of the above process shall be determined by the institution Leadership, including the Chief Medical Executives and in coordination with the Regional Health Care Executives. This screening process shall remain in effect for the duration of critical staffing levels.

cc: Joseph Bick, MD, Director, Health Care Services
Connie Gipson, Director, Division of Adult Institutions
Lara Saich, Director, Health Care Policy and Administration
Jackie Clark, Deputy Director, Institution Operations
Renee Kanan, Deputy Director, Medical Services
Heidi Bauer, Deputy Medical Executive, Public Health
Kimberly Seibel, Deputy Director, Facility Operations, Division of Adult Institutions
Jared D. Lozano, Deputy Director, Facility Support, Division of Adult Institutions
Regional Healthcare Executives
Associate Directors, Division of Adult Institutions
Laura Eldridge, Assistant Deputy Director, Facility Support, Division of Adult Institutions
Headquarter Chief Nurse Executives
Regional Chief Nurse Executives

EXHIBIT C

January 12, 2021

To all incarcerated in California state prison,

Changes have been made to mask requirements for all incarcerated people. No later than January 17, 2022, you will be provided at least two disposable procedure masks (often called "surgical masks") to replace the PIA cloth masks.

Each week you will also be offered one N95 respirator masks, which you can choose to wear for more protection. Either the procedure or N95 mask are preferred over the cloth face coverings.

If your primary doctor advises that having an N95 with a metal clip is too dangerous, your doctor may either exempt you from getting an N95, or advise that you be given one without a metal clip. These decisions will be made on a case by case basis.

Housing

We are seeing a surge of COVID-19 cases in our prisons. The Omicron variant is very contagious, and it is more important than ever that residents cooperate with bed moves that are necessary to keep everybody safe. We know having to move, even for a short time, is inconvenient and stressful. Please know that these moves are only done to keep you and the people around you safe.

If you test positive for COVID-19, you will be required to isolate until you are no longer contagious. Health care staff will determine where that isolation can safely take place. In some cases this will require a change in housing. If a housing change is needed, this will take place as soon as possible and no later than 24 hours. We hope you will comply with the move out of concern for the safety of yourself and those around you, but if you do not comply, you will be subject to disciplinary action and staff may physically move you.

If you are found to have had close contact with someone who has COVID-19, you may be required to move to different housing for a short time. However, in some instances it may make the most sense for an entire housing unit to be placed on quarantine or isolation.

We understand this is a stressful time, and that it has been a very long two years. Your continued cooperation is sincerely appreciated as we work together to get through this surge and keep our institutions and communities safe.

EXHIBIT D



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



MEMORANDUM

Date: January 3, 2022

To: California Department of Corrections and Rehabilitation (CDCR) All Staff
California Correctional Health Care Services (CCHCS) All Staff
Division of Juvenile Justice (DJJ) All Staff

From:

DocuSigned by:

Connie Gipson

60F75B6E86804F7...

Connie Gipson

Director

Division of Adult Institutions, CDCR

DocuSigned by:

Heather Bowlds

4637DDEB2DC34ED...

Heather Bowlds, Psy. D

Director

Division Of Juvenile Justice, CDCR

DocuSigned by:

Joseph Bick

347167202A8A404...

Joseph Bick, MD

Director

Health Care Services, CDCR and CCHCS

**Subject: NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) SELF-SCREENING ENTRANCE
PROCESS **UPDATED****

Effective immediately, this memorandum updates expectations related to Novel Coronavirus Disease 2019 (COVID-19) entrance screening at California Department of Corrections and Rehabilitation (CDCR) and Division of Juvenile Justice (DJJ) institutions/facilities, and all CDCR, DJJ and California Correctional Health Care Services (CCHCS) Headquarters (HQ), regional and field offices. In an ongoing effort to prevent disease transmission, each individual shall complete a daily self-screening for COVID-19 symptoms and exposures. All CDCR and DJJ institutions/facilities and all CDCR, DJJ and CCHCS HQ, regional and field offices shall implement and abide by the procedures outlined in this memorandum to maintain consistency and effectiveness of entrance self-screening.

Attestation of Self-Screening

Prior to entering into an institution/facility, HQ, regional or field office, each individual will complete a daily self-screening for COVID-19 symptoms and exposure. Staff shall not come to work nor enter any institutions, HQs, regional or field offices, if they have been:

1. Experiencing COVID-related symptoms not caused by a diagnosed underlying health care condition or caused by a recent COVID-19 vaccination.
2. In close contact with anyone known to have a laboratory-confirmed COVID-19 test or symptoms consistent with COVID-19 while not wearing appropriate personal protective equipment in the last 14 days regardless of your vaccination status.
3. Tested positive for COVID-19 within the last 10 days.

MEMORANDUM

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If staff answer yes to any of these questions, **Do Not Come to Work** and follow the usual call off procedure.

Thank you for your continued dedication and commitment to reducing the spread of COVID-19 and protecting the health and safety of our inmates, staff, and the public. If you have any questions, please contact your respective supervisor or manager.

Additional information on entrance self-screening, rapid testing, and other COVID-19 topics can be found on CCHCS Lifeline Coronavirus (COVID19) webpage. Click [here](#) to access these resources. For additional detailed information about our COVID-19 response efforts, please visit our webpage "COVID-19 Response Efforts" found on CDCR's website. Click [here](#) to access these.

Attachment - COVID-19 Screening Poster



COVID-19 SCREENING

In order to ensure the safety of CDCR/CCHCS staff and the public, everyone must read and answer the following self-screening questions to determine their eligibility to enter this building:

Do you have any of the following symptoms not caused by a diagnosed underlying health care condition?

- Fever of 100.4 or greater or chills
- Diarrhea (3 or more loose stools within 24 hours)
- Cough
- Sore throat
- Unusual fatigue
- Muscle/body aches
- Shortness of breath or difficulty breathing
- Congestion / runny nose
- Nausea or vomiting
- Loss of taste or smell
- Headache

OR

Have you been in close contact (within 6 feet for a cumulative total of 15 minutes or more over 24-hours) with anyone known to have a laboratory-confirmed COVID-19 or any symptoms consistent with COVID-19 while not wearing appropriate personal protective equipment in the last 14 days?

OR

Have you tested positive for COVID-19 within the past 10 days?

If you answered YES to any of the above:



DO NOT ENTER
and contact your supervisor.



EXHIBIT E



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



MEMORANDUM

Date: January 7, 2022

To: California Department of Corrections and Rehabilitation (CDCR) All Staff
California Correctional Health Care Services (CCHCS) All Staff
Division of Juvenile Justice (DJJ) All Staff

From:

<small>DocuSigned by:</small> <i>Connie Gipson</i> <small>60F75B6E86804F7...</small> Connie Gipson Director Division of Adult Institutions, CDCR	<small>DocuSigned by:</small> <i>Heather Bowlds</i> <small>4837DDEB2DC34ED...</small> Heather Bowlds, Psy. D Director Division Of Juvenile Justice, CDCR
<small>DocuSigned by:</small> <i>Joseph Bick</i> <small>34718720248A494...</small> Joseph Bick, MD Director Health Care Services, CDCR and CCHCS	

Subject: **NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) STAFF Exposure (Quarantine)**
UPDATE

Effective immediately, this memorandum updates expectations related to employee quarantine following significant COVID-19 exposures. The table below outlines work restrictions for asymptomatic staff during conventional or normal operations and for contingency or critical staffing.

Vaccine Status	Conventional/Normal	Contingency /Critical Staffing
All regardless of vaccination status	7 days off work. If asymptomatic, test on day 7 and return to work if test is negative.	If asymptomatic, return to work and test every day for 7 days post exposure. Can continue to work if all tests are negative. Shall wear N-95 while at work.

***Note:** All tests for return to work are Point-of-Care (rapid) tests. Contingency protocol only to be implemented if sufficient testing resources available.

Hiring authorities shall work with supervisors, employee health and return to work staff to identify staff who may return given the new guidance.

Thank you for your continued dedication and commitment to reducing the spread of COVID-19 and protecting the health and safety of our inmates, staff, and the public. If you have any questions please contact your immediate supervisor or manager.

EXHIBIT F

CDCR - Division of Adult Institutions
COVID Vaccination Compliance Rates

Institution	Week Ending 11/28/2021			Staff Pending or with Approved Accommodations				Percentage of DAI Staff in Compliance w/ 8/19/21 CDPH Order	**Number of DAI staff requiring explanation
	TOTAL DAI Staff	**DAI Staff subject to CDPH Order <u>Denominator</u>	DAI Staff In Denominator with No Confirmed Vaccination	Number of DAI staff with <u>pending</u> Medical Accommodation	Number of DAI staff with <u>approved</u> Medical Accommodation	Number of DAI staff with <u>pending</u> Religious Accommodation	Number of DAI staff with <u>approved</u> Religious Accommodation		
Statewide	36,183	6,090	1,033	47	2	213	664	98%	107
ASP	1076	94	13	0	0	5	4	96%	4
CAC	371	41	14	0	0	0	14	100%	0
CAL	999	89	6	1	0	1	4	100%	0
CCC	760	58	13	0	1	7	5	100%	0
CCI	1198	57	10	1	0	0	8	98%	1
CCWF	821	108	42	0	0	1	41	100%	0
CEN	1025	79	2	0	0	2	0	100%	0
CHCF	1513	1,329	184	7	0	0	156	98%	21
CIM	1131	174	23	0	1	2	17	98%	3
CIW	676	173	41	2	0	12	21	97%	6
CMC	1224	168	37	4	0	33	0	100%	0
CMF	1084	976	108	2	0	0	106	100%	0
COR	1120	180	49	5	0	5	27	93%	12
CRC	1027	154	30	1	0	10	15	97%	4
CTF	970	87	10	1	0	1	8	100%	0
CVSP	753	61	6	0	0	3	3	100%	0
FSP	799.5	78	7	3	0	3	0	99%	1
HDSP	928	89	30	4	0	5	20	99%	1
ISP	919	49	8	0	0	8	0	100%	0
KVSP	1306	103	22	4	0	1	17	100%	0
LAC	996	105	29	0	0	3	18	92%	8
MCSP	1692	141	48	1	0	11	30	96%	6
NKSP	1366	134	15	0	0	0	15	100%	0
PBSP	842	82	14	0	0	5	9	100%	0
PVSP	1047	97	21	2	0	4	15	100%	0
RJD	1634	250	38	2	0	15	14	97%	7
SAC	1241	216	55	1	0	40	9	98%	5
SATF	1308	126	14	0	0	6	4	97%	4
SCC	897	65	14	0	0	7	7	100%	0
SOL	1047	81	18	3	0	1	5	89%	9
SQ	1216	224	15	1	0	1	8	98%	5
SVSP	1169	205	41	0	0	17	15	96%	9
VSP	857	104	30	0	0	3	27	100%	0
WSP	1170	113	26	2	0	1	22	99%	1
DAI-HQ	610	175.8	0	0	0	0	0	N/A	0

** If number is greater than 0, refer to attachment for corresponding institution

Avenal State Prison (ASP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Captain (A)	LOI
2	Correctional Sergeant	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California Correctional Institution (CCI)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	Pending vaccination card update to registry
2	Correctional Officer	Pending vaccination card update to registry
3	Correctional Officer	Pending vaccination card update to registry
4	Correctional Officer	Pending vaccination card update to registry
5	Correctional Officer	Pending vaccination card update to registry
6	Correctional Officer	Pending vaccination card update to registry
7	Correctional Officer	Pending vaccination card update to registry
8	Correctional Officer	Pending vaccination card update to registry
9	Correctional Officer	Pending vaccination card update to registry
10	Correctional Officer	Pending vaccination card update to registry
11	Correctional Officer	Pending vaccination card update to registry
12	Correctional Officer	Pending vaccination card update to registry
13	Correctional Officer	Pending vaccination card update to registry
14	Correctional Officer	Pending vaccination card update to registry
15	Correctional Officer	Unvaccinated, new bid to HCA

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California Institution for Men (CIM)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	LOI
2	Correctional Officer	LOI
3	Correctional Sergeant	LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California Institution for Women (CIW)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	LOI
2	Correctional Officer	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI
5	Correctional Officer	LOI - EE alleges to be fully vaccinated. Verification requested.
6	Correctional Officer	LOI - EE alleges to be fully vaccinated. Verification requested.
7	Correctional Officer	No Action - Newly appointed to HCA. Partially vaccinated as of 09/24/2021. Follow-up with EE regarding completion of the vaccination series.
8	Correctional Officer	No Action - Newly appointed to HCA. Partially vaccinated as of 11/19/2021.

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California Health Care Facility (CHCF)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Maintenance Mechanic	LOI
2	Custodian I	No Action
3	Correctional Officer	LOI
4	Correctional Officer	LOI
5	Correctional Officer	LOI
6	Correctional Officer	LOI
7	Correctional Officer	LOI
8	Correctional Officer	LOI
9	Correctional Officer	Follow Up Received first vaccination shot, waiting time period to get second shot.
10	Correctional Officer	Follow Up Received first vaccination shot, waiting time period to get second shot.
11	Correctional Officer	No Action
12	Correctional Officer	No Action
13	Correctional Officer	No Action
14	Correctional Officer	No Action
15	Correctional Officer	No Action
16	Correctional Officer	No Action
17	Correctional Officer	No Action
18	Correctional Officer	No Action
19	Correctional Officer	No Action
20	Correctional Officer	No Action
21	Correctional Officer	No Action

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California State Prison, Corcoran (COR)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Sergeant	No action - Started HCAU within 14 days
2	Correctional Officer	LOI Pending
3	Correctional Officer	LOI Pending
4	Correctional Officer	No action - Started HCAU within 14 days
5	Correctional Officer	LOI Pending
6	Correctional Officer	No action - Started HCAU within 14 days
7	Correctional Officer	No action - Started HCAU within 14 days
8	Correctional Officer	LOI Pending
9	Correctional Officer	No action - Started HCAU within 14 days
10	Correctional Officer	LOI Pending
11	Correctional Officer	LOI Pending
12	Correctional Officer	LOI Pending

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California Rehabilitation Center (CRC)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	LOI
2	Correctional Officer	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI
5	Correctional Officer	LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Folsom State Prison (FSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	No Action - EEOC denial letter issued on 12/03/2021

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

High Desert State Prison (HDSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	LOI
2	Correctional Officer	Long Term Sick
3	Correctional Officer	Needs to submit proof of Vaccine.

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California State Prison, Los Angeles County (CSP-LAC)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	No Action - Newly appointed to HCA. Vaccine Form being completed.
2	Correctional Officer	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI
5	Correctional Officer	LOI
6	Correctional Officer	No Action - Newly appointed to HCA. Vaccine Form being completed.
7	Correctional Officer	No Action - Newly appointed to HCA. Vaccine Form being completed.
8	Correctional Officer	No Action - Newly appointed to HCA. Vaccine Form being completed.

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Mule Creek State Prison (MCSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	No Action Out Sick until January 2022
2	Correctional Officer	No Action Out Sick until December 2021
3	Correctional Officer	No Action Temporarily Reassigned
4	Correctional Officer	LOI Pending Request for Adverse Action
5	Correctional Officer	LOI Pending Request for Adverse Action
6	Correctional Officer	LOI Pending Request for Adverse Action
7	Correctional Officer	LOI Pending Request for Adverse Action
8	Correctional Officer	LOI Pending Request for Adverse Action
9	Correctional Officer	LOI Pending Request for Adverse Action

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Richard J. Donovan Correctional Facility (RJD)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	LOI
2	Correctional Officer	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI
5	Correctional Officer	LOI
6	Correctional Officer	LOI
7	Correctional Officer	LOI Pending Issue 1/W 12/10
8	Correctional Officer	LOI Pending Issue Vac until 12/15
9	Correctional Officer	LOI - EE on FMLA since 10/31/21

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California State Prison, Sacramento (CSP-SAC)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	First dose of Moderna was 12/09/2021
2	Correctional Officer	Moving to 1st watch non-vaccination required post on 12/13/2021.
3	Correctional Officer	LOI
4	Correctional Officer	Transferring to CCWF on 12/13/2021.
5	Correctional Officer	LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Substance Abuse Treatment Facility (SATF)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Sergeant	LOI
2	Correctional Officer	LOI
3	Correctional Officer	LOI
4	Correctional Officer	LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

California State Prison, Solano (CSP-SOL)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	Pending LOI
2	Correctional Officer	Pending LOI
3	Correctional Officer	Pending LOI
4	Correctional Officer	Pending LOI
5	Correctional Officer	Pending LOI
6	Correctional Officer	Pending LOI
7	Correctional Officer	Pending LOI
8	Correctional Officer	Pending LOI
9	Correctional Officer	Pending LOI

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

San Quentin State Prison (SQSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Sergeant	Will start vaccination process week of 12/13/21.
2	Correctional Officer	New to HC will start vaccination process this week.
3	Correctional Officer	New to HC 12/06/21, will submit RRA 12/10/21.
4	Correctional Officer	Unaware he was in mandatory vaccination position, submitted RRA 12/09/21.
5	Correctional Officer	New to HC 12/06/21, will submit RRA.

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Salinas Valley State Prison (SVSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Correctional Officer	New Post Assignment
2	Correctional Officer	New Post Assignment
3	Correctional Officer	New Post Assignment
4	Correctional Officer	New Post Assignment
5	Correctional Officer	New Post Assignment
6	Correctional Officer	New Post Assignment
7	Correctional Officer	New Post Assignment
8	Correctional Officer	Out on ATO
9	Correctional Officer	LOI Pending
10	Correctional Officer	LOI Pending

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

Wasco State Prison (WSP)

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	<i>Correctional Officer</i>	LOI Issued - Received 1st dose, pending 2nd dose

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

INSTITUTION NAME

<u>Sequential number</u>	<u>Classification</u>	<u>Discipline/Reason</u> (No Action, LOI, Adverse*)
1	Office Technician (T)	New Hire 12/6/2021
2	Office Technician (T)	Adverse - Pending Skelly
3	Correctional Officer	No Action
4	Correctional Officer	No Action
5	Correctional Officer	Adverse - Pending Skelly
6	AGPA	LOI
7	AGPA	RTW 12/3/2021
8		
9		
10		
11		
12		
13		

*For those served formal adverse action; please advise of the current status of action (Pending Request for Adverse Action (CDCR-989), Pending NOAA, Skelly Hearing, SPB, etc.)

EXHIBIT G



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

MEMORANDUM

Date: December 30, 2021

To: California Department of Corrections and Rehabilitation – All Institution and Facility Staff
California Correctional Health Care Services – All Institution and Facility Staff

From:

DocuSigned by:
Jeffrey Macomber For
5957F5D0C55F473...
KATHLEEN ALLISON
Secretary
CDCR

DocuSigned by:
Clark Kelso
2E3708FD02AF4DC...
J. CLARK KELSO
Receiver
CCHCS

Subject: MANDATORY COVID-19 VACCINATION, BOOSTER AND TESTING FOR INSTITUTION/FACILITY STAFF

The purpose of this memorandum is to address the order issued by the California Department of Public Health (CDPH) on [December 22, 2021](#), which builds upon the August 19, 2021, CDPH order.

AUGUST 19, 2021 CDPH ORDER – FULL VACCINATION REQUIREMENT FOR STAFF

The August 19, 2021, CDPH order requires workers in specified correctional health care facilities to show evidence of full vaccination for COVID-19 by October 14, 2021, or to obtain approval for a reasonable medical or religious accommodation precluding them from the mandatory full vaccination. Workers to whom this requirement applies cannot opt out of vaccination or routinely test in lieu of vaccination. The implementation plans for the August 19, 2021, CDPH order are outlined in the memoranda issued by the California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS) on [August 23, 2021](#), [September 20, 2021](#) and [October 04, 2021](#).

On December 22, 2021, CDPH updated the August 19, 2021, CDPH order and now requires booster-eligible workers to receive their booster dose by no later than February 1, 2022, or to undergo twice-weekly COVID-19 testing with at least 72 hours between each test, until boosted.

Both the August 19, 2021, CDPH order and subsequent [December 22, 2021, CDPH order](#) apply to all workers at California Health Care Facility (CHCF), California Medical Facility (CMF), and the Skilled Nursing Facility at Central California Women's Facility (CCWF). In addition, it applies to those workers regularly assigned to work in the following health care areas or posts within institutions system-wide.

1. All Correctional Treatment Centers (CTC) and similar locations, including:
 - a. Medical CTC beds
 - b. Licensed and Unlicensed Psychiatric In-Patient Program housing
 - c. Licensed and Unlicensed Mental Health Crisis housing

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2. All Outpatient Housing Units (OHUs)
3. Medical, Specialty, Mental Health, and Dental clinic treatment areas
4. Hospice beds
5. Dialysis units
6. Treatment and Triage Areas (TTAs)
7. Staff identified on the Master Assignment Roster as assigned to transportation or medical guarding in the community
8. All Department of Juvenile Justice (DJJ) staff assigned to the Mental Health Residential Units, Intensive Behavioral Treatment Program Units, and Sexual Behavior Treatment Program Units
9. All staff assigned to the Medical Wings within DJJ facilities
10. All staff assigned to the Program Center at N.A. Chaderjian Youth Correctional Facility

All paid and unpaid regularly assigned workers/volunteers subject to both CDPH orders include but are not limited to the following: clinicians, nurses/nursing assistants, technicians, therapists, phlebotomists, pharmacists, dietary staff, janitorial and laundry staff, administrative staff, registry staff, contract staff, volunteers, custody staff, health facility maintenance workers and inmate workers. Both CDPH orders shall apply to all five-day-a-week posts and regular-day-off posts. Currently, both CDPH orders will not apply to non-regularly assigned staff, such as relief staff, voluntary overtime, mandatory overtime, swaps, or those who do not work in the area regularly, such as staff making pick-ups or deliveries, conducting maintenance repairs, conducting tours, etc. Additionally, both CDPH orders will not apply to any staff responding to emergencies.

DECEMBER 22, 2021, CDPH ORDER – BOOSTER AND TESTING REQUIREMENTS FOR STAFF

The [December 22, 2021, CDPH order](#) applies to the same CDCR/CCHCS workers impacted by the August 19, 2021, CDPH order, as defined above, and requires the following:

1. All workers currently eligible for boosters, who provide services or work in facilities as defined above shall be "fully vaccinated and boosted" for COVID-19 by receiving all recommended doses of the primary series of vaccines and a vaccine booster dose pursuant to Table A.
 - a. Those workers currently eligible for booster doses (per Table A) shall receive their booster dose by no later than February 1, 2022.
 - b. Workers not yet eligible for boosters shall be in compliance no later than 15 days after the recommended timeframe per Table A for receiving the booster dose.
2. Beginning December 27, 2021, booster-eligible workers who have not yet received their booster dose shall undergo twice-weekly COVID-19 testing with at least 72 hours between each test, until boosted. Fully-vaccinated workers who are not yet eligible for a booster are only required to test once they become eligible for a booster but remain unboosted.

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Table A: California Immunization Requirements for Covered Workers

COVID-19 Vaccine	Primary vaccination series	When to get the vaccine booster dose	Which vaccine booster dose to receive
Moderna or Pfizer-BioNTech	1 st and 2 nd doses	Booster dose 6 months after 2 nd dose	Any of the COVID-19 vaccines authorized in the United States may be used for the booster dose, but either Moderna or Pfizer-BioNTech are preferred.
Johnson and Johnson [J&J]/Janssen	1 st dose	Booster dose 2 months after 1 st dose	Any of the COVID-19 vaccines authorized in the United States may be used for the booster dose, but either Moderna or Pfizer-BioNTech are preferred.
World Health Organization (WHO) emergency use listing COVID-19 vaccine	All recommended doses	Booster dose 6 months after getting all recommended doses	Single booster dose of Pfizer-BioNTech COVID-19 vaccine
A mix and match series composed of any combination of FDA-approved, FDA-authorized, or WHO-EUL COVID-19 vaccines	All recommended doses	Booster dose 6 months after getting all recommended doses	Single booster dose of Pfizer-BioNTech COVID-19 vaccine

JULY 26, 2021, CDPH ORDER – WORKER PROTECTIONS IN HIGH-RISK SETTINGS

As a reminder, the August 19, 2021 CDPH order and subsequent [December 22, 2021, CDPH order](#) do not supplant the [July 26, 2021, CDPH order](#). Therefore, pursuant to the [July 26, 2021, CDPH order](#), all unvaccinated and partially vaccinated workers in High-Risk Congregate Settings, including state and local correctional facilities, shall undergo screening and testing for COVID-19 twice-weekly with at least 72 hours between each test, until fully-vaccinated.

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VACCINE, BOOSTER AND TESTING LOCATIONS

Workers may obtain no-cost COVID-19 vaccination and booster from [CDCR/CCHCS vaccine clinics](#). Alternatively, workers may obtain no-cost vaccination/booster outside CDCR/CCHCS from any clinic listed on the website [myturn.ca.gov](#), or from their personal health care provider.

Workers may obtain no-cost COVID-19 testing from CDCR/CCHCS [institution](#) and [non-institution](#) testing locations. Alternatively, workers may obtain no-cost testing outside CDCR/CCHCS from any location listed on [California's COVID-19 website](#), or from their personal health care provider.

Workers who obtained vaccination/booster/testing from outside CDCR/CCHCS shall submit proof as follows:

- To submit vaccination/booster documentation, follow the steps in Attachment A.
- To submit testing documentation, follow the steps in Attachment B.
- Division of Adult Institutions staff shall also submit proof of vaccination/booster/testing to the appropriate local compliance unit. Contact your supervisor/manager for details.

QUALIFYING ACCOMMODATION REQUESTS

Workers to whom the mandatory COVID-19 vaccination/booster apply but who opt out of the COVID-19 vaccination/booster on the basis of their sincerely-held religious belief or due to qualifying medical reason(s) may submit a request for a religious or reasonable medical accommodation following the processes outlined in the [August 23, 2021](#) and [September 20, 2021](#), memoranda. The Department shall engage in the interactive process with workers to ensure a timely and appropriate determination of religious or reasonable medical accommodation.

Workers with a pending or approved/denied request shall continue reporting to work and obtain COVID-19 testing twice-weekly with at least 72-hours between each test. If the accommodation request is denied, the worker has 14 calendar days to initiate a vaccination/booster.

FACE COVERING REQUIREMENTS FOR STAFF

Fully-vaccinated and booster-eligible workers (regardless of booster status) shall continue to wear at least a procedure mask while on CDCR institution/facility grounds, unless an N95 mask is required pursuant to the California Code of Regulations (CCR) [Title 8, Section 5199](#) or the [July 26, 2021, CDPH Order](#). Unvaccinated or partially vaccinated workers, including those with a pending or denied/approved accommodation request or disciplinary action, shall wear an N95 mask while on CDCR institution/facility grounds. Limited exceptions to masking requirements apply as outlined in the [December 6, 2021, memorandum](#).

NON-COMPLIANCE ACCOUNTABILITY

For civil service workers, refusal to comply with vaccination, booster, testing and masking mandates may result in corrective or disciplinary action in accordance with CCR Title 15, Section 3392, Employee Discipline, and the Department Operations Manual, Article 22,

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Employee Discipline, Section 33030.8, Causes for Corrective Action, and 33030.9, Causes for Adverse Action. Further directions to local Hiring Authorities (HA) will be forthcoming specifying expectations of progressive discipline for non-compliance by civil service workers.

For registry providers and contract workers, local HAs shall report non-compliance to the vendor/contractor/network contractor. On and after February 2, 2022, the assignment for non-compliant registry providers, contractors, and applicable retired annuitants who have neither requested nor received a religious or reasonable medical accommodation shall be ended. Assignments shall not be ended prior to this deadline. HAs shall follow the established method of communication with the vendor/contractor/network contractor to report non-compliance prior to the deadline to ensure services are provided and appropriate staffing levels are maintained.

REQUIREMENTS FOR LOCAL HIRING AUTHORITY

Each local hiring authority shall be responsible for identifying workers to whom the August 19, 2021, CDPH order and subsequent [December 22, 2021, CDPH order](#) apply and notifying these workers that they are covered by and shall comply timely with both CDPH orders.

HAs may utilize the [COVID-19 Staff Vaccination Registry](#) and the [COVID-19 Staff Testing Registry](#) to monitor compliance with COVID-19 vaccination, booster, testing, and masking requirements. It is the HA's responsibility to regularly review information from these reports and share relevant non-compliance information with their respective managers and supervisors. For any questions or concerns regarding the COVID-19 staff registries, please contact CCHCS Quality Management at QMStaff@cdcr.ca.gov

QUESTIONS OR CONCERNS

A revised Frequently-Asked-Question document regarding the August 19, 2021, CDPH order and subsequent [December 22, 2021, CDPH order](#) is forthcoming. Refer to Attachment C for a quick one-page guide of all CDPH orders related to COVID-19 vaccination, booster and testing.

If you have any questions or concerns, inquiries shall be directed as follows:

- For Wardens, contact your mission's Associate Director, Division of Adult Institutions.
- For Chief Executive Officers, contact your respective Regional Health Care Executive.
- For Division of Juvenile Justice, contact either Deputy Director.
- For religious accommodation-related questions, contact the local EEO coordinator.
- For reasonable medical accommodation-related questions, contact the RTWC for civil service workers, or appropriate vendor/contractor/network contractor for registry providers and contractors.
- For progressive discipline-related questions, contact the assigned Employee Relations Officer or Health Care Employee Relations Officer.
- For COVID-19 vaccination, booster, or testing questions, and any other COVID-19-related questions, contact the Employee Health Program at EHP@cdcr.ca.gov.



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

ATTACHMENT A
SUBMISSION OF COVID-19 VACCINATION RECORD

CDCR, CCHCS and Division of Juvenile Justice (DJJ) staff who have been vaccinated from an outside provider shall securely submit **COVID-19 Vaccination Record Cards** directly to the Environmental Health and Safety (EHS) Data Team. The EHS module within the Business Information Systems (BIS) platform is being used to capture vaccination data from the Centers for Disease Control and Prevention (CDC) **COVID-19 Vaccination Record Card** via DocuSign.

Staff should submit a **COVID-19 Vaccination Record Card** if:

1. You have completed your two shot series (Pfizer-BioNTech or Moderna) with at least one shot received outside of the CDCR offered COVID-19 Vaccination Program; **OR**
2. You have received the Johnson & Johnson Janssen single dose vaccine outside of the CDCR offered COVID-19 Vaccination Program; **AND**
3. You have an email account where you can verify your submission. For the best user experience, please use your @CDCR.CA.GOV email account.

NOTE: If you have received your entire COVID-19 Vaccination series from CDCR, there is no need to submit your **COVID-19 Vaccination Record Card.**

Staff may submit a **COVID-19 Vaccination Record Card** using any of the following methods:

1. DocuSign (preferred)

- Click below to initiate the COVID-19 Vaccination Record Card in DocuSign:
[COVID Vaccination Record Card](#)
A confirmation code will be sent to the email address you provide via DocuSign.
- Once you confirm the email account provided, DocuSign will launch.
- Enter the required information into DocuSign, which includes Name, Date, PERNR # and Date of Birth.
- Attach your scanned or photographed **COVID-19 Vaccination Record Card**.
- Click Finish to submit.

2. Email to EHS Help Desk Mailbox at EHSHelpDesk@cdcr.ca.gov

3. Via US Postal Service to the below address. NOTE: If sending via US Postal Service, do not send your original **COVID-19 Vaccination Record Card to the EHS team.**

Department of Corrections and Rehabilitation
Enterprise Information Services
1940 Birkmont Drive, Rancho Cordova, CA 95742
Attn: EHS Help Desk

Please allow 5-7 business days for your information to be entered into EHS. If you have any questions, please contact EHSHelpDesk@cdcr.ca.gov.



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

ATTACHMENT B SUBMISSION OF COVID-19 TESTING DOCUMENTATION

CDCR, CCHCS and DJJ staff who have been tested from an outside provider shall securely submit documentation of **Non-CDCR/CCHCS COVID-19 Test Result** directly to the Employee Health Program team using this [DocuSign PowerForm](#). The [PowerForm](#) can be used only if staff has an email account where they can verify their submittal. For the best user experience, staff shall use their @CDCR.CA.GOV email account.

Staff shall submit documentation of COVID-19 test result only if they have tested outside of CDCR/CCHCS (e.g. Kaiser, Sutter, CVS, etc.). Tests completed within CDCR/CCHCS will automatically be recorded in BIS. Documentation of test results shall include the following:

1. Name of the company that conducted the test
2. Name and date-of-birth of the employee
3. The test result

Directions for Using the [PowerForm](#)

1. A confirmation code will be sent to the email address provided while initiating the [PowerForm](#).
2. Once confirmed via the email account provided, the **Non-CDCR/CCHCS COVID-19 Test Result [PowerForm](#)** will launch for staff to fill out.
3. Enter all required information into the form.
4. Attach the documentation of **Non-CDCR/CCHCS COVID-19 Test Result**.
5. Click Finish once all required information are entered and the documentation of **Non-CDCR/CCHCS COVID-19 Test Result** is attached.

- Name:
- Date:
- PERNR:
- Date of Birth:
- Attach documentation of **Non-CDCR/CCHCS COVID-19 Test Result** (as shown in Example photo).

LabCorp Patient Report

Specimen ID: [Redacted] Control ID: [Redacted] Act # [Redacted] Phone [Redacted] Rec. 00

Your Name [Redacted]

Xpress Urgent Care Medical Center
131 E 17th St
COSTA MESA, CA 92627
[Barcode]

Patient Details
DOB: [Redacted]
Age/gender: [Redacted]
Gender: M
Patient ID: [Redacted]

Specimen Details
Date collected: 01/02/2021 11:00 Local
Date received: 01/03/2021
Date entered: 01/03/2021
Date reported: 01/04/2021 09:06 ET

Physician Details
Ordering: S LINTON
Referring: [Redacted]
RN: [Redacted]

General Comments & Additional Information
Alternate Control Number: [Redacted] Alternate Patient ID: [Redacted]

Ordered Items
SARS-CoV-2, NAA; SARS-CoV-2, NAA 2 DAY TAT

TESTS	RESULT	FLAG	UNITS	REFERENCE	INTERVAL	LAB
SARS-CoV-2, NAA	Not Detected			Not Detected	01	

This nucleic acid amplification test was developed and its performance characteristics determined by LabCorp Laboratories. Nucleic acid amplification tests include PCR and TMA. This test has not been FDA cleared or approved. This test has been authorized by FDA under an Emergency Use Authorization (EUA). This test is only authorized for the duration of time the declaration that circumstances exist justifying the authorization of the emergency use of in vitro diagnostic tests for detection of SARS-CoV-2 virus and/or diagnosis of COVID-19 infection under section 564(b)(1) of the Act, 21 U.S.C. 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

When diagnostic testing is negative, the possibility of a false negative result should be considered in the context of a patient's recent exposures and the presence of clinical signs and symptoms consistent with COVID-19. An individual without symptoms of COVID-19 and who is not shedding SARS-CoV-2 virus would expect to have a negative (not detected) result in this assay.

Although **DocuSign is the preferred method**, staff may also mail-in their documentation of test results to the following address:

California Correctional Health Care Services
Attn: Employee Health Program, E-1
PO Box 588500
Elk Grove, CA 95758



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

ATTACHMENT C

**CDPH PUBLIC HEALTH ORDERS FOR
STAFF COVID-19 VACCINATION, BOOSTER, AND TESTING**

A Quick Guide for Institutional and Facility Staff

1. JULY 26, 2021 - WORKER PROTECTIONS IN HIGH-RISK SETTINGS

- a. **Summary of Order:** Specified facilities, such as State and Local Correctional Facilities and Detention Centers, shall verify vaccine status of all workers, and unvaccinated or partially vaccinated workers shall test twice-weekly with at least 72-hours between each test.
- b. **CDCR/CCHCS Implementation Plans:**
 - [July 30, 2021, memorandum](#)
 - [August 23, 2021, memorandum](#)
 - [December 6, 2021, memorandum](#)
- c. **Resources:**
 - [CDPH Questions & Answers](#)

2. AUGUST 19, 2021 - STATE AND LOCAL CORRECTIONAL FACILITIES AND DETENTION CENTERS HEALTH CARE WORKER VACCINATION REQUIREMENT

- a. **Summary of Order:** All paid and unpaid individuals regularly assigned to provide health care or health care services to inmates, prisoners, or detainees shall show evidence of full-vaccination against COVID-19 by October 14, 2021, unless they qualify for an accommodation based on a sincerely-held religious beliefs or due to qualifying medical reason(s).
- b. **CDCR/CCHCS Implementation Plan:**
 - [August 23, 2021, memorandum](#)
 - [September 20, 2021, memorandum](#)
 - [October 4, 2021, memorandum](#)
- c. **Resources:**
 - [CDPH Questions & Answers](#)

3. DECEMBER 22, 2021 - STATE AND LOCAL CORRECTIONAL FACILITIES AND DETENTION CENTERS HEALTH CARE WORKER VACCINATION REQUIREMENT

- a. **Summary of Order:** Booster-eligible workers covered by the August 19, 2021, CDPH Order shall be boosted by February 1, 2022 or test twice-weekly with at least 72-hours between each test until boosted.
- b. **CDCR/CCHCS Implementation Plan:**
 - [December 30, 2021, memorandum](#)
- c. **Resources:**
 - [CDPH Questions & Answers](#)

EXHIBIT H

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: January 5, 2022

To: Wardens
Chief Executive Officers

Subject: **MAINTENANCE AND REPAIR OF HOUSING UNIT VENTILATION SYSTEMS**

During 2021, the maintenance and repair of housing unit ventilation systems required a significant level of effort by Plant Operations staff at California Department of Corrections and Rehabilitation (CDCR) adult institutions. These efforts included providing focused repairs for air handling units (AHUs) operating below 90% of design specifications and installing higher efficiency filters for AHUs that recirculate interior air. These efforts have been important as one of many actions taken by CDCR to address COVID-19 infections in our institutions. We would like to take this opportunity to say "thank you" to all the staff who have worked so hard during the past year to perform this work.

CDCR needs to continue these efforts in 2022, starting with regular maintenance and repairs (as needed) for housing unit AHUs and regular replacement of high efficiency air filters. For most celled housing units, the ventilation system relies upon three components:

1. Proper operation of the AHU;
2. Proper operation of the separate exhaust fan serving either the individual cell or a group of cells; and
3. Vent registers in the cell that are clean and unblocked.

The replacement of non-operational exhaust fans should be addressed as a priority item, and Plant Operations and housing unit staff should work together to keep vent registers clean and unblocked.

While the maintenance and repair work described above is needed for all housing units, it is especially critical in quarantine housing units and other housing units when multiple COVID-19 positive cases are occurring. In these buildings, the amount of outside air utilized by the AHU should be maximized, and recirculation of inside air by the AHU should be limited to only what is necessary to maintain appropriate indoor temperatures. In older style housing units that may have operable windows, these should also be opened as an auxiliary source of outside air.

The operation of exhaust fans are especially critical in quarantine housing units or housing units with multiple COVID-19 positive cases. If an exhaust fan is non-operational and a replacement fan is not immediately available, the cell(s) should be red-lined until the exhaust fan is replaced.

Wardens
Chief Executive Officers
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Again, thank you for your key contributions in CDCR's efforts to address the COVID-19 pandemic. The work you do is invaluable and greatly appreciated. If you have any questions about these actions, please contact your Facility Planning, Construction and Management Division (FPCM) Regional Maintenance Manager (see attached contact list).

DocuSigned by:
Dean Lee Borg
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DEAN L. BORG
Director
Facility Planning, Construction and Management

DocuSigned by:
Connie Gipson
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CONNIE GIPSON
Director
Division of Adult Institutions

Attachment

cc: Chris Lief
Kimberly Seibel
Jared Lozano
Laura Eldridge
Associate Directors, Division of Adult Institutions
Associate Wardens-Business Services
Todd Poston
FPCM Regional Maintenance Managers
Correctional Plant Managers
Erika Hrbacek