18 19 20 21 22 23 24 25 26 27 28	JOHN ARMSTRONG, et al., Plaintiffs, v. GAVIN NEWSOM, et al., Defendants.	Case No. C94 2307 CW [REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL FACILITY AND EXHIBITS 1-90 Judge: Hon. Claudia Wilken Date: May 19, 2020 Time: 2:00 p.m. Crtrm.: TBD, Oakland
19 20 21 22 23 24 25 26	JOHN ARMSTRONG, et al., Plaintiffs, v. GAVIN NEWSOM, et al.,	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL FACILITY AND EXHIBITS 1-90 Judge: Hon. Claudia Wilken Date: May 19, 2020 Time: 2:00 p.m.
19 20 21 22 23 24 25	JOHN ARMSTRONG, et al., Plaintiffs, v. GAVIN NEWSOM, et al.,	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL FACILITY AND EXHIBITS 1-90 Judge: Hon. Claudia Wilken Date: May 19, 2020
1920212223	JOHN ARMSTRONG, et al., Plaintiffs, v. GAVIN NEWSOM, et al.,	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J. DONOVAN CORRECTIONAL
19 20 21 22	JOHN ARMSTRONG, et al., Plaintiffs, v. GAVIN NEWSOM, et al.,	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND RETALIATING AGAINST PEOPLE WITH DISABILITIES AT R.J.
19 20 21	JOHN ARMSTRONG, et al., Plaintiffs, v.	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF MOTION TO STOP DEFENDANTS FROM ASSAULTING, ABUSING AND
19 20	JOHN ARMSTRONG, et al., Plaintiffs,	[REDACTED] EXHIBITS 31-63b TO DECLARATION OF MICHAEL FREEDMAN IN SUPPORT OF
19	JOHN ARMSTRONG, et al.,	[REDACTED] EXHIBITS 31-63b TO
		Case No. C94 2307 CW
18		
	OAKLAND DIVISION	
17	NORTHERN DISTRICT OF CALIFORNIA	
16	UNITED STATES DISTRICT COURT	
15	Attorneys for Plaintiffs	
1314	Berkeley, California 94703 Telephone: (510) 644-2555 Facsimile: (510) 841-8645	
12	3075 Adeline Street, Suite 201	
11	DISABILITY RIGHTS EDUCATION &	
10		
9	San Francisco, California 94105-1738 Telephone: (415) 433-6830 Facsimile: (415) 433-7104	
8	GALVAN & GRUNFELD LLP 101 Mission Street, Sixth Floor Son Francisco Colifornia 04105 1738	
7	MICHAEL FREEDMAN – 262850 ROSEN BIEN	
6	GAY C. GRUNFELD – 121944 PENNY GODBOLD – 226925	
J	MICHAEL W. BIEN – 096891	
5	Berkeley, California 94710-1916 Telephone: (510) 280-2621 Facsimile: (510) 280-2704	
4		
3 4 5	1917 Fifth Street	
2 3 4 5	RITA K. LOMIO – 254501 MARGOT MENDELSON – 268583 PRISON LAW OFFICE	

EXS. 31-63b TO DECL. FREEDMAN ISO MOT. TO STOP DEFS. FROM ASSAULTING, ABUSING & RETALIATING AGAINST PEOPLE W/ DISABILITIES AT R.J. DONOVAN CORR. FACILITY—**REDACTED**

Exhibit 31

DECLARATION OF

declare:

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

2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 15. I am 7† years old.

 I was housed at RJD from July 5, 2016 to present. During my time at RJD, I have only been housed in the C15 Unit.

4. I am an Armstrong class member. I am designated as DPM. I have bad problems with my lower back and my spine from falling in a manhole in 1977. Since that accident, I have had persistent back pain and stability problems. I also have peripheral neuropathy in my legs, which makes it harder for me to walk. I use a cane and a walker to get around. I also have a lower bunk and lower stair chrono because I cannot climb up any stairs.

> I also have incontinence problems. I have struggled to control my bladder and bowels since a surgery following the accident in 1977. I use diapers and wipes due my incontinence problems.

6. I am a *Coleman* class member. I am at the EOP level of care. I suffer from depression, which I have struggled with since I was a teenager. I have a long history of suicide attempts and suicidal thoughts. I have been diagnosed with schizophrenia and bipolar disorder. I sometimes hear voices that make fun of me and tell me to hurt myself. I take medications to limit the voices. I also regularly meet with a clinician and go to mental health groups.

7. I am a *Clark* class member. I am designated as DD2. I have a developmental disability. I have a very poor memory due to my developmental disability, which is worsened by my dementia. I need help remembering to shower and brush my teeth every day. I also need help reading and writing, and with filling out forms.

Initial

- 8. I have a number of serious medical conditions. I had surgery to remove a tumor in my colon eleven years ago. I also have Hepatitis C, which has caused a cirrhosis of my liver. I also take medications for my high blood pressure. I am classified as high risk medical.
- 9. A few months ago, I saw Officer and Officer pepper-spray another incarcerated person in my unit after he told them he was suicidal and asked to go to a crisis bed. After he was sprayed, the officers just left the man in his cell, still yelling for help and assistance.
- 10. Incidents like the one above happen frequently in my unit so frequently that it is hard for me to remember each incident. Approximately every week, someone in my unit tells officers that they are suicidal and asks to go to a crisis bed, but officers often pepper spray them or threaten to do so unless people stop asking for help. Seeing this happen has made me feel like I cannot ask officers for help if I am feeling suicidal. When I feel suicidal, I just wait in my cell and try to control my thoughts until I can talk to my clinician. Sometimes, I have to wait for multiple days before I can talk to my clinician about what I am going through.
- 11. Since I have been in the C15 Unit, I have seen multiple people commit suicide in the unit. Many of these people loudly called for officers to help them before they killed themselves, but were ignored. I feel that if officers responded to people who need help then many of these deaths would not have occurred.
- 12. I have also seen officers retaliate against incarcerated people by throwing away incarcerated peoples' property after they go to a mental health crisis bed. From what I have seen, officers distribute their property to porters or other favored incarcerated people in the unit. Three weeks ago at approximately 3:00 a.m., I heard another incarcerated person in the cell ask officers for help and tell them that he was suicidal. He was then brought out of the unit. I then saw officers take his property including items he had bought at canteen, cosmetics, and clothes and throw it out into the dayroom.

 Later that morning, I saw multiple incarcerated people grab the property for themselves as

4 5

8

11

9

13

12

15

18

20

22

21

23 24

25

26

27

28

the officers watched. Hours later, when the suicidal person returned to the unit, all of the property that the officers had thrown into the dayroom had been taken by other incarcerated people.

- was murdered by his cellmate. He In 2017, another prisoner, 13. was left in his cell for three or four days. After a day had passed, the whole unit could smell his body rotting. Officers just left him there for days and ignored the smell. This incident frightened me terribly. If something were to happen to me in my unit, I believe that officers would just ignore me and let me rot in my cell.
- I still see the officers that were involved in the staff misconduct I have 14. witnessed every day. Officers and and still work in my unit and regularly pepper-spray incarcerated people when they ask for help.
- In my time at RJD, there have been many times that I needed help but didn't 15. ask for it because I was afraid of what would happen to me. At other institutions, officers helped me with reading and writing letters and forms. I do not ask officers for help filling out forms or writing letters at RJD, though, because I know that they will not help me and may hurt me for even asking. When I do talk to officers, they just yell things like "Get in Line!", "Hurry up!", and "Shut up and get to your cell!"
- I often have incontinence accidents. After these accidents, I sometimes ask 16. officers for a shower so that I can clean myself off. They just tell me no. Because I know what could happen to me if I push or ask again, I just go back to my cell and try to use my sink to clean myself off. I also often need new sheets or clothes after accidents, but officers refuse to give me these when I ask. Because officers refuse to help me and I am scared to ask them because I know what they might do, I just wait until the next weekly laundry exchange. Sometimes, I have to use my soiled sheets for multiple days because officers will not help me. I would never file an 1824 or a 602 asking for more sheets or showers after accidents because I know what officers might do to me if I did file one.

111

- 17. In my opinion, staff threaten and hurt people who ask for help because they are lazy and do not want to have to do paperwork or have to assist anyone. I feel like officers react the way that they do when incarcerated people ask for help to discourage anyone from ever asking for help.
- 18. I have talked to my clinician frequently about these problems. My clinician has told me that she knows about the problems with officers, but that she is also scared by the officers and what they could do if she spoke out about them. I have told her about numerous incidents in which officers have pepper-sprayed people in my unit after they have asked for urgent mental health help. My clinician has just told me that she cannot help me with these problems.
- 19. I have been in CDCR prisons for about 25 years of my life. I've been housed in a number of different CDCR prisons, including San Quentin, Pelican Bay State Prison, Folsom State Prison, CSP Sacramento, Deuel Vocational Institution, Correctional Training Facility, RJD, CSP Corcoran, and CSP Los Angeles County. RJD is the worst prison at which I have ever been incarcerated. I was incarcerated at CSP Corcoran and Pelican Bay State Prison in the mid-1990s when conditions were awful and when officers set up fights between prisoners regularly so that they could bet on the outcomes. I was in the Pelican Bay State Prison before the *Madrid* litigation and served time in the SHU at that time. RJD is worse than any of those prisons at their worst.
- 20. I believe the reason there is so much staff misconduct at RJD is because supervisors do not do anything to control bad officers, but simply turn a blind eye to the misconduct that occurs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

California this 8 day of January 2020.

4 Initials

[3476009.1]

Exhibit 32

DECLARATION OF

1 2

declare:

3 4

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

5 6

2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 14. I am 32 years old.

7

8

3. I have been housed at RJD since March 2019.

9

4. During my time at RJD, I was housed in C-15, then in B-6, and the rest of the time I have been in C-14.

11

13

14

5. I am a Coleman class member. I am at the EOP level of care. I have schizophrenia and paranoia. I have been receiving mental health treatment since I was sixteen in the California Youth Authority. I also have depression. I am depressed a lot in prison. I also have anger problems. I am working on my anger and I am doing cognitive behavioral therapy with my clinician.

15 16

6. I was a victim of staff misconduct at RJD.

17 18

In August 2019, I was feeling suicidal because my mom was in the hospital 7. after a heart attack. I asked Officer if I could talk to my clinician. While I was talking to Officer Who was standing there, said to me, "You are crying too much. You need to shut up and do what everyone is doing in the dayroom."

20 21

19

That made me feel even worse.

22 23

24

25

8. Then Officer started searching my cell. He said he was searching my cell because my cell-mate did something wrong. I got upset and stated that I was going to report him. Officer then took me down to the ground forcefully. He kneed me in the back, right where I had been shot previously, causing extreme pain in my back. He forced my head against the concrete floor. I didn't feel like I had done anything wrong, I was just

26

27

trying to get help for my mental health and then all of these problems started.

- 9. During another incident, on October of 2019, I went to medical because I have nerve damage and it is difficult to sleep. There, I got into an altercation with staff because I was frustrated that I could not get pain medication. After I was hand cuffed, I told staff, including Officer who was escorting me, that I was feeling suicidal and I wanted to talk to my clinician. I was feeling very upset about the way staff treated me and I was fed up. I wanted to end my life. Instead of taking me to my clinician, the officers put me back in my cell in C-14. When I got to my cell Officer said to me, "Go ahead and cut yourself." The other officer who was with him said, "We will give you a razor." This made me so upset and angry. I was looking around my cell but couldn't find something to cut myself.
- 10. Two weeks later Sergeant came and asked me, "What's this about you saying that told you to cut your wrists?" I told Sergeant that Officer did say that. Next Sergeant had me sign a piece of paper saying that I do not have a problem with Officer I signed the paper because I was very stressed out about it and he said that if I did not sign it they would move me. I was very worried I would lose my property. I felt pressured so I signed it.
- 11. I feel like staff acted like my problems were some kind of joke. I have hurt myself including swallowing razors and toothbrushes and cutting on my arms and stomach at least 20 times. I have serious mental health issues and I have tried to kill myself. So, for me, asking for help when I feel like hurting myself is no joke but it's like staff don't care.
- 12. Both Officer and Officer still work in my housing unit, C-14. It makes me feel very uncomfortable. I feel like they are supposed to be protecting us but they just make me feel worse.
- dayroom of C-14 and I saw throw a prisoner named Mr. Then an alarm

27

28

1

2

sounded. Mr. was already in handcuffs and was already on the ground when I saw seven or eight other officers come rushing in to the building. The other officers were kneeing him in the back and I could see that they were forcing his head on to the ground with their fists. They were really roughing him up. This went on for a few minutes before they picked him up and dragged him out of the unit.

- Multiple times I have seen staff turn their back when prisoners are attacking each other and the officers just stand by. The officers say things like, "Stop horse playing. Stop playing around." This is a level four prison yard. Prisoners attacking one another is serious and is a matter of life and death, not horseplay. Staff members have to know that.
- On January 13, 2020, at approximately 7:00 p.m., I was in my cell, C14-15. sitting on my bunk when I heard an incarcerated person yelling that he was suicidal. I then tell the tower officer, Officer to open that person's cell. A few heard officer tell the suicidal person to cuff moments later, I heard up. I next heard the incarcerated person state that, because he uses a cane, he could not be cuffed behind his back. At this point, I got up from my bunk and walked to the front of my cell. I then saw that the incarcerated person was Mr. and I saw Mr. arguing with three officers on the dayroom floor. From what I heard, he was telling the officers that he could not be cuffed behind his back due to his disability, and
- As I watched from my cell-front, I saw Officer suddenly slam Mr. to the ground and repeatedly punch and kick him in the head and body as he lay on the ground. He was not resisting and appeared defenseless on the ground while they beat him. As they beat him, Officer sounded the alarm and multiple officers streamed into the C14 Unit to respond. I saw one of the responding officers run into the unit and immediately kick Mr. in the chest.
- The officers continued to beat Mr. 17. for what felt like ten to fifteen minutes. As they beat him, I yelled out for them to stop and that Mr. was no

Exhibit 33

DECLARATION OF

2

3

, declare:

4

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

5

2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C, in Building 15. I am 59 years old.

7 8

3. I have been housed at RJD multiple times over the last few years. I was housed at RJD from October 2017 through November 2017. I then went out to a mental health facility, and returned to RJD in December 2018. I have been housed at RJD since December 2018.

11

12

During my time at RJD, I was first housed in Building C14 from October
 2017 through November 2017. When I returned to RJD in December 2018 I returned to C
 14. On May 3, 2019, I transferred to administrative segregation, Facility B, Building 6.
 When I was released from administrative segregation in July 2019, I was housed on

13 14

15

16

17

Facility C, Building 15.

5. I am an *Armstrong* class member. I am designated as DPO. This means I have a mobility disability and that I use a wheelchair for longer distances. As accommodations for my disabilities, I am housed on the ground floor and in a lower bunk,

19

18

and I have a wheelchair and a cane to ambulate. I also have a wheeled walker.

20 21

6. I am a *Coleman* class member. I am at the EOP level of care. I have severe depression following the loss of my mother of 2010.

2223

7. I have a number of serious medical conditions. I am an insulin dependent diabetic. I have arthritis, neuropathy, degenerative bone disease, and glaucoma. I am classified as high risk medical.

25

24

8. I was a victim of staff misconduct at RJD.

27

26

- 9. On November 8, 2017, I returned to RJD from an outside hospital where I had been treated for an injured foot. When I returned to RJD I found out that my cell had been given to someone else while I was gone and I was expected to live in a new cell with a notorious drug addict. I felt unsafe being housed with this person. When I requested a different housing assignment, Officer cuffed me and placed me in a cage in the gym. Officer came to see me in the gym and attempted get me to agree to be housed with the drug addict. I refused, and he left the gym.
- entered the gym. They forced me out of the cage, on to the floor, and then unloaded multiple cans of pepper spray directly to my face. I became temporarily blind and started choking. Then, the officers started kicking, punching, and stomping my head, face, neck, body, and legs. At one point one of the staff members asked me which foot of mine was previously injured. I told them my right foot. Someone then started kicking my right foot.
- 11. I suffered a broken foot, a broken finger, cuts, bruises swelling, internal bleeding in my stomach, and a broken tooth as a result of the attack. I also suffered anxiety and nightmares following the incident.
- 12. I received a false rules violation report ("RVR") write up for this incident. I was charged with assault on staff. I never assaulted staff.
- 13. I filed a 602 two weeks after the incident claiming staff misconduct and challenging the RVR as a false charge.
 - 14. I was found guilty of the RVR and lost 90 days of credit from my sentence.
- 15. I served my segregation sentence and, when I returned from administrative segregation, staff in my housing unit continued to take my privileges away from me including yard time, phone, cantéen, and day room. The loss of privileges was not part of my sentence, which had been served. I believe the additional loss of privileges was done by staff in retaliation for my filing a staff complaint about the assault.

- 16. On August 30, 2018, I filed a lawsuit about this incident. Since that time I believe staff have taken action against me in retaliation for filing the lawsuit.
- friendly at work. I believe that Officer found out that I filed a lawsuit naming

 Officer Around February 2019, Officer began threatening to put a cellmate in to my cell who would beat me up. He has made this threat multiple times. As a result of these repeated threats, I became very worried and anxious for my safety. I had trouble sleeping and I was constantly on the lookout for my cell door to open because I was afraid that other incarcerated people would come in to beat me up.
- was being investigated for sexual battery on another inmate. I was confused because I had not done what they had accused me of. I did not even have a cellmate at the time and I rarely left my cell. So, these charges were shocking to me. They sent me to the hospital to have rape kit tests performed. At the hospital they stripped me down, took all of my clothes, including undergarments that are hard to get in prison and that I never received back and have not been able to get since. It was a very traumatic experience for me, especially because I didn't do it. The tests apparently came back negative and I was never charged for the incident. I believe the whole thing was done in retaliation for me filing the lawsuit.
- I have also witnessed staff engage in misconduct against other people at RJD.
- 20. In 2018, I witnessed officers spraying two prisoners with pepper spray as a result of a fight that happened in the dining hall during dinner. I saw a third prisoner, who was a bystander, asked to be allowed to get out of the way because he was in the stream of the pepper spray and he said he couldn't breathe. The bystander was an elderly white man from my building, C 14, cell, who I knew to be a participant in the EOP mental health program. I did not know this prisoner's name. Next, I saw Officer say to him, "I

don't give a damn, shut up!" Officer then grabbed the elderly man from a sitting position and slammed him on the ground. Officer took this prisoner's face and forced it in to the pool of OC spray on the ground. Then, I saw about five or six officers rush over and jump on the prisoner and start kicking and beating him. I do not know the other officers; I only know Officer The beating lasted about 3-4 minutes before a female sergeant came in and told them to stop. I don't know the name of the sergeant. When the officers picked the prisoner up off the ground, he was covered in blood. I saw blood streaming down the front of his head. The way staff picked him up and lifted his head up for everyone to see, it felt like they were showing him off as an example of what will happen to you if you mess with officers. It made me feel very upset and angry because these were the very officers that were supposed to be protecting us.

- 21. Officer is still working at RJD but I heard he was transferred to Facility A.
- 22. Also, around December 2018, when I was waiting outside the medical treatment area, I saw staff escort a transgender prisoner named "the prisoner named" into the gym. I saw them enter the gym and then I heard her start yelling out, "That's enough, that's enough. Alright. Please stop!" I know it was her because she lived in my building and I recognized her voice. I could tell she was being beaten by the way she was yelling and crying out for staff to stop it. When I returned to the housing unit I saw a big pool of blood on the floor near my cell. Everyone in the unit was saying that it was "s blood."
- 23. In my time at RJD, there have been a few times that I needed help but didn't ask for it because I was afraid of what would happen to me. I am intimidated by the officers because of what I have witnessed and experienced. For example, about three or four times I needed help with a wheelchair pusher and staff refused to call someone to help me. I end up just wheeling myself because I did not want risk getting into an altercation with staff.

24. I have seen staff target people with disabilities because they know they can't fight back. The incidents I have witnessed and experienced all involve people with disabilities. I think staff are bullying us because we can't defend ourselves.

25. I have been in CDCR prisons for about 30 years of my life. I've been housed in a number of different CDCR prisons. The staff misconduct at RJD is unlike anything I have ever seen before. For example, I had never seen an officer strike a prisoner with a fist or kick a prisoner until I got to RJD.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

SAN OLEGO, California this day of January, 2020.

Initials _

Exhibit 33a

Filed Under Seal

Exhibit 34

DECLARATION OF , declare: 2 3 I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify. 4 5 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility 6 7 ("RJD") on Facility A in Building 5. I am 26 years old. I have been housed at RJD from March 27, 2019 to the present. During my 8 time at RJD, I have been housed in the A5 Unit and the B10 Unit. 9 I am a transgender woman. My pronouns are she/her/hers. I am currently on 10 a waiting list for hormone therapy. My birth name is I am a Coleman class member. I am at the CCCMS level of care. I am 12 5. diagnosed with schizophrenia. I take multiple medications for my schizophrenia, 13 including Risperdal and Vistaril. In the past when I was not on medications, I have heard voices and felt paranoid. I often feel very depressed. At those times, I lay in bed all day 15 and have no appetite. The medications I take make me feel better and stable. 16 17 6. I have a number of serious medical conditions. I am HIV positive. I take Genvoya for my HIV. I have a lot of stomach problems and internal bleeding as a result of 18 my HIV. I also have a seizure disorder, for which I take Keppra. I am classified as high risk medical. 20 7. I was a victim of staff misconduct at RJD. On June 19, 2019, at approximately 10:00 a.m., I was in my cell in the B10 Unit when Officer 22 other officers came up to my cell front. Officer told me that they were doing a cell search and told me to strip out. I took off my clothes, but I told him I would not remove 24 my underwear because I am transgender and I did not want to get naked in front of a male 25 officer. I asked him if I could be searched by a female officer instead. Officer 26

laughed at me, and called me a "gay boy," a "homosexual," and a "tranny." He told me to

1

28

27

21

23

1

11

Initials

[3475891.1]

8

12

11

15

13

16 17

19

20

18

21

22 23

24

25

27

28

cuff up, so I did so and he brought me to the A-Section shower. He locked me in the shower for around an hour and waited until everyone else left the building.

- Approximately an hour later, Officer came back with five to ten other officers and told me to take off the rest of my clothes. Although I did not want to do so, I pulled my underwear to my ankles because I was scared of what would happen to me if I refused. He then told me to "squat and cough." After I did so, he told me to do so again, so again I squatted and coughed. Officer Hubert then told me "get on the floor" and pushed me hard into the ground. He then started punching me hard with his fists in the back of my neck, knocking my head repeatedly into the ground, as the other officers watched and held me on the ground. As he did so, he choked me with his other hand and mocked me, saying "Are you okay? Are you okay?" He continued to punch and choke me for approximately two minutes on the floor of the shower. I was spitting up blood because my gums had hit the concrete hard and crunched into my teeth. Once he stopped choking me I started gasping for air because I had not been able to breath. My head was throbbing because I had been slammed into the ground.
- then pushed his shoulder into my legs and then he handcuffed 9. me. As I lay in the water and my own blood on the concrete in the shower, I tried to pull my underwear back up because I was still naked in front of the officers. Officer pulled my underwear back down and then stuck his finger in my anus. I screamed "What are you doing?!?" but he did not respond. I felt so degraded and stunned by what was happening to me that I could not process it.
- and the other officers then picked me up and put me on a 10. Officer gurney. I was then taken to the TTA building. At the TTA, the nurses asked the officers what had happened to me, and one of the officers told them that "She fell in the shower." I interjected, "No, they hit me." I then told the nurses that an officer had punched me in the head and in my neck. The officer escorting me then told me "If you say that to the administration, they're going to put you in the hole." I said "fine, I'll speak to them when I see a lawyer." I was then evaluated by nursing staff, who wrote down that I had

abrasions and bruises to my arms and head. They put a bandage on my head and then discharged me.

- 11. After I left the TTA, I was taken to be searched yet again. Officers took me to another building and forced me to go through a metal detector. Nothing was ever found on me as a result of any of these searches, because I had no contraband on me.
- 12. After leaving the building with the metal detector, I was taken to the where I was interviewed by two sergeants at approximately 2:00 p.m. This interview was video recorded and lasted approximately fifteen minutes. The sergeants used the video camera to record my injuries to my head, but not to my arms. I told the sergeants what had happened to me. The officers told me that if I felt my life was threatened, I would have to be sent to administrative segregation. Because I really struggle with depression when I am in segregation, I told the officers that I was fine and was returned to my housing unit.
- 13. In the days after the incident, I stayed in my cell because I felt very sensitive to light and I had a bad headache. I felt dull, slow, and out of it. It is my belief that I suffered a concussion from the incident.
- 14. A few weeks later, I filed a 602 staff complaint about what Officer had done to me. I alleged that he used excessive and unnecessary force on me and had forced me to strip in front of him. In August 2019, I was interviewed by a lieutenant as a result of my 602. The lieutenant told me that there would be investigation into the incident that would last a month or two. This interview was videotaped. The lieutenant asked me to describe what had happened to me. After I did so, he ended the interview. The interview lasted approximately half an hour. I still have yet to receive a final response to my 602, even though the incident happened more than six months ago.
- 15. I have also witnessed staff engage in misconduct against other people at RJD. On November 19, 2019, I was in the chow hall in line for food during breakfast at approximately 6:45 a.m. I heard an officer tell another incarcerated person, Ms. who was behind me in line, to tuck her shirt in. Ms.

Initials

[3475891.1]

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

> **Initials** [3475891.1]

Exhibit 34a

Filed Under Seal

Exhibit 35

DECLARATION OF

declare:

- I have personal knowledge of the matters set forth herein, and if called as a 1. witness, I could and would competently so testify.
- My California Department of Corrections and Rehabilitation ("CDCR") 2. . I am currently housed at Richard J. Donovan Correctional Facility number is ("RJD") on Facility A in Building 3. I am 59 years old.
- I have been housed at RJD from the beginning of February 16, 2019 to the 3. present. During my time at RJD, I have been housed in the B8 Unit and the A3 Unit.
- I am an Armstrong class member. I am designated as DPO and DNH. As accommodations for my disabilities, I am housed on the ground floor and in a lower bunk, and I use a wheelchair and a cane to ambulate. In 2009, while working as a spotter for a crane operator, I was crushed by a falling load and suffered a serious spinal injury. I had three surgeries on my left knee and multiple surgeries on my back. I was told by the doctor that I was permanently disabled and he told me to use a walker or wheelchair to ambulate. While I can walk short distances, I struggle to walk more than fifty yards without feeling pain. Some days are worse than others, and I really need help to get around. I was also born with poor hearing in both ears. I have used hearing aids my whole life. I need people to speak loudly and clearly in order to understand what they are saying.
- I also have serious incontinence problems. Since my work-related injury in 5. 2009. I have accidents where I cannot control my bowels or bladder. These happen two to three times a day. I am accommodated with wipes, diapers, extra showers, and fresh laundry after these accidents.
- I am a Coleman class member. I am at the CCCMS level of care. I am diagnosed with adjustment disorder with depressed mood. I struggle with depression, insomnia, and anxiety.

Initials

27

1 [3481348.1]

6

2

3

4

5

8 9

11

10

12 13

14 15

16

17

19

20 21

22

23

24

26

take numerous medications for. I also have GERD and have been diagnosed with

7.

numerous internal hemorrhoids, which cause internal bleeding. I used to have Hepatitis C, which was treated in CDCR. I have cirrhosis of my liver due to my Hepatitis C. I am classified as high risk medical.

8. I was a victim of staff misconduct at RJD. On February 19, 2019, at approximately 6:30 a.m., Officer refused to call a wheelchair pusher to help me get

I have a number of serious medical conditions. I am HIV positive, which I

- to chow, claiming that he saw me walking behind my wheelchair. When I asked him, he said "Get out of here. I'm not calling you a wheelchair pusher. I see you walking behind your wheelchair." Because I could not get any help, I had to push myself all the way from the B8 Building to the chow hall.
- 9. Later that day, at approximately 11:30 a.m., Officer refused to let me shower after I had an incontinence incident. After breakfast, I had a bowel movement and had a dirty diaper on, so I needed a shower to clean myself off. I asked him if I could have an ADA shower. He told me that I would have to shower with my tier when we came out for dayroom. I had to wait till that evening to get a shower.
- 10. On February 21, 2019, at approximately 6:00 a.m., while waiting for an ADA worker to push me to breakfast, Officer yelled at me in a crowded building "Put your fucking vest on you piece of shit. Get the fuck out of here, you don't need a wheelchair." I asked him why he was swearing at me, and he told me again that he had seen me walking and that I didn't need any help.
- Officer Months later, a lieutenant came to talk to me about what had happened.

 The lieutenant told me to sign that the 1824 was resolved. The lieutenant did not say he was going to do anything about what had happened with Officer When he asked me if I needed anything else, I told the lieutenant that I was okay, because I was afraid that I would be retaliated against by Officer if I continued to complain about what had

happened. I knew that Officer could make my life far worse if I continued to speak out about him.

- 12. In my time at RJD, there have been many times that I needed help but didn't ask for it because I was afraid of what would happen to me. I no longer file 1824s or 602s. because I feel that any request for assistance that I file may be shared with those who have no right to the information and therefore could lead to repercussions from staff and incarcerated people.
- 13. I wish that I could file an 1824 requesting single-cell status due to my mobility impairment, incontinence problems, and HIV, all of which can lead to conflict with cellmates. I have not filed an 1824 about this issue, however, because I do not have any confidence that it would be granted.
- 14. It is my opinion that a lot of the staff misconduct at RJD is because of drugs and cell phones that staff and incarcerated people bring into RJD and sell. The sheer quantity of drugs and cell phones on the yard at RJD is incredible.
- 15. I have been in CDCR and federal prisons for about 25 years of my life. I have been housed in a number of different CDCR prisons, including CMC, COR, RJD, LAC, and CMF. The staff misconduct and drug trafficking at RJD is far worse than any other place that I have ever been.
- I believe the reason there is so much staff misconduct at RJD is because both 16. staff and incarcerated people know that they can traffic drugs and no one will stop them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

_____, California this 🔭 day of January 2020.

[3481348.1]

3

Initials

Exhibit 35a

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 31 of 398

REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE

RAP Meeting Date: 2/28/2019 Date IAC Received 1824: 2/22/2019 1824 Log Number: RJ
Inmate's Name: Housing: RJD Housing: RJD RAP Staff Present: J. ADA Coordinator; Dr. Dr. Chief Physician & Surgeon; Custody Appeals

Summary of Inmate's 1824 Request: You request a formal investigation, an ADA worker to push you to breakfast, and Officer

, Health Care Grievance Representative; Dr. in Proceedings of Psychologist;

Summary of Inmate's 1824 Request: You request a formal investigation, an ADA worker to push you to breakfast, and Officer to be suspended for seven days without pay, be assigned to foot patrol of the perimeter and have him attend training.

Interim Accommodation:

No interim accommodation required: No foreseen serious or irreparable harm while processing this request.

FINAL RESPONSE:

Representative;

RAP is able to render a final decision on the following:

Response: Your claim has been elevated for further inquiry pursuant to Armstrong accountability protocols. Be advised, all staff personnel matters are confidential in nature. Details of any inquiry will not be shared with staff, members of the public, or offender appellants. Although you have the right to submit an 1824 reasonable accommodation request, a request for administrative action regarding staff, assignment change, loss of pay or the placement of documentation in a staff member's personnel file is beyond the scope of the RAP process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint. Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.

If you have an unforeseen accident that requires you to shower, HU staff may provide additional showers to inmates who require one; therefore, advise HU staff if you require an additional shower. HU staff is expected to assess and facilitate your request consistent with security protocols.

You are also reminded of the Americans with Disabilities Act (ADA) Inmate Assistance Program; ADA workers are available to assist with reasonable accommodations and assist with access to programs, services and activities. The Richard J Donovan Correctional Facility is committed to providing accommodations or modifications for inmates to reasonably assist with activities of daily living, access to programs and recreational activities. When you require an ADA Worker simply ask staff to summon an ADA Worker for you or approach an ADA Worker; ADA workers are identified with a vest marked, "ADA Worker" printed on the back during their assigned work hours.

Direction if dissatisfied with this RAP decision: Submit an appeal (CDCR 602, Inmate/Parolee Appeal, or CDCR 602 HC, Health Care Grievance, if disagreeing with a medical diagnosis/treatment decision). Be sure to attach this response and your CDCR 1824 as supporting documents. Refer to California Code of Regulations (CCR), Title 15, Section 3084 for further guidance.

ADA Coordinator/Designee



Date sent to inmate: MAR 1 9 2019

Teacher

STATE OF CALIFORNIA

REASONABLE ACCOMMODATION REQUEST CDCR 1824 (Rev. 09/17)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 1 DATE RECEIVED BY STAFE LOG NUMBER (Staff Use Only) INSTITUTION (Staff use only) 1200 - R. FEB 2 2 2019 ***********TALK TO STAFF IF YOU HAVE AN EMERGENCY********* DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This **RJDCF** Appeals may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC **ASSIGNMENT** nassian INSTRUCTIONS: You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability. You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service or activity. You may also use this form to submit an allegation of disability-based discrimination. Submit this form to the Custody Appeals Office. • The 1824 process is intended for an individual's accommodation request. Each individual's request requires a case-by-case review. The CDCR 1824 is a request process, not an appeal process. All CDCR 1824 requests will receive a response. • If you have received an 1824 decision that you disagree with, you may submit an appeal (CDCR 602, or CDCR 602-HC if you are disagreeing with a medical diagnosis/treatment decision). WHAT CAN'T YOU DO / WHAT IS THE PROBLEM? WHY CAN'T YOU DO IT? WHAT DO YOU NEED? be verbally abusive obsience indecent attacks every amin (Use the back of this form if more space is needed) DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY? Yes 🔀 Not Sure No 🗌 List and attach documents, if available: Medical records speak I understand that ure to cooperate may cause this request to be disapproved. DATE SIGNED Assistance in co Last Name First Name Signature

On 2/21/19 while waiting for a ADA worker to push me to breakfast.

P.O. Lunder the color of haw Enforcement. Yelled at me in a crowded building. PUT YOUR FUCKING VEST ON. YOU PIECE OF SHIT. GET THE FUCK OUT OF HERE, YOU DON'T NEED A WHEEL CHAIR.

Later on that day wh I asked P.O. why he is so abusive towards me? Why the use of protanity to make his point?

P.O. told me he has seen me push my wheelchair.

The metrics P.O. uses to meter out retribut Out side the scope of Department Operations Manual. P.O. used in decent, abusive, Protane, and improper language specifically on 2/21/19 at breakfast chow release. P.O. was discourteous and unproffesional useing indecent, abusive, protane, and improper language to Manage my Movement during chow release (a crowded location). A violation of title 15-3391, 3271.

P. O. Establish and maintain control of an handicap patient. P.O. Vacks the communication skills to represent one of the finest law enforcement agencies in the State of California, P.O. (management style is Mid-evil. He See's every problem as a Mail requiring him to use his hammer. I wish instead this could have been an opportunity for me to demonstrate my ability to comply with the rules and regulations of CDCR. I have only known for 3 or 4 days (subtracting days off). I have never disrespected a peace officer. I have never used indecent, abusive, protone, and improper language to communicate with a peace officer. I am requesting an in of P.O. for violating Title 15-3391 and 3271. I Believe P.C. a is going to retaliate against me for conorting to retaliate against me for reporting a violation of Title 15-3391,3271. I am a prisoner that wants to program and stay out the way. Is there something in my C-File that would Cause P.O. Land to side step the Department Operations Manual and attack me. What can I do to turn this around for the better? I request a copy of this complaint be included in my C-file and P.O. personel file. I request the Chief Deputy Warden/The Hiring Authority to conduct a formal" investigation of P.O. harrossing me, useing croel and unusual Punishment to manage me a handicap patient. I recovest P.O. be suspended for seven days without pay and required to complete In-service Training on Communication skills and Prisoners Constitutional Rights. P.O. is to be assigned to a Foot detail to patrol the inner and outler perimeter

Person Full Name

3 of 20

CDCR (Encounter Alias)

of the fence.

02/19/2019 12:44:32 PM

Exhibit 36

DECLARATION 2 declare: 3 I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify. 4 5 2. My California Department of Corrections and Rehabilitation ("CDCR") . I am currently housed at Richard J. Donovan Correctional Facility number is 6 7 ("RJD") on Facility D in Building 20. I am 65 years old. 8 3. I have been housed at RJD from March 26, 2014 to the present. During my 9 time at RJD, I have been housed in the D18, D19, and D20 Units. 10 I am an Armstrong class member. I am designated as DPM. Thirty-five years ago, I was in a car accident and sustained serious injuries to my lower back. As a 11 result, my back and my right leg go numb, which often causes me to fall over. I also have 13 bad ankles that give out on me. Due to my mobility problems, I need a walker to get around. I also cannot go upstairs, so I have a lower bunk and lower stair chrono. 14 15 5. I also have incontinence problems. I have accidents in which I cannot control my bowels due to hemorrhoids. As a result of these accidents, I need diapers and 16 wipes to help me stay clean after accidents. 17 18 6. I have a number of serious medical conditions. I have asthma, which I control using an inhaler, and high blood pressure, for which I take hypertensive 19 20 medications. I am classified as high risk medical. 21 7. I was a victim of staff misconduct at RJD. I believe the incident happened around April 2017, though I am not certain of the date. On the day at issue, I was on my 22 23 way to church on Facility D at approximately 12:30 p.m. Officers 24 were standing in front of the chapel searching incarcerated people as they went in to church. I went up to be searched Officer As she searched me, she stuck her 25 hands inside my pants and kept them there for approximately thirty seconds. I then went 26 27 in and talked to the pastor about what she had done. Afterwards, I left the church building Officer then went and got 28 and reported my discomfort to Officer

1

[3476408.1]

Initials

Officers 2	and	In res	sponse to my complaint,	Officer	threatened me,
saying "We k	now where yo	ou live, w	e are going to get you."	Officer	then came
up and began	yelling at me,	asking n	ne loudly "Well, are you	going to f	île a complaint?
The Lieutena	nt wants this d	lropped."	Because his threat was	clear, I tol	ld him I would not
file an appeal	about what ha	ad happer	ned to me.		

- 8. Approximately a year later, Officer was assigned as the control tower officer in my building. On April 19, 2018, as I was leaving my cell for yard in the morning, she closed my cell door on me, smashing me hard into the cell door. Because of my previous experiences with Officer I did not try to talk to her about this incident. Five days later, it happened again. On April 24, 2018, Officer twice closed the cell door on me, knocking me down against the wall with my walker. Each time, I saw Officer looking directly at me, smiling and moving the door back and forth to prevent me getting into my cell. After this happened, I filed a 602 staff misconduct complaint against Officer I received a response from CDCR staff approximately a month later. In their response, I was informed that Officer not violated CDCR's policies but that she would be directed to give me more time to enter and exit my cell.
- 9. I have also had my cell door repeatedly shut on me by other officers. On September 29, 2019, at approximately 7:00 a.m., I was returning from breakfast and entered the D20 Unit to return to my cell. Officer was working as the control tower officer that day. As I approached the front of my cell, Officer opened my cell door so that I could enter my cell. I began to slowly enter my cell with my walker. As I was mid-way through the door, Officer began to close the cell door. The cell door caught my right hand hard between the door frame and my cart handle, pinning it to the side of the door. I screamed in pain and one of the floor officers yelled at Officer to open my cell door. I then went into my cell and wrote an 1824 reasonable accommodation request about what had happened to me. On the form, I wrote that I needed more time to get into and out of my cell.

[3476408.1] 2 Initials _____

- 10. The next day, Officer who I understand is Officer cousin, was working on the floor of D20 on Third Watch. He approached me and aggressively said "Heard you're going to sue my cousin?" I told him that she had closed the door on my hand. Because I was frightened by Officer threat, I told him I would withdraw my 1824 request. When I was interviewed by the lieutenant as a result of my 1824 on October 10, 2019, I told him I was withdrawing my complaint.
- 11. On December 3, 2019 at approximately 9:00 a.m., I was let out of my cell for morning day room and yard. As the cell door opened, my nondisabled cellmate jumped off of his bunk and ran out of the cell. I slowly got up out of my bed and walked over to my walker. I unfolded my walker and wheeled out of the cell. As I was midway through the cell door, the tower officer, Officer began to close my cell door. As I turned to get out of the way, the door pinned me in the chest. I flailed and tried to push the door back, and managed to free myself from the door. Due to being trapped by the door, I badly hurt one of my ribs.
- 12. Because of my experiences after filing complaints against other officers at RJD, I did not write a complaint against Officer or try to talk to him about this incident. Staffs' reaction to my complaints in the past have taught me that nothing good will come of reporting misconduct by staff.
- RJD. In the spring of 2019, I witnessed Officer close the door on another incarcerated person, Mr. as he was trying to exit his cell. Mr. sis elderly and uses a walker to help himself get around. That day, Mr. left his cell after Officer opened it to let him out, and then went back into his cell to grab another item from his property. As he was returning into his cell, Officer closed his cell door, catching him on the shoulder and spinning him to the ground. I rushed over to Mr. and caught him just before he hit the ground. I then told Officer "You have to give us more time." He replied "He needs to be a little faster! I gave him plenty of time!" I told him "He is old and slow, he needs more time." Over the next ensuing weeks,

Initials _____

[3476408.1]

Initials

1

3

4

5

7

9

10

11

12

13

15

16

17

19

20

21

22

23

24

25

26

27

28

[3476408.1]

17. I believe the reason there is so much staff misconduct at RJD is because many officers simply do not care about the needs of elderly or disabled incarcerated people. They refuse to provide accommodations for those who need it. From my perspective, officers at RJD simply want to collect a paycheck and do as little work as possible.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at \underline{Sai} Queque , California this $\underline{o7}$ day of January 2020.

Exhibit 36a

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 42 of 398

REASONABLE ACCOMMODA	ATION PANEL (RAP) RESPON	NSE
RAP Meeting Date: 10/3/2019 Inmate's Name:	Date IAC Received 1824: 9/	/30/2019 1824 Log Number : RJD-D-19- Housing: RJD
RAP Staff Present: ADA C Health Care Compliance A Education	Coordinator; Dr. Health Care Grieval	an & Surgeon Custody Appeals Representative; nce Representative; Dr. Psychologist;
Summary of Inmate's 1824 Request claim the control booth officer shut the	: You claim the control booth officer do door and pinned your hand between the	es not give you enough time enter and exit the cell. You walker handle and door frame.
Interim Accommodation: No interim accommodation re	quired: No foreseen serious or irreparal	ble harm while processing this request.
FINAL RESPONSE:		
RAP is able to render a final decision	on on the following:	
claim of the control booth officer not g	iving you enough time to enter and exit e advised, all staff personnel matters ar	ir hand between the walker handle and door frame. Your your cell has been elevated for further inquiry pursuant to re confidential in nature. Details of any inquiry will not be
Direction if dissatisfied with th Inmate/Parolee Appeal (green form). E Code of Regulations	Be sure to attach this response and your	sfied with this decision, submit an appeal CDCR 602, CDCR 1824 as supporting documents. Refer to California ection 3087 for further guidance.
AW ADA Coordinator/Designee		Date sent to inmate: OCT 28 2019

Page 1 of 1

INSTITUTION (Staff use only)	LOG NUMBER (Staff Use Only	-19-	DATE RECE	eceived				

DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC RJDCF Appeals								
INMATE'S NAME (Print)	CDCR NUMBER	ASSIGNMENT		HOUSING				
		Yoga Project						
INSTRUCTIONS:								
You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.								
You may use this form to request a specific	c reasonable accommodation v	which, if approved,	will enable y	ou to access and/or				
participate in a program, service or activity.	You may also use this form t	o submit an allegat	tion of disabi	lity-based discrimination.				
Submit this form to the Custody Appeals O	ffice.							
The 1824 process is intended for an individ								
The CDCR 1824 is a request process, not	an appeal process. All CDCR	1824 requests will	receive a re	sponse.				
If you have received an 1824 decision that disagreeing with a medical diagnosis/treatr		ibmit an appear (C	DCK 602, 01	CDCR 602-NC II you are				
disagreeing with a medical diagnosis/treati	Herit decision).							
WHAT CAN'T YOU DO / WHAT IS THE On September 29, 2019 at	6:59 AM upon returni	ing from brea	kfast, I	walked to my				
celldoor and it opened. A	As I entered, pushing	g my walker,	CO	shut the door				
before I was clear, pinns	before I was clear, pinning my hand between the walker handle and the door frame.							
I yelled out that I was o	caught in the door,	that my hand	was pinne	ed and the floor				
saw what was happening an								
WHY CAN'T YOU DO IT? I am mobility impared. I use a walker. Sometimes I am a little slow moving.								
I am 65 years old.	+							
	*							
WHAT DO YOU NEED? This is the third time I	have requested more	time to ente	er and ex	it my cell.				
This is the third time I	have been pinned in	the door. I	am old a	nd slow.				
Why can we not get sufficent time to enter and exit without being injured.								
Penal Code Section 368 E	lder Abuse applies in	n this case.	I am a 1	itigator.				
If I need to I will take								
need more time to enter								
walker can clear the frame	me, that is not enough	gh. (Use the bac	k of this form	if more space is needed)				
DO YOU HAVE DOCUMENTS THAT D	ESCRIBE YOUR DISABILI	TY? Yes 🛭	No 🗆	Not Sure				
And the first and advantaged the contraction of the								
List and attach documents, if available: Chronos are on file.								
				•				
	Manager Visit of the Visit of t							
I understand that and my failure to cooperate may cause this request to be disapproved.								
September 29, 2019								
IMMATE	OIONATORE		E SIGNED					
Assistance in completing this form was provi	ided by:							
Assistance in completing this form was provided by.								
	,							
Last Name	First Name		Signa	ature				

Exhibit 37

DECLARATION OF

, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 11, cell I am 45 years old.
 - 3. I have been at RJD since August 8, 2018.
- 4. During my time at RJD, I was housed in C-14 until April 2019. I have been housed in C-11 since April 2019.
- 5. I am an *Armstrong* class member. I am DPM which means I have a mobility disability.
- 6. I am a Coleman class member. I am at the CCCMS level of care. I am bipolar, have PTSD, and have been diagnosed as antisocial. I take medication because I hear voices in my head and for my depression.
 - 7. I have experienced staff misconduct at RJD.
- 8. On November 2, 2019, during evening chow, I got up to dump my dinner tray in the trash. Officer out of the blue, yelled at me to "Sit the fuck down!" Then he snatched my I.D. card and asked if I was "retarded" or "stupid." I asked him for his name so that I could report his disrespectful behavior. He refused to provide his name and he refused to give my I.D. back. I asked again and then he told me to step outside of the building. He put me up against the wall and then started to search me in a forceful manner that I felt like was an attempt to intimidate me. He told me to look right while he searched my left side and vice versa. Then, he squeezed both of my nipples in a sexual manner and leaned up against me and whispered in my ear, "Next time, do what the fuck you are told to do." That night, I was unable to get my mental health medication because he would not give me back my I.D.

- 16. These incidents have been very hard on me. I tried to speak with Lieutenant but he told me that he doesn't believe anything a convict says, he only believes his staff. It is hard because it feels like there is no one here to help me. After what has happened to me, I do not trust the officers. If the officers engage in misconduct and you report it, it seems like it turns out even worse for you.
- 17. I have seen multiple fights where five or six prisoners beat up another prisoner and staff do nothing to stop it. At most staff might say something like, "Stop playing" but these are major prison fights which are a matter of life and death, especially for older prisoners, and no one does anything to stop it.
- 18. In 2018 I witnessed multiple incidents where incarcerated people approached Officer Officer and Officer , and told them they were getting ready to attack other incarcerated people. I saw those officers, who are now all sergeants, look the other way and let fights happen. I have also seen staff laugh when prisoners get attacked.
- I have even seen staff encourage people to hurt themselves. When I was in C-14, one of the housing units for people with severe mental illness, I witnessed Officer say to prisoner that was acting in distress and saying he felt like hurting himself, "Go ahead! I don't believe you, you're all talk until I see you do it. Prove it. Then I will believe you."

3

26

20. I do not feel safe here. It is causing me stress and anxiety and makes my mental health issues even worse. Between what happened to me and what I have seen happen to other incarcerated people here, I worry a lot about my future and whether I will be able to survive at RJD.

Initials

Exhibit 37a

Filed Under Seal

Exhibit 38

DECLARATION OF

2

3

1

declare:

4 5

testify.

7

6

8 9

11

13

15

17 18

16

19 20

21

23 24

25 26

27

28

1.

- I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so
- My California Department of Corrections and Rehabilitation ("CDCR") 2. I am currently housed at California State Prison – Los Angeles number is County ("LAC") on Facility D in Building 3.
- I was housed at RJD from around April 2017 until April 3, 2019. During my time at RJD, I was housed in the C12 Unit, the ASU Building, and the B9 Unit.
- 4. I am an Armstrong class member. I am designated as DNH and DNM. I have a mobility impairment because my right leg is an inch shorter than my left. I also senseral-neural hearing loss in my left ear and no function in my right ear at all. My hearing in my left ear is approximately 40% of normal. I had limitations, and accommodations during the time that I was at RJD, except to say I was DH.
- I am a Coleman class member. I am at the EOP level of care. I was 🖛 at the EOP level of care during the time that I was housed at RJD. I am diagnosed with major depressive disorder and have struggled with depression for my entire adult life. I often deal with suicidal thoughts and recurring traumatic memories from before my time in prison. I have attempted suicide multiple times in my life due to my severe depression. I currently take Celexa, an anti-depressant, to help with my mood. I also participate in EOP mental health treatment groups, which help me stay stable and deal with my depression.
- I was a victim of staff misconduct at RJD. In August 2018, members of the Plaintiffs' team for the Armstrong case and members of CDCR's Office of Audits and Court Compliance ("OACC") interviewed me at RJD. It is my understanding that the interview took place as part of an Armstrong audit of RJD conducted jointly by Plaintiffs' counsel and OACC staff. During the interview, I told the interviewers that I had witnessed

two, I received my initial classification committee (ICC) hearing. While I was waiting to

27

go to ICC, one of the prisoners who stabbed me, "It's nothing personal, bro. This was just business." He then told me that he had been paid to stab me.

A week later, I was being taken to the medical building behind the B7 Unit when I saw prisoner in the yard cages. I asked him "Who [paid you to stab me]?" and signaled that I was asking who had paid to stab me. He responded "[Officer]" and then made a phone gesture, which I took to mean that he had been paid with a cell phone.

- 11. I later received a write-up for "Participation in a Riot," for which I was found not guilty in early December 2018. I was transferred out of the ASU to the B9 Unit on December 22, 2018.
- Officer he had worked the B9 Unit, Officer on C-Yard. Officer began to search my cell approximately twice a week. During these cell searches, he would toss my belongings around and destroy some of my property. After some of these searches, I would find my legal paperwork torn up and scattered on the floor. It would take me hours to clean up my cell after these searches. From my observations, officers searched my cell more than all or nearly all other prisoners in the building.
- 13. It is my belief and understanding that I was stabbed by and the other prisoners at the direction of staff, specifically Officer. The stabbing lead to severe medical problems that I still experience to this day. I struggle with constipation and incontinence problems as a result of the internal damage I sustained from the stabbing. I also still deal with headaches and poor vision in my right eye because I was stabbed in the eye.
- approaching to attack me while I stand helplessly waiting for them to come. I often then and additional factor wake up sweating with my heart racing. The stress from the incident decreases me to cry spontaneously. I also regularly experience other difficult emotions from the trauma I experienced at RJD. Many times, leading me to suicidal ideology, or other thoughts of bringing harm to myself.

- 20. These incidents made me worried for my own safety at RJD. They frightened me and made me panicked that the same thing would happen to me.
- 21. In my time at RJD, there were many times that I needed help but did not ask for it because I was afraid of what would happen to me. I often missed my mental health groups because I did not want to interact with officers and risk my own personal safety. I also skipped medical appointments because I had the same concerns. I also felt like I could not talk to Plaintiffs' counsel or the ISU about the problems at RJD because it would lead to retaliation that would endanger my safety.
- 22. I have been in CDCR prisons for about thirty-two years of my life. I have been housed in a number of different CDCR prisons, including California State Prison Sacramento, Pelican Bay State Prison, High Desert State Prison, LAC, Calipatria State Prison, and RJD. In my experience, the staff misconduct at RJD is comparable if not worse than what I observed at Pelican Bay State Prison in the early-1990s, before the *Madrid* case. In my opinion, the misconduct at RJD is particularly bad because there are so many staff involved in the incidents and because the administrators at RJD turned a blind eye to officers' misconduct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Lancaster, California this 16 day of December, 2019.



Exhibit 38a

Filed Under Seal

Exhibit 38b



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

Penny Godbold

Email: pgodbold@rbgg.com

January 8, 2019

VIA ELECTRONIC MAIL ONLY

HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY SUBJECT TO PROTECTIVE ORDERS

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov Ursula.Stuter@cdcr.ca.gov

Re: Armstrong v. Brown; Staff Misconduct Against Class Member at R.J.

Donovan Correctional Facility in Retaliation for Participation in Joint Audit

Our File No. 0581-03

Dear Russa and Ursula:

I wrote to you on October 23, 2018, regarding a DPH class member, Mr.

1. Mr. reported that he was escorted to the ISU complex on September 19, 2018, and questioned about allegations of staff misconduct that were reportedly made during the joint audit at RJD on August 27 and 28, 2018. Specifically, allegations were made against Officer by multiple class members during that audit. That Mr. was identified for interview by ISU staff was especially concerning because he is someone who specifically stated he would not be willing to be singled out for interview or cooperate with any CDCR investigation, due to fear of retaliation from staff. Further, Plaintiffs' counsel specifically requested that staff at RJD, including ISU staff, not be involved with any staff misconduct investigations resulting from reports made during the joint audit.

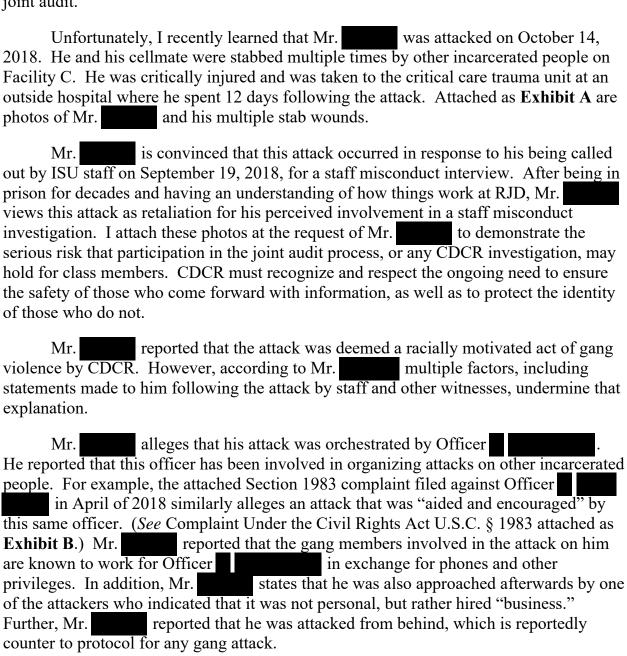
In response, CDCR informally assured me that, if class members were interviewed by ISU staff regarding staff misconduct, it was not in response to allegations arising from the joint audit because our request for an outside investigation was taken very seriously.

¹ Mr. identity was not revealed in the October 23, 2018, email because he wished to continue to remain anonymous at that time.

HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY

Russa Boyd Ursula Stuter January 8, 2019 Page 2

On December 10, 2018, Defendants provided a further update regarding the details of a comprehensive effort involving staff from outside of RJD who were charged with investigating allegations of staff misconduct in response to allegations made during the joint audit.



HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY

Russa Boyd Ursula Stuter January 8, 2019 Page 3

At this point, after having his worst fears realized, Mr. is willing to come forward and cooperate in a CDCR investigation. However, he will only do so if the investigation is completed by investigators from outside of RJD. Plaintiffs' counsel requests that, through this outside investigation, all events surrounding the attack on Mr. be considered—including events surrounding his identification for an ISU interview on September 19, 2018, and his allegation that the attack was the result of retaliation following the ISU interview. Mr. cautioned that he should not be taken to ISU for any interview purposes, even if the interviewer is from outside of the institution, because any identification of him as participating in an investigation will place him at further risk of retaliation. He reported that he believes that confidential interviews could be conducted securely in the counselors office, with an outside phone line, which would not draw too much attention to him.

Plaintiffs acknowledge that Mr. allegations are extremely serious. We ask that that every effort be taken to ensure his safety in this process, including having staff members from outside of RJD interview him periodically to determine whether he remains secure in his housing placement on Facility B and, if not, to discuss with him what steps could be taken to ensure his safety. Mr. reported to us that he currently feels secure in his housing placement on Facility B. We ask that Mr. remain in his current housing placement, and not be transferred to Ad-Seg, as a result of any outside investigation. He does not want any attention drawn to him in this process and believes he will not be safe in Ad-Seg.

Lastly, Mr. reported that, when he returned to his cell on October 27, 2018, from medical treatment, much of his property was missing. He reported, consistent with statements from other class members contained in prior monitoring reports, that staff had left his property for other inmates to go through. (See April 2017 Monitoring Report at 4.) He reported that, according to witnesses, his property was packed up by other incarcerated people without staff supervision. Multiple items, including DME, were reportedly stolen. Mr. reported that, what was left of his property, was inappropriately being held in a neighboring cell. He is reportedly still missing his property including the following DME:

- Dr. Comfort orthopedic boots and custom arch supports, worth \$542. His 7536 receipt is attached as **Exhibit C**.
- Miracle Ear Digital Hearing Aid, worth \$600. This was reportedly provided by friends/family outside of prison because the prison hearing aids do not work for him. As such, he does not have a 7536 form.

HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY

Russa Boyd Ursula Stuter January 8, 2019 Page 4

- Glasses, worth \$65.
- Hearing Vest

Mr. has filed a Form 602 and 1824 to resolve these problems. He reported that his 1824 response stated that, according to a staff interview, he stated his DME were in his property. He acknowledged that he believed this was true; however, when some of his property was returned, his DME were not included and he is still without the items listed above. His 602, RJD-B remains pending. Please investigate the missing DME and ensure that Mr. DME are replaced immediately.

We look forward to hearing your response.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold By: Of Counsel

PMG:cg Enclosures

cc: Ed Swanson

Sharon Garske Prison Law Office

Exhibit 38c

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



July 17, 2019

VIA EMAIL ONLY

Penny Godbold Rosen, Bien, Galvan & Grunfeld Pgodbold@rbgg.com **Attorneys' Eyes Only**

Re: Armstrong v. Newsom; Staff Misconduct Against Class Member at R.J. Donovan Correctional Facility in Retaliation for Participation in Joint Audit

Dear Ms. Godbold:

reported Mr.

We write in response to your October 23, 2018, and January 8, 2019, correspondence regarding
DPH class member (). Mr. reported that he was targeted for an
assault orchestrated by RJD staff because of his involvement in the August 2018 Joint Audit and
because he was identified as a person to be interviewed by ISU as a result of the allegations of
staff misconduct you raised following the Joint Audit. You report that Mr. was attacked
on October 14, 2018, and that he and his cellmate were stabbed multiple times by other inmates
on Facility C. You report that Mr. is convinced this attack occurred in retaliation
because he was called by ISU for an interview on September 19, 2018, for a staff misconduct
interview.
Your letter acknowledges that Mr. reported the attack was deemed a racially motivated
act of gang violence, but you assert that other information undermines that as the explanation.
Mr. alleges this attack was orchestrated by a specific officer and that the gang members
involved in the attack on him "work" for this officer, that an attacker alleged the attack was
"business" and that he was attacked from behind, which is counter to gang protocol.
As Defendants have previously reported to you, many inmates – not only class members – were
queried by ISU and investigative staff from RJD and from outside prisons in the fall of 2018 in
order to address allegations of staff misconduct on Facility C. Mr. was part of a random
sample of inmates selected to answer questions about a wide range of topics related to their
incarceration at RJD, including staff misconduct.
Following the incident that occurred on Facility C on October 14, 2018, and well before you

CONFIDENTIAL: FOR ATTORNEYS' EYES ONLY SUBJECT TO PROTECTIVE ORDERS

account of what he claims to have transpired, a thorough inquiry was

Ms. Penny Godbold Page 2

completed. Mr. account has been discredited by all of the individuals who participated in the riot and were willing to be interviewed by the investigating officer. 2

On October 14, 2018, a riot involving six inmates occurred on the west yard of Facility C. These six inmates were divided between two racial groups. The investigating officer interviewed four of seven possible witnesses, which included the six inmates involved in the riot.³ Mr. refused to be interviewed. The four witnesses, who were comprised of two different racial groups, told similar stories. The riot was the result of an incident that occurred on October 12, 2018, during which an inmate of one racial group was stabbed by an inmate of another racial group because of a drug debt. This incident was logged by the institution and did, in fact, occur. The inmate who was stabbed on October 12 admitted to the investigator that he was a heroin user and was having trouble paying back his drug debt and that he was stabbed because of that debt. Thus, this inmate self-incriminated himself by admitting to purchasing narcotics and he also established the foundation for the subsequent riot.

The stabbing on October 12 resulted in tension between the two racial groups. On October 14, 2018, at least four of the inmates involved in the riot had exchanges and conversations with each other in attempts to clear up the tension, but tension was left unresolved. One of the inmates approached another (of the different racial group) on the yard claiming he wanted to resolve the tensions between the two groups. The other inmates involved in the riot were in the area, having known there might be a conversation or confrontation about the October 12 stabbing. The two inmates became argumentative and started fighting and the remainder of the inmates began attacking each other. All four inmates who gave statements, and who are of different racial groups, confirmed that the riot occurred directly as a result of the October 12 stabbing. During his investigative interview, one of the inmates admitted to stabbing Mr. and told the investigator "They should have never messed with the (racial group)." This inmate self-incriminated himself in the assault on other inmates, a possible felony.

We also reviewed the RVRs associated with this incident and the staff accounts of the riot largely mirror what the inmate-participants reported.

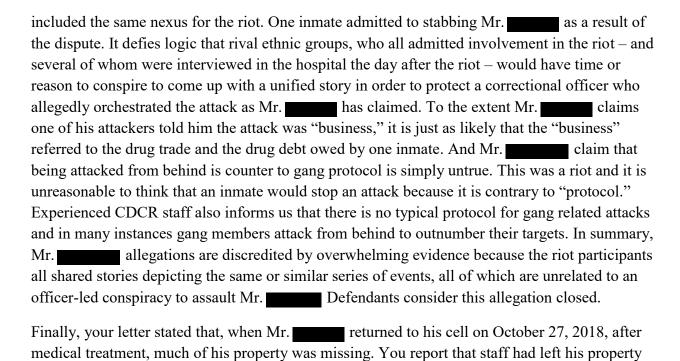
While it is unfortunate that Mr. was injured, the evidence is clear that Mr. was stabbed because he involved himself in a dispute between ethnic groups related to a drug debt and a resulting stabbing. All inmates who submitted to an interview told similar stories that

¹ RJD conducted the fact finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact finding inquiries will comply with the new policy.

² Defendants decline to provide names or the specifics regarding the ethnic groups involved for reasons related to institutional safety and security.

³ The seventh witness was the inmate who was stabbed on October 12, 2018. He was in the hospital and not involved in the riot.

Ms. Penny Godbold Page 3



for other inmates to go through. He reported that he was still missing the following DME:

- Dr. Comfort orthopedic boots and custom arch supports.
- Miracle Ear Digital Hearing Aid
- Glasses
- Hearing vest

Per chronic care follow-up note dated November 19, 2018, Mr. had his left hearing aid
during the appointment and stated he did not use the right hearing aid due to "100 % loss" of
hearing in his right ear. He reported the rest of his DME was still missing. A chronic care
follow-up note dated December 14, 2018 indicates that Mr. reported his hearing aids,
orthotics, hearing impaired vest, and glasses were missing. Two 7536s reflect that a hearing
impaired vest and two pairs of reading glasses were issued that same day. In addition, Mr.
was also referred to audiology and orthotics. A nursing progress noted dated April 15,
2019 indicates Mr. had his left hearing aid and shoes. As of today, Mr. has all
of his DME with the exception of his hearing aids (he reports he was ordered new hearing aids
while he was housed at RJD). He transferred to LAC without his hearing aids. LAC attempted to
have Mr. seen twice by audiology to replace his hearing aid. On April 24, 2019, Mr.
stated he wanted to "wait for his old hearing aid to catch up with him." On May 22,
2019, Mr. was seen and indicated he was waiting for his hearing aid to be mailed to
LAC and declined LAC's offer to replace his hearing aids until he determined if RJD was
mailing him hearing aids. LAC confirmed that RJD had not located hearing aids to mail Mr.
and so he was scheduled for follow-up to get hearing aids at LAC on June 26, 2019, but

Ms. Penny Godbold Page 4

he declined the hearing aids. Mr. is scheduled to see audiology again on July 24, 2019, and he will again be offered a left side hearing aid.

Sincerely,

/s/ Russa Boyd

RUSSA BOYD Attorney IV Office of Legal Affairs /s Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

cc: Co-counsel

Plaintiffs" Counsel Sharon Garske, OAG

Exhibit 39

DECLARATION OF

, declare:

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

2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility B in Building 10. I am 65 years old.

3. I have been housed at RJD from August 22, 2018 to the present. During my time at RJD, I was housed on Facility A in Building 3 until around late August or early September 2019, when general population inmates were moved to Facility B. Since moving to Facility B, I have been housed in Building 10, other than several days when I was in the Administrative Segregation Unit ("ASU") in November 2019.

4. I am an *Armstrong* class member. I am designated as DPM, and I also have vision impairments. I have difficulty walking because of problems with my equilibrium, as well as arthritis and other issues with my back and legs. As accommodations for my disability, I am housed on the ground floor in a lower bunk, and I use a four-wheeled seated walker and a cane to get around. I also have a mobility vest because it is difficult for me to get down on the ground during alarms. Many years ago, I lost my left eye, and I use a left eye prosthesis. I have glaucoma in my right eye.

5. I am a *Coleman* class member at the CCCMS level of care. I have been diagnosed with depression, and am prescribed Vistaril to help me sleep.

6. I was a victim of staff misconduct at RJD. Around 8:30 or 9:00 a.m. on August 27, 2018, only a few days after I transferred to RJD, Officer came to my cell in Building A3 to escort me to the medical trailer. As soon as he saw me, Officer turned to the floor officer and said, "This man is a problem." I had never seen Officer before and had no idea what he was talking about. Later that day, the entire building was taken to the chow hall and put on lockdown while staff searched our cells for

contraband. While we were waiting there, Officer came to the chow hall and called

Initials

[3474701.3]

my name. She told me I had a medical appointment and escorted me into the A Yard plaza. When we walked past the sergeant's office, Officer alked out with a sergeant, I am not sure of the spelling of his name but I believe it was something like Sergeant officer pointed at me and told the Sergeant, "This man's a problem, if it goes down, you're aware of it." I was very confused, and explained that I had never seen Officer before and did not want any trouble with him or anyone.

- The Sergeant told me to go with Officer and he escorted me to the medical trailer. I sat outside until it was my turn to be seen, and then sat down on a chair in the medical trailer, across from the nurse. Out of nowhere, Officer bushed me violently while I was seated, almost knocking me off the chair. He shoved me hard a second time, hard enough that I would have been knocked onto the floor if my chair had not been so close to a desk. Instead, my body slammed hard into the desk, but I did not fall off the chair. Officer pushed me so hard that the two nurses next to us had to jump up out of the way. The nurses got up and walked to the other end of the medical trailer, where they could still see and hear everything that was happening to me. Officer leaned his full body's weight on me, while I remained in the chair. It felt like he was trying to get me to fight with him, but I did not respond, and just stayed seated. then grabbed the right side of my beard and pulled so hard that he ripped out Officer some of my beard. It was so painful. Officer quietly said to me, "say something, say something," but I just said, "I'll pray for you." I have no idea why Officer attacked me, but I could tell he was trying to get a reaction to give him an excuse to hurt me and then write me up.
- 8. Once the nurses saw that I was not going to react to Officer sattacks, they came back and conducted the physical. When my appointment was finished, I told Officer hat I was going to file a 602 on him. I filed the 602 the same day. I was interviewed on camera as part of the investigation into my 602, which was converted into a staff complaint.

28

26

[3474701.3]

Initials

other prisoners, they would not get into trouble. It was very upsetting that Officer was not even moved off the yard where he had attacked me while he was under investigation for assaulting me.

- Around November 2019, I was walking to the chow hall, and I saw Officer with a group of officers walking towards Building B6, one of the ASU units on the yard. As the officers were walking by, Officer gestured at me to come over, indicating that he wanted to talk to me, but I refused because I was afraid of what he might do to me. It was concerning to me that Officer is still working on the yard after attacking me for no reason.
- 15. The officers at RJD appear to be very hostile towards people with disabilities or those who have health issues. They often appear annoyed or frustrated when people with disabilities are moving slower than the officers would like them to, and are quick to get agitated and yell at prisoners who bother them with questions or who ask for help. The only explanation I have for why Officer translated and threatened me is that he decided I was going to be a problem for him because I get around using a walker and only have one eye. I believe this because Officer said that I was a problem to the floor officer and the sergeant the first time he saw me, even though I had never seen him before he attacked me, even though I had never seen him before, and I have seen the way the officers at RJD act when people with disabilities or health issues need something and ask for help. I learned from my experience reporting Officer some smisconduct that there are no consequences for the officers at RJD if they attack or threaten prisoners.

27 ///

16. I have been in CDCR prisons for more than a decade, including at New Folsom, Corcoran, Soledad, Tracy, and Avenal. The staff misconduct I have experienced at RJD is the worst I have seen. While prison is supposed to be hard, my time at RJD has been more difficult than at any other prison because the staff here are so focused on asserting their power over the inmates.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

RJD Corrections

this 7 day of January 2020.

[3474701.3] 5 Initials _____

Exhibit 40

DECLARATION OF

, declare:

I am a class member in the above-entitled action. Except where stated to be
on the basis of information and belief, I have personal knowledge of the matters set forth
herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") identification number is . I am currently housed at the California Medical Facility in Vacaville, California. I am housed in the R-1 Unit, in a general population unit on the first floor.

3. I was housed at the Richard J. Donovan Correctional Facility ("RJD") from on or around January 28, 2017 to approximately October 4, 2018. During that time, I was housed on A-Yard in Building 5 for part of the time, and in A-Yard Building 4 for part of the time.

4. I am an Armstrong class member. I am designated as DPW, meaning that I am a full-time wheelchair user, and I require a wheelchair accessible cell. Both of my legs have been amputated above the knee. I have been prescribed a wheelchair, wheelchair-accessible housing on a lower tier, a back brace, crutches, prosthetic legs, and therapeutic shoes as accommodations for my disabilities. Although I have been prescribed prosthetic legs, I am still trying to learn to use them. I have a back injury, a shoulder blade injury, and my right wrist was injured in September 2016 when I was at CSP-Lancaster on B-Yard, and the officers there refused to loosen my handcuffs when I went to the hospital.

 I am a Coleman class member. I am at the CCCMS level of care in the CDCR Mental Health Care Delivery System ("MHSDS"). I am not currently on any mental health medications.

6. I was a victim of staff misconduct when I was at RJD. My problems began on June 9, 2017, when tower staff in my housing unit, Building 5 on Facility A at RJD, refused to allow me to leave my cell and go to religious services. After this incident, I filed a CDCR Form 1824 complaint about the behavior and the fact that as a result of this

refusal, I missed religious services for that day. After I filed the 1824 request about the denial of access to religious services, then several members of custody staff at RJD began to retaliate against me because of my 1824 request, which I exhausted by pursing it at the second and third levels.

- 7. The retaliation took several forms. First, staff retaliated against me by repeatedly closing my cell door on me and my wheelchair when I was going in and out of my cell. This happened multiple times, on both second and third watch for several months in 2017. "Second Watch" is the time period for one of the day shifts for custody staff in the CDCR, and refers to the time period between 6:00 a.m. and 2:00 p.m. "Third Watch" is the time period for the afternoon shift for custody staff in the CDCR, and it lasts from 2:00 p.m. to 10:00 p.m. In one instance, on or around August 14, 2017, I was stuck in my wheelchair in the half-closed cell door for approximately 15 minutes. I was never seriously injured during the door closings, but I was always concerned that I would be hurt when this happened. I was worried because I had heard that a prisoner in Building 3 on A-Yard at RJD had his hand severely injured when staff shut the cell door on him. I filed an ADA grievance about the cell door closing on my wheelchair using the CDCR Form 1824 Reasonable Accommodation Request process around the time of these incidents.
- 8. Other retaliation during this period included refusal by Officers and to let me out for dayroom on multiple occasions. Also, other officers, including Officer would routinely read my legal mail when delivering it to me. I filed grievances about these issues.
- 9. Sergeant sometimes met with me about my 1824 requests and 602s. I noticed that he would re-write the 602 while interviewing me about it. When the appeal was returned, it would be his version of events based on the interview with me, and not my original account of what happened. His version of events would be different from what I had initially written. I never asked for him to re-write my grievances.

- 10. The retaliation against me for filing ADA grievances took other forms. At times, staff also interfered with ADA workers who were assigned to provide me with assistance, including blocking them from coming to my cell to help clean my cell, or from taking me places. At other times, staff refused to allow me to have access to the shower, refused to allow me to go to yard, or refused to allow me access to the phones. In particular, Officer would frequently not allow me to use the phones or to shower. At one time, Officer refused to allow me to use the ADA rest room, as I was leaving religious services. I believe these acts were all motivated by hostility to me because I had filed ADA grievances.
- increased harassment at some point after I had been there for a while. The harassment came from Officer I believe he was retaliating because he learned of my complaints about RJD staff in Building 5. The reason I believe this is that he asked me repeatedly about complaints I had filed against staff in Building 5. At the time, I filed a complaint about his harassment of me. A few days after I filed the complaint about Officer Counselor interviewed me. At the interview he told me they were planning to send me to CSP-Lancaster. He never explained the reason for the sudden transfer. When I went to the classification committee to be transferred, he was very hostile. I believe the transfer was in retaliation for my complains about staff at RJD.
- 12. I complained about these incidents to Plaintiffs' counsel in *Armstrong* around that time.
- 13. I have also witnessed staff engage in misconduct against other people at RJD. In one instance on or around June of 2017, I observed multiple officers on the yard of Facility A beating an EOP prisoner who was on the pavement near the dining room.

 Sergeant walked towards the incident, but failed to take any action to stop the severe beating of the prisoner, who was on the ground and not resisting.

28 //

- 14. While I was housed in Buildings 4 and 5 on Facility A at RJD, I would often hear about incidents of staff misconduct in the EOP buildings on the yard. At the time, Buildings 1 and 2 housed EOP individuals.
- 15. To the best of my recollections, at the time I left RJD, in October of 2018, all of the officers who retaliated against me were still working on A-Yard at RJD.
- 16. In my time at RJD, there were many times that I needed help but didn't ask for it because I was afraid of what would happen to me.
- 17. I have been in CDCR prisons for about 17 years of my life. I've been housed in a number of different CDCR prisons, including Wasco State Prison, Kern Valley State Prison, North Kern State Prison, Corcoran, Calipatria, Ironwood, Chuckawalla Valley State Prison, Pleasant Valley State Prison, Lancaster, and RJD. The staff misconduct at RJD is the worst I have experienced or witnessed, followed closely by LAC.

I do so declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Vacaville, California this <u>19</u> day of January, 2020.

Exhibit 40a

Allegation of Non-Compliance Inquiry Worksheet *** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

	ALLEGATION (to be included in Fi	inal Inquiry Memorandum)	
amate/Parolee:	CDCR #:	isability Class member: 🛛 Arm	strong (DPP) Clark (DDP
Allegation of Non-Complian	nce: Inmate alleges sometimes staff close of	cell doors on wheelchair users.	
Employee Identified Last/Fi			
(If unknown, the involved of	employee(s) shall be determined through superv	risor/manager review and entered	by the reviewing staff member)
	DISCOVERY REVIEW (to be included	in Final Inquiry Memorandum)	
Date of Discovery: 11/15/20	O17 Source of Allegation/Reported By:	AMT report dated 11/15/2017	
Date Allegation Inquiry Initi		Assigned To:	
Date Inquiry Due to ADA Co	pordinator: 1/11/18		
	INMATE INTERVIEW (to be included	in Final Inquiry Memorandum)	
*** All inquiries SH	HALL include an interview with the inmate/parole	ee who is the subject of the allegat	ion – no exceptions ***
Staff Conducting Interview			e of Interview: 12/19/2017
Disability Code Requiring E/C:	2. Accommodation (Primary Method Required):	3. Effective Communication (Check a	all that apply):
☐ TABE ≤ 4 ☐ LD ☐ DPH	☐ Glasses ☐ Hearing Aids ☐ Loud/Clear Speech	Reiterated, in own words, what was explained.	Asked appropriate questions regarding the information provided
□ DPV □ DNH □ DPS □ DDP □ EOP	☐ Speak ☐ Written ☐ SLI ☐ Reads Lips Slowly Notes	☑ Provided appropriate, substantive responses to questions asked. ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	Did not appear to understand the communication.
⊠ N/A	☑ Other: Simple language 1,2 steps ☐ N/A	☐ Other: Other. ADL Prompts Utilize	ed
received medical attention were no entries in the Hou	FINDINGS (to be included in Fine submitted a complaint because the cell document and this was an isolated incident. No document of the logs of Program Office logs. Address sustained by a cell door. Staff were interest.	or was closed on mentation could be located to s litionally, medical records do n	ot indicate received an
doors.			
	SUMMARY OF AD	1,001,001,001	
Inmate provided injuries and was provided documentation to support to		ewed and said they are alwa	s was an accident, he receive ys professional. There is n
	DAC RECOMMEN	NDATION	
Allegation is not confirmed	. Recommend no further action.		
Print Name:	Signature:		Date: 1/23/2018
	HIRING AUTHORIT	TY REVIEW	
Allegation: Confirmed	Not Confirmed Action Requi	red: No Action	
Signature: * Return to the ADAC upon	completion	Date	: V23(1)
	completion.		
Jpdated 4/13/2016			

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: January 15, 2018

To:

Associate Warden

Americans with Disabilities Act Coordinator

Subject: INQUIRY OF ALLEGED NON-COMPLIANCE REGARDING THE DISABILITY PLACEMENT PROGRAM/DEVELOPMENTAL DISABILITY PROGRAM POLICY

SUMMARIZED ALLEGED VIOLATION On November 15, 2017, an allegation was reported and the source is identified as

being reported to the Richard J. Donovan Correctional Facility (RJDCF) Americans with Disabilities Act (ADA) Office via the Armstrong Monitoring Tour Report dated November 14, 2017, of a DPP/DDP noncompliance concern. Specifically, TABE Score 7.7, DDP Clear and inmate is a class member (DPP) utilizing a wheel chair for assistance and hearing aids. provided plaintiff's attorneys on November 14, 2017, RJDCF information that staff closes the cell door on wheel chair users prior to entry into the cell.

INQUIRY SUMMARY

On December 18, 2017, Correctional Lieutenant (Lt.) initiated the inquiry into this alleged American Disability Act violation by reviewing the Electronic Records Management System (ERMS) and the Strategic Offender Management System (SOMS). Additionally, proceeding was interviewed by Lt. December 19, 2017. Effective Communication was determined by speaking slowly, loudly and a clear tone while using simple language. stated that his problem was identified as staff members close the cell door on him prior to fully entering the cell while in the wheelchair. further alleges that he has advised me that this is not an also filed an appeal on the issue. isolated incident and some staff have retaliated against him regarding property cell conducted cell searches. Specifically, Officer and searches to retaliate against him. also stated that he had filed an appeal on this issue and that Officer purposely did not allow him out of the cell to attend a religious service. After review of the RJDCF Appeals Office, an appeal was filed along with a CDCR Form 1824 Reasonable Modification or Accommodation Request. stated that staff closed a cell door on another class member, and the second of t concluding and closing that matter. However, on November Sergeant M. 29, 2017, [reinitiated the appeal process and was interviewed by Sgt. again on December 22, 2017. No new information or evidence was provided

It should be noted that on Tuesday, December 19, 2017, was also interviewed and stated that his problem was identified as a staff member (unidentified) accidentally closed the cell door on his arm while in the wheelchair. Staff saw him, heard him yell and responded to the cell door. He further stated that he was sent to medical, medically evaluated and released back to housing after a Medical Report of Injury and Unusual Occurrence (CDCR 7219) was completed.

Page 2
advised me that this was an isolated incident and some staff have accidents in closing doors and this type of issue of closing cell doors on inmates is not a big problem on Facility A. had no further information to provide.
On Tuesday, December 19, 2017, Officer was interviewed regarding officer stated that he is professional during the course of his duties per departmental policy. He further states that no mean spirited conversation or unprofessional conduct took place between him and any inmates assigned to RJDCF Facility A.
This allegation of Non-Compliance Inquiry did reveal that appeal (RJD-17-A) on staff and subsequently withdrew the aforementioned appeal. A legal that Officer made unprofessional comments to him and speaking to him in a mean spirited manner. A legal also does not have a staff complaint regarding Officer allegation against Officer or the Officers involved in the alleged retaliation allegation. In speaking to other inmate class members on Facility A, I was able to ascertain that they understand that human errors do occur on occasion. The Facility A Medical Clinic and the CTC Treatment Triage Area had no record of Inmate being seen for any type of injuries to corroborate this alleged incident.
During my interview with the appeared to be very negative during this interview displaying a genuine dislike for custody staff assigned to the Facility. Furthermore, the appear of the appear of the withdrew his appear during my interview. Also, after the appear was withdrawn, on November 29, 2017, reopened the appear without cause. It appears that attempting to retaliate against staff in speaking to the Plaintiff's Attorneys regarding an issue that has previously been addressed with the RJDCF Appeals Office.
This matter has been concluded at this level of review and no further action is recommended.
If you should have any questions regarding this matter, do not hesitate to contact me at extension 6242.
Correctional Eleutenant Richard J. Donovan Correctional Facility

Case 4:94-cv-02307-CW Document *⊵* Filed Ø2/28/2Ø - Page 82 o∓398 DEPARTMENT OF CORRECTIONS AND REHABILITATION STATE OF CALIFORNIA LOG NUMBER: CATEGORY: LITUTION/PAROLE REGION: REASONABLE MODIFICATION OR 8. ADA ACCOMMODATION REQUEST CDCR 1824 (Rev. 10/06) NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act. CDC NUMBER ASSIGNMENT HOURS/WATCH HOUSING In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disibility shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination. You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate. Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you. If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review. To proceed to SECOND LEVEL, attach this form to an inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form. Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form. If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602. MODIFICATION OR ACCOMMODATION REQUESTED DESCRIPTION OF DISABILITY: TWO Les WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

EXPINITORY DESCRIBE THE PROBLEM: GW 90109 THIS STUTE SMATED From June 9, 2017 read Flop RID-Amating me Miss religious service order M. B. 111045/84 cell seven my cell I worky then they had mother Black my your so I couldn't see will They took what they rook was legal information on Lows. See Rop Lig nymber RJD-A-17-WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED? others work in the Tower Both SH, FT WILL GECAGE COMPINADOW Warne to MATICA CF Elesot Author / *

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 83 of 398

HEASONABLE ACCOMMODATION PANEL (HAP) RESPONSE
RAP Meeting Date: 8/10/2017 Date IAC Received 1824: 8/07/2017 1824 Log Number: RJD-A-17-IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII
RAP Staff Present: ADA Coordinator; Dr. Dr. Chief Physician & Surgeon; Custody Appeal Representative; Health Care Appeals Representative; Health Care Compliance Analyst; Dr. Coordinator; Psychologist; Teacher
Summary of Inmate's 1824 Request: You claim staff is retaliating against you because you filed staff complaints against then You want Correctional Officers 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
Interim Accommodation: No interim accommodation required: Staff determined no potential for injury or other serious harm while processing request.
FINAL RESPONSE:
RAP is able to render a final decision on the following:
Response: Be advised, this request raises no Americans with Disabilities Act (ADA) access or disability-based discrimination issue.
Every staff member employed by the California Department of Corrections and Rehabilitation has a responsibility to carry out the duties in a professional manner. However, staff complaints are handled via the appeals process. Submit a CDCR 602, Inmate/Parole Appeal. If a CDCR 602 has already been submitted and you are not satisfied with the result(s), you can submit for next level of review Keep in mind, appeals must be submitted consistent with California Code of Regulations, Title 15, Chapter 1, Article 8.
Direction if dissatisfied: If you disagree with this decision and want to file an appeal, submit a CDCR 602. Be sure to attach you CDCR 1824 and this response as supporting documents.
Date sent to inmate: \$28 3 0 283

Page 1 of 1

ADA Coordinator/Designee

RAP Response - rev 10-27-15.docx

Signature

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/2	28/20 Page 84 of 398
STATE OF CALIFORNIA INMATE/PAROLEE APPEAL OF CALIFORNIA INMATE/PAROLEE APPEAL OF CALIFORNIA OF CALIFORNIA	PARTMENT OF CORRECTIONS AND REHABILITATION
GDCR 602 (REV. 03/12)	Side 1
IAB USE ONLY Institution/Parcle Region:	Log #: Category: 4-\7 FOR STAFF USS CHLY
You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, adverse effect upon your welfare and for which there is no other prescribed method of departmental reflections (CCR). Title 15, Section 3084.1. You must send this appeal and any supporting documents to days of the event that led to the filling of this appeal. If additional space is needed, only one CDCR Form 602 guidance with the appeal process. No reprisals will be taken for using the appeal process.	eview/remedy available. See California Code of the Appeals Coordinator (AC) within 30 calendar
-	Assignment:
retaliation on going because I filed compla	Stoke-Timit / 150%
A. Explain your issue (if you need more space, use Section A of the CDCR 602-A): USING Do	lev Alland Shawes
Werpon Tower officer Dias (4) Times The week of 8/14/17 Also	A LAW RUDCH Appeals
Firm - All This STUFF STAFTED From June 9, 2017 read , B. Action requested (if you need more space, use Section B of the CDCR 602-A): I wast	
(And others work in the source Bush shifts () rei	because Wormy loth
They are repolying on me because I compined to the	Received
Supporting Documents: Refer to CCR 3084:3. [5] Yes, I have attached supporting documents.	DO B3 - Cost Assura
List supporting documents attached (e.g., CDC 1083; Inmate Property Inventory; CDC 128-G, Classification 1824 - (5) pages 400 RJD-A-I7 -	n Chrono): Appaul h2019 atesto,
	RJDCF Appeals
☐ No, I have not attached any supporting documents. Reason:	10/12/10 timet 1 1880
	The state of the s
Inmate/Parolee Signature: Date Submitted: 9/2	1/17 Kre Sonns
By placing my minars in this pox, I waive my right to receive an interview	notion tours
C. First Level - Staff Use Only This appeal has been:	DCR 602-A Attached? ☐ Yes ☐ No
☐ Bypassed at the First Level of Review. Go to Section FP 2 5 2017 Date: SEP 2 8 2017 Date: SEP 2 8 2017 Date: □ Cancelled (See attached letter) Date: □ Cancelled (See attached letter) Date: □ Cancelled (See attached letter)	OCT 2 0 7.017 Date:
Assigned to:	d: 4113 17 Date Due: 13 38 117
First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, Date of Interview.	
Your appeal issue is: Granted Granted in Part Denied Other:	DROWE
See attached letter. If dissatisfied with First Level response, complete Section D. Interviewer: Signature: Signature:	Date completed://////
Reviewer: 15. 60 640 Title: AUCA) Signature:	<u> </u>
Date received by AC: NUV 2 1 201/	
AC Use: Date ma	Only lied/delivered to appellant 2, 2077
7*	

Filed 02/28/20 Page 85 of 398 Case 4:94-cv-02307-CW-pocument 29 DEPARTMENT OF CORRECTIONS AND REHABILITATION STATE OF CALIFORNIA INMATE/PAROLEE APPEAL FORM ATTACHMENT CDCR 602-A (REV. 03/12) Side 1 IAB USE ONLY Institution/Parole Region: Lag#: Category: 11 12)D-A= FOR STAFF USE ONLY Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used. Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink. A. Continuation of CDCR 602, Section A only (Explain your issue) : RJD-A-17-Received of tower afficer morning stifer Deliberand, making me miss religious service They they that by way of frexy OCT-12 0 2017 on 5/15/17 1 cell servey My cell. I watch F Appeals Then They Had another officer (harre) Block my view so I couldn't 3 CE WHAT THEY TOOK. WHAT MEY TOOK WAS LEGA! INFORMATION UN LAWSYITS Also see RAP LUG NO. RJD-A-17 5 KIPPING ME ON SHUMED FOR MORE THAN A MONEY AND IS PLUSE SER 602 LOG NO. 17. Received NOV 13 2017 RJDCF Appeals Refeived NO ₹ 3 0 2017 inmate/Parolee Signature B. Continuation of CDCR 602, Section B only (Action requested): WHO WINTE Me GACK and The Rosen Buy Lin Firm wrote me (2) letters and I spoke to them on the Phone mure THIM ONCE, All of Mis is in VIOLATION OF ADA- ANTI the ADA and in Visioner of Color of ANOThers when and 185 Am end must Date Submitted: inmate/Parolee Signature: 8*

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 86 of 398

STATE OF CALIFORNIA INMATE/PAROLEE APPEAL CDCR 602 (REV. 03/12)

EHABILITATION

Side 2

					***************************************		******************************
**************************************		· · · · · · · · · · · · · · · · · · ·					

						ALL STREET	
Inmate/Parolee Signature:				Date Submi	tted :		Series de company de la compan
Second Level - Staff Use Only	And		Staff - Che	ck One: Is CDCI	R 602-A Attache	d? 🗌 Yes	□ No
his appeal has been:							
By-passed at Second Level of Review. (Bejected (See attached letter for instructi	Go to Section G.	Ontés		Data	0-	uta i	
Cancelled (See attached letter)		Date:	· · · · · · · · · · · · · · · · · · ·	Date:	Vē	110.	
Accepted at the Second Level of Review							
ssigned to:							
Second Level Responder: Complete a Se interview date and location, and complete		e. If an interview at t	ne:Second L	evel is necessary,	include interview	rer's name and	ı mle,
	*		Interview Loc	cation:			
,,,, — · · · · — · · — ·	Granted in Part	☐ Denied	Other:				
	er. If dissatisfied with	•					
iterviewer: [Pitht Name)						npleted :	name acretore account
eviewer: (Print Name)	Title:	Signature:					
ate received by AC:							
				Abstraction decision of the second second		A CONTRACTOR DE LA CONT	
. If you are dissatisfied with the Seco Review. It must be received within 30 co Rehabilitation, P.O. Box 942883, Sacra	alendar days of recei	ot of prior response.	Mail to: Chis	upporting document, inmate Appeals	Branch, Departr	by mail for Th	ird: Leve
Review. It must be received within 30 ca	alendar days of recei	ot of prior response.	Mail to: Chis space, use	Date mailed/de upporting document, inmate Appeals	ents and submit Branch, Departr	by mail for Th	ird: Leve
Review. It must be received within 30 ca	alendar days of recei	pt of prior response. 01. If you need more	Mail to: Chis space, use	Date mailed/de upporting document, inmate Appeals	ents and submit Branch, Departr	by mail for Th	ird: Leve
Review. It must be received within 30 con Rehabilitation, P.O. Box 942863, Sacra	alendar days of recei	pt of prior response. 01. If you need more	Mail to: Chis space, use	Date malled/de upporting docume it, inmate Appeals Section F of the C	ents and submit Branch, Departr DCR 602-A.	by mail for Th nent of Correct	ird: Leve
Rehabilitation, P.O. Box 942883, Sacra	alendar days of recei	pt of prior response. 01. If you need more	Mail to: Chis space, use	Date malled/de upporting docume it, inmate Appeals Section F of the C	ents and submit Branch, Departr	by mail for Th nent of Correct	ird: Leve
Review. It must be received within 30 c. Rehabilitation, P.O. Box 942883, Sacra Inmate/Parolee Signature:	alendar days of recei	pt of prior response. 01. If you need more	Mail to: Chis space, use	Date malled/de upporting docume it, inmate Appeals Section F of the C	ents and submit Branch, Departr DCR 602-A.	by mail for Th nent of Correct	ird: Leve
Review. It must be received within 30 c. Rehabilitation. P.O. Box 942883, Sacra Inmate/Parolee Signature: Inmate/Parolee Signature: Third Level - Staff Use Only als appeal has been: Rejected (See attached letter for instruction)	alendar days of recei mento, CA 94283-00	pt of prior response. 01: If you need more	Mail to: Chie	Date malled/de upporting docume if, inmate Appeals Section F of the C	ents and submit Branch, Departr DCR 602-A.	by mail for Th nent of Correct	ird Levi
Review. It must be received within 30 c. Rehabilitation, P.O. Box 942883, Sacra Inmate/Parolee Signature: 5. Third Level - Staff Use Only his appeal has been: Rejected (See attached letter for instruction of the content of the co	alendar days of recei mento, CA 94283-00	pt of prior response. O1: If you need more	Mail to: Chie e space, use	Date malled/de upporting docume of, inmate Appeals Section F of the C Date S	ents and submit Branch, Departred 602-A.	by mail for Th nent of Correct	ird Levi
Review. It must be received within 30 c. Rehabilitation, P.O. Box 942883, Sacra Inmate/Parolee Signature: i. Third Level - Staff Use Only his appeal has been: Rejected (See attached letter for instruction of the content of the con	alendar days of recei mento, CA 94283-00 on) Date:	pt of prior response. O1: If you need more	Mail to: Chie e space, use	Date malled/de upporting docume of, inmate Appeals Section F of the C Date S Date S	ents and submit Branch, Departr DCR 602-A.	by mail for Th nent of Correct	ird Levi
Review. It must be received within 30 c. Rehabilitation, P.O. Box 942883, Sacra Inmate/Parolee Signature: Inmate/Parolee Signature: Third Level - Staff Use Only is appeal has been: Rejected (See attached letter for instruction Cancelled (See attached letter) Accepted at the Third Level of Review. Y	alendar days of recei mento, CA 94283-00 on) Date:	pt of prior response. O1: If you need more	Mail to: Chie e space, use	Date malled/de upporting docume if, inmate Appeals Section F of the C Date S Date S Third Level Use	ents and submit Branch, Departr DCR 602-A. ubmitted: e: Other:	by mail for Th	ird Levi
Inmate/Parolee Signature: Inmate/Parolee Signat	alendar days of receimento, CA 94283-00 on) Date:	pt of prior response. O1: If you need more Date: Granted Gra	Mail to: Chie e space, use Date: nted in Part	Date mailed/de upporting docume if, inmate Appeals Section F of the C Date S Date S Third Level Usi Date mailed/de	ents and submit Branch, Departr DCR 602-A. ubmitted: e: Other:	by mail for The ment of Correct Date:	ird Levi
Review. It must be received within 30 c. Rehabilitation, P.O. Box 942883, Sacra Inmate/Parolee Signature: Inmate/Parolee Signature: Third Level - Staff Use Only als appeal has been: Rejected (See attached letter for instructional Cancelled (See attached letter) Accepted at the Third Level of Review. Y See attached Third Level response. Request to Withdraw Appeal: I request to Mithdraw Appea	on) Date: cent that this appeal to	Date: Granted Gra	Mail to: Chie e space, use Date: nted in Part	Date malled/de upporting docume of, inmate Appeals Section F of the C Date S Date S Date S Third Level Use Date mailed/de	ents and submit Branch, Departrice COR 602-A. ubmitted: e: Other: Only livered to appel	by mail for The ment of Correct Date: lant /	ird Levitions an
Inmate/Parolee Signature: Inmate/Parolee Signature: i. Third Level - Staff Use Only has appeal has been: Rejected (See attached letter for instruction (Cancelled (See attached letter) Date; Accepted at the Third Level of Review. Y See attached Third Level response. Request to Withdraw Appeal: I reques conditions.)	on) Date: cest that this appeal the same of the same	Date: Granted Granee withdrawn from to	Date:nted in Part	Date malled/de upporting docume of, inmate Appeals Section F of the C Date S Date S Third Level Use Date mailed/de hecause; State	ents and submit Branch, Departrice Branch, Departrice Good Food Food Food Food Food Food Food	Date:	ird Levitions an
Inmate/Parolee Signature: Inmate/Parolee Signat	on) Date: est that this appeal to the content of t	Date: Granted	Date:nted in Part	Date malled/de upporting docume at, inmate Appeals Section F of the C Date S Date S Date S Third Level Using Date mailed/de because; State 1 255 ves	etts and submit Branch, Departr DCR 602-A. ubmitted: e: Other: Only livered to appel eason. (If withdr	Date:	ind Levitions an
Inmate/Parolee Signature: Inmate/Parolee Signat	on) Date: est that this appeal to the control of t	Date: Granted Granted Granted Granted Trom to Appear	Date:nted in Part	Date malled/de upporting docume at, inmate Appeals Section F of the C Date S Date S Date S Third Level Using Date mailed/de because; State 1 255 ves	etts and submit Branch, Departr DCR 602-A. ubmitted: e: Other: Only livered to appel eason. (If withdr	Date:	ind Levitions an
Inmate/Parolee Signature: Inmate/Parolee Signature: A. Third Level - Staff Use Only his appeal has been: Rejected (See attached letter for instruction of the content	on) Date: est that this appeal to the control of t	Date: Granted Granted Granted Granted Trom to Appear	Date:nted in Part	Date malled/de upporting docume at, inmate Appeals Section F of the C Date S Date S Date S Third Level Using Date mailed/de because; State 1 255 ves	etts and submit Branch, Departr DCR 602-A. ubmitted: e: Other: Only livered to appel eason. (If withdr	Date:	ind Levitions an
Inmate/Parolee Signature: Inmate/Parolee Signat	on) Date: est that this appeal to the control of t	Date: Date: Granted Granted Granted Granted PERSONAL SET. Huy Hives Huy Hives	Date: nted in Part urther review	Date malled/de upporting docume at, inmate Appeals Section F of the C Date S Date S Date S Third Level Using Date mailed/de because; State 1 255 ves	ents and submit Branch, Departrice Good 602-A. ubmitted: e: Other: Condy eason. (If withdrest Good Good Good Good Good Good Good Goo	Date:	ind Levitions an

Exhibit 41

DECLARATION OF 1 declare: 2 I have personal knowledge of the matters set forth herein, and if called as a 3 1. witness, I could and would competently so testify. 4 My California Department of Corrections and Rehabilitation ("CDCR") 5 2. . I am currently housed at High Desert State Prison ("HDSP") in 6 number is 7 Building 1 on Facility B. I am 43 years old. I was housed at Richard J. Donovan ("RJD") from November, 2018 to 8 9 September, 2019. During my time at RJD, I was housed in Building 12 on Facility C and the 10 4. administrative segregation unit in Building 7 on Facility B. 11 I am an Armstrong class member. I am designated as DPM. As 12 accommodations for my disability, I am housed on the ground floor in a lower bunk, and I 13 use a cane and a walker to ambulate. 14 I have a number of serious medical conditions. I experience chronic 15 6. shoulder pain due to a bullet that is lodged in my shoulder. I suffer from hyperlipidemia, 16 Hepatitis C, diabetic neuropathy, and diabetes. 17 I was a victim of staff misconduct at RJD. 7. 18 19 8. On Sunday, December 16, 2018, I requested access to an ADA shower from At the time, I was housed in Building 12 on Facility C, and Officer 20 Officer was a regular second watch floor officer in Building 12. I was requesting 21 access to the ADA shower because I had just gotten off of work and this is the time that 22 workers are able to shower. I specifically requested access to the ADA shower because 23 that is the shower that I preferred to use, with grab bars and a bench, as a result of my 24 disability. In response to my request, Officer approached my cell door and 25 stated that I would not be getting 26 told me to "shut the fuck up." Officer anything from him. Next he said "If you write me up, I'm going to have other inmates 27 fuck you up." I had heard him say this before to other ADA folks in the building. 28

[3484526.1] Initials

1	9. In the months that followed that interaction, Officer trequently			
2	taunted, harassed, and threatened me. The first instance of harassment occurred on			
3	January 26, 2019. At the time, I was taking a shower in my housing unit, Building 12 on			
4	Facility C. As I was showering, I noticed Officer staring me down. Officer			
5	then took out his flashlight and started shining it on my genitals. He was			
6	standing about 1-2 feet away from me and the door was closed between us. He did this for			
7	a few minutes. I told Officer that I felt uncomfortable and I returned to my			
8	cell.			
9	10. This incident made me feel threatened and humiliated. The next day, I filed			
10	a staff complaint 602 against Officer Also, my wife and I both called the			
11	PREA hotline the day after the incident. On January 29, 2019, I was interviewed by an			
12	Investigative Services Unit ("ISU") Sergeant. This sergeant, whose name I cannot			
13	remember, told me that he did not believe me because he knew Officer and and			
14	did not think that Officer would ever do such a thing. The sergeant also told			
15	me that nothing was going to happen as a result of my complaint. The experience of			
16	reporting Officer made me feel as if nothing would be done about reported			
17	staff misconduct.			
18	11. The harassment, retaliation, and threats from staff increased after I reported			
19	Officer Sometime around the end of February, I was approached by Officer			
20	who came to my cell front - cell in Building 12 on Facility C at the time -			
21	and told me, "You like writing us up? We're going to fuck your ass up. We're part of the			
22	Green Wall." When he said he was part of the "Green Wall," I took that to mean the			
23	notorious gang of prison guards in California who are known by incarcerated people to			
24	operate under a "code of silence" protecting any wrongdoing of their fellow officers. Afte			
25	Officer states verbally threatened me, he began to stare me down each time I would see			
26	him on the prison yard.			
27	111			
28	///			
	[3484526.1] 2 Initials			

	1	12. A few days after that encounter with Officer and two incarcerated people			
	2	approached me and told me, "If you don't drop the 602 [against Officer			
	3	we'll fuck you up." I believe that Officer arranged for these two people to			
	4	threaten me to drop my staff complaint against him because I do not know any other			
	5	reason why they would have been concerned with my 602.			
	6	13. I also experienced similar threats and intimidation after filing a separate 602			
	7	against Officer Sometime in mid-March, 2019, Officer refused to release			
	8	me from my cell in order to get my diabetic medications. After I started complaining to			
	9	Officer and telling him that I would file a 602 if he denied me access to my			
	10	medication, Officer taunted me, telling me, "Write me up and make sure you spell			
	11	my name right." Both Officer and Officer denied me access to 602			
	12	forms. So I wrote a staff complaint about the incident on an 1824 form which is the ADA			
	13	request for accommodation form, and not the staff complaint form. My 1824 was denied			
	14	and stated that the officer had not violated policy. The response did not indicate whether			
	15	my complaint had been converted from an 1824 to a staff complaint. Next I filed a 602			
	16	staff misconduct complaint against Officer in connection with this incident.			
	17	14. In the weeks that followed, I was threatened on a number of occasions. On			
÷	18	the first occasion, two incarcerated people who I did not know but who appeared to be			
	19	Hispanic approached me and told me that, if I didn't drop my complaint against Officer			
	20	they would "beat the shit out of me." Similarly, at the end of March or the			
	21	beginning of April 2019, I was approached by a different incarcerated person, someone			
	22	who appeared to be white, while waiting in line to get my diabetic medication. This			
	23	person warned by stating that if I do not drop my complaint against Officer "the			
	24	are going to fuck you up." I interpreted this comment as a threat that officers would			
	25	assault me, or have me assaulted by other incarcerated people, if I did not withdrew my			
	26	staff complaint. This incarcerated person further warned me not to "602 cops anymore." I			
	27	believe that Officer asked these incarcerated people to threaten me because, as			
	28	with Officer I know no reason for these prisoners to care about my 602s.			
		Initials 3			

- people on April 18, 2019. I was standing on the track of the Facility C yard, nearby the Native American prayer ground. About three to five feet away from me, I observed a fight break out on the track. Six white people, along with one Hispanic person, started attacking another Hispanic prisoner. Fearing for my safety, I backed away from the scene, stepping back a couple of feet but continuing to observe what was going on. Shortly after I took a step back, I felt a sharp pain coming from the left side of my body, close to my lung. It occurred to me that I had been stabbed from behind, so I turned around and saw three different incarcerated people standing behind me. They did not say anything to me. An alarm then sounded, and I was rushed by a number of custody staff, who handcuffed me and conducted a clothed body search of my person as I lay bleeding on the ground.
- 16. I was then taken to the medical unit referred to as the Triage and Treatment Area ("TTA") at RJD and examined by Doctor Martin, who then ordered my transport to Sharp Memorial Hospital. At Sharp, I was admitted and treated with antibiotics and pain medication. I stayed overnight for observation, and was returned to RJD on April 19, 2019.
- filed because I was threatened multiple times prior to the attack. Specifically, Officer on numerous occasions, threatened to have me stabbed or assaulted by other incarcerated people if I filed staff misconduct grievances against him. Thus, I believe that Officer was responsible. Also, on numerous occasions, I observed Officer provide prison privileges to my attackers such as access to extra day room hours. Prior to the attack on me I witnessed Officer allow my attackers to enter people's vacant cells and seen them be allowed to take other people's property while in there. I assumed that Officer provided these additional privileges to these prisoners in exchange for something such as conducting the threats and assaults on people, like me, because I know of no other reason why these incarcerated people would have attacked me.

[3484526.1] 4 Initials

18. I feel scared and paranoid that I will be attacked again, as a result of what happened to me at RJD. I no longer feel comfortable approaching staff, I do not want to have any negative interactions with them after what happened at RJD. Now I just keep to myself and avoid going out where I will have to interact with staff. For example, I just stay in my cell and make food for myself and do not go out to chow.

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

[34845261] 5 Initials

Exhibit 41a

Filed Under Seal

Exhibit 41b



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

Penny Godbold

Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: Armstrong v. Newsom: Advocacy Letter re DPM Class Member,

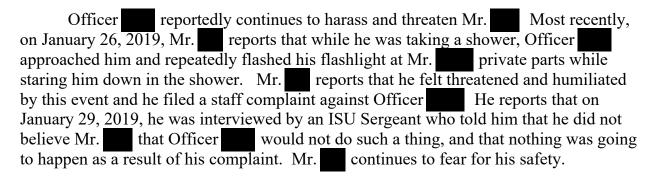
Experiencing Staff Misconduct at RJD

Our File No. 581-3

Dear All:

I write regarding reports of staff misconduct against Armstrong class member
DPM. Mr. reports that on Sunday, December 16, 2018, he
requested access to an ADA shower from the 2nd Watch Floor Officer, Officer In
response, he reports, Officer came to his door and told him to, "shut the fuck up"
and that he was not getting anything from him. He reports that then Officer told
him that, if he "602'd" him, he would have other inmates attack Mr. Mr. reports
that he is in great fear for his safety, his mental health has deteriorated, and he is having
trouble sleeping, all as a result of the threats from Officer
As you know, Officer is the same officer alleged to have ordered inmates to
attack an Armstrong class member as raised in our staff misconduct complaint of
January 8, 2019. (See Attachment A.) Officer is also the subject of an April 2018
incident where he was alleged to have "aided and encouraged" a similar attack by
inmates against another prisoner. (See Exhibit B to the January 8, 2019, letter.) Lastly,
Officer was subject of multiple misconduct complaints made by Armstrong class
members during the Joint Audit at RJD August 27-30, 2019.

Russa Boyd Ursula Stuter February 26, 2019 Page 2



It is clear Officer continued presence at RJD poses serious problems for Armstrong class members. Plaintiffs' counsel is aware of multiple, consistent allegations against this same officer that have been well documented over the last six months. These allegations raise serious misconduct concerns that, according to Government Code Section 19572, would be grounds for adverse action against this employee based on unlawful discrimination against persons with disabilities and unlawful retaliation against those who report unlawful behavior. (See Departmental Operation Manual Section 33030.9.)

Yet, Plaintiffs' counsel continues to receive ongoing reports from class members regarding threats, assaults, denials of disability accommodations and acts of retaliation carried out by this officer. Class members report that Officer was moved off of Facility C following the Armstrong Joint Audit. However, he is reportedly able to fill-in overtime positions on that yard and thus continues as a presence on the yard, especially on Sundays. Why is this officer still in a position to come in to contact with people in prison, especially those such as Armstrong/Coleman/Clark class members who must be able to rely on staff members for the provision of required disability accommodations? We ask that immediate action be taken to limit this officer's contact with all people in prison, especially Armstrong/Coleman/Clark class members, pending a thorough investigation of repeated reports of misconduct. Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations. Plaintiffs' counsel would like to discuss with you additional steps that should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

///

Russa Boyd Ursula Stuter February 26, 2019 Page 3

We look forward to your prompt response.

Sincerely,

ROSEN BIEN

GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:hw Enclosures

cc: Ed Swanson

Sharon Garske

Annakarina De La Torre-Fennell

Co-counsel

Exhibit 41c



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

Michael Freedman

Email: mfreedman@rbgg.com

October 23, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov Ursula.Stuter@cdcr.ca.gov

Re: Armstrong v. Newsom: Supplemental Advocacy Letter re DPM Class Member, Experiencing Staff Misconduct at RJD Our File No. 581-3

Dear Russa and Ursula:

I write regarding violent retaliation experienced by *Armstrong* class member

DPM. Previously, we reported in an advocacy letter dated

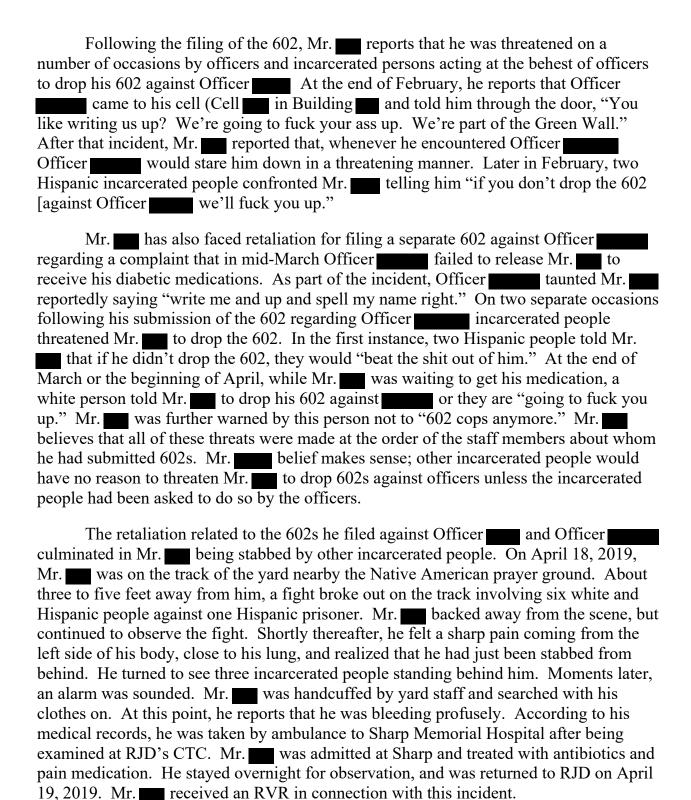
February 26, 2019, that Officer threatened Mr. in response to his request to use the ADA shower. *See* P. Godbold to R. Boyd, U. Stuter, Advocacy Letter re DPM Class Member Experiencing Staff Misconduct, Feb. 26, 2019 ("Initial Letter"). Specifically, Mr. reported:

that on Sunday, December 16, 2018, he requested access to an ADA shower from the 2nd Watch Floor Officer, Officer In response, he reports, Officer came to his door and told him to, "shut the fuck up" and that he was not getting anything from him. He reports that then Officer told him that, if he "602'd" him, he would have other inmates attack Mr.

Id. at 1.

Mr. did submit a 602. And, as discussed below, Officer after engaging in a campaign of harassment against Mr. followed through on his threat to have other incarcerated people attack Mr.

Russa Boyd Ursula Stuter October 23, 2019 Page 2



Russa Boyd Ursula Stuter October 23, 2019 Page 3

Based on his experiences in CDCR, the multiple threats of violent retaliation he faced for filing 602s, and the closeness in time between the threats and the stabbing, Mr. believes that this attack occurred in response to his filing grievances against both Officer and Officer According to Mr. the people who stabbed him previously had received special treatment from Officer and other officers, including extra day room and access to other prisoners' cells. Mr. describes them as "Green Wall" prisoners, and for that reason, believes that custody staff orchestrated the assault on him.

As you are aware, we have raised allegations of misconduct committed by Officer —including allegations that he orchestrated attacks on class members by other incarcerated people—in four different advocacy letters sent on behalf of class members over the past year and a half. See Letter from P. Godbold to R. Boyd, U. Stuter, dated Apr. 18, 2019; Initial Letter; Letter from P. Godbold to R. Boyd, U. Stuter, Staff Misconduct Against Class Member at R.J. Donovan Correctional Facility in Retaliation for Participation in Joint Audit, Jan. 8, 2019; Letter from P. Godbold to R. Boyd and N. Weber, Reports of Abuse of Class Members at RJD, Mar. 2, 2018. Allegations involving staff misconduct committed by Officer are also the subject of two active federal lawsuits in the Southern District of California. See Hoyt v. CDCR et al., 3:19-cv-01553-L-AGS; see also Moody et al., v. CDCR et al., 3:18-cv-01110-WQH-AGS. Similarly, we have raised concerns about violence committed by Officer against Armstrong class members in at least one previous advocacy letter. See letter from P. Godbold to R. Boyd and N. Weber, Reports of Abuse of Class Members at RJD, Mar. 2, 2018. The continued presence of officers at RJD—like Officers and knows or has reason to know may have engaged in serious misconduct poses fundamental problems for Armstrong class members. Accordingly, we again request that, pending a thorough investigation of repeated reports of misconduct by these officers, immediate action be taken ensure that these officers have no contact with or control over incarcerated people, especially Armstrong/Coleman/Clark class members.

Mr. situation also typifies the problem posed by the widespread staff misconduct at RJD. Under the ADA, class members are entitled to receive reasonable accommodations for their disabilities. To do so, they must often request accommodations from staff. By policy, many of these requests, including requests for showers, must be made to custody staff. If, however, class members expose themselves or see other class members exposed to violence or threats of violence by making such requests, class members will understandably be dissuaded from making requests. In this way, the widespread staff misconduct at RJD undermines class members' rights under the ADA

Russa Boyd Ursula Stuter October 23, 2019 Page 4

and various court orders in *Armstrong*, including court orders mandating CDCR's creation of a reasonable accommodation request process.

Plaintiffs' counsel requests that the above allegations be investigated by investigators outside of RJD. Plaintiffs' counsel also requests that investigators determine whether the 115 issued to Mr. was appropriate. RJD should take immediate action to stop these officers from continuing to engage in misconduct. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations.

Plaintiffs' counsel also requests that Defendants produce (1) all 602s filed by Mr. in the last year along with the responses to those 602s and (2) all documents, including incident reports, RVRs, photographs, and videos, related to the incident in which Mr. was stabbed on April 18, 2019.

We look forward to your prompt response.

Sincerely,

ROSEN BIEN

GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman

By: Senior Counsel

MLF:jrg

cc: Ed Swanson Sharon Garske
Matt Espenshade Annakarina De La TorreSharon Garske Fennell
Kelly Mitchell Damon McClain

Landon Bravo Joanna Hood CDCR OLA Armstrong Laurie Hoogland RBGG Armstrong Co-Counsel

Lois Welch Steven Faris Roy Wesley

Exhibit 41d

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



October 23, 2019

VIA EMAIL ONLY

Penny Godbold Rosen, Bien, Galvan & Grunfeld Pgodbold@rbgg.com CONFIDENTIAL

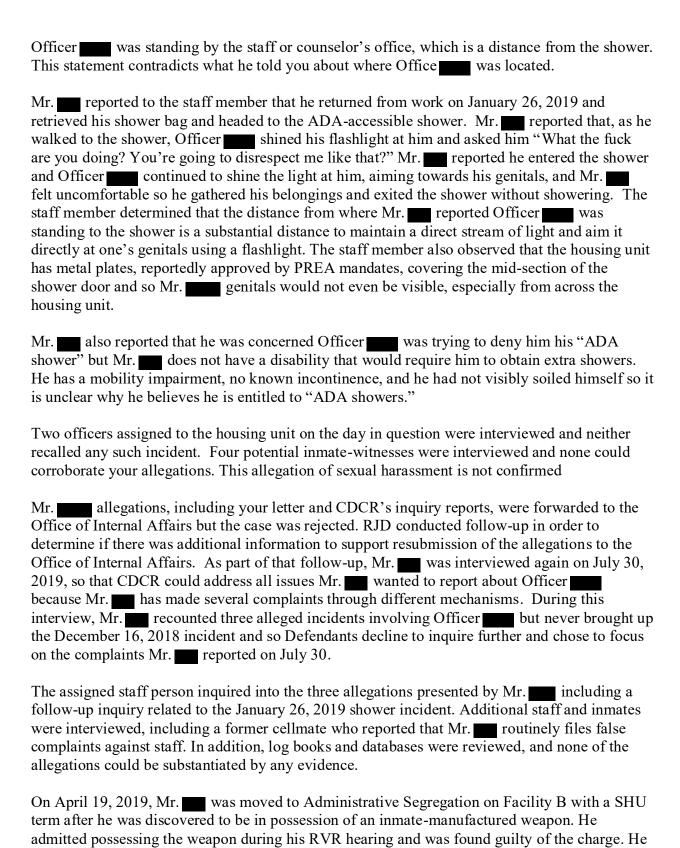
ATTORNEYS' EYES

ONLY – NO INMATE

ACCESS

Armstrong v. Newsom: Advocacy letter re DPM Class Member, Re: Experiencing Staff Misconduct at RJD Dear Ms. Godbold: I write in response to your February 26, 2019 letter on behalf of Mr. a DPM class member formerly housed at RJD. You report that on December 16, 2018, he requested access to an ADA shower from Officer who told him to, "shut the fuck up" and that he wasn't getting anything from him. Officer then allegedly told Mr. that he would have other inmates attack him if he "602'd" Officer You then report that Officer allegedly continues to harass and threaten Mr. You report that, on January 26, 2019, Officer approached Mr. while he was taking a shower and repeatedly flashed his light at Mr. private parts while staring him down in the shower. You report that Mr. was interviewed on January 29, 2019 by an ISU Sergeant who stated he did not believe Mr. that Officer would not do such a thing, and that nothing was going to happen as a result of his complaint. Your letter also cites to allegations made against Officer by other inmates, including Mr. as support for your assertion that ongoing allegations against this officer indicate a pattern of discrimination and abuse that should subject Officer to an adverse action. In the case of Mr. Defendants responded to your letter and discredited his allegations against Officer with clear evidence. (See letter from R. Boyd and U. Stuter to P. Godbold dated July 17, 2019). On January 29, 2019, the Office of Internal Affairs contacted RJD's ISU office to report that Mr. had contacted the Administrative Officer of the Day Hotline to file a complaint against Officer regarding the alleged January 26, 2019 incident included in your letter. Therefore, Defendants investigated the allegation a month before receiving your letter. On January 29, 2019, the assigned staff member interviewed Mr. and there were several inconsistencies in his story when compared to what he reported to you. Mr. reported to you that Officer approached him while he was taking a shower and shined a flashlight at Mr. private parts while staring him down in the shower. This allegation implies that Officer was in close proximity to Mr. However, when interviewed by the staff member, \overline{Mr} . stated that

Ms. Penny Godbold Page 2



has since transferred to DVI. Just today, we received a supplemental advocacy letter regarding

Ms. Penny Godbold Page 3

Mr. and allegations of additional staff misconduct and retaliation at RJD, which we will respond to separately.

Sincerely,

/s/ Russa Boyd

RUSSA BOYD Attorney IV Office of Legal Affairs

cc: Co-Counsel

Ed Swanson, Court Expert

Sandra Alfaro Kimberly Seibel Jennifer Barretto Kelly Mitchell

Exhibit 41e

CONFIDENTIAL

State of California		Department of Corrections and Rehabilita
Memorandur	n	
Date February 4	, 2019	Egg:
R.J. Donov	ran Correctional Facility	
Subject , ALLEGATI	ONS INQUIRY INTO PREA ALLEGAT	TON, INMATE
Richard J. Donovan reported that inmat contacted the Admir	Correctional Facility (RJDCF) Investigate Facility Officer of The Day (AOD) Hotel complaint against Correctional Officer	tive Services Unit (ISU). OIA Housing Unit 12 reported that
regarding his allega	ty 29, 2019, the RJDCF ISU conducted tion reported to the OIA AOD Hotline. arassed by Officer as he tried to g	reported that he
reading, writing and Mental Health Servi Disability and Effect Developmental Disa Additionally, basic E	rest of Adult Basic Education (TABE) I speaks English. is not be belivery System (MHSDS) at any dive Communications System (DECS) ability Program (DDP) code of Normal English and requesting that he repeat the words as he understood was	currently a participant in the level of care. A review of the noted that has a nal Cognitive Funtion (NCF).
allegation of Sexual give me a detailed stated assignment as Facil shower bag and prothe Lower A Section flash his flashlight a going to disrespect culinary worker and towards him while he the light towards his	me like that?" replied to also an ADA inmate. Officer stated was in the shower.	I asked to to on the day of said allegation. need from his assigned work ousing Unit 12, he retrieved his a Accessible shower located in

CONFIDENTAL

Page 2 of 4
shower because Officer would not stop shining the light at his genitals. I asked how he determined that Officer was directing the light towards his genitals. Stated because he kept pointing it towards him. I asked where Officer was standing when he was pointing the light towards his genitals. Stated that Officer began to strobe light him from the staff office he walked towards the shower. Then he came out of the shower and walked towards the shower. Again I asked where was Officer standing when he allegedly flashed the light towards his genitals. Stated, "He was by the counselor's office. I asked if he believed Officer directed the light from his flashlight towards his genital area for sexual pleasure. Stated, "Well I don't know what he was doing it for but it made me feel uncomfortable. Why else would he flash the light at me." I advised that the distance where he reported Officer was standing to the shower is a substantial distance to maintain a direct stream of light and aim it directly at a specific area such as his genitals. I explained to shower is not that the shower's in the housing units have metal plates which have been approved by PREA mandates to prevent "direct line of sight" viewing and "incidental" viewing.
I asked if it was common practice for all staff to utilize their flashlights to gain the attention of inmates or direct inmate movement. stated, "Yes but why did he have to keep flashing the light at me when I was in the shower?" I asked if Officer made any statements or sexual innuendos while he flashed the light towards him.

CONFIDENTAL

Page 3 of 4	
kept asking him if he was going to deny my ADA shower. I finally just got my sturwent back to my cell without showering." I advised that per policy the "ADA Shower" is given to identify a circumstance in which an inmate has soiled had or has had an accident. This definition does not apply to his allegation. Further what he is infact attempting to obtain was a "Worker shower." I asked Officer made any other comments.	e term nimself
I asked	stated, me my asked Officer nat am ith my
I asked if he had any additional information pertaining to this investigate which he responded, "No." With no further information provided by completed the interview	tion to
Upon a review of all available documentation, Strategic Offender Management System (SOMS), Electronic Reporting Management System (ERMS) and the interview this investigator determined that allegation did not meet in standard. Specifically, through questioning admitted to this investigator he magnified Officer actions of directing the light towards his genitals in mislead and substantiate his complaint of not being allowed to shower. It investigator assessment that was being misleading in his allegation when the continually attempts to circumvent the inmate "Worker Shower" process by attempting to shower without permission. It is less than truthful when report the actions of staff to mask his program violation.	w with PREA or that der to as this with an atently
was informed that this case did not meet PREA criteria detail. Department Operations Manual, Section 54040 and that if any information or case for should arise, this case will be re-opened and if circumstances warrant, will be referred further review.	actors
The evidence demonstrates that Sexual Harassment did not occur. Prison Elimination Act protocols were not initiated per CDCR policy. Therefore, this investig is closed with no further action requested by the RJDCF ISU.	

CONFIDENTAL

This memorandum is for ISU use only and will be retained in the ISU PREA folder.

ALLEGATIONS INQUIRY INTO PREA ALLEGATION,

Page 4 of 4

Correctional Sergeant Investigative Services Unit Richard J. Donovan Correctional Facility

APPROVED / DISAPPROVED

R.J. Donovan Correctional Facility

CONFIDENTAL

Exhibit 42

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 5. I am 55 years old.
- 3. I have been housed at RJD from 2016 to the present. During my time at RJD, I was first housed in Building 10 on Facility B. In September 2019, I was moved from Facility B to Facility A, Building 5.
- 4. I am an *Armstrong* class member. I am designated as DPW, which means I rely on a wheelchair, full-time. My left leg is amputated above the knee. As accommodations for my disabilities, I am housed in a wheelchair accessible cell on the ground floor, and I use a wheelchair to get around.
- I am a Coleman class member. I am at the CCCMS level of care. I have been diagnosed with anxiety and depression. I take medications to treat my mental illness.
- 6. I was a victim of staff misconduct at RJD. On August 6, 2019 at about 6 a.m., while I was in Building 10, two transportation officers told me that I had an eye doctor appointment at a facility in La Mesa. The officers pushed me in my wheelchair from Building 10 to the gate that separates Facility B from the central area of the prison. Before the gate, the transportation officers put hand cuffs on me in front of my body. The officers then pushed me to and through the gate. One of the transportation officers—Officer 1—then started pushing me to where the van was located to take me to the appointment. After we had moved about five feet away from gate, Officer 1 pushed the front right wheel of my wheelchair into a large and visible hole in the pavement. The wheel got stuck, but the officer kept pushing hard. The wheelchair then tipped all the way

forward. I was launched out of my chair. I fell very hard on my right knee. My hands, which were handcuffed, also hit the ground very hard when I tried to stop myself from falling. Because I was handcuffed, I was unable to effectively stop my fall, so the top of my head hit the pavement. The pain in my knee was very intense.

- 7. I believe that Officer 1 intentionally dumped me out of my wheelchair. The hole in the pavement in which my wheelchair got stuck is so easy to see and so easy to avoid that the only reason to push my wheelchair there would have been to make me fall.
- 8. The two officers picked me up from my armpits and put me back into my wheelchair. At that point, I realized that my right knee was bleeding because my pants had stuck to the area that had hit the ground. I pulled up my pant leg and saw that I had a very large scrape, about six inches by three inches, on the side of my right leg near my knee.
- 9. The officers started pushing me in the direction of the van. I told them, "Wait, wait, I'm bleeding. I want to go to the TTA." The TTA is the Triage and Treatment Area, which is a central medical clinic for the prison. The officers looked at each other, but did not say anything, and kept pushing me toward the van. I asked the officers two or three more times to take me to the TTA, each time getting louder because I was scared, upset, and bleeding. I also felt helpless because I needed medical attention, but I could only get it if these two officers, who had hurt me, decided to take me. Finally after about five minutes of me telling them that I needed medical attention, the officers changed direction, without saying anything, and took me to the TTA.
- 10. At the TTA, a nurse bandaged my leg. I told the nurse what had happened to me. I spent about 45 to 60 minutes in the TTA. The transportation officers were with me the entire time.
- 11. Once medical staff were done bandaging me, the transportation officers took me to the van and drove me to my appointment. When my appointment was over, they drove me back to RJD. When I got back to RJD, the transportation officers took me to the TTA to check me back in to the prison. Once that was done, Officer 1, the same officer

Initials ____

2 3 4

4

6

7

10

who dumped me out of my wheelchair, pushed me back to the gate separates Facility B from the central area of the prison. He pushed me through the gate and then went back out the gate. Through the gate, I asked him for his name. He walked away without saying anything. I had tried throughout the day to read his name on his uniform, but because of my bad eyesight, I could not read it. I still do not know his name.

+nat

- On August 17, 2019, with the assistance of another incarcerated person, I
 filed a 602 staff complaint about the August 6, 2019 incident.
- On October 2, 2019, I was interviewed in the program office on Facility A about my staff complaint. There were three people other than me in the room: a sergeant, a lieutenant, and Officer 1. I did not realize at first that Officer 1 was the third person because he was wearing a hat very low on his head and was wearing a different type of uniform than he was on August 6, 2019. The sergeant conducted the interview. I told him everything that had happened, including how I had been pushed out of my wheelchair by Officer 1 and how the officers refused to take me to the TTA despite me telling them that I was bleeding. The interview lasted about 30 minutes. Officer 1 did not say anything during the interview. At one point near the very end of the interview, the sergeant asked me how he was supposed to know which officer dumped me from my wheelchair on August 6, 2019. I told him to look at the transportation records. He then he pointed at Officer 1, and said "Maybe that one is the one who took you?" It was only then that I realized that the person sitting in the room with the hat on was the same person who had hurt me. I told the sergeant that Officer 1 was the person who had dumped me out of my wheelchair that day. The sergeant confirmed then that Officer 1 was the person involved in my incident. I thought it was very strange that Officer 1 was allowed to be present for the interview. When I realized it was him, it made me feel intimidated. It made no sense to me that the person who I claimed had hurt me would be present for the interview about my staff complaint.

27

23

24

25

26

- 14. After the interview was over, I pushed myself out of the interview room and down a hallway to the doorway that exits onto the yard for Facility A. When I reached that doorway, Officer I opened the door for me. I went through the doorway. After I had gone about 10 feet, Officer I said to me, "I remember everything." His voice was very stern. As soon as I heard his voice, I turned around and saw that he was pointing to his head while he was talking. I did not say anything and left the area.
- 15. I interpreted Officer 1's statement as a threat that he would remember that I had filed a complaint against him and that he would retaliate against me later. I am still very worried that he will do something to hurt me or get me in trouble (like planting a knife or drugs my cell). I have heard from many other incarcerated people that officers retaliate against people who file staff complaints. The incident has also made my anxiety worse.
- On October 10, 2019, I received a response to my staff complaint. RJD found that staff had not violated policy in any way.
- 17. I still have injuries and pain from when I was pushed out of my wheelchair. My knee hurts all of the time, especially when I use my leg to hop around my cell or to help move my wheelchair; my knee did not hurt like this before the incident. I have headaches, which I never had before the incident. Both of my thumbs hurt all of the time where the thumb meets the hand. I also have pain in my left shoulder that I never had before the incident.
- 18. The incident has also made me feel like I cannot trust staff because they ignored me when I asked to go to the TTA and because my staff complaint was denied. Now I do my best to avoid interacting with staff. For example, when I run out of toilet paper, I don't ask staff for more toilet paper because I'm worried about what will happen if I do. Instead, I pay other incarcerated people for toilet paper using items from canteen. As another example, if I'm unable to use the ADA accessible shower during dayroom because

	Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 117 of 398			
1	there are too many people using it, I do not ask staff to let me shower later because I am			
2	afraid of what they will do to me if I ask for something.			
3	I declare under penalty of perjury under the laws of the United States of America			
4				
5	4 110			
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
1	13481851.11 5 Initials			

Exhibit 42a

Filed Under Seal

Exhibit 43

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a
 witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is a second I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility D in Building 18. I am 48 years old.
- 3. I have been housed at RJD from October 2015 to the present. During my time at RJD, I have been housed in the following housing units: D18, C11, C12, and C13. I have also been housed in the B7 ASU Building while at RJD.
- 4. I am an Armstrong class member. I am designated as DPM. As accommodations for my disabilities, I am housed on the ground floor and in a lower bunk, and I use a cane to ambulate. When I was incarcerated at another prison, California Men's Colony (CMC), in 2012, I fell off of my top bunk onto my back, injuring my back badly. Since that injury, I have struggled with chronic back pain. I need a cane to help me get around. I also have a lower bunk, because I struggle to go up to an upper bunk without injuring myself. I cannot go upstairs, so I have a lower floor chrono.
- I have a number of serious medical conditions. I have a cirrhosis of my liver due to Hepatitis C, which I have been treated for in CDCR. Due to my liver cirrhosis, I am classified as high risk medical.
- 6. I was a victim of staff misconduct at RJD while I was housed on C-Yard in Building 12. On March 17, 2019, worked with other incarcerated people on C-Yard to assault me.
- 7. At approximately 11:30 a.m. on March 17, 2019, I was carrying the items I had purchased from canteen from the canteen to Building 12 during yard recall on C-Yard. In front of Building 12, I had a verbal confrontation with a group of other incarcerated people about some money that my cellmate owed them. As I was walking to my building, another incarcerated man whose identity I do not know came up to me and demanded.

Initials

some money that my cellmate allegedly owed him. I told him that I did not know what he was talking about. As we talked, a number of other incarcerated people who appeared to be in the same group as him came up and stood behind him. In an attempt to diffuse the situation and out of concern for my safety, I walked away from the group and entered Building 12.

- 8. I then waited outside my cell () until the tower officer, Officer opened my cell door. While I was waiting with my back to my cell door, I observed one of the people from the group with whom I had argued approach the podium in the middle of the dayroom and speak with Officers who were the floor officers in Building 12 at the time. During the conversation, the officers and the other incarcerated person all looked over at me standing in front of my cell.
- 9. Officer then opened my cell door. I entered my cell. While I was putting down my belongings, Officer closed the door to my cell completely.

 After the cell door closed, three other incarcerated people came up to my cell door and asked me for my cellmate's television. I told them through the door that the television was mine and that they should talk to my cellmate about their problems with him. I then turned around to put my canteen items away. After I had turned around, Officer reopened the door to my cell. Hearing my door opening, I turned around just as two of the incarcerated people entered my cell. One of the two people ran into my cell and punched me in the face, knocking me to the ground. The second man then entered my cell and started punching me repeatedly. As they assaulted me, the third person stood watch outside of my cell.
- 10. The two attackers assaulted me for approximately two to four minutes, kicking and punching me repeatedly. The attackers continued to beat me so badly that I thought they were going to kill me. The assault ended when one of the attackers punched me in the face so hard that I lost consciousness. When I regained consciousness, the attackers had left my cell, taking my television, radio, and canteen items with them.

- attackers to make the assault possible. First, Officer was the only person who could have opened or closed my cell door. Once I was in my cell and he closed the door behind me, there was no reason for him to reopen my cell door. The attack could not have occurred without him opening the door. Second, none of the housing unit officers did anything to stop the attack once it had started. During the attack, I looked through the open cell door to the podium area, hoping that Officers and would intervene. Instead, I observed Officers and look over as I lay on the floor of my cell and as the two incarcerated individuals repeatedly punched and kicked me and then walk in the opposite direction to a part of the unit (the A Section) where they could not see my cell. None of the officers, including Officer in the control tower, hit their alarms or made any attempt to stop the assault.
- 12. Shortly after the fight, my cellmate came back to our cell and Officer closed the cell door. I told my cellmate what had happened to me and why I had been assaulted. I then started banging on the door of my cell to get the attention of staff so that I could obtain medical attention. My nose was bleeding badly and my head was throbbing due to the assault. Due to the injuries to my face, it hurt to talk or move. I thought that my jaw had been broken. Neither Officer nor Officer came over to the cell to speak to me.
- 13. For the next three hours, I tried to get the attention of officers so that I could receive medical treatment for my injuries. I repeatedly asked other incarcerated people to speak to Officers and to explain my need for attention. When these people went to talk to the officer at the podium, I observed the officers wave them away.
- 14. I was not let out of my cell that day until pill call at approximately 3:30 p.m., when I immediately left my building and went to speak to an officer on the yard about the attack and my injuries. This officer escorted me to the Facility C gym, where I was examined by medical staff. Nearly four hours had passed since the attack. Upon examining me, medical staff immediately transferred me to the Triage and Treatment Area

(TTA) at the prison. Once I got to the TTA, medical staff evaluated me and then transferred me to Scripps Memorial Hospital in Encinitas, California. I stayed at the hospital for four or five hours before returning to RJD. While at the hospital, I received an MRI to check for internal cranial bleeding and X-Rays to check for broken bones. I was also prescribed multiple medications for the severe pain caused by my injuries.

- 15. I suffered multiple fractures to my face and nose as a result of the attack. I was told by my doctors that I needed surgery on my face to prevent my eye from falling into the orbital fracture around my left eye. I later underwent two surgeries in April 2019 to repair the damage to my face. During one of these surgeries, I had a metal plate installed below my right eye to stabilize some of the fractures. I now have no sensation in the left side of my face. I also often get headaches and struggle with the cold because the plate in my face has made my face more sensitive.
- 16. In the weeks following the assault, I regularly saw flashing lights and dealt with blurry vision in my left eye. I also had severe headaches and was very sensitive to light. During these first few weeks, I did not go outside and just laid in my cell in the dark because of my sensitivity to light. It is my belief that I suffered a concussion from the assault.
- 17. When I returned from the hospital, I told staff that I had safety concerns due to the assault and was taken to the administrative segregation (ASU) building. I stayed in the ASU building for around six weeks before I was sent to D-Yard, where I am still housed today.
- 18. I filed a staff complaint (602) about this incident while I was in the ASU. In the 602, I wrote that Officer and and worked with the incarcerated people to assault me. After I was transferred to D-Yard, I was interviewed by Ombudsman Jacobs and the first people to my appeal. The interview lasted approximately fifteen minutes. I told them how Officers and the opened my cell door to allow the other incarcerated individuals to assault me, intentionally ignored me and

my assailants as I was attacked, and refused my requests for medical attention in the following hours.

19. I received a formal response to my 602 approximately a month later. The response denied my allegations and informed me that the officers had not violated any CDCR policies that day. I immediately appealed the response to the next level. I received a response to my appeal in November 2019, which sustained the lower level findings that staff had not violated any policies.

20. The assault and, in particular, the way that the custody officers participated in the assault has severely affected me. I no longer go to chow or church because I no longer feel comfortable around officers and I am scared that I might get assaulted again. I also only go to yard occasionally because I am scared that I could get into another altercation. I mostly stay to myself in my cell so that I do not have to interact with officers because of what happened to me.

21. I have also witnessed staff engage in misconduct against other people at RJD. In 2016, I saw officers on C-Yard severely beat up another incarcerated man who suffered from mental health problems after he attempted to get more Kool-Aid during dinner. The incarcerated person was told by Officer that he couldn't get any more to drink. I then saw the other incarcerated individual dump his glass of Kool-Aid into the trash can and leave the chow building. As he was walking out, I saw Officer tell him to step aside and stand against the wall. Officer and other officers then searched him and then, after he attempted to turn around while they were searching him, suddenly tackled him to the ground and beat him severely. I watched as officers repeatedly punched and kicked him on the ground. I then witnessed Officer deliberately step on the man's arm in order to break it. After the assault, the incarcerated man was dragged away to the gym, bleeding and out of it, and I did not see him again for another year. This all happened over a glass of Kool-Aid.

28 ///

- 23. In my time at RJD, there have been a few times that I have needed help but didn't ask for it because I was afraid of what would happen to me if I talked to officers. I try to stay away from officers as much as possible and not ask them for anything. I do not even ask officers for toilet paper because I have lost all faith that officers have my best interest at heart. When I need something, I ask another incarcerated individual to ask an officer for me.
- 24. In my opinion, staff target people with mental health problems or physical disabilities with staff misconduct. I believe they target people with disabilities because they cannot defend themselves and have no protection from other prisoners.
- 25. I have been in CDCR prisons for about 30 years of my life. I have been to many tough, dangerous prison yards where officers engage in staff misconduct against incarcerated people. I have been housed in a number of different CDCR prisons, including RJD, CMC, CSP Corcoran, Folsom State Prison, CSP Los Angeles County, and CSP Solano. The staff misconduct at RJD is the worst that I have ever experienced.

24 ///

13

14

15

16

17

18

19

20

21

23

25 ///

26 //

27 ///

28 ///

26. In my opinion, the conditions at RJD are so awful because officers engage in staff misconduct more often and with less fear of repercussions than at other prisons.

When I have seen officers beat up incarcerated people at RJD, they use more force and inflict more serious injuries than at other prisons, without apparent fear of repercussion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

, California this 77 day of January 2020.

Exhibit 43a

Filed Under Seal

Exhibit 43b



50 Fremont Street, 19th Floor San Francisco, California 94105-2235 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Thomas Nolan

Email: tnolan@rbgg.com

July 17, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov Ursula.Stuter@cdcr.ca.gov

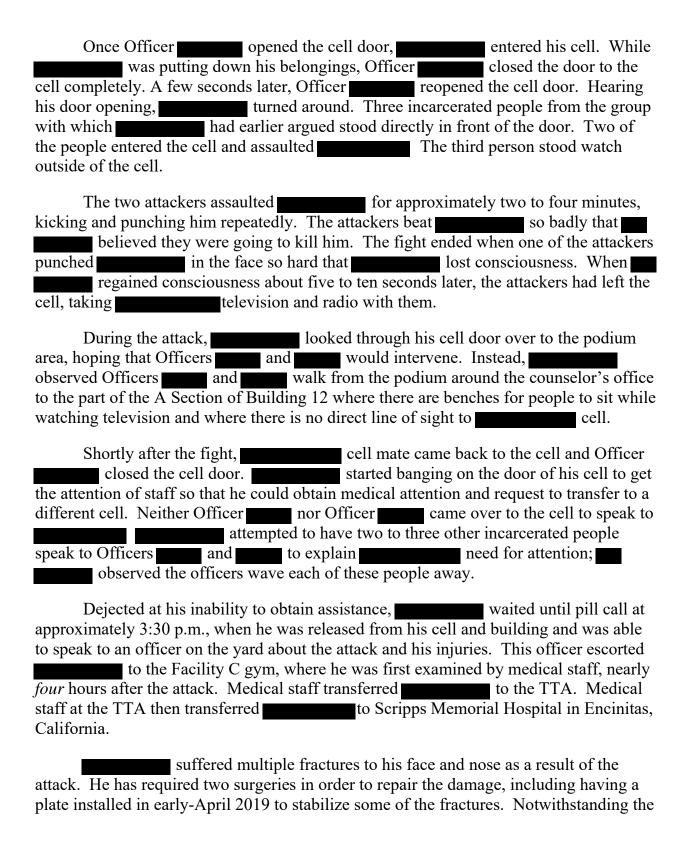
Re:

<u>Our File No. 581-3</u>
Dear All:
I write regarding a 47 year-old <i>Armstrong</i> class member at RJD who reports that RJD staff members conspired with incarcerated people to assault is classified as DPM.
At approximately 11:30 a.m. on March 17, 2019, reports that he was carrying his canteen order from the canteen to Building 12 during yard recall. In front of Building 12, had a verbal confrontation with a group of other incarcerated people. In an attempt to diffuse the situation, walked away from the group and entered Building 12.
then waited outside his cell until Officer the tower officer, opened the cell door. who was waiting with his back to his cell door, observed one of the people from the group with whom he had argued approach the podium and speak with Officers and During the conversation, the officers and the incarcerated person all looked over at standing in front of his cell.

Armstrong v. Newsom: Advocacy Letter re: Regarding DPM Class Member, Regarding Staff Misconduct at RJD

PRIVILEGED AND CONFIDENTIAL

Russa Boyd July 17, 2019 Page 2



PRIVILEGED AND CONFIDENTIAL

Russa Boyd July 17, 2019 Page 3

surgical interventions, still has no sensation in the left side of his face. Plaintiffs' counsel has confirmed these injuries in medical file.
filed a 602 about this incident. He reports that he has been interviewed by Ombudsman Jacobs and an unknown Lieutenant.
Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people (including attackers), non-custody staff members, or others who may have witnessed the assault and/or its aftermath. In addition, all evidence, including interview notes from the Lieutenant and Ombudsman Jacobs, as well as photographic evidence documenting injuries, should be obtained and preserved immediately for review. Plaintiffs' counsel request that staff do not engage in retaliation, including against and any other witnesses, in response to these allegations.
In addition, we request that, pending a thorough investigation, immediate action be taken to place Officers and and on administrative time off. If the officers return to work, the officers should not be permitted to occupy any positions in which they have contact with or can impact the lives of incarcerated people, especially Armstrong/Coleman/Clark class members.
Plaintiffs' counsel also requests that Defendants produce (1) 602 regarding this incident, along with any responses; (2) any photographs or videos of injuries taken by medical or custody staff; (3) any video or audio of interviews with regarding this incident; (4) interview notes, memoranda, or any such
///
///
///
///

PRIVILEGED AND CONFIDENTIAL

Russa Boyd July 17, 2019 Page 4

documents produced by the Interviewing Lieutenant and Ombudsman Jacobs; and (5) a copy of C-File.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman By: Senior Counsel

MLF:jrg

cc:

Ed Swanson Damon McClain Elise Thorn
Nicholas Weber Jerome Hessick Office of the Inspector General

Sharon GarskeTyler HeathLaurie HooglandJay RussellRoy WesleyKristin MooseAdriano HvartinCDCR OLA ArmstrongPLO Armstrong

Exhibit 43c

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



November 19, 2019

VIA EMAIL ONLY

Michael Freedman
Rosen, Bien, Galvan & Grunfeld
MFreedman@rbgg.com

RE: ARMSTRONG V. NEWSOM: ADVOCACY LETTER RE:					
Dear Mr. Freedman:					
I write in response to your July 17, 2019 letter regarding <i>Armstrong</i> class member reported to you that he was assaulted on or about March 17, 2019 while housed at Richard J. Donovan Correctional Facility (RJD).					
Prior to the receipt of your letter, a thorough inquiry into the allegations of staff misconduct was completed ¹ . The inquiry included interviews with multiple staff and with inmates, a review of all available documentation and the Strategic Offender Management System.					
The allegations you raised in your letter were largely covered by an appeal submitted on March 28, 2019. Was interviewed on June 12, 2019, in relation to his allegations about staff misconduct. He stated that the inmates who attacked him most likely did not live in the building. He was unable to provide their names or the names of any inmate witnesses but was able to identify staff. The staff he was able to identify were interviewed. One officer stated that had he observed any inmates in the building during that time who were out of bounds, he would have alerted floor staff and ordered the out of bounds inmate(s) out of the Housing Unit. The officer did note that he believed was alone at the time of the alleged incident.					

CONFIDENTIAL: FOR ATTORNEYS' EYES ONLY
SUBJECT TO PROTECTIVE ORDERS

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

Mr. Freedman

//

Page 2 Another officer stated during his interview that there were no incidents on that date that corresponded with the allegations. That specific officer also notes that he was not approached by any inmate expressing concerns for his safety on that date. A third officer was interviewed and stated there were no inmates in the Housing Unit who should not have been there on the date of the alleged incident. All deny the allegations of conspiring with inmates to assault There is, however, a documented concern, dated March 20, 2019, that were owed money to some other inmates which he was unable to pay and which caused him to fear for his safety on Facility C. It is also noted that was placed in the Administrative Segregation Unit upon return from his March hospital visit. was released to D-Yard on May 2, 2019, precisely in consideration of this safety concern. California Department of Correction and Rehabilitation (CDCR) confidentially interviewed three inmates who were housed near acceptance of cell during the time period surrounding the alleged incident. The inmates interviewed were all familiar with and and none had observed any activity that confirmed the allegations of Additionally, reported to you that his television and radio were taken by other inmates from his cell when he was assaulted. Property inventory was done on March 17, 2019 when was transported to the hospital. A television set and CD player were noted as part of the inventory in his cell at that time. After conducting interviews of staff and of inmates living in close proximity to **CDCR** denies that staff conspired with inmates to assault Documents that are available to such as the 602 filed by him related to these events and portions of the C-file, can be released to him directly, or to you, with an appropriate signed authorization that identifies you as counsel of record for these non-class action allegations. It is CDCR's position that the allegations you raised in your letter are not within the scope of the Armstrong case and, therefore, you are not entitled to them as class counsel. // //

Mr. Freedman Page 3

After a review of the available records and testimony, the allegations made by not supported by the evidence. CDCR considers the staff misconduct allegation inquiry closed. Sincerely,

/s/ Ursula Stuter

URSULA STUTER Attorney Office of Legal Affairs

Cc: Russa Boyd, Attorney IV Tamiya Davis, Attorney III

Exhibit 43d

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 138 of 398 CONFIDENTIAL SUPPLEMENT TO APPEAL

"APPEAL INQUIRY"

DO NOT COPY OR DISTRIBUTE EXCEPT PURSUANT TO CCR Title 15, Section 3084.9(i) (3) (B) 1.

Date: June 17, 2019
Appeal Log Number: RJD-D-1
Inmate/Parolee Name:
CDC Number:
Assigned Reviewer: Name and Title Correctional Lieutenant
Date and place of interview: June 14, 2019, on Facility D (Lieutenant's Office).
Accused Staff Member(s): Correctional Officer Correctional Officer Correctional Officer
Synopsis of Allegation: submitted an Inmate/Parolee Appeal (CDCR 602) dated March 28, 2019, alleging Correctional Officers and and failed to act while he was being assaulted.
Witnesses: stated that he does not have witnesses. However, this interviewer utilized the Housing Unit roster and cross-referenced SOMS and identified Inmates' housed in the neighboring cell(s).
A review of the TABE Score List revealed he has a score of 10.9, which is above the required minimum level of 4.0. The Disability and Effective Communication System revealed that is not a participant in the Mental Health Services Delivery System at any level of care.
Effective communication was established by reading the appeal documents to him in plain simple English. He was able to reiterate in his own words what was explained to him and was able to provide appropriate responses to questions asked as well as ask appropriate questions. Effective communication was established.
Findings: The CDCR 602 dated March 28, 2019; Log #RJD-D-1 the Strategic Offender Management System, TeleStaff; 128 Dated Sunday March 17, 2019, Administrative Segregation Unit Placement Notice, Bed Assignments and all related documents have been reviewed for this inquiry:
Interview of Inmate On June 12, 2019, I conducted an interview with Lieutenants'. During the interview documented on his appeal. During the interview, I questioned regarding his allegations. I asked to summarize the events that transpired that day along with the following questions;



On this day I was attacked by (3) three maybe (4) four black inmates in my cell they took my canteen. I noticed that my cell door opened up and they rushed in I tried to fight back but there was too many. The (3) three Officers just watched I could've died you know this is bullshit.

- Q.) Where were the Officers at when the assault took place?
- A.) I really don't know, but I later looked out my cell and could see them watching.
- Q.) What makes you think that allowed the Inmates to go into your cell?
- A.) Cops like him are scandalous.

After the inmates were done hitting me and taking my entire canteen my door was closed and I tried to get out the cell. But the cops wouldn't let me out. I was all beat up and banging on my cell door but I couldn't get out. I was able to get out once I went to go get my meds and I rolled up later.

- Q.) So why do you think the Officers let those Inmates in to do that?
- A.) I don't know why but they probably get along with them.
- Q.) Do you know any of the Inmates that beat you up?
- A.) No I don't I don't even think they lived in my building.
- Q.) Do you know if anyone witnessed the assault maybe a neighbor or someone?
- A.) No I don't think anyone did.
- Q.) what about your cell mate at the time?
- A.) Nah he wasn't there.
- Q.) Do you have anything further to add?
- A.) No

I concluded the interview with

Interview of Inmate Name ()	
On June 17, 2019, I conducted a confidential interview with Inmate in	the
Facility C Program Office. The interviewer identified Inmate as being assign	
to a during which time the alleged occurred on March	
2019. During the interview, I informed Inmate he was solely identified by	the
Interviewer as a potential witness to one of the allegations made by	
During the interview, I questioned Inmate regarding the allegation made	by
I asked Inmate the following questions:	
Q.) How long have you been in your current cell?	
A.) For quite some time now	
Q.) Do you know who	
A.) Yes a little bit.	
Q.) On the alleged date did you witness any staff member open the door to his cell a	and
allow inmates to go in and attack him?	
A.) What? No, I have been down for a while and I have never seen anything like that	
Q.) Do you recall your whereabouts the day of the alleged incident?	
A.) No not really but I usually am in my cell.	

I concluded the interview with I

Interview of Correctional Officer

Appeal Log # RJD-D-1	
witnesses. Interviews with inmate witnesses which were identified been housed within the vicinity of their whereabout incident. This information was analyzed to draw a conclusion. This was used to develop explanations of what transpired the Assignment roster of noted he was housed until 3/17/2019, when on this particular day was placed in A Unit, after staff received information from safety concerns.	esses were asked a series its the day of the alleged regarding the allegations. It day. A review of the Bed in 5/27/2018 Administrative Segregation
The overall accuracy of the account was taken into consider noted the following. That a documented Non-confidential 2019 authored by Correctional Sergeant indicate borrowed some appliances from some black guys and we monetary value of what he reports is \$4.00 dollars. Based or he is now targeted for an assault and fears for his safety did provide a name in the Non-Confidential who at the time was housed in Facility C, Housing Current Housing) and considers him an enemy.	Chrono dated March 20, ted that as unable to pay them a this feels on Facility C. However, Chrono as
A collection of the facts to determine whether injustices exwarranted in this alleged incident is unfound. No additional induring the interviews to substantiate his claim in this interviewed refuted what alleged. The interview on merit to the complaint filed by All were consistent with him having been involved in which ultimately lead to his self-expressed safety concerns, to provide any supporting evidence to his allegation in this recommendation no further inquiry is deemed warranted preponderance of evidence to support this finding. Therefore no disciplinary action be taken against due of evidence to the false allegations against correctional staff.	allegation was discovered allegation. All witnesses iewer concludes that there reports relevant to activity that he admitted to has failed a staff complaint. It is my Additionally, there is no
NameSig	4/11/19 pate
Name P. COVELLO Sign Althority	

Attachment E-1
Department of Corrections and Rehabilitation

State of California

Memorandum

Date : June 14, 2019

To

CDCR#

Richard J Donovan Correctional Facility

Subject:

STAFF COMPLAINT RESPONSE - APPEAL # RJD-D-19 SECOND LEVEL RESPONSE

APPEAL ISSUE: It is your claim Correctional Officer were in violation of negligence and failure to act. All issues, unrelated to the allegation of staff misconduct must be appealed separately and will not be addressed in this response. You do not exhaust administrative remedies on any unrelated issue not covered in this response or concerning any staff member not identified by you in this complaint. If you are unable to name all involved staff you may request assistance in establishing their identity.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal is:

> Being processed as an Appeal Inquiry.

You were interviewed on June 12, 2019 by Correctional Lieutenant in the Facility D Lieutenant's Office. During the interview, you reiterated the information you documented on your appeal and stated that you had nothing further to add.

A Confidential Inquiry has been conducted. The following information was reviewed or previously reviewed as a result of your allegations of staff misconduct:

- 1. Appeal Log # RJD-D-19
- 2. Bed Assignments
- 3. Administrative Segregation Unit Placement
- 4. Non-Confidential Chrono

EFFECTIVE COMMUNICATION:

A review of education records and the Disability and Effective Communication System (DECS) revealed you have a Test of Adult Basic Education (TABE) level of 10.9, and do not require any special accommodation to achieve effective communication. You are currently not a participant in the Mental Health Services Delivery System (MHSDS) at any level of care. Effective communication during the interview was achieved by using simple language, speaking slowly, clearly and loudly, reading the contents of the

Attachment E-1



appeal to you, allowing you ample time to process the information, and sufficient time to respond to questions. You clearly articulated your understanding by restating the information being discussed in your own words, asking and answering questions appropriately, and engaging in proper conversation. You further stated that you did not need any assistance with establishing effective communication.

Your appeal is PARTIALLY GRANTED in that:

The Appeal inquiry is complete/ has been reviewed and all issues were adequately addressed.

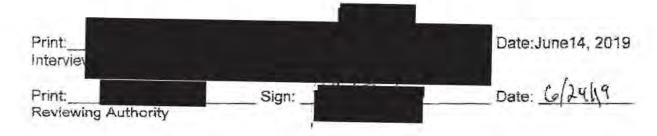
The following witnesses were questioned: Correctional Officers in the following information was reviewed as a result of your allegations of staff misconduct: CDCR 602, Inmate Appeal Form dated March 28, 2019, Log #RJD-D-19

Staff did not \infty violate CDCR policy with respect to one or more of the issues appealed.

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.

- As such, the details of any inquiry will not be shared with staff, members of the public or offender appellants.
- Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint.
- Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process.

If you wish to appeal the decision and/or exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.



STATE OF CALIFORNIA INMATE/PAROLEE APPEAL DEPARTMENT OF CORRECTIONS AND REHABILITATION

1 1 1 1	IAB USE ONLY	Institution(Paraly Region) - 1005 Easternal
	×	FOR SHOP USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy of regulation that has a metarial edverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 5084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filling of this appeal. If additional space is needed, only one CDCR Form 802-A will be accepted. Refer to CCR 2084 for further guidence with the appeal process. No represels will be taken for using the appeal process.

		-
its briefly the subject of your appeal (Example: damaged	TV, job removal, etc.):	
Explain your issue (If you need more space, use Section	n/A of the COCR 802-A): [737 3-17-19 Of	
200x, 11.25 am 1 1140 1	throng from my simply 1 HAY 10 2618	1
anten clow, when / 18	as conformed by 3 Black	
whater they have asking	HE TO GIVE THEM YOU	
Action requested (If you need more space, use Section	10 - 1 6 7 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -	10
e nera accompance for their	ations and That by Store be	2
turned along with my 1, 8., 6	Auto, 30 of Confects, and the KALLICON	1
10st 70 BE punished to Th	& FULLERY OF THE LOUIS	
oporting Documents: Refer to CCR 3084.3. Yes, I have attached supporting documents.		
supporting documents attached (e.g., CDC 1083, Inmate P	Property Inventory; CDC 128-G, Classification Chrono):	
	_	
No, I have not attached any supporting documents. Reaso	In still waiting for my	
	so having surey on the	
The side of my Are. here	ause of this usur.	
	<u> </u>	
nate/Parolee Signsture	Date Submitted: 3 4 19	
		Co.
By placing my initials in this box, I waiv	ns my right to receive an interview.	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been:	ns my right to receive an interview.	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E.	ns my right to receive an interview.	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date:	re my right to receive an interview. Staff - Check One: Is CDCR 602-A Attached? Yes No	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date:	re my right to receive an interview. Staff - Check One: Is CDCR 602-A Attached? Yes No	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to:	Staff - Check One: Is CDCR 602-A Attached? Yes No Dete: Date: Date: Date: Date: Date: Date: Date: Date Date: Date Date: Date Date Date	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to:	re my right to receive an interview. Staff - Check One: Is CDCR 60Z-A Attached? Yes No Date: Date: Date:	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to: st Level Responder: Complete a First Level response. Including Date of Interview. our appeal issue is: Granted Granted Granted in Part	Staff - Check One: Is CDCR 602-A Attached? Yes No Date: Date: Date: Date: Date: Date: Date: Date: Date Interviewer's name, title, interview date, location, and complete the section below. Interview Location: Denied Other:	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cencelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to: Inst Level Responder: Complete a First Level response. Including Date of Interview: See attached letter. If dissatisfied with	Staff - Check One: Is CDCR 602-A Attached? Yes No Date: Date: Date: Date: Title: Date Assigned: Date Due: Interview Location: Denied Other: First Level response, complete Section D.	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to: "st Level Responder: Complete a First Level response, Including Date of Interview: "our appeal issue is: Granted Granted Granted in Part See attached letter. If dissatisfied with terviewer: [Part Name]	Staff - Check One: Is CDCR 602-A Attached? Yes No Date: Dat	
By placing my initials in this box, I waiv First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: Accepted at the First Level of Review. Assigned to: Total Plant Complete a First Level response. Including Date of Interview: Date of Interview: See attached letter. If dissatisfied with terviewer: (Part Name)	Staff - Check One: Is CDCR 602-A Attached? Yes No Date: Date: Date: Date: Title: Date Assigned: Date Due: Interview Location: Denied Other: First Level response, complete Section D.	
First Level - Staff Use Only is appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: Cancelled (See attached letter) Date: I Accepted at the First Level of Review. Assigned to: Inst Level Responder: Complete a First Level response, Include Date of Interview: Dur appeal issue is: Granted Granted Granted in Part See attached letter. If dissatisfied with Iterviewer: (Part Name) Title:	Staff - Check One: Is CDCR 602-A Attached? Yes No Date: Dat	

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 147 of 398

STATE OF CALIFORNIA INMATE/PAROLEE APPEAL COCR 602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 2

for processing within 30 calendar days of receipt of response. If you need more space, use S	BOOM DO THE COUR DOCA.
A CONTRACTOR OF THE PROPERTY O	
VIII ACTIVITY OF THE PROPERTY	- Control - Cont
707 - 4160	The state of the s
10 to	
The same of the later of the same of the s	
nate/Paroles Signature:	Date Sub-300-4
f you are dissatisfied with the Second Level response, explain reason below, altach	supporting documents and submit by mail for Third
dylew. It must be received within 30 calendar days of receipt of prior response. Mail to Chi	ief Inmale Annesis Preoch Department of Corections
CYNEW. It must be received within 30 calendar days of receipt of prior response. Mail to Chi	ief Inmale Annesis Preoch Department of Correction
teview. It must be received within 30 calendar days of receipt of prior response. Mail to Chi	ief Inmale Annesis Preoch Department of Corections
(eyiew. It must be received within 30 calendar days of receipt of prior response. Mail to Chi	is I Inmale Annesis Prooch Department of Corrections
eview. It must be received within 30 calendar days of receipt of prior response. Mail to: Chi Idhabilitation. P.O. Box 942883, Sacramento, CA 94263-6001. If you need more space, use	ief, Inmate Appaels Branch, Department of Corrections a Section F of the CDCR 602-A.
eview. It must be received within 30 calendar days of receipt of prior response. Mail to: Chi Idhabilitation. P.O. Box 942883, Sacramento, CA 94263-6001. If you need more space, use	ief Inmale Annesis Preoch Department of Corections
Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chi Idhabilitation. P.O. Box 942883, Sacramento, CA 94263-6001. If you need more space, use	lef, Inmate Appeals Branch, Department of Corrections a Section F of the CDCR 602-A.
interview. It must be received within 30 calendar days of receipt of prior response. Mail to: Chi Ishabilitation. P.O. Box 942883, Sacramento, CA 94283-6001. If you need more space, use Interview of the state of the second se	ef, Inmate Appails Branch, Department of Corrections a Section F of the CDCR 602-A. Data Submitted:
enter Parolee Signature: hird Level - Staff Use Only ppeal has been: jected (See sitteched letter for instruction) Date: Date: Date: Date:	ef, Inmate Appails Branch, Department of Corrections a Section F of the CDCR 602-A. Data Submitted:
intervention of the content of the c	Date: Date:
enter Parolee Signature: hird Level - Staff Use Only ppeal has been: jected (See attached letter for instruction) Date: Date: Date: Date: Date:	Date: Date: Date:
intervention of the content of the c	Date: Date: Denied Gront
mate/Perolee Signature: mate/Perolee Signature: mird Level - Staff Use Only peal has been: lected (See attached letter) Date: peopled (See attached letter) Date: peopled (See attached letter) Date: peopled at the Third Level of Review. Your appeal issue is Granted Granted in Part See attached Third Level response.	Date: Date: Denied Other: Third Level Use Only Date mailed/delivered to appellant
innate/Parolee Signature: Initial Level - Staff Use Only ppeal has been: jected (See attached letter) Date: papeal at the Third Level of Review. Your appeal issue is Granted In Part See attached Third Level response.	Date: Date: Denied Other: Third Level Use Only Date mailed/delivered to appoilant
encelled (See attached letter) Date:	Date: Date: Denied Other: Third Level Use Only Date mailed/delivered to appoilant

TE OF CALIFORNIA MATE/PAROLEE APPEAL FORM ATTACHMENT		DEPARTMENT OF CORRECTION	
CR 602-A (REV. 03/12)			Side
	IAB USE ONLY Institution/Parole R	legion: Log &	Category:
			Harris Maria
		POR STATE USE ONLY	
each this form to the CDCR 602, only if more space	is needed. Only one CDCR 602-	-A may be used.	
		100 10 C 10 10 10 10 10 10 10 10 10 10 10 10 10	
		helt pro-	
			-

n.			
See			28.19

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 149 of 398

Exhibit 44

- 2

DECLARATION OF

declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at California Health Care Facility ("CHCF"). I am 38 years old.
- 3. I was housed at RJD from September 2019 to December 29, 2019, when I transferred to the California Institution for Men ("CIM") to receive inpatient mental health treatment in a mental health crisis bed. I was then transferred from CIM to CHCF on January 31, 2020 to receive treatment in the Psychiatric Inpatient Program.
- 4. During my time at RJD, I was housed on Facility C, Building 14 for about three weeks. I was then housed in Building 6 on Facility B, which is Administrative Segregation, from October 8, 2019 until I transferred to CIM on December 29, 2019.
- 5. I am a *Coleman* class member. I am at the Acute level of care. I have been diagnosed with severe depression. I get very sad. I am not currently suicidal but I think about suicide every day. I feel miserable inside and have no hope.
- 6. I have a number of serious medical conditions. I am classified as high-risk medical. I have diabetes, Hepatitis C, and high blood pressure.
- 7. I was a victim of staff misconduct at RJD. On October 4, 2019, at about 10 a.m., I was taken to the Facility C gym after I had an altercation with housing unit staff, including Officer in Building 14. I was put in one of the holding cages. A sergeant, whose name I do not know, came up to the holding cage and started asking me questions about the altercation. Ultimately, we got into a verbal confrontation. At the end of the conversation, the sergeant said to me, "I'm going to see how loyal my staff is." He then walked away. I interpreted his statement as a threat that officers on the yard would make my life difficult and harass me as a result of this altercation.

- 8. Four days later, on October 8, 2019, at approximately 11:30 a.m., I was let out of my cell to get my diabetic shot. There was a sergeant and some officers in the building who handcuffed me. They told me I was going to the administrative segregation unit ("ASU") because someone provided information that I was going to stab Officer

 I went to classification committee on around October 14, 2019. The committee decided to continue to hold me in segregation pending completion of the investigation into the allegations against me.
- 9. On November 8, 2019, I went to committee again. This time, the committee indicated that the investigation was complete and that I would not be issued an RVR. The only change in my situation was that the committee indicated that I would have a staff separation order from Officer and that I now had three confidential enemies on Facility C. The committee decided to hold me in segregation until I could be transferred to another institution.
- 10. On December 4, 2019, I returned to RJD after being at an outside hospital to treat a broken finger on my right hand. When I got back to RJD, I was taken to the Triage and Treatment Area ("TTA") in the central part of the prison. There, Officer placed one loop of a flex cuff, which is basically a strong zip tie with two loops that can be tightened to use as handcuffs, on my right wrist. He placed one loop of metal handcuffs on my left wrist. He then connected the flex cuff and the metal handcuff by linking the open cuff on the flex cuff and the open cuff on the metal handcuffs. Together, the flex tie and the handcuff functioned like two handcuffs linked together. I was cuffed in front of my body. I was then transported in a van from the TTA to behind Building 6. I got out of the van and was escorted into a holding cage in Building 6.
- 11. At about 9 p.m., Officer escorted me from the holding cage to cell 114. I went into the cell. I stuck both of my hands through the food port, which is a small opening in the door, for Officer to remove the handcuffs from my wrists. He unlocked the metal handcuff from my left wrist and from the loop of the flex cuff. At that

point, I had my right wrist in one loop of the flex cuff, the other loop of the flex cuff was empty, and my left wrist was unrestrained. Officer then put my left wrist into the open loop of the flex cuff and tightened it hard. At that point, both of my wrists were restrained in the flex cuff. I asked Officer flex, "Are you going to take these off?" Then, while he slammed the food port closed, he said, "You know how to take them off." He then walked away. I thought he was joking and that he was going to get some scissors to cut off the flex cuffs. But he never came back to my cell.

- 12. For most of the next hour, I stood in front of my cell window, waiting for someone to come back to remove the handcuffs. No one came. I could not take the cuffs off myself. At about 10 p.m., there was a shift change in the building. At about the same time, I went to sleep as I was exhausted from a long day getting medical treatment for my hand. The cuffs were still on my wrists.
- 13. At some point in the middle of the night, I woke up because my blood sugar had dropped. I self-tested myself and saw that my blood sugar was 38. The normal range is 70-120, so 38 is really low. I was shaking, sweating, and confused. I banged on my door to get the attention of an officer. An officer came over. I held up my glucose monitor to show him how low my blood sugar was. When I did that, my wrists were right in front of the window, such that he could have seen the cuffs still on my wrists. The officer walked away. He returned and gave me some crackers through the food port. He closed the port and walked away. He did not say anything about the cuffs or do anything to remove them.
- 14. When I woke up the next morning, I boarded up the window of my cell to get staff attention so that I could talk to a sergeant. Sergeant came to my cell. I showed him the cuffs and asked to have a video-taped interview. He then took me to the sergeant's office in Building 6. At about 6:40 a.m., a lieutenant came and interviewed me on video about having the cuffs kept on all night. Sergeant

3

15.

16.

overnight.

17.

for at least a few hours.

of me at about 7 a.m., after we finished the interview. I was forced to live with the cuffs on for approximately 10 hours.

circulation to my broken finger. It caused me a lot of pain and made it very difficult to

sleep. Even once the cuffs were removed, I experienced numbness and tingling in my arm

p.m. to do afternoon diabetic check. He handcuffed me through the food port and took me

out of the cell. He then said to me, "They interviewed me. I'm a fucking marine vet, I've

been wounded. You're not getting money out of this. They're gonna believe anything I

tell them." He said this in a very aggressive and threatening tone of voice. In presumed

that he was talking about an interview related to Officer leaving the cuffs on me

would try to do other things to me, like set me up for a serious crime, assault me, or

destroy my property. At RJD, it felt like staff could do whatever they wanted and get

away with it. I was especially concerned about what would happen if I got sent back to

Facility C. In the ASU at RJD, there are cameras, so I was relatively confident that staff

would not assault me. There are no cameras in the Facility C housing units. As a result, I

worried what staff would do to me if I went back there.

Given what I experienced at RJD, I was terrified that staff at the prison

During the night, the flex cuff plastic dug into my right forearm and cut off

On December 11, 2019, Officer came to my cell at around 4 or 4:30

4

6

7

10 11

9

12

13

14

15

161718

19 20

21 ///

22 ///

23 ///

24 //

25 //

26 //

27

28

I've been in CDCR prisons for the last 13 years. I've been on almost every 18. Level 4 yard in CDCR. I was in the Corcoran Secure Housing Unit for five years. I've been at a number of Level IV 180 yards at High Desert State Prison, Salinas Valley State Prison, CSP – Sacramento, all of which are very high security facilities. Even though I was only at RJD for a few months, the officers at RJD were the worst I have experienced at any prison. They treated prisoners like dirt. They verbally abused prisoners. And as demonstrated by my experiences, they acted like they can get away with anything.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Stockton, California this (day of February 2020.

Initials

Exhibit 44a

STATE OF CALIFORNIA
INMATE SEGREGATION RECORD

DEPARTMENT OF CORRECTIONS

(M-Medications) (MD-Doctor/RN/MTA) (D-Dental) (P-Psychiatric)	CDC 11					LCOR						88	¥:	57		210			f6
All months schinding-densitation must be determined in dead Sault Completing the record shall not any must be designed by the least of the schinding of the property of the schinding of	CDÇ NI	ÚM															<u> </u>		L.Cr.
All months schinding-densitation must be determined in dead Sault Completing the record shall not any must be designed by the least of the schinding of the property of the schinding of		88486															D Common		
AND THE CONTRACT OF THE CONTRA																			
COMMENTS DATE STAFFRAMETITE ST		ECTION	SHOWER	SUPPLIES ISSUED		CLOTHING EXCHANGE	MEDICAL/PSYCHIATRIC CONTACT	ADMINSTRATIVE CONTACT	VISIT .	LEGAL LIBRARY	MEAL	TRASH DISPOSAL	CELL MAINTANANCE/REPAIR	COUNT	TIME OUT TO YARD	TIME IN FROM YARD	All inmate activities/contacts must be docur all programs, activities, and services afforced any unusual behavior displayed by the inmate CELL SEARCH: A search of the cell was compile the comment section. Cells will be search of the cell was compile the comment section. Cells will be search of the cell is satisfactory. SHOWERS: Each opportunity provided to an be noted as an R. SUPPLIES ISSUED/INEN EXCHANGED/CLOTH each area as appropriate. Refusal will be not MEDICAL/PSYCHIATRIC; Contacts shall be documented by the staff making the VISIT/LEGAL LIBRARY: All access to these promises the comment of th	nented in detail. State degreepated inmate to white confined in letted Staff shall document to showers in links exchanged prior to and folloid weekly to ensure inmate to showers it links exchanged: State as an R. cumented by the mattice contact, grams shall be documented by the mattice contact, grams shall be documented by the mattice contact. The shall be documented by the matter to yard. Refusai shall to from yard. Refusai shall the form yard. Refusai shall be documented by the matter to yard. Refusai shall be documented by the properties of the form yard. Refusai shall be documented by the properties of the proper	es. Staff shall additionally documen segregation. unment the results of the search wing an inmate's occupancy that the lighting, plumbing, and hall be documented. Refusal shall taff shall document documented. Staff shall document edical or psychiatric staff staff, of dinner, or R for a refusal, all be documented by placing staff shall be documented by clacing staff shall be documented by
2/00 Aftern Agen /2/4/ http://discontinues.com/			-		200. 0	8 8	0.4	100			45.0			N. Communication					
2/00 Aftern Agen /2/4/ http://discontinues.com/	Ţ	Ĭ	T										-	3	r		1,0	12-4	
2/00 Refam from 12/4 / 12/4		7					- 9												
															(-)		1	-	
	201						- 62		- 0			hi i				9/10	Which from	10/4	
	T-	-											¥.			-	h140:401	10/4	
		1				2703				P. 11.11.12		:===	•		~		magni, 41	12/1	*
	+	\top				1000000				•	,					1			
	1	1	+	-						-									
	+-	+	-					-											
	-		-201		,	84-9203							-	3					
	0	+	-	\dashv			1	100.00); 		
		+												0				C+1000578	* * * * * * * * * * * * * * * * * * *
	- -			-	1000					2.450								 	
		+				\rightarrow				-		8							
		+	+								025 - 12			51 1750	et.	λ.	19 2 (c = 1-89a) - 25		
	-	+	-		-	_						6							
		+	-					02. 88	1000			20125			- 920				
			-								. ,.						-		
	-								- 4					-				1000	
			_												- 62				
		_						00000				1		8					
					ì								20						
	1000				0.		V - 180												
	8				10.7			8752					- 2				,		
					18.0	1.550								7/ 35					121 12 74 74 74 74
					() () ()	West AX							اعمير				No. 1987 - 100 (2000)		
	.(9)		1							34349			g					- 16	
	7		8		- 1711	-00			-9.8%	0.50							4		
	1		+																7.7
			774.50	\rightarrow		1985													
	-	+				-												1	

STATE OF CALIFORNIA INMATE SEGREGATION RECORD

DEPARTMENT OF CORRECTIONS

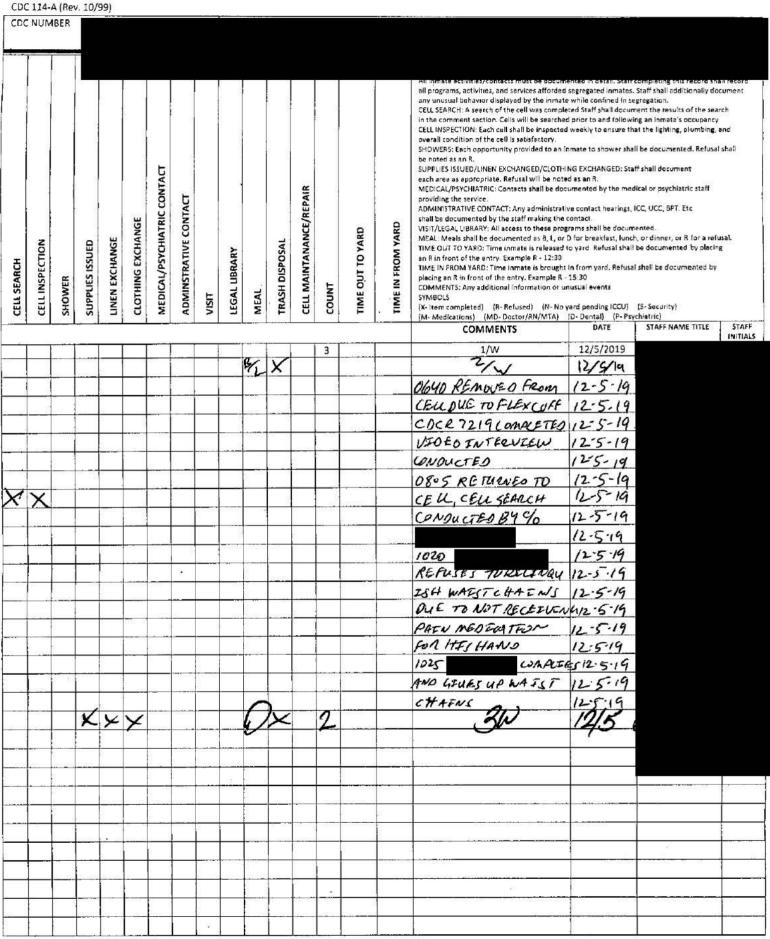


Exhibit 45

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is ______. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility B in Building 9. I am 57 years old.
- I have been housed at RJD from September 2016 to the present. During my time at RJD, I was housed on Facility A in Building 4 until September 2019, when the general population inmates were moved from Facility A to Facility B.
- 4. I am an *Armstrong* class member and I am also classified as high risk medical. I am designated as DPM and DNH. As accommodations for my mobility disability, I am housed on the ground floor in a lower bunk, and I use a walker and cane to get around. I have a mobility vest because it is hard for me to get down on the ground during an alarm. I also use hearing aids.
- 5. I was a victim of staff misconduct at RJD. On September 1, 2019, at around 12:00 pm, Officer came to my cell in Building A4 and told me that I had to take a mandatory random drug test. I asked to speak with a sergeant because I had been tested twice before in the last three months, so I did not understand why I needed to be tested again. Officer refused and told me, "I ain't got time for this shit." He asked if I was refusing to take the test, but I told him that I was not, and that I just wanted to talk to a sergeant to find out why I had to take another urinalysis ("UA") test. I reluctantly agreed to take the test.
- 6. When I left my cell, Officer told me to face the door. When I did, he cuffed my arms behind my back tightly. I told Officer that I needed waist chains so that I could use my walker or cane for support, but he ignored me. Officer replied, "You're an asshole, a real asshole. You're the cause of a lot of stuff

around here." I understood Officer to be referring to the many successful grievances that I have filed about medical and ADA issues and staff misconduct.

- 7. Officer led me across the dayroom to the toilet in the B-Section of the housing unit for the UA test. I asked if we could do the test in a more sanitary area, because the dayroom toilet was filthy, but he refused. I then yelled up to Officer the tower officer, and asked him to call the sergeant, and he nodded his head that he would. I asked Officer if he could at least loosen the handcuffs, but he just smiled at me. I called out again to Officer to ask if he had called the sergeant yet, and he nodded again.
- 8. Suddenly, Officer called me an "asshole," grabbed me by the back of my left arm, and threw me to the ground. I fell hard on my hip because I was still handcuffed so I could not break my fall with arms. My back was hurting so much, and my head almost hit the staircase. I was luckily able to turn my head as I fell and just avoided smashing my head on the stairs. The assault happened right in the middle of the dayroom in public view, so many other incarcerated people and staff saw what Officer did did to me.
- 9. After I was thrown to the floor, I stayed on the ground handcuffed for about ten minutes. I was not able to get up on my own because of the pain, and I called for medical attention. Two other officers in the housing unit came over. I do not know their names because they were not regulars in our building. One of these officers ("Officer A") spoke with Officer in Spanish. I could not understand what he was saying, but it appeared from reading his body language that Officer A was upset with Officer and did not approve of what he had done to me. Officer and Officer A helped me up, and I was left standing handcuffed in the dayroom with my arms behind my back while Officer called for help on his radio. Another officer I did not recognize ("Officer B") came into our building from the yard. Officer and Officer B escorted me to the toilet in B-Section of Building A4.

Initials 1

[3474712.3]

- 10. At the urinal, Officer asked me if I had anything in my pants, and I told him I did not. Without warning, Officer B pulled my pants and underwear down to my knees, so that I was naked from the waist down. Officer B held a cup up to my penis, expecting me to urinate into the cup even though I could not aim the flow, since my hands were still handcuffed behind my back. I tried to urinate in the cup but the officer moved the cup away from my penis, and I urinated all over my pants and my legs. I felt violated and humiliated. I have been tested in the past but I have never been cuffed during a UA test, and I have never had my pants forcefully pulled down by an officer without my consent.
- front, I told Officer that my back and side hurt and asked him to contact medical and a sergeant for me, but Officer refused. He told me the sergeant was busy, and that I could see medical later. Officer then finally removed the handcuffs. I was not seen by medical until two days later, on September 3, 2019. When I was seen by medical, I told them about what Officer had done to me, but they did not seem to want to hear about the assault.
- 12. I believe that Officer singled me out because of my reputation for causing trouble among staff, because I have been successful in winning appeals involving ADA and medical issues. I believe this because of what he said to me about me being a cause of a lot of the trouble in the housing unit right before he threw me to the ground.
- 13. Later that day, around dinner time, I reported to Sergeant that Officer had thrown me to the ground and that the UA test was done in a humiliating way, but Sergeant just defended Officer I was so upset about the staff misconduct against me that I went on a hunger strike that night, which lasted 25 days.
- 14. On around September 4 or 5, 2019, Sergeant Interviewed me on video about Officer staff misconduct. Rather than trying to find out what happened, Sergeant disputed my account, even though many people in housing unit witnessed Officer assaulting me. He insisted that I must have been

Initials

[3474712.3]

1	"resisting" Officer orders. This is not true. I am worried that Sergeant
2	may have deleted parts of the video when I accused him of being part of the problems at
3	RJD for condoning what Officer and Officer B did to me. I saw Sergeant
4	push a button on the video camcorder every time I would begin talking about the way he
5	contributes to the culture at RJD that allows officers to attack prisoners without
6	consequences.
7	15. On the same day of the interview, on around September 4 or 5, 2019, I filed
8	a 602 against Officer for staff misconduct, and an 1824 reporting that I was forced
9	by Officer to walk while handcuffed behind my back without my walker or cane,
10	and was pushed onto the ground by him. On September 8, 2019, I was told my 602 was
11	being processed as a staff complaint.
12	16. On September 9, 2019, a day after my 602 against Officer was
13	processed, I was given an RVR based on the September 1, 2019 incident for delaying an
14	officer in the performance of his duties. Because of the 8-day delay in issuing the RVR,
15	and the fact that it was issued only a day after my 602 staff complaint was processed, I
16	believe that this false RVR was retaliation for me reporting the staff misconduct and
17	disability discrimination against me by Officer and Officer B.
18	17. On October 1, 2019, I was found guilty of the RVR. At the hearing, the
19	hearing officer, a Lieutenant whose name I do not know, refused my request to interview
20	witnesses or to review the defenses that I prepared. The hearing officer told me, "I believe
21	my officer, and I'm going to find you guilty. If you don't like it, 602 it." He made it very
22	clear that he had no interest in finding out what had happened, and that it did not matter
23	how many witnesses saw what Officer did to me. He had already decided that I
24	was guilty because Officer said so.
25	18. I took the hearing officer's advice and filed a 602 challenging the RVR, Log
26	No. RJD-B-19- On November 29, 2019, I was interviewed by a female Lieutenant
27	for my 602, a female third watch Lieutenant
28	assigned to Facility A—and she told me right away that my 602 was granted and that the
	[3474712.3] 4 Initials_

RVR against me was dismissed. She did not explain why, and I have not actually received the written response yet saying that the 602 was granted. The response was due on December 5, 2019. I had already served 30 days locked down in my cell, so even though my RVR was dismissed on appeal, I had already been punished.

- Officer B for their staff misconduct against me. I continued to see them both working on Facility A, even after I filed the 602 reporting what they had done to me. One of the times I saw Officer shortly after he filed the RVR against me, he told me, "we always get the last laugh." Both Officer and Officer B were still working on Facility A right up until I was moved to Facility B. So far as I know, they are still working there.
- 20. I have also witnessed RJD staff engage in misconduct against other people. I observed officers assault an inmate named CDCR number in the building B9 about a week after the general population inmates transferred to Facility B from Facility A in September 2019. In the morning, around 9:00 am, I was sitting in cell on the lower tier of A-Section of the housing unit. From my cell, I can see directly into Mr. Section on the upper tier of C-Section, which is right across the dayroom from me. I could hear a commotion in the building, and I looked up and saw three officers standing in front of cell. I recognized that two of the officers were regular building officers for B9 and one was a yard officer for B Yard, but I do not know their names.
- 21. I saw the cell door open and one inmate got off the bottom bunk, exited the cell, and went downstairs. From what I could see, the officers looked like they instructed him to go downstairs. The officers appeared to be aggressively talking at Mr. who was standing and talking with them. After only a few words, all three officers rushed in and knocked Mr. to the floor. It happened so fast. The officers were on top of him and they were throwing blows at him. The officers soon cuffed his hands high up behind his back, above his head. The officers then escorted Mr. out of the building. I have not seen him since.

[3474712.3] 5 Initials _

- 23. The staff at RJD appear to be focused on asserting their authority over us, rather than following policy and answering requests for help from people who need it. They get frustrated and angry if you ask for help, so people who ask for help more often are the ones who they take out their aggression on. They also hate people who "litigate" by filing 602s or other grievances, so they retaliate, as they did to me, if they see you as a troublemaker for making too many requests or raising issues about help people need. The officers often automatically say no when you ask for something, and just tell you to "file a 602 on it." To me, they appear confident that if a 602 is filed against them, they will be protected by other staff to make sure there are not consequences.
- 24. I have also seen how the officers at RJD disregard people with disabilities in smaller ways. For example, officers frequently walk down the path of travel that is for wheelchairs, forcing people who use wheelchairs or walkers to move off the path and onto the rougher dirt where it more difficult to get around without tripping and falling.

18 ///

19 //

1

3

4

5

10

11

12

13

14

15

16

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

[3474712.3]



25. I have been in CDCR prisons for about 22 years of my life. I have been housed in a number of different prisons, including High Desert, Mule Creek, Vacaville, Salinas Valley, California Men's Colony, and Corcoran. The staff misconduct at RJD is by far the worst of any prison I have been in. The staff here shows a complete disregard for incarcerated people, and it appears that the higher-ups are protecting the officers and are not interested in holding staff accountable for misconduct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

RJD/in San Diego, California this 7 day of January 2020.

Initials

[3474712.3]

Exhibit 45a

Filed Under Seal

Exhibit 45b



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

Mike Freedman

Email: mfreedman@rbgg.com

October 29, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs russa.boyd@cdcr.ca.gov ursula.stuter@cdcr.ca.gov

Re: Armstrong v. Newsom: Advocacy for

, DPM, DNH

Regarding Staff Misconduct at RJD

Our File No. 0581-03

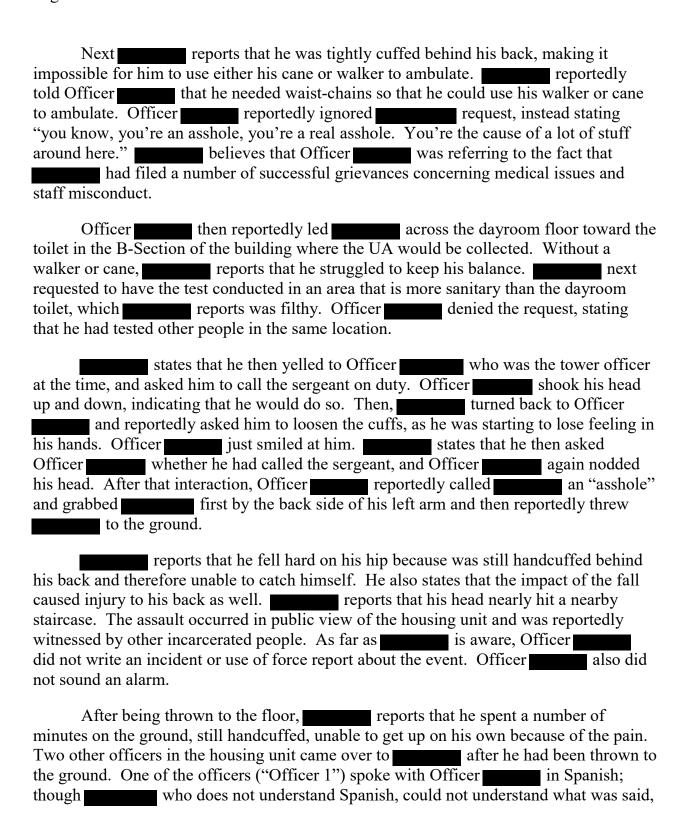
Dear Russa and Ursula:

I write regarding an *Armstrong* class member who reports that he was assaulted by officers at RJD in retaliation for filing disability- and health care-related grievances. In addition to the assault, he also reports allegations of serious staff misconduct regarding a failure to accommodate his disability during escort and an improper urinalysis examination which he believes are both connected to his reporting misconduct. is designated as DPM and DNH, is prescribed a cane and walker to assist him with walking, and uses hearing aids as his primary method of communication.

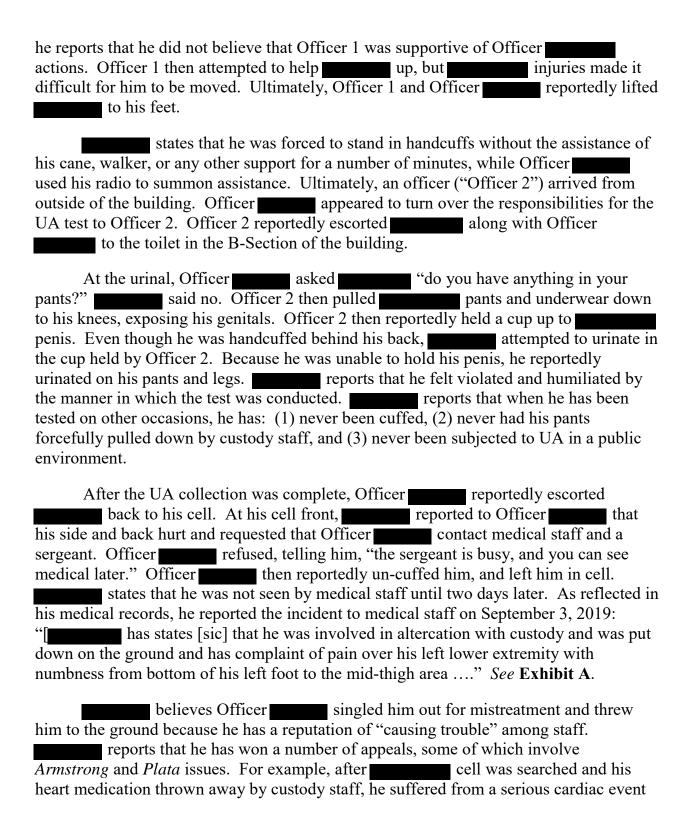
I. Summary of September 1, 2019 Incident

reports that, around 12:00 p.m. on Septem	ber 1, 2019, Officer
came to his cell—cell in Building 4 on Facility A—and	l instructed him through the
closed door that he was required to take a random urinalysis	s ("UA") test.
stated that he requested to speak with a Sergeant to ask why	he was being tested, as he
had been tested two other times in the three months prior. (Officer reportedly
denied request and told him "I don't have time	for this shit."
reports that he reluctantly agreed to take the test.	

Russa Boyd Ursula Stuter October 29, 2019 Page 2



Russa Boyd Ursula Stuter October 29, 2019 Page 3



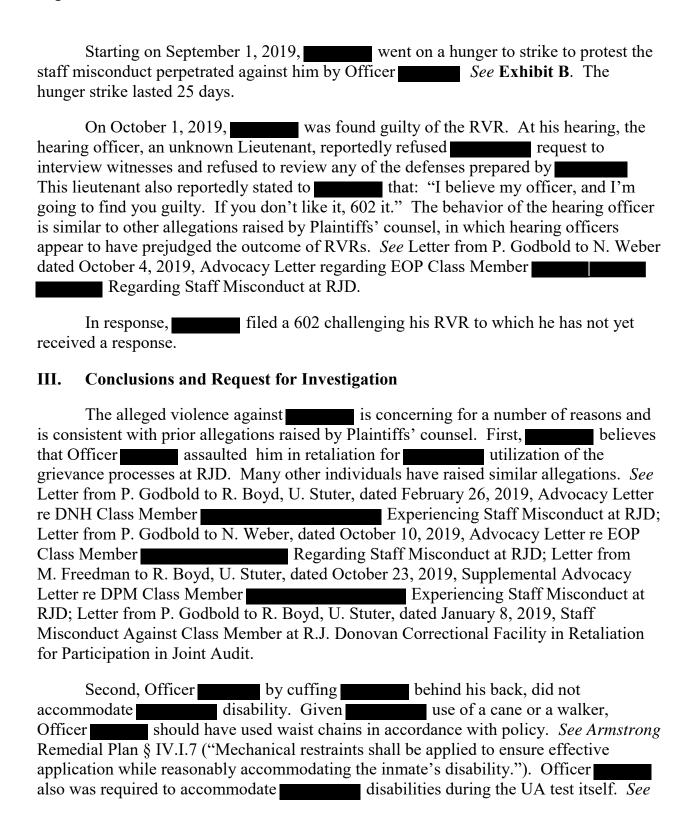
Russa Boyd Ursula Stuter October 29, 2019 Page 4

and had to be transferred to an outside hospital; his 602 with respect to that incident was granted. Also, because Officer reportedly replied to waist chains by failing to provide the accommodation and stating that he was a real "asshole" and was the cause of a lot of trouble in the unit, he took that denial of accommodation to be in retaliation for filing disability and health care grievances. II. **Aftermath of the Incident** On that same day at around dinner time, reported to Sergeant that Officer threw him to the ground and that the UA test had been administered in a manner that that was irregular and humiliating. Sergeant reportedly defended Officer behavior. Four days later, on or around September 5, 2019, Sergeant conducted a video interview with During the interview, Sergeant reportedly disputed account of the events and insisted that was "resisting" orders. reports that he is concerned that that Sergeant deleted parts of the video when accused Sergeant of being part of the problems at RJD. For example, reports that he saw Sergeant press a button on the video camcorder every time began accusing him of also contributing to the culture of staff misconduct at RJD. also filed a staff misconduct 602 against Officer On that same day, and an 1824 reporting that he was forced by staff to walk without his assistive devices. He received notice that his 602 had been processed as a staff complaint on September 8, 2019. II. Receives and Is Found Guilty of an RVR On September 9, 2019, only after reported the alleged misconduct, did he receive an RVR related to the September 1, 2019 incident for delaying an officer in the performance of his duties. Given that the RVR was issued immediately after his 602 and 1824 were received and that staff waited eight days to process the RVR, believes that this RVR was issued in retaliation for filing a 602 and an 1824 complaining about Officer and the UA test.

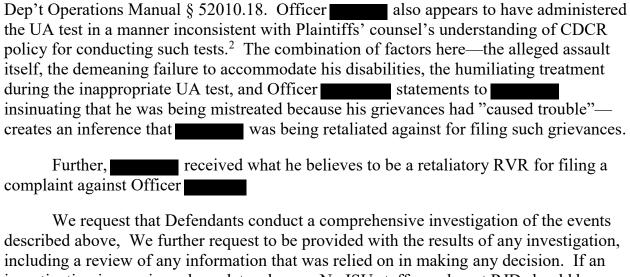
is uncertain of how to spell this sergeant's last name.

[3452390.1]

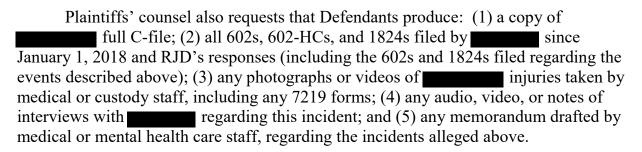
Russa Boyd Ursula Stuter October 29, 2019 Page 5



Russa Boyd Ursula Stuter October 29, 2019 Page 6



described above, We further request to be provided with the results of any investigation, including a review of any information that was relied on in making any decision. If an investigation is ongoing, please let us know. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident that might be willing to participate in an investigation including any custody staff members present, incarcerated people, non-custody staff members, or others that may have been in the unit at the time.



² For example, Department Operation Manual § 52010.18 clearly contemplates that an male incarcerated person providing a UA sample will be able to hold his penis and the collection cup. *See id.* ("After filling the sample bottle, the inmate will be instructed to secure the bottle, rinse the outside of the bottle with cold tap water, and then hand the secured sample bottle to the collecting staff member.").

Russa Boyd Ursula Stuter October 29, 2019 Page 7

Plaintiffs' counsel also request that staff do not engage in retaliation in response to these allegations.

In addition, we request that immediate action be taken to place Officer on administrative time off pending this investigation. If he returns to work, he should not be permitted to occupy any positions in which he has contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman
By: Senior Counsel

MLF:JRG:cg

Enclosures: Exhibits A-B

cc: Ed Swanson Sharon Garske RBGG Armstrong
Matt Espenshade Annakarina Co-Counsel
Sharon Garske De La Torre-Fennell Lois Welch
Kelly Mitchell Damon McClain Steven Faris
Landon Bravo Joanna Hood Roy Wesley

CDCR OLA Armstrong Laurie Hoogland

Exhibit 45c

State of California

Department of Corrections and Rehabilitation

Memorandum

Date	:	November 25, 2019
То	:	Mike Freedman Rosen Bien Galvan & Grunfeld LLP
Subjec	ct:	ADVOCACY LETTER, RIDCF
		This letter is in response to the advocacy letter dated October 29, 2019, written on behalf of
		On November 22, 2019, I interviewed in housing unit B9, regarding the allegations made in the Advocacy letter and circumstances surrounding the September 1, 2019, incident which resulted in the alleged misconduct.
		is a participant in the Disability Placement Program with disability codes of DPM and DNH with required durable medical equipment (DME) of Hearing aids, Cane, mobility impairment vest, and walker. If he was wearing his hearing aids and if he could hear me clearly. It is stated he was not wearing his hearing aids although he has possession of them because he feels like the moldings are too big for him. It then reiterated that he could hear me and understand me clearly based on our close proximity and private setting. I asked if he needed me to accommodate him in any way to go on with the interview, he stated he was ok and wished to proceed.
	2	stated that on the September 1, 2019, he tried to get Officer to collect the urine sample in his assigned cell and attempted to explain the protocol and procedures for urine collection to Officer but he would not listen. Stated he thought he Officer was very unprofessional. Stated that when the second officer came to help him it was the second officer who pulled his pants down in order to collect the urine sample. Indicates, "There is no way in the world" he would agree to have them pull his pants down like that. Says that when the urine sample was collected he urinated all over his boxers and leg because his hands were cuffed behind his back and he had no way of stopping the stream.

stated he was aware of an allegation video interview conducted based on his allegation surrounding excessive or unnecessary force on September 2, 2019. Stated Sergeant conducted the video interview but he kept on pushing a button on the camera when he was telling him he did not want to participate because he was part of the problem. I asked if he had anything further to add surrounding the September 1, 2019, incident and allegations made thereafter, to which he stated it was all there. He stated he has an attorney involved so he is confident they are going to do their part in the investigation too. I then asked how he was doing on Facility B and how he was being treated, to which he responded by saying "pretty good, it's easy."
A review of available documents indicates was issued a Rules Violation Report (RVR) for Willfully resisting a Peace Officer in the performance of duty on, September 1, 2019, documenting the circumstances surrounding the incident from which the allegations stem. The RVR clearly documents Correctional Officer D. version of events. A qualified Senior Hearing Officer (SHO) adjudicated the RVR, found Inmate Guilty of the offense, and assessed sanctions consistent with a division D offense. On October 04, 2019, the Chief Disciplinary Officer elected to dismiss the RVR based on the UA collection process not being followed by Officer
On September 2, 2019, Sergeant completed an allegation video and inquiry into the allegation made by Sergeant attempted to interview however, he refused and simply part of the problem. Sergeant also interviewed Correctional Officer D. who reiterated the circumstances as documented on the RVR dated September 1, 2019. Sergeant interviewed Correctional as part of the inquiry, only corroborates the statements made by as documented by Officer in the RVR in which stated he was going to fall to the ground and claim Officer pushed him.
On September 4, 2019, filed a CDCR 1824 Reasonable Accommodation Request form where he states his disagreement with his need to provide urine samples for urinalysis with the frequency which he had been tested and makes allegation that he was pushed to the ground for asking to speak to the sergeant regarding the mandatory urinalysis. The Reasonable Accommodation Panel reviewed the case and determine the request would be handled pursuant to the Armstrong accountability protocol.
On September 24, 2019, the Non Compliance Allegation inquiry was completed pursuant to the Armstrong accountability protocol by Correctional Sergeant Sergeant indicates refused to speak to him regarding the allegations stating he wanted someone outside of Facility A assigned the investigation and that he would just let the appeals he filed be processed. Sergeant notes the application of the restraints was not consistent with a reasonable accommodation based on disability, however notes it was done for the safety of staff based on disruptive behavior at the time. In addition, notes staff assisted while walking to the benches located in the dayroom. The case was not confirmed and closed in the Allegation

Log Tracking System (ALTS) on October 28, 2019. Although your letter points to the ARP § IV.1.7 ("Mechanical restraints shall be applied to ensure effective application while reasonably accommodating the inmate's disability.") in this case Officer describes the reasoning for the application of restraints as fearing for his safety, other staff and inmates, therefore this was not a routine application of restraints giving the staff the ability to check accommodation needs.
The RJDCF finds the allegation made in your letter and those made by serious. As noted above the issues and allegations made by have been addressed separately in compliance with established policy and have been unable to find merit at this point. It is notable that On September 1, 2019, when Officer documented the misbehavior by in the RVR, made the statements indicating he would make the allegations as noted in the CDCR 602 Inmate Appeal, CDCR 1824 Reasonable Accommodation Request and in your letter. The fact that made good with his threat of making allegations does not make the allegations true. Your letter states the RVR was issued in retaliation for filing a complaint against Officer however the RVR was written and submitted by Officer on the same date, just hours after the encounter with
The RJDCF stands firmly on established policy and procedures and works towards providing an excellent service to the State of California including the Armstrong class. We strive to promote a culture of service without blemish and in cases where staff are discovered to be in violation of policy, those staff are disciplined in accordance with State Personnel Board rules. In closing, I assure you the Warden stands committed to continued review of allegations, the evidence in the allegations and will deal with staff misbehavior swiftly.
I hope that the preceding information addresses your concerns.
JESSE JUAREZ Associate Warden/ADA Coordinator Richard J. Donovan Correctional Facility
Attachments: RVR DTD 09/01/2019 CDCR 3013/3014 Inmate Interview for Allegation Worksheet and Report of Findings CDCR 1824 DTD 09/04/2019 and RAP Response ALTS 10814 Allegation of non-compliance Appeal Log#RJD (PENDINNG RESPONSE)

o sun'ny mandritry dia 1

Exhibit 46

DECLARATION OF 1 declare: 2 I, I have personal knowledge 1. 3 of the matters set forth herein, and if called as a witness, I could and would competently so 5 testify. My California Department of Corrections and Rehabilitation ("CDCR") 2. 6 . I am currently housed at RJD on Facility D in Building 20. I am 79 7 number is years old. 8 I have been housed at RJD for seven or eight years. During my time at RJD, 3. 9 I have been housed in the D20 unit with the exception of a few nights. 10 I am an Armstrong class member. I am designated as DPM. I have diabetic 4. 11 neuropathy, which causes swelling, numbness, and weakness in my legs. I also have a rod 12 in my back from a surgery years ago, and have had multiple surgeries on my knees and 13 neck to correct ligament and bone problems. I use a walker to ambulate and have lower 14 tier and lower bunk chronos. I also have my own cell so that I am not victimized by other 15 incarcerated people. 16 I am a Coleman class member. I am at the CCCMS level of care. I used to 17 cut myself when I was stressed and suffering from depression. I still struggle with 18 depression today. I spend a great deal of my time meditating in order to help me cope, 19 keep calm, and manage my depression. 20 I have a number of serious medical conditions. I have diabetes, which has 21 caused my peripheral neuropathy, and for which I take insulin. I also have cirrhosis of my 22 liver due to Hepatitis C, which I have been treated for while in CDCR. I am classified as 23 high risk medical. 24 I have witnessed staff engage in misconduct against other people at RJD. In 25 7. September 2019, I saw another elderly incarcerated person with a mobility impairment ask an officer in my unit for toilet paper, soap, and for a mop so that he could clean up his cell 27 and use the bathroom. The officer told him "You get that once a week" and refused to 28

Initials _

help him further. The incarcerated man told him "I need it now, I need to go to the bathroom." The officer replied "Well, use your fingers. And don't be asking me for shit." The officer replied walking, said loudly "Damn, you lazy bastards."

- After the incarcerated man said this, I saw the officers look at each other.

 After he had entered his cell, they signaled to the tower officer to keep his cell door open and then quickly went into his cell. I then heard them assault him, slamming him into his locker and bed and punching him repeatedly.

 Yelling loudly "Ow! Ow! Stop! I'm sorry, I'm sorry!" The assault lasted for around two minutes. The officers then left his cell, laughing, and told the tower officer to close his cell door.
- 9. After this happened, I got up and walked by his cell to see if he was alright. I asked him "Are you okay?" He had clearly been beaten up and was shaken by what had happened, but told me that he was okay. Two weeks later, he was transferred to another unit.
- 10. I still see the officers that were involved in this incident every day. They still work in my building. I try to stay as far away from these officers as possible. If they could assault a person just for asking for toilet paper, I know that they could do the same to me. Whenever they question me, I just say "Yes, Sir" and walk away so that I do not risk my own safety.
- didn't ask for it because I was afraid of what officers would do to me. Because I am elderly and have mobility problems, I cannot clean my own cell. Under CDCR policy, incarcerated people employed as ADA workers are supposed to help people like me with cell cleaning. When I have asked ADA workers to help me clean my cell, though, they have demanded money in payment, even though they are paid by CDCR as part of their job. I have not told officers in my unit about my problems with ADA workers, though, because I am worried about what could happen to me if I reported this issue.

- When this happens, I know that I need my glucose raised. Rather than ask the officers in my unit for help, I wait for someone I know will help me get my glucose tablets. Often, I have to wait until a sergeant comes by, which can take up to half an hour. Since the incident in September 2019, even if I need something small from officers such as toilet paper I ask other incarcerated people in my unit if they have any rather than talking to officers.
- 13. In my experience, staff often retaliate against people if they ask for assistance with anything. This happens particularly against elderly incarcerated people, because they are far more likely to need assistance from staff.
- 14. I have been in CDCR prisons for about 27 years of my life. I have been housed in a number of different CDCR prisons, including RJD, Folsom State Prison, CSP Sacramento, Correctional Training Facility, California Men's Colony, and Salinas Valley State Prison. RJD is the worst prison in which I have been incarcerated.
- 15. I believe the reason there is so much staff misconduct at RJD is because officers are lazy and indifferent to the needs of people under their care. In my experience, officers at RJD are aggressive, hostile, and have no interest in helping anyone. This creates an environment where people with disabilities struggle to get the help that they need.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

San Diego, California this the day of January 2020.



Initials

[3475903.1]

Exhibit 47

DECLARATION OF

2 3

4

5 6

number is

7 8

9

11

12

13

15 16

17

19

20

22

21

23 24

25

26

27

declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") . I am currently housed at California State Prison – Sacramento ("SAC") on Facility A in Building 4. I am 43 years old.
- 3. I was housed at RJD from mid-March, 2019 to August, 2019. I was then transferred to California State Prison – Los Angeles County ("LAC") and then, in December, 2019, I was transferred to California State Prison Sacramento ("SAC").
- During my time at RJD, I was housed in the following locations: Building 13 on Facility C, and Building 6 on Facility B.
- 5. I am an Armstrong class member. I am designated as DNM and DNH. My mobility disability stems from a bullet that is lodged in my spine from my time serving in the U.S. military in Iraq. As accommodations for my disability, I am housed on a lower tier and in a bottom bunk, and I have a limited stairs restriction. I use a cane to get around, and have a mobility impaired vest. I use hearing aids as well, and wear a hearing impaired mobility vest. When I was housed at RJD, I was designated as DPO and DNH which means I used a wheelchair intermittently to travel longer distances.
- 6. I am a Coleman class member. I am at the EOP level of care. I have PTSD related to my military service, depression, bipolar disorder, schizophrenia, and schizoaffective disorder. To manage my mental health symptoms, I take a number of psychotropic medications, including Abilify, Haldol, Remeron, and Effexor. I also attend mental health groups twice per day, and speak with a clinician once every two weeks.
- I have a number of serious medical conditions. I have cirrhosis of the liver, Hepatitis C, COPD, a seizure disorder related to a head injury that I sustained in Iraq in

- 8. I was a victim of staff misconduct at RJD. On or around April 23, 2019, Officer a housing unit officer in Building 13 on Facility C, told me that I was going to be moved to Building 12. I told Officer that I did not want to move because I had recently been transferred to RJD and I already had a good relationship with my cellmate. I also stated that I had safety concerns in Building 12. I knew a few people in that building that I had conflicts with in the past and I did not want to move in to the building with them. By the time I returned from dinner, I came back to the housing unit to find my property had already been bagged up on the tier, meaning that I was going to be moved.
- ask her about the move. She told me that she already approved the move. I told her that I had serious safety concerns involving people in Building 12. I told her that I felt comfortable in my current housing, with my current cellmate, and that if I was moved to Building 12 I feared there would be trouble. I refused to pick up my property and put it on the cart to move. I instead offered to cuff up twice, which means that I was refusing what staff were asking me to do, but I was cooperative and not causing trouble. But staff declined to cuff me up. At this point, I was sitting in my wheelchair, surrounded by eight the officers and Sergeant Next think I know, an officer pepper-sprayed me directly in the face. I immediately collapsed to the ground, and then, while I lay on the ground, Officer punched me in the face. The officers surrounding me then joined in, stomping on my chest and kicking me over and over again in the face and in my ribs. I recall in particular that Officer kicked me multiple times after I was restrained and on the ground. I don't remember how long the beating lasted, but it was at least a few minutes.
- 10. After the beating ended, I was made to stand up without my wheelchair or my hearing aids and officers dragged me to the Facility C gym and put me in a holding

- 11. Upon arrival in the gym, I was placed in a holding cage, and left there for about 35 minutes. At no point were my eyes or sinuses cleared out after being peppersprayed. After about 35 minutes had elapsed, Sergeant returned, and I told her that I was having trouble breathing, and that my ribs hurt. I have COPD which already makes it difficult to breath but, as a result of the pepper spray and my hurting ribs, I felt like I couldn't catch a breath. Staff took me out of the holding cage and I apparently blacked out. I woke up in the Treatment and Triage Area ("TTA"), where my wounds were documented. I told medical staff that I had been assaulted by officers.
- 12. Medical staff then sent me to Scripps-Mercy Hospital, where I was admitted and stayed for four days. After conducting a CT scan, doctors there diagnosed me with three broken ribs on my left side. Doctors at Scripps-Mercy also stitched up a deep laceration on my lip. I was also diagnosed with an acute closed head injury, facial contusions, abrasions, and hematoma, and blunt abdominal trauma.
- 13. When I was returned to RJD on April 27, 2019, I was placed in the administrative segregation unit in Building 6 without any of my DME, including my leg braces, my seizure helmet, my gloves, my wheelchair cushion, and most importantly, my wheelchair. I was housed in Building 6 without a wheelchair for about three or four days, during which time I was completely immobile. Eventually, I was issued a loaner wheelchair which was much too big for me. I was forced to use that wheelchair for four months, until I transferred to a different prison.
- 14. A couple days after the incident, three sergeants at RJD interviewed me about what happened. They did not ask me many questions, or say much about the

incident. They took photos of my injuries and they video recorded my interview. The interview was conducted in the sergeant's office in Ad Seg and it only lasted about 10-15 minutes. Based on how short the interview was, I did not believe that these sergeants took my allegations of staff misconduct at RJD seriously. One of the sergeants conducting the interview asked me if the injuries could have been the result of an alleged battery on staff. But, that did not make sense to me because I had already explained that the attack on me took place before the alleged battery on staff which supposedly occurred after staff transferred me to the gym. I took this to mean that either he did not believe me or he was trying to find a way to cover up the attack.

- 15. A few days after the incident, I was issued a Rules Violation Report ("RVR") for battery on a peace officer because I allegedly spit on one of the officers while held in the cage in the gym. That never happened. That allegation is also not possible because I was wearing a spit mask during the entire time I was in the gym. I was put in a spit-mask immediately before being escorted to the gym, and the spit mask only came off when I was transferred to the hospital. The RVR also claimed that I walked up to staff in the housing unit and threatened them prior to them using force on me. But that also did not occur. I believe there should be other witnesses in the housing unit that can confirm that I did not do that. I was only in the housing unit for about a month when this occurred so, I do not know the names of other incarcerated people in that unit.
- 16. After I was attacked, I quit talking to the officers. I felt like if it happened once it could happen again and the officers made me feel like incarcerated people are always in the wrong. For example, when my hearing aid batteries died while I was in Ad Seg, I just went without them because I did not feel comfortable asking staff for help. I did not know what would happen if I did ask for new batteries, but I did not want to find out. I went without hearing aid batteries for two months until I transferred to CSP-Lancaster. During that time that I did not have hearing aids I was unable to hear and unable to communicate with others.

17. I believe I was targeted by staff because of my disability. I believe that because I was in a wheelchair, I was singled out as an easy target by staff. I do not think staff would have done that to me if I was not a wheelchair user. That's why I gave my wheelchair back to staff about a month ago – I do not want to be identified as vulnerable and in a wheelchair. My back hurts every day, and I still have the same medical problems that are helped by a wheelchair, but I do not want to deal with being in a wheelchair and being assaulted.

18. I have been in CDCR prisons for about 24 years of my life. I've been housed in a number of different CDCR prisons, including multiple other high security prisons. I believe the staff misconduct at RJD is worse because I witnessed staff talk to me and other incarcerated people with total disrespect – especially transgender people and people with mental health issues and disabilities. I believe this is causing conflict because staff behavior is instigating incarcerated people at RJD.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

Folsom, California this 29 day of January, 2020.

Exhibit 47a

Filed Under Seal

Exhibit 47b



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

Penny Godbold

Email: pgodbold@rbgg.com

May 24, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Russa Boyd CDCR Office of Legal Affairs P.O. Box 942883 Sacramento, CA 94283-0001 russa.boyd@cdcr.ca.gov

Re: Coleman v. Newsom and Armstrong v. Newsom

Our File Nos. 0489-03, 0581-03

Dear Russa:

I write regarding a recent staff misconduct incident at RJD involving <i>Armstrong</i> and <i>Coleman</i> class member, DPO, DNH, CCCMS. in no longer housed at RJD, he is at LAC, and thus agrees to come forward to speak about what occurred on that day.
On April 23, 2019, reported that he was housed with a cellmate, Mr. in C13 at RJD. On that day, another incarcerated person in his unit who was housed in C13-was granted a lower bunk/lower tier chrono. Officer who had reportedly told in the past that his wheelchair created a traffic problem on first floor of the unit, told that he planned to move him to C12 so that the incarcerated person with the new lower bunk/lower tier chrono could take cell. reportedly responded "we [him and his cellie] get along fine, I don't want to move." He then went to chow. When he got back, his property was bagged up on the tier.
approached Sergeant A. about the cell move and was told "I approved the move." reportedly refused to move stating that he had only been at RJD for a month, had serious safety concerns, and felt comfortable with his current cellie. Next, the sergeant and eight other officers reportedly surrounded him; one pepper

Russa Boyd May 24, 2019 Page 2

sprayed him directly in the face. He reported that he immediately collapsed down on the ground, and was then punched in the face by Officer The officers then surrounded him, stomping on his chest and kicking him in the face and ribs after he was already on the ground. He recalled that Officer kicked him multiple times after he was restrained and on the ground; he didn't recall any other individual officers during the incident.

Next, he reported, he was forced to stand up (without his wheelchair, which he had left in his cell, along with his hearing aids) and the officers placed a spit mask over his face, partially because he claims that his face was badly bleeding. He was then forcibly dragged to the gym and put in a holding cage. He stated that the gym was 200 yards away and that, while being dragged there, he repeatedly asked for his wheelchair, saying "I can't walk, I need my wheelchair", to which Sergeant reportedly responded "shut the fuck up rat." Upon arriving in the gym, he was placed into a holding cage. According to incident reports, he then attempted to spit on an officer. This apparently occurred while he still had a spit mask on. He was left in the cage for 35 minutes, nondecontaminated. After that period, Sergeant returned, and he told her that he was having trouble breathing and that his ribs hurt. He was taken to the TTA, where his wounds were documented and he informed staff that he had been assaulted by officers. He was then taken to Scripps-Mercy hospital, where he stayed for four days. He reported, and his health care records confirm, that he was diagnosed with three broken ribs (R 10-12). He also reports that lacerations on his lips were stitched.

Upon his return, reports that he was placed into Ad Seg without any of his DME (leg braces, helmet for seizures, gloves, wheelchair cushion, or wheelchair). He states that he was in the ASU without a wheelchair for three or four days, completely immobile and unable to get around. He was taken to the TTA after falling and issued a loaner wheelchair, which he still has and which he reports is far too big for him. He states that he asked multiple officers for his wheelchair while in Ad Seg for days without it. He reportedly asked Lieutenant who told him that they could not find it. He also filed an 1824 about his wheelchair the day he returned from the hospital, but never received an interview or a log number. He never received his leg braces or his gloves. Last week, on May 14, 2019, he was transferred to LAC and placed in the ASU.

received a use of force interview from three sergeants at RJD, who reportedly did not ask or say much about the incident. A few days later, he was written up for battery on a peace officer, for the alleged spitting incident. He reports that this incident never occurred and it would have been an impossibility because he was wearing a spit mask at the time. He also stated that the incident report claims he walked up to staff on the tier with a balled fist, threatening them prior to the use of force. He also states that did not occur. He does not deny that he was refusing a cell move, however.

Russa Boyd May 24, 2019 Page 3

allegation of being written up for threating staff or battery on staff following the use of excessive force is consistent with allegations from multiple class members who report the same – that staff engage in force and then manufacture charges against the class member to cover their use of force.

The property of the same is the proper

Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. We request that the investigators determine whether the RVR issued for the incident described above was appropriate and that Defendants provide a copy of the RVR and mental health assessment, if any. We also request that the investigators determine whether the use of force discussed above complied with Defendants' policies developed in response to the *Coleman* Court's April 10, 2014 order and approved by the *Coleman* Court. *See* 4/10/14 Order, ECF No. 5131; Defs' 8/1/14 Policies ECF No. 5190; 8/11/14 Order Approving Policies, ECF No. 5196.

No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident that might be willing to participate in an investigation including incarcerated people, non-custody staff members or others that may have been in the unit at the time. In addition, all video footage from inside the unit and from the yard where was reportedly dragged without his wheelchair, should be obtained and preserved immediately for review.

Plaintiffs' counsel request that staff do not engage in retaliation in response to these allegations.

///
///
///
///
///

Russa Boyd May 24, 2019 Page 4

Please report on the results of your investigation, including whether staff complied with applicable use of force and RVR policies.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/Penny Godbold

Penny Godbold By: Of Counsel

PMG:aa

cc: Nicholas Weber Tyler Heath
Melissa Bentz Toby Snyder
Jerome Hessick Ian Ellis

Dillon Hockerson Coleman Special Master Team

Sharon Garske CDCR OLA Armstrong

Jay RussellEd SwansonAdriano HrvatinRoy Wesley

Elise Thorn Office of the Inspector General

Prison Law Office

Exhibit 47c

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



January 23, 2020

VIA EMAIL ONLY

Penny Godbold Rosen Bien Galvan & Grunfeld LLP pgodbold@rbgg.com

RE: Armstrong v. Newsom Advocacy Letter Regarding DPO, DNH, CCCMS at Richard J. Donovan Prison

Dear Ms. Godbold:

I write this letter in response to your Advocacy letter dated May 24, 2019 on behalf of Mr. regarding alleged incidents occurring at Richard J. Donovan State Prison (RJD). Due to the nature of the issues raised in your May 24, 2019 letter, attorney Ursula Stuter will respond to some of your allegations and I will limit my response to the following allegations:

Upon his return, reports that he was placed into Ad Seg without any of his DME (leg braces, helmet for seizures, gloves, wheelchair cushion, or wheelchair). He states that he was in the ASU without a wheelchair for three or four days, completely immobile and unable to get around. He was taken to the TTA after falling and issued a loaner wheelchair, which he still has and which he reports is far too big for him. He states that he asked multiple officers for his wheelchair while in Ad Seg for days without it. He reportedly asked Lieutenant who told him that they could not find it. He also filed an 1824 about his wheelchair the day he returned from the hospital, but never received an interview or a log number. He never received his leg braces or his gloves. Last week, on May 14, 2019, he was transferred to LAC and placed in the ASU.

On July 12, 2019, an ADA Non Compliance inquiry was initiated in response to these allegations.

and relevant staff were interviewed as part of the inquiry. Defendants determined

Penny Godbold Page 2

that was taken to Scripps-Mercy hospital on April 23, 2019, where he stayed for
three days. Several staff were interviewed, including staff assigned to unit and
those two transported him to Scripps-Mercy. Unfortunately, none of the witnesses could recall
whether had his DME with him. returned to RJD on April 25, 2019. The
Facility C Program Sergeant interviewed and reviewed DECS and SOMS for his
required DME before returned to ASU. The Sergeant noted that did not
have his wheelchair, staff searched for wheelchair, but could not locate it. The
Sergeant attempted to obtain a replacement wheelchair from the Medical Department but was
unable to obtain one before moved to ASU. When was interviewed as part
of the non-compliance inquiry on June 21, 2019, he stated that he received all of his DME
except his wheelchair right away while he was in the ASU. However, he reported that it took a
day or two for him to receive a wheelchair. Therefore, the allegation that
have a wheelchair for at least two days is confirmed.
If you have any questions, please contact me at
Sincerely,
/s/ Alexander B. Powell
ALEXANDER B. POWELL
Attorney

cc: Ed Swanson, Court Expert

Office of Legal Affairs

Plaintiffs' Counsel Defendants' Counsel

Exhibit 47d

member to cover [staff] use of force."

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001

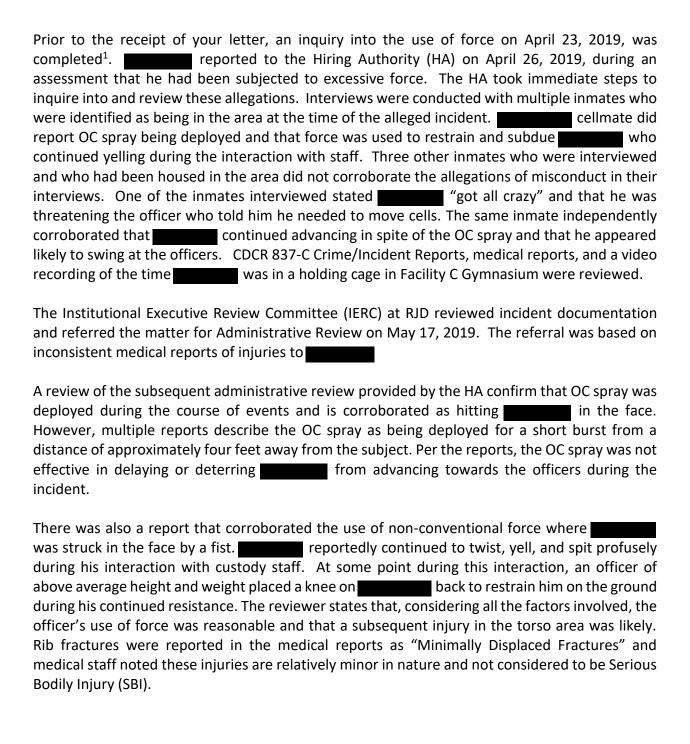


February 3, 2020

VIA EMAIL ONLY Penny Godbold Rosen, Bien, Galvan & Grunfeld Pgodbold@rbgg.com RE: COLEMAN V. NEWSOM and ARMSTRONG v. NEWSOM: ADVOCACY LETTER RE: Dear Ms. Godbold: I write in response to your May 24, 2019 letter regarding Armstrong and Coleman class member reported that he refused a cell move while housed at Richard J. Donovan Correctional Facility (RJD) on April 23, 2019 and this resulted in a use of force characterizes as excessive. During his refusal to move, alleges he was approached by nine officers who surrounded him and sprayed him with Oleoresin Capsicum (OC) spray directly in the face. reports he was kicked multiple times after he was restrained and lying on the ground. then reports to you that he was forced to stand up and denied the use of his wheelchair, which he had left in his cell, while being escorted to a holding cell. A spit mask was placed over his face during this interaction. reports he was then placed into a holding cell at the gym where he was left for 35 minutes without being decontaminated from the OC spray. Upon reporting that his ribs hurt, was taken for medical treatment and was further sent to an outside medical facility. reported that he was denied the use of his Durable Medical Equipment (DME) upon return to RJD from the outside medical facility. He also states he later received a Rules Violation Report, which you state in your letter contains "manufacture[d] charges against the class

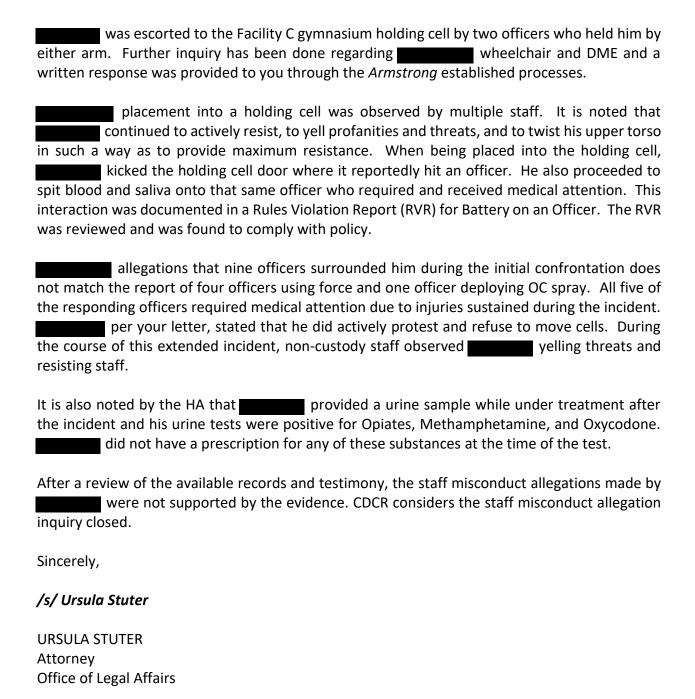
CONFIDENTIAL: FOR ATTORNEYS' EYES ONLY
SUBJECT TO PROTECTIVE ORDERS

Ms. Godbold Page 2



¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

Ms. Godbold Page 3



CONFIDENTIAL: FOR ATTORNEYS' EYES ONLY
SUBJECT TO PROTECTIVE ORDERS

Exhibit 47e

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Memorandum

Date : May, 2019

To Patrick Covello

Warden (A)

Richard J. Donovan

Subject: REQUEST FOR ADMINISTRATIVE REVIEW

ZE EDATE OF EVENT ENERGY DATE OF DISCOVERY EVENT REGION ON		
DATE OF EVENT DATE OF DISCOVERY EVENT LOCATION		
	DATE OF DISCOVERY	EVENT LOCATION

3. CIRCUMSTANCES

During the Institutional Executive Review Committee's review of Incident Log# RJD-C13-Life it was discovered that the injuries that claims he sustained due to the Use of Force utilized in the incident are not consistent with the officers 837C's, the force reported and the CDCR 7219 submitted with the Incident Package.

The CDCR 7219 done at 1907 hours, 26 minutes following the incident note an abrasion/scratch to the right upper back area, pain and bruise/discolored area to the lower left back area and OC exposure to the facial area. The CDCR 7219 done three days later on April 26, 2019, at 1430 hours due to Inmate Allegation of unnecessary/excessive Use of Force note abrasion/scratch and bruised/discolored area to the forehead, bruised/discolored area to the back of head, scratch/abrasion to the lip area, bruised/discolored to the left ear area, bruised/discolored area and pain to the left side area. An additional CDCR 7219 was done on April 26, 2019, noting bruise/discolored area to both shins.

4 CONCLUSION

Upon review of the video-recorded interview due to allegations of excessive/unnecessary force, it was noticed that the inmate sustained injuries which do not appear to be consistent with the amount of force reported.

Based on all the above, I am recommending an Administrative Review due to possible staff inefficiency and inexcusable neglect of duty.

POLICY VIOLATIONS

(INCLUDE ANY APPLICABLE GOVERNMENT CODES, CCR SECTIONS, IF KNOWN)

DOM 51020.17 Use of Force Reporting Requirements

ATTACHMENT(S)

(ATTACH POST ORDERS, POST ORDER ACKNOWLEDGEMENT FORM, TRAINING RECORD, AND ANY SUPPORTING DOCUMENTS)

CDCR 837 Crime/Incident Report; CDCR 3013/3014 Allegation Review; video-recorded interview (DVD).

REQUEST FOR ADMINISTRATIVE REVIEW PAGE 2 OF 2

17.4 14.4 and state the contract of the contra	E OF MANAGER ING REQUEST	TITLE		DATE
PRINTED NAME:	SIGNATURE:			
THIS BOX WILL BE CHECKED I MANAGER.	F BOX 7 IS BEING BYPASSED (UE TO THE DIVISION HEAD	BEING THE SU	BMITTING
8.	DIVISION HE	AD REVIEW		
DIVISION HEA	AD SIGNATURE	DATE	T APPR	OVED
PRINTED NAME:	SIGNATURE:		T DISAI	PPROVED
9.	CHIEF DEPUTY V	WARDEN REVIEW		
CHIEF DEPUTY W	ARDEN SIGNATURE	DATE	I APPR	OVED
PRINTED NAME: J. Stewart	SIGNATURE:		T DISA	PPROVED
PRINTED NAME:	SIGNATURE:			
REFER TO DIVISION HEAD TYES TNO	CHECK ONE: The aw business services The aw central services	T AW. ADA	T AW. HCA	ZED HOUSING
ORDERED CORRECTIVE ACTION	CHECK ONE: 1 ON THE JOB TRAINING 5 EMPLOYEE COUNTY		LETTER OF INSTR	UCTION .
COMMENTS:	1			
REFER TO INVESTIGATION UNIT	CH	HECK ONE: J 989 A DV ERSE A CTION	Γ A DMINISTRA	TIVE INQUIRY
COMMENTS:				
	HIRING AUTHORIT	Y'S APPROVAL		
	RITY'S SIGNATURE	DATE	☐ APPI	ROVED
PRINTED NAME: P. Covello, Warden (A	SIGNATURE:		T DISA	PPROVED

State of California

Department of Corrections and Rehabilitation

Memorandum

Date ;

May 17, 2019

To

P.Covello Warden (A)

Richard J. Donovan Correctional Facility

Subject:

ADMINISTRATIVE REVIEW

On Thursday, April 16, 2019, Warden Covello stopped the review of Incident Log Number RJD-C13- at the Institutional Executive Review Committee. The incident is being referred for Administrative Review.

Should you have any questions or concerns please feel free to contact me at 619-661-6500 extension 7850.

STEPHANIE HARDEN
Use of Force Coordinator
Richard J. Donovan Correctional Facility

PATRICK COVELLO Warden Richard J. Donovan Correctional Facility

* COC 1617 (3/89)

STATE OF CALIFORNIA.
INMATE INTERVIEW FOR ALLEGATION WORKSHEET
CDCR 3013-2 (Rev. 10/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 1

Inmate Interview for Allegation Worksheet

Per DOM 51020.17.3, a Custody Supervisor shall conduct a video recorded interview with the inmate when either of the following conditions exists:

- 1) The inmate has sustained Great Bodily Injury or Serious Bodily Injury that could have been caused by a staff use of force.
- 2) The inmate has made an allegation of unnecessary or excessive use of force.

The interview shall be conducted no later than 48 hours from discovery of the injury or allegation.

INTERVIEW FORMAT FOR ALLEGATION OF UNNECESSARY OR EXCESSIVE FORCE:

The interview and video recording shall be conducted by a Custody Supervisor who did not use or observe the force used and was not involved in the incident. If the incident is a DA referral, you should provide/remind the inmate of a Miranda Admonishment prior to the interview. The location of the interview shall be conducted in a location free of outside influence, noise and distractions. The Custody Supervisor shall not interfere with the inmate's ability to be interviewed. It is the responsibility of the Custody Supervisor to prepare and submit a report (CDCR 3014) to the Manager. This report shall address all reports reviewed and information gathered in relationship to the interview subject. Further, it is the responsibility of the Custody Supervisor to summarize the interview statements and the results of the fact-finding. The CDCR 3014 shall include a conclusion and make a recommendation to the Manager as to further actions to be taken.

Prior to commencing the interview, the Custody Supervisor shall ensure that a CDCR 7219 has been completed. During the interview, the Custody Supervisor shall ensure all injury(s) are captured on the video recording. The view should be close enough to accurately account for the injuries noted on the CDCR 7219. If there are injuries in view that are not noted on the CDCR 7219, cease the video recording and have the inmate evaluated by medical again and obtain an updated CDCR 7219. Restart the videotaped interview with the new CDCR 7219 and review all the injuries.

_	(Complete the items be	low)
1.	Introduce themselves and the camera operator. Camera O	perator:
2.	Give the date and time the interview commenced: Date: 4/26/2019	Time: 1503/1514
3.	Indicate to the inmate the reason for the video recorded interview: Reason: ALLEGATIONS OF UNNECESSARY AND/OR EXCESSIVE	EUSE OF FORCE
4;	Ask inmate to give their full name and CDCR number: Name:	CDCR#:

(Complete the items below) On this date: 4/23/2019 at approximately 1841 You were involved in an incident which occurred at the following location: HOUSING UNIT #13 DAYROOM This incident has been assigned CDCR Incident Log number: RJD-C13-Battery on a Peace Officer Resulting in Use of Force According to the documentation provided on the CDCR 7219, you sustained an injury that lead to this interview. Please describe the injury: : Um, I received um three (3) broken ribs...um laceration to my side, my head um,....um to my forehead, to my lip. 1 received a stitch to my lip. Inside my lip it went all the way through, um behind my ears, behind my ears, both ears... and uh um I receive a bunch of kicks to my leg. AT THIS POINT, THE INTERVIEW WAS STOPPED AT APPOXIMATELY 1506 HOURS AS THE INJURIES ON HIS LEFT LEG WERE NOT NOTED ON THE 7219 CONDUCTED PRIOR TO THE VIDEO INTERVIEW, THE INTERVIEW WAS RESTARTED AT APPROXIMATELY 1514 HOURS WITH THE UPDATED 7219. An injury to my fore head, uh to my lip, inner and outer, uh I got a stich on my lip, um I got bruises on the back of my head behind my ear, that's the right ear, or the left ear, and that's the right ear, I got uh bruises on my right side where I was kicked. Uh I also have three (3) broken ribs on my left side and I was kicked repeatedly on my left leg,

Custody Supervisor's Name (Printed Name and Signature) Title	Date		
	04/24	2019	

- Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 208 of 398 Do you have any other injuries? No. In your own words, explain what happened and how you received your injuries. You need to be as specific as possible: Um I I was I came out uh right before um right before yard recall I came out to speak to an individual about a bag of chips when the officer that was in the dayroom uh tall black officer I can't remember his name cause my, my heads zinging but it was a regular regular officer on the floor asked me what the fuck I was doing off of my cell door uh I told him that I was just trying to talk to this dude, an Inmate that was located in I believe in uh and uh next thing I know it uh, um my cellies called out of the cell and um he's telling, the officers tellin my celly to find a different celly that they were going to be moving me because they needed accommodation, a space accommodation for other people I told em that I wasn't moving. When I came back from chow, or as I as I was coming back from chow, I spoke to the sergeant that was on the on the un yard that day. I believe her name I'm pretty sure her name was Little short lady. Um I told her her that that that uh I didn't want to move and I was doing just fine where I was she said she approved the move I said I wasn't moving. Um when I came back inside the building all my property was sitting on the floor inside of bags in uh front of my cell, Um I they wouldn't let me back I my cell so I just stood there and about 5 minutes later all the c/o's on the yard that were speaking to the sergeant surrounded me and they kept telling me they were going to fuck me up if uh I dint comply with their orders. I told them that I didn't have no weapons on me that I wasn't trying to get fucked up or nothing it's just I didn't want to move to 12 block because I felt I had uh uh enemies that I didn't get along with there. Um and the next thing I know it um uh the regular officer um big officer his name it starts with don't k now how to pronounce his name it's the Samoan guy. He's the regular in the building um you know he's he told me in the in the in a way that you know well if you got a problem with a mother fucker handle it. If not you need to pack your shit and lets go. And I told him that I wasn't moving and then I was sprayed in the face and the big officer punched me in my mouth and I went to the ground. I got knocked out and when I woke up I was being stomped repeatedly um I kept screaming quit beating on me uh quit beating on me and uh that's all I remember. Um they picked me up they they stopped for a second uh when the sergeant came in they stopped beating on me kicking on me punching me and um I had blood all over all over my face and everything and um um they put a spit mask on me and lead me to the gym and while I was in the gym they didn't decontaminate me and I have COPD so I was I was pleading for them to decontaminate me. They didn't decontaminate me. Um and finally when the Sergeant came in
 - 6. Can you identify staff witnesses?

 What do you mean staff witnesses? All the staff that were there were witnesses. I can't identify anyone. I was knocked out. The only staff that I know that were there at the time that I know that I can identify uh that that hit me was the officers that the regular officers that were on the floor. Big tall black officer and uh uh kind of short big Samoan officer started with the name of

about a half hour later they decontaminated me and um I told them I was having chest pains and I couldn't breathe and so they called the um medical staff in and after medical staff talked to me for a minute, I lost consciousness for a second I believe or I did lose consciousness cause I don't remember too much after that and I remember waking up in the hospital uh I was told that I uh had suffered three (3) broken ribs on the left side and um multiple contusions and stuff and that and that was it. They asked me

Can you identify inmate witnesses?
 Yes I can. My celly. Inmate Jim I'm sure just about everybody who were there saw what happened.

how it happened and I told them staff beat on me. And that was it. That's at no time did I assault any staff.

Have you filed an appeal on this issue? (Ask only if time has passed to allow the inmate to do so): No I just came back from the
hospital last night. I don't have nothing to write with. Nothing...

ed Name and Signature)	Title	Date			
	SGT.	04/26/2019			

STATE OF CALIFORNIA REPORT OF FINDINGS - INMATE INTERVIEW CDCR 3014 (Rev. 10/15)

Page I of 7

Report of Findings - Inmate Interview

	DENT SITE/LOCATION				LIN	CIDENT / API	EAL/FF	LOG#	
Fac	ility C-Housing Unit #13 Dayroom					VT LOG #	10000		0
					/AP	PEAL LO			
	RIPTION OF THE INCIDENT	of Tours		-				NT DAT	E
	ery on a Peace Officer Resulting in Use		NIABLE AND	TITLEO	F CAMERA	ODEDATOR	4/23	/2019	-
YAW	Correctional Sergeant		NAME AN		ctional Se				
NN.	TE NAME AND CDCR#	DATE OF IN	TERVIEW			F TRANSLAT	OR OF U	FILIZED	N V
		4/26/2019		STAF	F ASSIS' tional Ser	TANT:		10.55	
	Report of Findings shall be conducted by custod, in the incident	iial supervisors (s	ergeants o			William III	observe (the force	e
-		ATE INTERVIE	w				Yes	No	N/A
1	Did the inmate refuse to participate in the interasked the inmate to participate. Name:	CONTRACTOR OF THE PARTY OF THE	e provide	the name	and title of	staff who	0	0	
2.	What is the reason for the interview? □ Serious Bodily Injury	☐ Great Bodi		×	Allegation	1			
3.	Incident Log #RJD-C13-Clinical Social Worker (LCSW). Summarize the statements made by the inmate alleges he was because he refused to move to a different statement of the statements.	during the interv	iew:			with J. Gra			
3.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate Summary: alleges he wa	during the interv	iew:						
3.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate alleges he was because he refused to move to a different statements.	during the intervence sprayed and cell.	iew: physical	ly beater			tional o	fficers	
3.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate alleges he was because he refused to move to a different statements. INMATE WI	during the intervent sprayed and ent cell.	iew: physical	ly beater	a by mult	iple correc	tional o	fficers	
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate alleges he was because he refused to move to a different statements.	during the intervent sprayed and ent cell.	iew: physical	ly beater	a by mult	iple correc	tional o	fficers	
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate summary: alleges he was because he refused to move to a different because he refused to move to a different statement of the statements with the statements and the statements with the statements and the statements will be statement and the statements will be statements will be statements and the statements will be statement will be statements will be st	during the intervent sprayed and ent cell.	iew: physical	D Date In	a by mult	iple correct 4/30/201 9 5/2/2019	tional o	fficers	
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate summary. alleges he was because he refused to move to a different statement of the inmate statements and inmate Name: Inmate Name:	during the intervent sprayed and ent cell.	iew: physical	D he inform Date In	ation below	4/30/201 9 5/2/2019	tional o	fficers	
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate Summary: alleges he was because he refused to move to a difference of the statements made by the inmate statements made in the inmate Name: Inmate Name: Inmate Name: Inmate Name: Did any inmates refuse to participate in the interwho asked the inmate to participate:	during the intervent sprayed and pent cell. TNESSES INTERESTED TO STATE TO	RVIEWE es, fill in t	Date In Date In Date In	ation below sterviewed: sterviewed: sterviewed: sterviewed:	4/30/201 9 5/2/2019 5/2/2019	tional o	fficers	
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate Summary: alleges he was because he refused to move to a difference of the inmate being interviewed request inmate Inmate Name: Inmate Name: Inmate Name: Did any inmates refuse to participate in the interviewed and inmate in the interviewed request inmate Name: Title:	during the interview sprayed and cent cell. TNESSES INTERESTEMENT STATES TO SERVICE STATES S	rew: physical RVIEWE es, fill in t Inmat	D beater Date In Date In Date In Date In	ation below iterviewed: iterviewed: iterviewed: iterviewed: e and title o	4/30/201 9 5/2/2019 5/2/2019	Yes O	fficers	N/A
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate Summary: alleges he was because he refused to move to a difference of the inmate being interviewed request inmate Inmate Name: Inmate Name: Inmate Name: Did any inmates refuse to participate in the interviewed and inmate in the interviewed request inmate Name: Title: Staff Name: Title:	during the interview sprayed and sent cell. TNESSES INTERESTE WITH STATE STAT	RVIEWE es, fill in t	Date In Date In Date In the name Refused Refused	ation below iterviewed: iterviewed: iterviewed: iterviewed: e and title o	4/30/201 9 5/2/2019 5/2/2019	Yes O	fficers	N/A
1.	Clinical Social Worker (LCSW). Summarize the statements made by the inmate Summary: alleges he was because he refused to move to a difference of the inmate being interviewed request inmate Inmate Name: Inmate Name: Inmate Name: Did any inmates refuse to participate in the interviewed and inmate in the interviewed request inmate Name: Title:	during the intervent sprayed and pent cell. TNESSES INTERESTED TO THE WITH THE SES INTERESTED TO THE WITH THE SES INTERESTED TO THE	RVIEWE es, fill in t Inmat Inmat	D beater Date In Date In Date In Date In	ation below sterviewed: sterviewed: sterviewed: sterviewed: sterviewed: sterviewed:	4/30/201 9 5/2/2019 5/2/2019	Yes O	fficers	N/A

Page 2 of 7

Report of Findings - Inmate Interview

	Summarize the statements made by the witnesses during the interview: Summary: dentified one (1) witness during the video interview. The additional witnesses were not specifically
١	identified by
	I informed Inmate that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019 and he was named as a witness to excessive and/or unnecessary use of force. I asked Inmate the he following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.
	Q1.) Do you recognize this inmate? (Immate was shown photo of Inmate
	A1.) Yes. My old cellmate, Inmate
	Q2.) Inmate identified you as a witness to excessive and/or unnecessary use of force. Did you observe the incident?
	A2.) Yes, I saw it go down.
	Q3.) Where were you located when the incident took place?
	A3.) I was in my cell.
	Q4.) What did you observe?
	A4.) and Officer got into it cause didn't want to move out the building and him and Officer packed him property and left it out the cell. They was yelling at each other when a bunch of staff came in and surrounded Next thing I know, one of the officers sprayed him then they all jumped on him behind the podium, near where the middle area is by the dayroom toilet. He was yelling for them to stop, but they kept kicking and punching on him, sticks (batons) and everything. The Sergeant got there, but they had stopped already. Then they handcuffed him and escorted him out. That's all I saw.
	Q5.) Can you identify staff that was present during the incident?
	A5.) Only staff I remember for sure was and and There was about 4 or 5 more that showed up though.
	Q6.) Do you have anything to add?
	A6.) That's all I saw.
	With no further questions, I concluded the interview.
	I informed Inmate that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019. asked Inmate the following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.
	Q1.) Do you recognize this inmate? (Inmate was shown photo of Inmate
	A1.) Ya, he's a fucking piece of shit. Fuck him. I ain't speaking on his behalf for anything. He got what he deserved.
	Q2.) Did you observe the incident he was involved in on April 23, 2019 at approximately 1841 hours during 3/w?
	A2.) No, I was in my cell. I didn't see nothing.
	With no further questions, I concluded the interview.
	I informed Inmate hat I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019. I asked Inmate the following questions regarding his knowledge of the events that took place on April 23, 2019 approximately 1841 hours.
	Q1.) Do you recognize this inmate? (Inmate was shown photo of Inmate
	A1.) Ya, that's No one likes him.
	Q2.) Did you observe the incident he was involved in with staff on April 23, 2019 at approximately 1841 hours during 3/w?

STATE OF CALIFORNIA REPORT OF FINDINGS – INMATE INTERVIEW CDCR 3014 (Rev. 10/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 3 of 7

Report of Findings – Inmate Interview

A2.) I was in the cell with	I didn't see shit.
1 informed Inmate 2019. I asked Inmate approximately 1841 hours	hat I had some questions regarding the incident that took place in Housing Unit #13 on April 23, the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions regarding his knowledge of the events that took place on April 23, 2019 at the following questions are the following questions at the following place of the events that took place on April 23, 2019 at the following questions are the following questions at the following questions at the following questions are the following questions at the following questions are the foll
Q1.) Do you recognize thi	s inmate? (Inmate was shown photo of Inmate
Al.) Ya, He's a rea	Il piece of shit. He went after them officers last week. He's a disrespectful asshole,
Q2.) Did you observe the	incident he was involved in with staff on April 23, 2019 at approximately 1841 hours during 3/w?
A2.) I saw the whole thing and shit.	The officers were trying to get him to move and he rushed them. Yelling he was gonna assault staff
Q3.) Where were you loca	nted when the incident took place?
A3.) I was in the dayroom	sitting on the benches.
Q4.) What did you observ	e?
	elling, talking shit to swing on them. All of a sudden, I saw spray him. Leave to going at them then I saw the oked like they was on the ground wrestling around for a minute until they cuffed him. I saw the Serger
Q5.) Did you observe any	staff members utilize their batons?
A5.) No.	
Q6.) Can you identify stat	If that was present during the incident?
A6.) Toele, and	Sergeant got there afterwards. Those are the only I remember.
Q7.) Did you observe any	staff utilize unnecessary and/or excessive force?
A7.) Hell no, dude had the	at coming. He took off on staff.
Q8.) Do you have anythin	g to add?
A8.) No.	
With no further questions	, I concluded the interview.

STATE OF CALIFORNIA REPORT OF FINDINGS – INMATE INTERVIEW CDCR 3014 (Rev. 10/15) DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 4 of 7

Report of Findings – Inmate Interview

REVIEW OF EVIDENCE AND CONCLUSION	Ye	3	No	N/A
Was the injury consistent with the reported force? If no, explain in the Conclusion below.	0		0	
Check the following items that were reviewed and considered:				-
☑ Incident Video Recording ☑ Staff Reports ☐ Photograph(s)				
☐ Use of Force Videotape ☐ CDCR 7219 ☐ CDCR 602				
☑ Other (Describe Below)				
Summarize the source of injury, other items reviewed and considered and any other circumstances in Conclusion: According to the Medical Report of Injury/Unusual Occurrence (7219) conduct subsequent to the incident on April 23, 2019 at approximately 1907 hours, Medical Staff not Abrasion/Scratch to right side of upper back, Bruise/Discolored area, Pain to left rib area; Inmate made the following statement: "I don't want to move to building 12. I have sprayed, I cannot breathe. I have COPD! I got kicked"	ted on ted the following of the the following the ted the following the ted th	vin to	g injur	
According to the 7219 conducted on Inmate orior to the Video Allegation Interview of approximately 1430 hours, Medical Staff noted the following injuries to Inmate: Abra forehead; Bruise/Discolored area to forehead, and behind both ears; Abrasion/Scratch to learea, Pain to left rib area. In made the following statement: "Staff attacked medical statement or the following statement or the follow	sion/Scratch oft cheek; Bri	to	top of	olore
An additional 7219 was conducted on Inmate due to visible injuries to his left leg not conducted prior to the video interview. An additional 7219 was conducted on Inmate conducted on Inmate between Video Allegation Interviews on April 26, 2019, Medica injury notations: Bruise/Discolored area to left shin. It should be noted that although Bruise behind both ears of conducted on the 7219, there did not appear to be any visual injuries the video recorded interview.	According to al Staff added /Discolored	o th	he 721 le follo as are	9 wing note
vas transported to an outside hospital for a higher level of care subsequent the medical report provided by J. McCann, Registered Nurse (RN), sustained sustained Fractures to left ribs 11, 12, and 13. RN McCann noted these injuries are relatively minor in considered Serious Bodily Injury (SBI). Additionally, Dr. G. Messler noted the lip injury sustained and old injury, which had already completely healed. There was no record of sutures or puncture to his lip, as he alleged during the video interview.	d Minimal Dis n nature, whi tained by	ch	aced	
According to a review of Video Surveillance in the Facility C Gymnasium on April 23, 2019 hours are secorted into the Gymnasium and placed in a holding cell by Office Once placed in the holding cell and as one of the officers attempts to secure the door, Inmovement towards the holding cell door. The holding cell door suddenly burst open, striking video. Officer Z. The properties of the holding cell door as he attempted to secure it. As the officers we the holding cell door, Inmate towards the holding cell door. The officers we the holding cell door, Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, that Inmate towards the holding cell door was secure. Officer C: Crime/Incident Report, OT Owens he sound like he was getting ready to spit, but was unable to see if the inmate was yelling, "I go at the holding cell and yell the entire time.	rs A. an an ate made made made made made made made mad	d Zake off g c ng or c tech	es a suricers in ell door to second the his nician was making by the his nician was all dobs	dder n the or du ure noldir 837 (OT s ce a
A review of Officer F. 837-C: Crime/Incident Report confirms Officer simultar continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approfrom Inmate shadow and his position. The Inmate was which rendered negative results as Inmate continued to yell, and approach the Officer receiving some backsplash from the (OC), and the Inmates continued advance Officer could not determine if chemical agents were effective. Once the Officer regained h Officers struggling with Inmate on the ground, as the Inmate was pushing his body off the ground. Staff continued to give verbal commands to the Inmate to results. The Officer then observed Officer and use their hands to move Inmate back as continued to resist staff by attempting to pull his arms from them. Officer in handcuffs, however while the Officer was attempting to place the Inmate in handcuffs and the pround, that is when the Officer felt a sharp pain to his left pinkie finger.	struck in the ters with his to ment toward is visibility he twisting his to stop resisting the ment then place the land	fa fa ist s s o o o o o o o o o o o o o o o o o) feet a cial ar	away ea d. Di d egativ egativ ad his ate movi

STATE OF CALIFORNIA REPORT OF FINDINGS – INMATE INTERVIEW CDCR 3014 (Rev. 10/15) DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 5 of 7

Report of Findings – Inmate Interview

	attention remaining on Inmate he could not determine how Officers and and placed hands behind his back. Responding Staff then arrived in the unit and took custody of
	A review of Officer F. 837-C: Crime/Incident Report confirms Officer F. (Facility C H/U #13 FLR #1), entered Housing Unit #13 after the evening meal and observed Inmate standing by a wheelchair attempting to dislodge the handles at the back of the wheelchair. As Officer approached Officer the Officer heard Inmate rell, "What the fuck are you going to do about it?" Officer further observed that Inmate had his hands tightly clenched, while Officer was speaking with the Inmate. The Inmate repeatedly refused all orders to return to his cell and yelled, "Fuck that I'm not fucking moving anywhere! I'll do whatever I have to do!" The Officer then attempted to calm the Inmate down, as the Inmate turned towards the Officer and stated, "I'm going to punch you in the face! What the fuck are you gonna do about it?", and suddenly lunged at the Officer with clenched hands. The Officer then took a step back to create a safe distance from the Inmate, as he observed Officer deploy one (1) continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approximately four (4) feet from which rendered negative results as the Inmate continued moving towards the Officers. As the Inmate continued to move towards the Officers location, and fearing for his personal safety and the safety of the other Officers in the area utilized non-conventional force, by punching Inmate with his right fist to the left side of the Inmates face, while immediately feeling a sharp to his right hand.
1	A review of Officer L. 837-C: Crime/Incident Report confirms Officer gave the Inmate a direct order to get down he observed Officer simultaneously deploy one (1) continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approximately four (4) feet away from Inmate is he moved towards the Officers position. The Inmate was struck in the facial area which rendered negative results as Inmate continued to yell, and approach the Officers with his fists raised. In fear for their personal safety as a result of the actions and threats to physically harm staff, observed Officer will utilize non-conventional force by swinging his right fist towards Inmate face, which struck for the left side of the face, as simultaneously reached out with his left hand, and grasped Inmate fight shoulder, as he placed his right hand on Inmate flown In order to force him to the ground. Officer for their personal safety as a result of the actions and threats to physical Inmate flown Informate flower back, as Officer flow flown Informate flower back in order to maintain the Inmate flower back in order
	A review of Officers A. and Z. Barrell B37-C: Crime/Incident Reports confirms they proceeded to escort Inmate to the Facility C Gymnasium. Officer was on the Inmates right side. As the two Officers crossed through the center gate towards the West Yard, Inmate egan yelling, and tensing up his body, and attempted to jerk his upper body sideways in an effort to break the Officers hold on the Inmate. The Officers then ordered the Inmate to stop resisting, and to continue walking as both Officers tightened their hold of Inmate eff and right forearm in an effort to overcome his resistance, and restrict his movement so that the escort could be completed. The Inmate continued yelling, "Fuck you, motherfuckers! I'm going to fuck you up, motherfuckers! All of you!" as he attempted to twist his upper body to break the Officers hold. The Inmate continued to yell obscenities at the Officers during the course of the escort, while they both maintained a tight hold of Inmate eff and right forearm to prevent the threat of injury to both Officers.
	A review of Officer who was attempting to monitor Inmates returning from the evening meal. As additional staff arrived in the unit she saw Inmate standing by cell and heard the Inmate yell at Officer "I'm going to punch you in the face! What are you going to do about it?" The Inmate then clenched his fists and moved erratically towards Officer and another Officer, whom she could not identify, as she was not familiar with whom he was. She then observed the unidentified Officer utilize his State-issued (OC) MK-9 Pepper Spray from approximately four (4) feet away from Inmate which struck Inmate in the facial area, which rendered negative results as Inmate continue to approach staff with clenched fists. She then utilized the Public Address System (PA) in the control booth to order all Inmates to get down, which they all then complied. Responding staff then entered the Housing Unit and took custody of and escorted him out of the building.
	A review of Correctional Sergeant A. 837-C: Crime/Incident Report confirms she heard a radio transmission of, "Code One, Housing Unit #13, Inmate Resisting Staff," and immediately responded to Housing Unit #13. Once arrived in the unit the Sergeant observed that Officer face was visibly reddened and his vision impaired by

STATE OF CALIFORNIA
REPORT OF FINDINGS - INMATE INTERVIEW CDCR 3014 (Rev. 10/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 6 of 7

	Report of Findings – Inmate Interview	
	apparent exposure to chemical agents. The Sergeant then entered the building and observed number of the section dayroom providing coverage on Inmate who was on the ground in handcuffs. The Inmate was being disruptive and disrespectful, and yelled, "Fuck all of you! I'm going to fuck Inmate also had a significant amount of spittle coming from his mouth as he continued yelling. As attempted to get the Inmate to calm down, continued to yell and spittle continued to project for precautionary measure to avoid any staff in the area from being exposed to Inmate bodily to Officer A. To place a spit hood mask on Inmate as she monitored the Inmate. She then and to escort the the Facility C Gymnasium to secure him in a Holding Cell. As observed the escort of Inmate through the sally port, she saw Inmate turned his face to officer walking behind the escort and yell, "I'm going to fuck you up, you fucking fat cunt!" She then to stop the escort immediately, and admonished Inmate concerning his disruptive and observed. The Sergeant then instructed Officer Z. To assist Officer with escorting Inmate and Inmate concerning his disruptive and to behavior. The Sergeant then instructed Officer Z.	Sergeant observed tyou all up!" The Sergeant From his mouth. As a fluids, she directed instructed Officers the Sergeant oward a female instructed Officer disrespectful
	A review of Officer T. 837-C: Crime/Incident Report confirms he was a witness to this inci- overheard a radio transmission announcing a Code #1, and observed the alarm for Housing Unit # then ordered all Inmates on the yard to get down over the Public Address System (PA). All Inmates Officer order to get down. He then observed Officer A. and an Officer he could not in Inmate of the Facility C Gymnasium. The escorting Officers and the Inmate then entered the Gymnasium.	13 activated. He s complied with dentify escorting
	A review of the Lieutenant CDCR 3010: Incident Commander's Review/Critique Use of confirmed staff's actions prior to, during, and following the use of force were in compliance with the policy, procedure, and training.	
	It should be noted that five (5) of the correctional officers (Officers L. F. A. F. A. A. Involved in the incident required additional medical treatment due to the injuries sustained incident. All five (5) officers were treated for their injuries and released on their own recognizance of Chula Vista. All injuries sustained by the officers were caused by Inmate	d during the
	ALLEGATIONS	Yes No N/A
1.	Check the following to indicate what items are attached with this review as it relates to the allegation:	×
	☐ Injury Video Recording ☐ CDCR 7219 ☐ Photograph(s) of Injury(s) ☐ CDCR 602 ☐ Other (Describe Below)	
2.	Provide any other information not previously documented in this review regarding the allegation. Comments: All documents listed above were reviewed and/or submitted to provide clarity to this is Surveillance April 23, 2019, Facility C Gymnasium; Incident Packet).	sue (Other: Video
	RECOMMENDATIONS	
1.	Check the following to indicate the Custody Supervisor's recommended actions: No Further Action Recommended. □ Further Action Recommended	
	Comments:	1.0
_	Custody Supervisor's Name (Printed Name and Signature)	Date
	This investigator reviewed all relevant information that was presented. This investigator was not able to establish any truths to Inmate. Claims of excessive and/or unnecessary force. A review of incident log #RJD-C13- confirmed custody staff utilized multiple force options to subdue an enraged Inmate which included Non-Conventional, Physical, and Chemical Agents. The officers who utilized force during the incident were clear and descriptive	5/6/2019

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 215 of 398

STATE OF CALIFORNIA REPORT OF FINDINGS - INMATE INTERVIEW CDCR 3014 (Rev. 10/15)

No Further Action Recommended

Associate Warden's Name (Printed Name and Signature)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 7 of 7

Report of Findings - Inmate Interview within their 837-C's, justifying the need for the force used. The injuries sustained by Inmate were consistent with the reported used of force and synopsis of events during the incident. , statement was similar to the allegations Although Inmate provided, an additional witness, Inmate completely refuted the Inmate allegations, stating he observed Inmate go after the officers with malicious intent and did not observe any officers utilize unnecessary and/or excessive use of force. It should be noted as an extensive disciplinary history regarding his behavior towards custody staff, which include a previous charge for Battery on a Peace Officer. Based on a review of all facts and circumstances obtained during this allegation review, I recommend no further action regarding this matter. DATE: 05/06/2019 No Further Action Recommended ☐ Further Action Recommended Comments: Turnote withours describe Position are Interest threat to Staff Manager's Name (Printed Name and Signature) Date 5/10/19 en's recommended actions:

☐ Further Action Recommended

Exhibit 48

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility E in Building 23. I am 58 years old.
- I have been housed at RJD from September 2018 to the present. Before then,
 I was housed at California Medical Facility.
- 4. During my time at RJD, I was first housed in Building 1 on Facility A from September 2018 to late April or early May 2019. Around that time, I was transferred to Building 23 on Facility E at RJD, where I am currently housed.
- 5. I am an *Armstrong* class member. I am designated as DPW. I use a wheelchair full-time, and I am unable to lift myself out of my wheelchair. I am housed in a wheelchair accessible cell on the first tier. I cannot lift more than a few pounds, and I am unable to work due to my disability. I experience incontinence related to my disability, which I manage with diapers.
- 6. I am a *Coleman* class member. I am at the EOP level of care. I am diagnosed with depression and schizophrenia, and I sometimes experience visual and auditory hallucinations. To manage my mental health symptoms, I go to recreational groups, a group called cognitive thinking that helps me plan out my actions better and control my thoughts, and I see my mental health clinician once every two weeks. I also take psychiatric medications to manage my mental health. My mental health has deteriorated since I arrived at RJD.
- 7. I have a number of serious medical conditions. I have neuropathy, cardiovascular disease, cardio myopathy, asthma, blood pressure issues, diabetes type II, and cirrhosis of the liver, and I am classified as high risk medical. I am also on chronic

care, meaning that I need to be seen frequently by medical staff to monitor my ongoing health issues.

3

8. I have witnessed staff engage in misconduct against other people at RJD on numerous occasions and on different facilities of the prison.

7

8

9

5

When I was housed in Building 1 on Facility A, on or around November 5, 2018, I was coming back to the housing unit from my EOP group in the mental health building on Facility A. I was at the door of the sally-port of my housing unit, and I was waiting for the floor officers to open up the sally-port. The sally-port refers to the entrance/exit sections of the housing units, which are all mechanically operated by the officers assigned to the housing unit. There were about ten people from my EOP group standing with me outside of the housing unit, and we were all trying to get in the building.

10 11

12

13

14

15

16

As we waited to be let into the building, someone who I did not know came 10. from the yard, approached the door, and started kicking it. It appeared to me at the time that this person was in the middle of a mental health crisis. He was moving his mouth in strange ways, he was clenching his hands and teeth, and he was screaming, "let me in!" at the control tower as he kicked at the door. I had seen this person around the yard from time to time, and this was the first time that I ever saw him behaving in this way. Based on my observations of his behavior, as well as my own experience with mental illness, it

17

18

19

seemed to me that he was undergoing a crisis related to his mental health.

20

21

22

The tower officer responded, screaming down at the man, "I'll let you in 11. later." A few moments later, I observed three officers start walking in the direction of the entrance of Building 1 from the yard. I did not know the names of these officers. The crowd then dispersed to stay out of the way, and I became worried that something bad was going to happen.

23 24

25

26

As the yard officers were within a few feet of the sally-port of Building 1, the tower officer opened the door of the sally-port and activated the alarm. The officers then rushed the man, and the largest officer of the group charged at him and tackled him. The largest officer was very stocky and around 5' 11" tall. Both the officer, and the person

down, the two other officers entered the sally-port and piled on the man.

13. One of the two other officers then grabbed the man and cuffed him behind

he was tackling, landed in the sally-port. As the largest officer sat on the man, pinning him

- his back as he lay face down on his stomach. The largest officer then stood up and took a step back from the man. This officer started kicking and stomping him. I saw the largest officers kick him in the face and in the ribs about six or seven times with extreme force, winding back his leg on each kick. The whole time, the officer was screaming at him, calling him names, and saying things like, "You're a bitch, yeah, you motherfucker." After the largest officer began kicking the man in the face, the two other officers stepped back from the man and backed off. I observed the looks on their faces, and it seemed to me that they were shocked about what was happening. Eventually, two or three other officers from the yard arrived and physically restrained the largest officer, pulling him away from the man to prevent him from continuing to assault him. The whole incident lasted about forty five seconds.
- 14. After the fight was broken up, the largest officer forcefully grabbed the man under the arms, picked him up, and then dragged him, with the aid of another officer, to the mental health building. The man was still cuffed behind his back. The largest officer was holding on so tightly to the man's arms as he escorted him that it looked like he was trying to hurt him even more. I did not observe what happened after the man was dragged to the mental health building. The man came back to the yard about four of five days later. When he returned, I observed bruises all over his face, and it looked like he had suffered injuries. I do not know whether CDCR investigated this incident.
- 15. Observing this issue made me feel very scared of staff. After I witnessed this incident, I expressed to my mental health clinician that I felt vulnerable after seeing staff assault people with mental illness. Even though only one staff member was responsible for the assault, the rest of the officers allowed him to do so without intervening until it was too late. Up until the point that I was transferred to Facility E in late April or early May 2019, I often saw the officers that were involved in the staff misconduct against

1	the EOP person on Facility A. All the officers – including the largest one who kicked the			
2	man in the face repeatedly – were still working their posts up until the point I was			
3	transferred to Facility E. Every time I came out for meals or groups, I would see the			
4	largest officer working on the yard, meaning that I saw him nearly every day. I do not			
5	know what happened to them after I was transferred to Facility E around late April or early			
6	May 2019.			
7	16. I have also witnessed staff misconduct on Facility E involving Officer			
8	Officer is one of the housing unit floor officers in Building 23 on			
9	Facility E, where I am currently housed. On a number of occasions, I have witnessed			
10	Officer instruct incarcerated people who work for him to assault other people who			
11	are causing trouble for Officer Sometime in June or July 2019, there was an			
12	2 incident in which a person on drugs was acting out of line in Section A of the housing up			
13	This person was running around the housing unit with his pants down, screaming,			
14	slamming on people's cell doors, and kicking down trashcans. Based on his behavior, I			
15	believe that this person was under the influence of drugs at the time. While this man wa			
16	causing trouble, I observed Officer walk over to talk to a porter who works for			
17	7 him in the housing unit. This porter is named , and he is known to be a member o			
18	the "Hoover Crips" gang. I heard Officer tell that he should, "Shut him			
19	[referring to the disruptive person] down, and stop him." Moments later, I saw			
20	another incarcerated person walk over to the disruptive person, grab him, and drag him to			
21	his cell. They entered the person's cell with him. I then witnessed and the other			
22	person assault the person who was on drugs, punching and kicking him until he stopped			
23	screaming. Officer was in the housing unit the whole time this happened, and I			
24	did not see him intervene at any point.			
25	17. Sometime in October or November 2019, I observed a porter named '			
26	" (also known as " " and another person arguing in Section B of the housing			
27	unit. also works as a porter in Building 23, and his supervisor is Officer			
28	heard tell the man to, "Clean the fucking shower." As they continued to argue, they			
	[3475258.2] 4 Initials			

4	started yelling, and the other person then retreated to his cell. At the time, Officer			
2	was in the control booth of the housing unit. It appeared to me that the argument between			
3	and the other person caught Officer attention because I saw Officer			
4	turn to Section B of the housing unit and stare at them arguing. After the other			
5	person went back to his cell, I heard Officer still turned towards, yell out to			
6	"fuck him up!" I then observed Officer turn away to face Section A.			
7				
8	cell. The housing unit was full at the time, and many other people witnessed the incident.			
9	At no point did Officer activate his alarm or close the cell doors of the housing			
10	unit. I believe that Officer turned to face Section A because he wanted to allow			
11	to assault the person without seeing it.			
12	18. Witnessing these incidents makes me believe that staff on Facility E allow			
13	certain people to get away with assaulting other people, and some staff even encourage a			
14	organize it when the person being assaulted is causing trouble in the eyes of staff.			
15	19. I believe that Officer compensates people who carry out assaults in			
16	the form of extra privileges and leeway when it comes to rules violations. For example, I			
17	have seen Officer order an extra tray of food for both and when he is			
18	assigned to the dining hall. I have not seen Officer do that for any other people			
19	who are housed in his unit.			
20	20. On or around December 1, 2019, I was in the dayroom when Officer			
21	walked in. I observed that the dayroom smelled like cigarette smoke. Smoking cigarettes			
22	is against institutional rules. After Officer came into the dayroom, I observed him			
23	walk into 's cell and tell him, "Man, I wish I had some of that." I believe that he was			
24	referring to cigarettes or tobacco. Officer then advised ., "to spray in here to			
25	get the odor out," and then he left. then sprayed something in his cell, and brought			
26	one of the dayroom fans into his cell. I interpreted this interaction as Officer			
27	letting			
28	point did Officer indicate that he would discipline for breaking the rules.			
	Initials			

Based on my observations, I believe that Officer pays his porters to assault people in the form of privileges and turning a blind eye to rules violations.

- 21. Officer still works in my housing unit. I see him five days a week, and I have to interact with him on a daily basis. I have heard from other incarcerated people that he is under investigation for orchestrating or encouraging violence against incarcerated people. It is being investigated for staff misconduct, but that he doesn't worry about being caught because he believes that Officer will use his power to protect the people who work for him. When I first arrived on Facility E, many people warned me that he has been under investigation for staff misconduct. I do not understand why he has been under investigation for so long and nothing has been done about him.
- 22. Sometimes, my disability is so bad that I have to ask other people to help me do things, like helping make my bed or going to the toilet. I often ask for accommodations for my disability like someone to help me clean my cell, or asking for extra toilet paper for my incontinence and my housing unit officers, Officer and Officer frequently deny me those accommodations. Because they do not give me extra toilet paper, I have to use old sheets to clean up my incontinence-related accidents, which causes my cell to smell over time. This has led to a lot of conflict with my dorm-mates. With my housing unit officer, I cannot advocate for myself or press them when they deny me what I need because I'm scared that if I cause trouble, Officer will tell his porters to hurt me. Because I have witnessed Officer organizing assaults on people, I try not to talk to Officer. After witnessing these incidents, I have decided to keep to myself, go to my groups, and not speak out in order to avoid getting hurt.
- 23. Staff at RJD do not seem to care about the struggles of people with disabilities. For example, a few months ago, I approached Officer to talk to him about an issue with a part on my wheelchair. Officer told me, "yeah, I'll take care of it." After three weeks had elapsed, my wheelchair still needed repairs. Now that I have

witnessed Officer control orchestrating assaults on people, I am not comfortable asking him for an update on whether my wheelchair is going to be repaired.

- 24. I have not filed a 602 about any of my experiences with staff misconduct because I am afraid of retaliation. When I was housed on Facility A, I had hoped that the other staff members involved in the incident I witnessed would report the misconduct of the largest officer. I had hoped that they would report it so I wouldn't have to put myself at risk by reporting it. I felt that they might have reported it because, based on the looks on their faces, it seemed to me that they disagreed with his conduct. Since the largest officer did not appear to be disciplined or taken off the yard, I assume that the other officers involved never reported the incident.
- 25. I cannot report the misconduct of Officer because I have to live in his housing unit. If I reported this incident, I believe that something would happen to me because that is how things go at RJD. I want to talk to a sergeant about these issues, but I'm worried that it will get back to Officer and he will have me assaulted for reporting his misconduct.

16 ///

1

2

3

5

6

7

9

10

11

12

13

14

15

17 1/

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

23 1111

24 ///

25 ///

26 ///

27 ///

28 ///

[3475258 2]

26. I have been in CDCR prisons for about 40 years of my life on various commitment offenses. I have been housed in a number of different CDCR prisons, including California Medical Facility, Wasco State Prison, San Quentin, old Folsom, and Pelican Bay. The staff misconduct at RJD is worse than every institution I have been at except for Pelican Bay when it first opened. Staff are angrier and more aggressive on Facility E than at other institutions. Staff here are very aggressive and confrontational, almost like they are trying to start fights with people who are incarcerated. Staff misconduct at RJD also seems to happen in public places, which is unlike the other prisons in which I have been incarcerated.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

SAN Drago, California this 26 day of January, 2020.

[3475258.2]



Initials

Exhibit 49

DECLARATION OF

, declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at California Medical Facility ("CMF") in the M1 Unit. I am 55 years old.
- 3. I was housed at RJD from mid-February 2019 to mid-June 2019. I was then transferred to CMF, where I have been housed since.
- 4. During my time at RJD, I was supposed to be housed in Building 2 on Facility A, but I never made it there because I was assaulted by staff at RJD on the day I arrived at the prison. Instead, I was housed in the Correctional Treatment Center ("CTC") as well as the administrative segregation unit in Building 6 on Facility B.
- 5. I am an Armstrong class member. I am designated as DPM. I use a cane and walker to get around. As accommodations for my disability, I am housed on the lower tier and in a lower bunk. I cannot walk up any stairs. I have trouble walking due to spinal and back problems. During the time I was housed at RJD, I had the same disability-based limitations and accommodations that I have now.
- 6. I am a *Coleman* class member. I am at the EOP level of care. I am diagnosed with major depression, and I experience auditory and visual hallucinations on a near-daily basis. To manage my mental health symptoms, I take Zoloft. I speak with a mental health clinician about once every two weeks. During my time at RJD, my mental health symptoms were as bad, if not worse, than they are now.
- 7. I have a number of serious medical conditions. I suffer from COPD, hypertension, asthma, osteoarthritis of the spine, GERD, cirrhosis of the liver, and benign prostatic hyperplasia. I take medication that helps me manage my prostate issues as well as medication to regulate my blood pressure. I also experience incontinence related to my

[3487475.3]

("TTA") for a health screening.

bladder condition. I am classified as high risk medical, and I am a chronic care patient, meaning that my medical conditions are closely monitored by staff.

transported from High Desert State Prison to RJD. I arrived at RJD's Receiving and Release ("R&R") at around 9 p.m. to 10 p.m.. I was exhausted from the very long trip, which included stops at Deuel Vocational Institution ("DVI") and CSP – Corcoran ("COR"). The transport from COR to RJD took about ten hours, and for the entirety of the ride, we were not allowed to urinate. Due to those factors, I was feeling very anxious and mentally unwell. The processing in R&R took about an hour or two. Once that was done, an officer took me and another incarcerated person to the Treatment and Triage Area

- 9. We were placed in a holding cell, and told to wait for medical clearance before being released to our housing units. Sometime around 2:00 a.m. on February 15, 2019, I told TTA staff that I wanted to see a mental health clinician because I was feeling depressed and anxious. In response, one of the officers told me that I would have to wait until 8:00 a.m. I continued asking to see a clinician because I was really feeling badly. One of the custody officers stationed in the TTA appeared to be frustrated at my requests and she left the TTA. A few minutes later, she returned with Sergeants and the sergeants took me out of the holding cell, and escorted me out of the TTA. I asked them where they were taking me, and Sergeant said that they were escorting me to a clinician. Sergeant then cuffed me, and escorted me out of the building with my walker.
- 10. They escorted me out of the TTA to the central area of the prison, which is referred to as the plaza, to an area near a semi-truck trailer. Because of the trailer, there was limited visibility of the area from other parts of the plaza. Because of the isolated setting, I became worried that the officers were going to do something bad to me. I started turning around to walk back to the TTA. One of the sergeants then rushed me and threw me to the ground. I fell backwards. The lower part of my back hit the ground hard.

[3487475.3] 2 Initials

- As soon as he said that, a lot of the staff left the sally-port. Only Sergeants and along with Officer stayed. After Sergeant activated his alarm, they dragged me by my clothing out of the housing unit. A few moments later, an emergency transport vehicle ("ETV") arrived, and I was shoved into the ETV. Sergeant then threw my walker into the ETV, striking me in my torso and chest. Finally, I was transported in the ETV to the TTA.
- 14. At the TTA, medical staff conducted an examination and documented some, but not all, of my injuries on a 7219. After I showed a nurse more bruising and redness on my arms and legs, she told me, "Oh, that's just because you are old." All the while, my

28

27

1

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

3

4 5

7 8

9

6

10

14

15 16

17 18

19

20 21

22 23

24

25 26

27

18. 28

mental health was deteriorating as a result of this incident. I then told medical staff that I needed to go to a crisis bed after what had happened.

- 15. Medical staff then transferred me to the administrative segregation unit ("ASU") because they didn't have a crisis bed available. I was stripped naked and put into a suicide-prevention smock ("safety smock"). When in the ASU, I finally was able to speak with a clinician. I told her about the incident. I also showed her my bruises. She then told me that she would report the incident to her supervisors. I stayed in the ASU overnight, and was then transferred to a mental health crisis bed ("MHCB") the next morning.
- 16. Once I arrived in an MHCB in the Correctional Treatment Center ("CTC"), I was examined by a doctor. I showed her my injuries, and she then attempted to touch my bruises. Without thinking, I pushed her arm away as a reflex because my body hurt to the touch. An officer – Officer 1 – monitoring our interaction responded to this by grabbing me by my throat and choking me for about 10 seconds. Then, Officer 1 and his partner – Officer 2 – took me to the CTC holding cell. Once my handcuffs had been taken off by Officer 1, Officer 2 got in my face and shoved his fingers into my Adam's apple.
- 17. After reporting this incident, Sergeant who was the CTC sergeant at the time, came to talk to me about what had happened. I told him about the first incident He then told me that if I didn't report involving Sergeants and the CTC officers for misconduct, he would help me out with filing a misconduct complaint against the officers who assaulted me on Facility A. He told me that he knew those sergeants well. He described them as "assholes." He then left, and when he returned, he had the names of all the sergeants working that day. He even told me the names of sergeants at RJD who were known to engage in misconduct. With the information he had given me about the names of staff who had assaulted me, I filed a 602 staff misconduct complaint a couple of days after the attack.
- Around two days after my initial admission to the MHCB, Sergeant and a lieutenant interviewed me in a medical office in the CTC about my allegations of

Initials 4 [3487475.3]

staff misconduct. They videotaped the interview, and recorded my injuries, including swelling and bruising on my arms and legs. The interview only lasted ten minutes. I feel that they didn't care about investigating my allegations because the interview was so short.

- 19. Three days after being admitted to the MHCB, on February 17, 2019, I asked medical staff to conduct another 7219 to properly document my injuries. This time, the 7219 documented bruising on both of my arms, and bruising and redness on my knee. The 7219 also included my statement that I had been assaulted by multiple sergeants outside of the TTA building and in Building 2.
- 20. I was interviewed a second time by Sergeant an ASU sergeant, a Captain, and Lieutenant on April 24, 2019 in Building 6. I told them what had happened on February 14, 2019. I do not know why I was interviewed a second time about my allegations of staff misconduct.
- I received a response to my 602 on December 17, 2019. In the response,
 RJD found that no staff members in my allegations had violated CDCR policy.
- 22. To this day, I still experience neck and back pain that make it harder for me to sleep and get around. My knees were bad before this incident, but I think they were made worse by the assault. My left knee the one the sergeants jumped on now has less range of motion than it did before, and it commonly pops when I walk or bend and stoop.
- 23. I have also witnessed staff engage in misconduct against other people at RJD on a number of occasions. In March or April, 2019, I witnessed ASU staff members rush into the cell of someone with serious mental health issues, and drag the person out of his cell a few minutes later. While they were in his cell, I heard the person screaming, and I heard a lot of slamming, which I interpreted as the officers assaulting the person. I observed the person return to Building 6 a couple of days later wearing a cast. I believe that staff broke his arm.
- 24. For a two week period sometime in my time at RJD, I witnessed Officer torture another person in the ASU in Building 6 over the course of two weeks. For nearly every day during this two-week period, at the start of Officer shift, I

Initials

1	observed him escort the incarcerated person down from the second tier, bring him to a
2	holding cage, and then leave him there cuffed for the entire shift. I observed the person
3	urinate in his pants because he was cuffed the entire time. Often, I would see a puddle of
4	urine in the cage after the person had been returned to his cell on the next shift. I also
5	observed Officer harass other people, including by locking people in the cage
6	without any apparent justification and calling people insulting names.
7	25. I have also heard about staff misconduct from incarcerated people who have
8	been victimized by staff at RJD. Ms.
9	an EOP group about staff misconduct involving Officer She told me that she told
10	Officer hat she was feeling suicidal, and in response, he told her "go ahead and do
11	it." Ms. also told me that she had heard from people that Officer was
12	soliciting a hit on her life. She then showed me her arms, and I observed that she had
13	many stitches running up her arm. I also told Ms. about what had happened to me,
14	and she conveyed that Sergeants and and and had been demoted for
15	misconduct in the past, but somehow, were made sergeants again.
16	26. It is my understanding and belief that RJD has a culture of staff misconduct.
17	For example, free staff have told me that they are afraid of speaking out about custody
18	staff misconduct because custody staff have threatened them. Mr.
19	member who works in the EOP, told me that he witnessed Investigative Services Unit
20	("ISU") officers assault someone. When the ISU officers learned that Mr.
21	witnessed the assault, Mr. told me that they threatened his life. Mr.
22	me that since he was threatened, he has not reported misconduct due to fear of retaliation.
23	27. In my time at RJD, there were a few times that I needed help but didn't ask
24	for it because I was afraid of what would happen to me. I was assaulted in the first place
25	by Sergeants and and because I had asked for a clinician. When I
26	was housed at RJD, I was scared to even go to TTA for medical attention because I was
27	afraid that I would run into the officers that had assaulted me. There were times that I did
28	not seek medical attention because I did not want to interact with the officers that assaulted
	[3487475.3] 6 Initials

me. I would only seek medical attention if services were to be provided to me in my housing unit.

- 28. In my opinion, staff target people who stand out from the general prison population, including people with disabilities and people with mental health needs. I think staff assault people who stand out because people with special needs cause staff to do extra work. I think that causes staff to lash out at people who have a lot of needs. In my opinion, people with disabilities and people with mental illnesses were assaulted much more frequently than other populations of prisoners.
- 29. I have been in CDCR prisons for about 28 years of my life. I've been housed in a number of different CDCR prisons, including San Quentin, CMF, Folsom State Prison, CSP Sacramento, CSP Solano, Deuel Vocational Institute, CSP Corcoran, Pleasant Valley State Prison, RJD, CSP Soledad, and Salinas Valley State Prison. The staff misconduct at RJD is the worst I have experienced. At RJD, staff are much more aggressive than at other prisons, almost like they're looking for trouble. Staff at RJD also do their dirty business out in the open, rather than in private. Because of this, it feels to me like staff at RJD do not fear facing any consequences for their conduct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at 2.03 [M. Jan 22 [Y], California this 24 day of January, 2020.

Initials

[3487475.3]

Exhibit 49a

Filed Under Seal

Exhibit 50

DECLARATION OF

I, declare:

- 1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is the control of the Psychiatric Inpatient Housing Program ("PIP") for patients with serious mental illness in need of hospitalization.
- I was housed at RJD for five years, from December 2013 until March 17,
 2019.
- 4. During my time at RJD, I was housed in building C15 for most of the time.

 Over the five years I was there, I was transferred out of RJD for brief periods of time to receive mental health treatment in the Department of State Hospitals, but I always returned to C15. I was also housed in Ad Seg, but I'm not sure exactly how long I was there.
- am in a wheelchair full-time and have been for about five years. I was shot in the back while imprisoned at Pelican Bay State Prison in 1992. I was semi-functional for a while but now have a collapsed spine, spinal stenosis, and I have had cancer in my backbone since 2017. I am incontinent and I am numb from the waist down on the right side of my body. I am considered "high risk medical" by CDCR and have emphysema and COPD. During the time period relevant to what I discuss below (2018 and 2019), I had the same disabilities and conditions.
- 6. I am also a *Coleman* class member. I am currently housed in the SVSP PIP for psychiatric hospitalization. While at RJD I was at the EOP level of care. I am diagnosed as bipolar and also have major depression which was brought on by living in prison. I also suffer from paranoid thinking. I was at the EOP level of care during the time period relevant to what I discuss below.

- 7. I was a victim of staff misconduct at RJD on May 7, 2018. That morning, an ADA worker pushed me in my wheelchair to the chow hall for breakfast. He pushed me through the line to get food and he picked up two meal trays one for me and one for him. This was how we always did it. He then pushed me to a table to eat but then he had to continue working, pushing other wheelchair users, so he gave me his meal tray. Officers and saw that I had two meal trays. They came over to me and Officer said, "What the fuck are you doing with two trays?" I told them that the ADA worker gave me his tray. Officer then grabbed the two food trays and threw them in the trash. I didn't have any breakfast. Bag lunches are handed out at the same time so I figured, at least I still have food for lunch. The ADA worker said I could have his bag lunch.
- 8. When chow was over I put the two bag lunches in my lap and my friend was pushing me out of the chow hall. As I passed Officer he demanded that I give him the lunches. I didn't want to give him the lunches because then I wouldn't have any food all day. So, I said no, you can't take all of my food. Next, Officer reached over and forcefully grabbed the lunches from me. As he was grabbing the lunches, the open milk container in one of the bags fell out and milk spilled on his boots. He started yelling, "Look what you did you dirty motherfucker! You motherfucker!" He kept yelling at me calling me "motherfucker." I was so scared. There were five officers standing around him staring at me. I felt totally helpless in my wheelchair.
- 9. Next, Officer grabbed my left arm and the side of the wheelchair and forcefully tipped the wheelchair over throwing me to the ground. I hit my head on the concrete floor when I flew out of the chair. He tossed the chair with such force that it sent me sliding a few feet across the floor. I felt what I thought was sweat dripping down my forehead, but then I realized it was blood.
- 10. I just laid there on the floor helpless because I am paralyzed, so I couldn't stand up, and I couldn't defend myself. Next, Officer came over and he cuffed me

and sat on me. All of these officers were standing there and no one did anything to help me.

- 11. I don't know how long I was laying there. Finally, Officer came over and said, "Get up motherfucker!" But I couldn't get up, I can't walk. He yelled at me again to "Get up!" Finally, Officer just yanked me up by my hair and the back of my jacket collar, and put me in the wheelchair.
- 12. Officer then pushed me to the gym in my wheelchair. I noticed that my wheelchair had been damaged when Officer threw it the leg rest was broken and the wheel was bent. The wheelchair was wobbling the whole way to the gym.
- else around. I was alone with Officer Next, Officer grabbed my shirt and pulled it over my head. I was still in my wheelchair and handcuffed. With the shirt pulled over my head, I couldn't see anything. Officer started punching very hard. He punched me in my stomach and in my face multiple times and was yelling at me, saying things like "you are lucky I'm not doing time with you, I'd beat you to death" and "you are a piece of shit." He also called me a "faggot." At some point during the beating, I fell out of my wheelchair.
- 14. Then, I recognized Officer voice. I'm not sure where he came from or when he came into the gym, because I still couldn't see anything with my shirt over my head. But Officer started beating me too and yelling at me in Spanish. I am sure it was him because he was assigned to my housing unit, and I recognized his voice.
- 15. In that moment, I thought that Officers and were going to kill me. I couldn't do anything to defend myself so I started yelling, "Go ahead and kill me. I know you're going to kill me. Hurry up and kill me you motherfuckers!"
- 16. I am not sure how long the beating lasted for. At some point, it just stopped.
 I don't know why. I could hear the officers panting and breathing heavily. I was surprised that I was still alive.

- 17. Next they grabbed me off the ground and put me in a holding cage. I was thrown on the floor in the cage, no wheelchair, unable to get up because of my disability. Officer yanked all my clothes off and said, "It would be so easy to turn you into a bitch." I just laid there in pain and bleeding for hours. My face was cut and bleeding and my chest, ribs and stomach were sore. I had pain, bruising, swelling and cuts on my face. My ribs and torso were swollen, bruised and sore. I still experience pain that I believe is directly related to this incident.
- 18. After about three and a half hours the medical staff finally came to see me.

 The nurse asked me what happened. Officers were standing right behind her the whole time. They were staring right at me and I felt intimidated. I told the MTA nothing happened to me.
- 19. After the MTA left, Officer threatened me stating that if I wrote up a 602 on them, they would assault me again.
- 20. Next, Officer came and read me my rights for a rule violation that I was being charged with. I was being charged with Battery on a Peace Officer for allegedly throwing my lunch at Officer He read me a statement that was supposed to be my statement and it said something like, "states that he had a bad day and that he shouldn't have thrown his lunch." It was completely made up.
- After that I was transferred to Ad Seg. I became even more depressed in Ad
 Seg.
- 22. A few days after the incident, while I was still in the CTC, Warden Paramo came to speak to me. When he saw the cuts, bruising, and swelling on my face he asked me what happened. I explained the whole incident and he said that he would file a 602 on my behalf and have my injuries recorded on video. I recall that three sergeants from Facility C interviewed me on video. I have never seen the video.
- I was found guilty of the rules violation that I did not commit. As
 punishment, the hearing officer added 365 days to my sentence. I became distraught.

28

- 24. On May 14, 2019, I tried to kill myself. I used a sharp object to cut open my arm and to cut my neck. I wanted to die. I passed out from the injuries. I was sent to the acute care mental health treatment center in Stockton for treatment for two weeks. I still have deep scars on my neck and arms. After Stockton they sent me back to the hospital at RJD and then back to Ad Seg.
- 25. When I was finally released from Ad Seg they sent Officer and Officer to pick me up. Officer said, "You look healthy. What's happening with the 602 you filed?" I felt intimidated. Then Officer said, "You're lucky it was Officer and not me because I would have stomped you out" which I took to mean that he would have killed me. I was very intimidated by both of the officers. I couldn't believe, after everything that had happened, that I was being sent back to the same yard and to the same building, where I would have to be in contact with the same officers who assaulted me and then covered up the assault.
- I have also witnessed multiple incidents of staff misconduct, including with 26. in November of 2018. • Howk it was the Friday be regard to my friend, Thanksgiving. He was mentally ill and he had just returned to Building 15 after having been elsewhere while on suicide watch. Late one night or early in the morning he cut himself while in his cell. He was in cell He was yelling for help and said that he had cut himself. I don't think he wanted to kill himself because he was yelling for help. The officers in the unit just ignored him for a long time. Finally, after about 30 minutes, I saw the two officers—Officers -pull him out of his cell. I could see that was bleeding and he was in his boxers. I saw that Officers on top of him holding him down. The officers yelled at him, "You woke us up motherfucker! Stop resisting! Stop resisting!" I saw Officer —who is about 6 foot 3 inches tall and probably about 200 pounds—start standing with both feet on top of back while was lying face down on the ground. Officer hands were up on the wall, so his entire weight was on was yelling, "I can't back.

5

[3479029.3]

[3479029.3]

- 30. I have been in prison since 1983 and I was in juvenile detention before that. I have never had any problems with officers. I've never been written up for assault on an officer until RJD. RJD is the worst prison I've ever been to, and I have been to prisons all over the state. I was even a tier tender on death row so I have seen a lot of different types of lock ups. At RJD, it felt to me like the officers were looking for opportunities to assault people. I observed that officers would lash out at us any time I or another prisoner did something the slightest bit wrong. For example, one time I took too long in the shower it is hard to move quickly if you have a disability. Staff got on the intercom and said something like, "I know you don't want me to announce to everyone in the unit why you are in prison so you better get out of the shower right now." I interpreted what the officer was saying as a threat to inform other incarcerated people of my commitment offense unless I quickly got out of the shower.
- 31. I think the officers at RJD treated me so badly because they knew that, since I was in a wheelchair and paralyzed, I couldn't do anything to stop them. During my time at RJD, I generally observed that the officers did not assault or pick fights with people who could fight back. I wear a bright green vest, like other people with disabilities, and am in a wheelchair, so it's obvious that I am less able to protect myself.
- 32. I wasn't always in a wheelchair at RJD so I saw the difference between how officers at RJD treated me before and after being in a wheelchair. The treatment was much worse after I got the wheelchair. Once I started using the wheelchair, officers began calling me "crippled." Once, when I was coming back from the yard, Officer said, "Oh, you must be a big pussy now that you're in a wheelchair. Aren't you?" I just put my head down and said "yes." I didn't want to get in a fight.
- 33. I remember when I first started using a wheelchair, one staff member,

 Officer said to me, "Don't think that wheelchair is going to prevent us from putting hands on you if we have to."

[3479029.3]

- 34. From my observation, the staff treat the prisoners with developmental disabilities—they are often referred to as DDPs—the worst. In my experience, DDPs often don't understand what the officers are saying and therefore sometimes don't comply with orders right away. In my experience, sometimes officers have to tell a DDP prisoner something two or three times before the DDP prisoner understands. When this happens, I've observed some officers get frustrated and angry with the DDP prisoners.
- 35. At RJD, and especially after I was attacked by staff on May 7, 2018, I was hesitant to ask for help or to file any grievances. I was afraid that if I asked for help, staff would attack me again. Even when I did file grievances about really important things, like getting repairs to my wheelchair so that I could get around RJD, I was afraid that I would face retaliation.

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

Exhibit 50a Filed Under Seal

Exhibit 50b

Allegation of Non-Compliance Inquiry Worksheet

*** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

	ALLEGATION (to be included in	Final Inquiry Memorandum)
mate/Parolee:	CDCR #	Disability Class member: ⊠ Armstrong (DPP) ☐ Clark (DDP)
Allegation of Non-Compliane specifically, his wheelchair g		f took his prescribed Durable Medical Equipment (DME)
Employee Identified (Last/Fi (If unknown, the involved e		: N/A Rank/Title: N/A ervisor/manager review and entered by the reviewing staff member)
	DISCOVERY REVIEW (to be include	ed in Final Inquiry Memorandum)
Date of Discovery: 5/24/201	.8 Source of Allegation/Reported B	y: via 1824 Log #
Date Allegation Inquiry Initia	ated: 5/25/2018	Assigned To: P. Logan AW
Date Inquiry Due to ADA Co	ordinator: 6/11/2018	
	INMATE INTERVIEW (to be includ	ed in Final Inquiry Memorandum)
*** All inquiries SH	ALL include an interview with the inmate/par	rolee who is the subject of the allegation – no exceptions ***
Staff Conducting Interview (print name and title):	Date of Interview: 6/21/2018
Disability Code Requiring E/C:	2. Accommodation (Primary Method Required):	3. Effective Communication (Check all that apply):
□TABE≤4 □LD □DPH	☑ Glasses ☐ Hearing Aids ☐ Loud/Clear Speed	h Reiterated, in own Asked appropriate questions regarding the information provided.
□ DPV □ DNH □ DPS □ DDP □ EOP □ № N/A 08.3	☐ Speak ☐ Written ☐ SU ☐ Reads Lip Slowly Notes ☐ Other: Staff Assistance for EC, simple English	S ☑ Provided appropriate, ☐ Did not appear to understand the communication. guestions asked. ☐ Other: Other.
had nothing to add	the state of the s	conducted the interview of Inmate in ASU and
id not identify sta		Proposition and the second section of the
	ff or witnesses. A review of SOMS of Inmat was conducted and the review revealed he h	[1] [1] [1] [1] [1] [1] [1] [1] [1] [1]
* Return this worksheet to the Review.	ADAC with ALL supporting documents attached	ed. DO NOT take any employee corrective action prior to Hiring Authorit
	SUMMARY OF A	ADAC REVIEW
During the inquiry of the abov	List all prior confirmed allegations (include mentioned allegations Inmate factor) factors, which he alleges were taken by custody.	de date, allegation, and action taken). iled to provide witnesses, suspects or evidence to prove that he was in
	ADAC RECOMI	MENDATION
Not confirmed, no further action	on recommended.	
Print Name: Jorge J. Santana	Signature:	Date: 6/22/2018
	HIRING AUTHO	RITY REVIEW
Allegation: Confirmed	Not Confirmed Action Rec	quired: MAJM
oignature:	W	Date: 6 (22/3
	4.70	

Updated 4/13/2016

Memorandum

Date:	July 19, 2018
	June 224

To:

J. SANTANA Associate Warden

Americans with Disabilities Act Coordinator

Subject: INQUIRY OF ALLEGED NON-COMPLIANCE REGARDING THE DISABILITY PLACEMENT PROGRAM/DEVELOPMENTAL DISABILITY PROGRAM POLICY

SUMMARIZED ALLEGED VIOLATION: On May 7, 2018, the American with Disabilities Act Office was advised via CDCR 1824 form (Log # 18-18-18), of a possible DPP/DDP noncompliance concern; Specifically, Inmate alleges custody staff took his prescribed Durable Medical Equipment (DME) specifically, his wheelchair gloves and sit cushion.

INQUIRY SUMMARY: On Thursday June 21, 2018, I initiated the inquiry into this alleged ADA violation by reviewing the Electronic Records Management System (ERMS) and the Strategic Offender Management System (SOMS). The review revealed is an Armstrong Class Member with the designated DPPV code of DPW, he is a participant in the Mental Health Services Delivery System (MHSDS) at the EOP Level of Care, he is NOT a DDP Class Member with the DDP code of NCF, and his TABE score is 8.3.

A review on SOMS of DPP Disabilities/Accommodation/DMEs Chronos dating from June 2, 2010, to May 29, 2018, was conducted and the review revealed that he never received any sit cushion as DME; the following is the list of the DMEs which were noted in Chronos; Canes; Non-invasive Airway Assistive Devices, C-Pap Machine, Eyeglass Frames, Other (Include in Comments) and wheelchair.

On June 21, 2018, V. Correctional Lieutenant, conducted the interview inside of the B006 ASU Housing Unit. Due to his case factors, effective communication was achieved by assigning J. Correctional Officer. as a Staff Assistant. Lt. read to the contents of his Reasonable Accommodation request (CDCR 1824) utilizing simple English, spoken slowly and clearly, repeating/rephrasing sentences, as needed, ensuring was able to reiterate in his own words what had been explained to him and he was able to provide appropriate, substantive responses to questions asked, as well as being able to ask appropriate questions; consequently effective communication was achieved. At the completion of the interview, stated that he had nothing more to add to his CDCR 1824 request.

FINDINGS: During the inquiry of the above mentioned allegations, failed to provide witnesses or evidence to prove that he was in possession of wheelchair gloves, which he alleges were taken by custody staff. There was no violation discovered during this review of alleged non-compliance. If you should have any questions regarding this matter, do not hesitate to contact me at extension 7888.



EX50b02

Memorandum

Date : May 25, 2018

To : P. Logan

Associate Warden (A)

Central Services, B Facility and Records Richard J. Donovan Correctional Facility

Subject:

ALLEGATION OF DISABILITY PLACEMENT PROGRAM (DPP) / DEVELOPMENTAL DISABILITY PROGRAM (DDP) POLICY NON-COMPLIANCE:

On May 24, 2018, Richard J Donovan Correctional Facility (RJD) Americans with Disabilities Act (ADA) Office was advised vis 1824 Log # 18- of a possible DPP/DDP noncompliance concern. Specifically, but this previously issued wheelchair gloves and sit cushion.

This alleged violation has been logged on the Armstrong/Clark Staff Accountability Log and requires an inquiry. A supervisor shall conduct the inquiry and prepare a memorandum, addressed to Jorge Santana, ADA Coordinator. The memorandum must include:

- Summary of Alleged Violation (as noted above in this memorandum)
 - Date and source of discovery
 - Effected inmate's name, CDCR number, DPP/DDP code
 - Name and title of staff member(s) included in allegation (if known)

Inquiry Summary

- Steps taken to complete a thorough inquiry into the allegation
- o List and copies of all source(s) of information used to reach conclusion
- Date of <u>mandatory</u> interview with effected inmate, what methods were used to establish EC (if required) and whether or not EC was achieved.

Findings

- Results of inquiry and whether the allegations were confirmed or not confirmed
- o Specific information or evidence that supports the results of findings
- Name and title of staff member(s) revealed to be involved in allegation
- Name and title of staff member(s) revealed to be responsible in allegation (if confirmed)
- o Signature Block with name and title of supervisor conducting inquiry

Do not take any employee corrective action. Appropriate corrective action will be determined by the Hiring Authority.

Please return completed memorandum to my office by June 11, 2018. If you have any questions regarding this issue, contact me at 619-671-6500 Ext 7515.

JORGE SANTANA

Associate Warden- ADA Coordinator Richard J Donovan Correctional Facility

EX50b03

Santana, Jorge@CDCR

From:

Armenta, Francisco@CDCR

ant:

Wednesday, June 06, 2018 10:32 AM

To:

Lopez, Micaela@CDCR; Santana, Jorge@CDCR; Logan, Patrick@CDCR

Subject:

Allegation of non compliance

Santana,

As per our conversation, the non compliance assignment for reassignment.

is being place

is being placed in AW's Logan box for

Micaela, please change the TIK assignment on this inmate.

Francisco Armenta

Associate Warden

Health Care Access Unit

Richard J. Donovan Correctional Facility

California Department of Corrections and Rehabilitation

Office: (619) 661-6500 Ext. 8687, 7097

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 249 of 398 ABILITATION

REASONABLE ACCOMMODATION REQUEST CDCR 1824 (Rev. 09/17)

Page 1 of 1

	LI DO NUMBER OF THE COLD	DATE RECEIVED BY STAFF:
STITUTION (Staff use only)	LOG NUMBER	
DID	K7D-X-18	MAY 2 2 2010
*********TALK TO STAFF IF	YOU HAVE AN EM	MAY 2 3 2018
a una conce 1824 to request !	health care or to appeal a health care decisi	on. This
O NOT use a COCK 1024 to request.	. Instead, submit a CDC 7362 or a CDCR 6	02-HC
may delay your access to fleath care	, material	Luciania et / C-Ys
ISTRUCTIONS:		and the second second
You may use this form if you have a p You may use this form to request a si participate in a program, service or ac Submit this form to the Custody Appe The 1824 process is intended for an i	rals Office. Individual's accommodation request. Each i	t an allegation of disability-based discrimination. Individual's request requires a case-by-case revieweets will receive a response.
If you have received an 1824 decision disagreeing with a medical diagnosis.	n that you disagree with, you may add the chi /treatment decision).	
WHAT CAN'T YOU DO / WHAT IS	THE PROBLEM!	I CHAIR NORMALLY NOR
CAN NO	17-2018 While I WAS	5 IN MY INHEEKCHAIR
COMPORIABLY, ON, IVA	OVER FROM THE LEFT A	RM SIDE OF MY WHEELCHUR
Flipped ME	7 1 1	AR AND DEAD THE LEFT WI
SAUSING THE LEFF LH	7 18 16 17 16	1 - 1 1 1 1
SA/SO BENTOUT OF AL	INEMENT HARD TO BET AN	INHEREY BLOVES TAVED
WHY CAN'T YOU DO IT?	. (1	Wheelchair DOPW
IAM	Disable PERMENATE	
DEGENERATED BOND	E AND DIST DIESEASE/S	PINAL STENDSIS
CERVICAL SPINE MATY	owing - Herniated DISC.	
2-1	3	
WHAT DO YOU NEED?	1 1 21-11	1 -1 1
WHAT DO YOU NEED! TO	AVE MUWHEELCHAIR RE	EPLACED OR HIXED.
and chilling he ci	harGER For HERE MEI	MONED DAMAGE TO MY
WHEEL CHAIR ALSO	TO HAVE MY GLOVES	FOR WHEELINGTHE CHUR
AND MISIT CUSPION	ALSO RETURNED, OR 6	IVEN NEW ONES FOR
MUSTON TAKEN MY	PREVIOUS Y ISSUED WI	HEEL CHAIR GLOVES AND
SIX CUSHIONIN THAN	UK YOU!!	
		Use the back of this form if more space is neede
		X/ =
DO YOU HAVE DOCUMENTS TH	HAT DESCRIBE YOUR DISABILITY?	Yes No Not Sure
List and attach documents, if available		11 2 2 2 1 1
List billi ditabil documents, il avallosi	TAM IN ASU/Men	dal Crisis pedi
Go No Property -	Mough All is pocument	ed.
	9 20 20 20 20 20 20 20 20 20 20 20 20 20	cooperate may cause this request to be disappro
Lunderstand that s	failure to	cooperate may cause this request to be disapple
		MAY ZZNO ZUID.
		DATE SIGNED
Assistance in port		
Assistance in com		
	£ 13.00 s 3	Signature
	First Name	

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 251 of 398

NON-COMPLIANCE REVIEW COMMITTEE WORKSHEET

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILATATION

Page 1 of 1 INQUIRY LOG# INSTITUTION DATE OF REVIEW 18 RJD 10/16/18 INMATES NAME CDCP# DPP/DDP CODE(S) X ARMSTRONG DPW DPO DPM DLT DPH DPV DPS DNM DNH DNS DKD ☐ CLARK □ DD1 □ DD2 □ DD3 □ LD DATE OF DISCOVERY DATE INQUIRY ASSIGNED DATE INQUIRY COMPLETE 5/24/18 5/25/18 6/22/18 lleges custody staff confiscated his prescribed Durable Medical Equipment (DME) specifically, his wheelchair gloves and seat cushion. ALLEGATION/DISCOVERY REVIEW ✓ Yes ☐ No ☐ N/A – Was the inquiry initiated within 10 business days of discovery? ∑ Yes □ No □ N/A – Was the inquiry completed within 30 days of discovery? ∑ Yes
 ☐ No
 ☐ N/A – Final inquiry memorandum completed? ∑ Yes □ No □ N/A – Inquiry completed by supervisor/manager? INMATE INTERVIEW ∑ Yes
 ☐ No
 ☐ N/A - Inmate interview conducted? ∑ Yes □ No □ N/A – Was EC required for the inmate interview? Yes □ No □ N/A – Was EC provided? **REVIEW OF FINDINGS** ∑ Yes □ No □ N/A – Does Report of Findings accurately reflect the available evidence? INQUIRY REVIEW Yes No – ADAC recommendation supported by inquiry memorandum? OTHER NOTABLE ITEMS Yes No N/A - Staff corrective action taken? Reviewer's Notes: An attempt to address the allegation made by was made by staff but failed to provide any kind of documentation, names of staff or inmate witnesses to support his allegations. Furthermore during the investigation it was discovered there was no documentation was ever prescribed the DME's (wheelchair gloves and sit cushion).

Areas of concern:

N/A

Exhibit 50c

MHPC Consult Emergent Progress Note

TTA RN Bradley requested MH assistance around 2:00pm, as IP was in TTA refusing medical attention for an intentional cut on his wrist which may have hit an artery.

IP was lying on medical bed in handcuffs, with significant amount of blood on his jumpsuit. IP was holding his wrist with a piece of cloth. IP was fairly agitated but respectful. He stated, "I just want to go to sleep, I just want to die...I decided to take things into my own hands...My back hurts so bad...They stopped my pain meds and it just hurts so bad...I got beat up by officers on the yard, look at my bruises...Ask Ms. Chabolla, she knows me...she would tell me to breathe...I can't do it anymore. Please, just leave me alone...I just want to go to sleep." IP then warned writer to "step back" because "I'm gonna squirt" and he proceeded to intentionally squeeze his injured wrist in order to cause further blood loss.

EMS personnel arrived to TTA. Psychiatry ordered emergency psychotropic medication which was administered. Per nursing, shortly thereafter IP agreed to transport to outside hospital for treatment.

IP will require mental health assessment upon return from the hospital. He will be placed directly in CTC swing bed for ongoing observation as opposed to placement in Alt Housing. This has been verified by MH chief and CTC nursing supervisor.

Completed Action List:

- * Perform by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT
- * Sign by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT
- * VERIFY by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT

Result type: MHPC Consult Emergent Progress Note

Result date: May 15, 2018 14:49 PDT

Result status: Auth (Verified)

Result title: Emergent TTA contact

Performed by: Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT Verified by: Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT

Printed by: Gleiberman, Jack RBGG Printed on: 2/7/2020 16:36 PST

Exhibit 51

DECLARATION OF

I,				C	lec	lar	3

- I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. I am transgender. Although I am incarcerated under the name my preferred name is . My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Salinas Valley State Prison.
- I was housed at Richard J. Donovan Correctional Facility ("RJD") for approximately seven months, from September 2018 until April 2019. I do not recall the exact dates.
 - 4. During my time at RJD, I was housed in buildings C14 and C15.
 - 5. I am an Armstrong class member. I am designated as DPW, a

I have three fractured vertebrae in my spine, a herniated disc, and a cyst on my spinal cord. I have seizures and some of these injuries were the result of falling during a seizure. During the time I was at RJD, I had the same disabilities, limitations, and accommodations.

- 6. I am a Coleman class member. I am at the EOP level of care. I have serious depression and have had it almost my whole life. I experienced a great deal of trauma as a child including sexual abuse by my and then, when I reported the abuse, I witnessed my murder my uncle in front of me. During the time I was at RJD, I suffered from the same mental health issues and was classified as EOP.
- 7. I was a victim of staff misconduct at RJD. On Monday, February 4, 2019 at around 2:00 p.m., I approached Officer at the podium in C15 to inform him that I was being threatened by gang members on the yard. Officer told me to wait to ask

27

24

25

26

1

2

3

4

5

6

7

8

9

11

12

13

4

15

17

18

19

28

for help "on Thursday when there's no regulars here." I interpreted this statement to mean that he was not going to help me and that he did not take my safety concern seriously.

- 8. After he said that I went back to my cell, where I began to decompensate because I was so worried about my safety.
- 9. A little later that day, I went back to Officer and asked him to call mental health because I felt like hurting myself and I needed help. Officer refused to help and responded, "I don't give a damn. Go handle your business."
- 10. I returned to my cell, hoping to hold it together until evening pill line when I would be able to ask for help again but from a different staff member.
- I tried to hold myself together, but I was very worried about my safety.
 Finally, I used a razor blade and sliced my arm deeply from my hand to my inner elbow.
- 12. My wound required 31 stitches to repair the laceration. I have deep scars and I usually wear sweatshirts to cover my arm so people don't ask me what happened.
- 13. After this incident, I was placed in the mental health crisis bed at RJD until February 8, 2019. Upon my discharge, I was placed in C14, the building next door to my prior housing unit.
- 14. I experienced ongoing harassment following this incident when I reported Officer for denying me help.
- 15. On February 12, 2019, I asked Officer in C14 to sign a Form 22. The purpose of the Form 22 was for Officer to confirm, like a receipt, that I was submitting a 602 form alleging staff misconduct. Officer was occupied, however, so Officer who was standing next to Officer said he would sign it. When Officer reviewed the Form 22, he learned that it was related to a staff misconduct complaint against him. Officer said, "so now you're going to write me up, huh?" I told him that I have been on good terms with staff since I have been at RJD, that I'm not a problem and that all he had to do was his job. If I ask him to call mental health staff for me, that is all he had to do. Officer responded by saying "Am I supposed to give a

fuck if you kill yourself? If you didn't already have a razor I would have given you one to kill yourself. You didn't really want to hurt yourself."

- On February 20, 2019, I asked a friend to request toilet paper for me from Officer because I was locked in the cell at the time. I am incontinent as a result of my disability. Officer refused to give my friend the toilet paper for me.
- 17. That same day, I was sitting in the dayroom when my cellmate approached the podium. I overheard my cellmate tell Officer that one of us needed to be moved to a different cell, or my cellmate was going to hurt me. I overheard Officer say in response, "he [referring to me] has nothing coming after writing me up, he better hope you don't hurt him."
- 18. One day later, my cellmate was moved to a different cell. It's my understanding that my cellmate was moved only after a different staff member, a sergeant, became aware of the situation.
- 19. On February 23, 2019, a good friend told me that Officer tried to hire him to attack me. He said "tried is trying to pay some dudes to stab you up and get rid of you."
- 20. At RJD it is common practice for staff to hire prisoners to attack other prisoners. I had friends who did that kind of work for staff and they would brag to me about how they got property from officers in exchange for attacking other people. They told me that they would be paid to attack people who talked about reporting staff misconduct, or who were arguing or being difficult with staff.
- 21. After learning Officer was trying to pay other incarcerated people to attack me, I requested to be transferred to a different yard. Staff denied my request. I did not think I was going to be able to transfer any other way so, on February 26, 2019, I told my clinician that I intended to harm Officer This was a huge risk for me because I am supposed to parole in 2021 and saying something extreme like this means I risked

2

3

4 5

6

7

10

11

12 13

14

15

17 18

19

20

21

22

23 24

25

26

27

28

- being able to get out. I was so scared of Officer that I didn't feel I had any other choice.
 - 22. After I made that report I was transferred to the ASU at RJD.
- I witnessed multiple acts of staff misconduct at RJD, too many to recall them 23. all.
- The one that sticks with me the most involved my friend, " 24. in November of 2018, who lived in the same housing unit as I did. mentally ill. On the day in question, had a number of cuts on his arms and legs from cutting himself in his cell. I knew that he had cut himself because he was screaming from his cell about how he had cut himself, yelling for help, and banging on his door. Staff sounded an alarm, but it seemed to me that about 30-45 minutes passed between when the alarm first sounded and when two officers finally pulled out of his cell. Next, I saw the officers slam him on the ground. He wasn't resisting at all. He was on his stomach with his face to the ground. Then I saw one officer stand on his back with all of the officer's weight while another officer had his knee in state. The officers kept yelling, "Stop resisting, stop resisting." was yelling, "I can't breathe, I can't breathe!" Then he just stopped saying anything; he was dead. I was so angry. He was a friend of mine. He really looked out for me and helped me out.
- I was interviewed by Investigative Services Unit ("ISU") about the incident 25. and I told them that I saw the officers kill As far as I am aware, the officers faced almost no discipline for this incident. One officer was suspended for two weeks pending an investigation and then came right back to work in the same unit.
 - 26. I still have nightmares about seeing my friend die.
 - 27. Around November of 2018,

CDCR transferred about 50 incarcerated people off the

yard and also moved some officers off of Facility C into other positions at RJD. Unfortunately, in my experience, the officers who replaced the transferred officers were the same or worse when it came to staff misconduct. In addition, it is my understanding that these "new" officers were simply officers who had been working at other places at RJD. Also, some of the worst officers with respect to staff misconduct stayed right in place on Facility C. While I was at RJD, I did not see a decrease in staff misconduct on Facility C as a result of the interviews and changes. I still observed or heard about multiple incidents occurring each week.

- 28. Plaintiffs' attorneys in *Armstrong* wrote a letter on my behalf on June 28, 2019, asking for my incident to be investigated by staff who do not work at RJD. No one from CDCR ever came to talk to me or interview me after that request for a further investigation was made.
- 29. RJD Staff would often make demeaning comments and tease me about being in a wheelchair. They would say things like "You better not piss us off, you could get your ass whopped because you're in a wheelchair and you can't defend yourself." Officer who worked in the tower position in my housing unit, would call me a "bitch" or a "hoe" over the microphone. These statements made me feel humiliated.
- 30. At RJD, I often observed incarcerated people go "man down" to try to get help from staff. Someone goes "man down" by getting down on the floor and saying "man down!" When someone goes "man down" it is supposed to signal to staff that the person has an urgent medical or mental health problem. At RJD, I observed many times when someone went "man down" and staff ignored them and did not provide or call for any assistance. Sometimes, I even observed medical staff refusing to provide help to people who were "man down."
- 31. Part of the reason I think people with disabilities are often targeted by staff is because they need to ask for help from staff. From my time at RJD, it was clear to me that staff were bothered by people with disabilities asking for help because it made their job

more difficult. For example, if you're in a wheelchair, like I am, you need help getting around, including having someone push your wheelchair for you. On multiple occasions, staff at RJD gave me trouble by not letting people push my wheelchair. As another example, if someone is in mental health crisis, like I was, staff will stop you from accessing care. In my experience, when staff get in the way of the help that people need, it creates a bad cycle: first, staff deny help, then people with disabilities lash out because they're not receiving the help they need, and then staff attack the prisoners because they are being "difficult."

- 32. In my experience, people without any disabilities were able to avoid this cycle because they did not have to rely as much on staff for help.
- 33. I have been in and out of CDCR since 2003. In my opinion, RJD, compared to other prisons, is like the "wild west." The officers do whatever they want to do to people and they get away with it. When I filed my 602 about how Officer would not help me, it was denied. CDCR found he didn't violate any policies. Basically CDCR either did not believe me that he would not get me help and I tried to kill myself or they just do not care.
- 34. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Diego, California this \(\frac{1}{2} \) day of \(\frac{5000000}{5000000} \) 2020 \(\frac{1}{2} \)

[3466926 3]

Exhibit 51a

Filed Under Seal

Exhibit 51b



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

Michael Freedman

Email: MFreedman@rbgg.com

June 28, 2019

VIA ELECTRONIC MAIL ONLY

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd CDCR Office of Legal Affairs P.O. Box 942883 Sacramento, CA 94283-0001 russa.boyd@cdcr.ca.gov

Re: Armstrong v. Newsom; Coleman v. Newsom: Advocacy Letter re: DPO, EOP Class Member, Regarding Staff

Misconduct at RJD

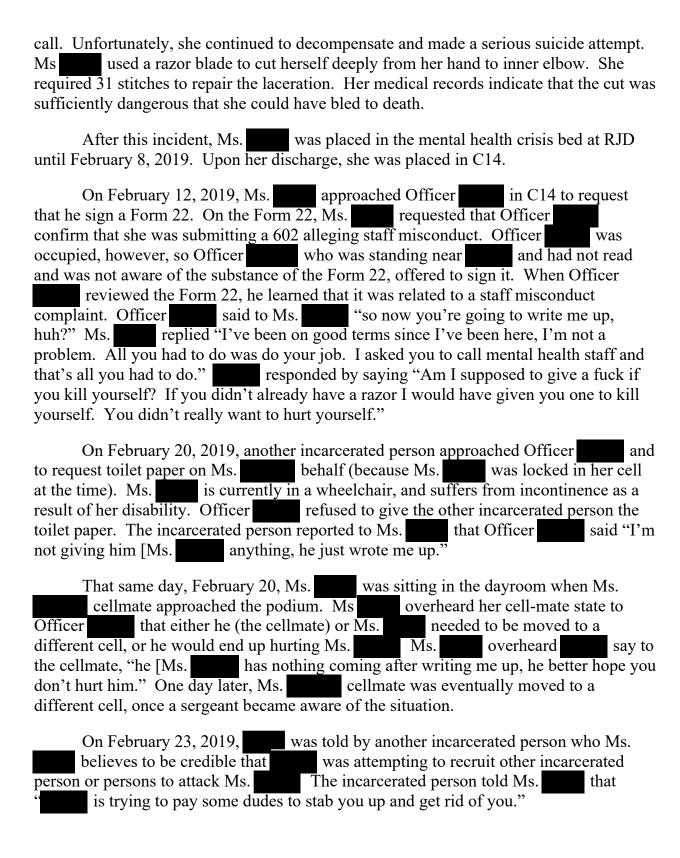
Our File Nos. 0581-03, 0489-03

Dear Russa:

I write regarding	a 41-year-old transgender
Armstrong and Coleman class member currently at SV	VSP. Ms reports a series of
serious staff misconduct incidents involving Officer	who regularly works in
Buildings 14 and 15 on Facility C at RJD. Ms	is DPO and currently in the SVSP
PIP, although at the time of the incidents she was at the	ne EOP level of care on Facility C at
RJD. We request that <u>CDCR</u> investigate the allegation	ns below. We also request that
CDCR not return Ms. to RJD once she is discharged	arged from the SVSP PIP.
On Monday, February 4, 2019 at approximately Officer at the podium in C15 to report safety consumers who were threatening her on the yard. Officer Thursday when there's no regulars here." Ms. In mental health began to decompensate. Shortly thereat officer and asked him to call mental health began to decompensate. Shortly thereat officer are responded: "I don't give a damn. Go hereturned to her cell, hoping she could maintain her consumers."	oncerns regarding gang members told her to ask for help "on went back to her cell, where her fter, she exited her cell, approached ecause she felt like hurting herself. andle your business." Ms.
opportunity to seek assistance from medical or mental	health staff during evening pill

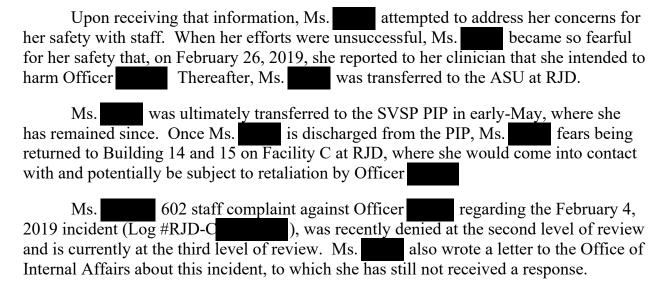
SUBJECT TO PROTECTIVE ORDERS

Russa Boyd June 28, 2019 Page 2



SUBJECT TO PROTECTIVE ORDERS

Russa Boyd June 28, 2019 Page 3



Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. The investigation should consider whether staff violated CDCR policies, including, but not limited to, Title 15, § 3317 ("Any CDCR employee who becomes aware of inmate suicidal ideation, threats, or attempt shall immediately notify a member of the health care staff."), and Section 12-10-12 of the *Coleman* Program Guide ("Any CDCR employee who becomes aware of inmate suicidal ideation, threats, or attempt shall immediately notify a member of the health care staff."). In addition, we request that, pending a thorough investigation, immediate action be taken to place Officer on administrative time off. If he returns to work, he should not be permitted to occupy any positions in which he has contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members.

No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people, non-custody staff members, or others who may have witnessed any of the events discussed above. In addition, all evidence, including photographs and videos of Ms. injuries and video footage of the incident itself (if available), should be obtained and preserved immediately for review. Plaintiffs' counsel request that staff do not engage in retaliation, including against Ms. and any witnesses, in response to these allegations.

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd June 28, 2019 Page 4

Plaintiffs' counsel also requests that Defendants produce (1) Ms. 602 grievance and any responses (Log #RJD-C-); (2) any photographs or videos of Ms. 602 injuries taken by medical or custody staff; (3) any audio or video of interviews with Ms. 602 regarding this incident; and (4) any memorandum drafted by medical or mental health care staff, including, but not limited to, social worker Joshua Cohen, regarding the incidents drafted

Plaintiffs' counsel also requests that Ms. not be returned to RJD once she is discharged from the SVSP PIP. The normal process for admissions to inpatient psychiatric programs, including the SVSP PIP, is called "psych and return" and automatically returns the patient to the sending institution without new committee hearings at the end of their period of treatment. See Coleman Program Guides at 12-6-13 ("Inmates with be returned to the institution from which they came per the 'psych and return' policy"). However, the same policy includes an explicit exception for circumstances where the institution to which the prisoner would ordinarily be returned cannot "meet the level of care and security needs of the inmate-patient." We ask that the exception to this procedure be invoked for Ms. on the grounds that her safety needs as a transgender, DPP, and EOP individual cannot be met at RJD while Officer remains there. If you are unwilling to invoke the above-cited exception to the psych and return process for Ms. please let us know in advance of her transfer so that we may take appropriate action to stop the transfer back to RJD. .

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman By: Senior Counsel

MLF:aa

cc: Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hrvatin
CDCR OLA Armstrong
Jerome Hessick
Tyler Heath
Damon McClain
Roy Wesley
Melissa Bentz
Dillon Hockerson

Kristin Moose Elise Thorn Office of Inspector General Coleman Special Master Team

Prison Law Office

Exhibit 51c

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



January 9, 2020

Michael Freedman Rosen Bien Galvan & Grunfeld, LLP 101 Mission Street, Sixth Floor San Francisco, CA 94105-1738 Via e-mail: mfreedman@rbqq.com

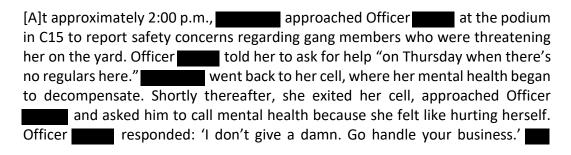
Re: CDCR Response to Advocacy Letter re *Coleman* Class Member

Dear Mr. Freedman:

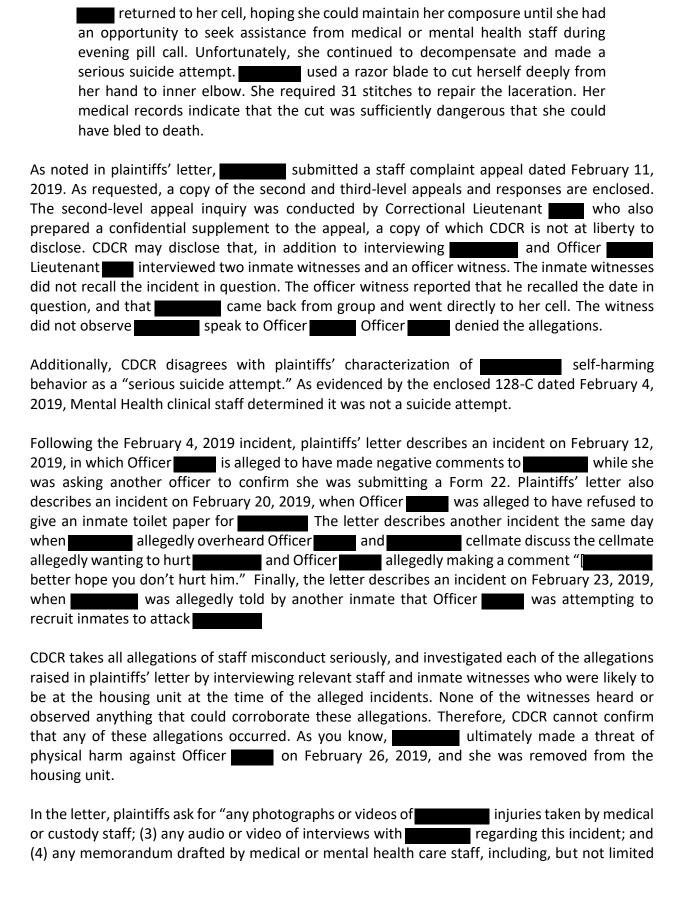
The California Department of Corrections and Rehabilitation (CDCR) writes in response to the enclosed letter from Rosen Bien Galvan & Grunfeld, LLP, dated June 28, 2019, with concerns regarding Ms. is transgender, a *Coleman* class member who fluctuates between EOP and higher levels of care, and an *Armstrong* class member with a code of DPW. Because the allegations in the letter appear to initiate from an incident on February 4, 2019, when it is alleged that custody staff denied request to speak with mental health staff, CDCR has processed this letter as a *Coleman* advocacy letter. CDCR asks that plaintiffs also treat the matter as a *Coleman* advocacy for purposes of billing and any future correspondence.

As a preliminary matter, plaintiffs requested that the allegations of staff misconduct be investigated by investigators outside of Richard J Donovan (RJD) Correctional Facility. Over the past several months, the Office of Legal Affairs has received multiple allegations of staff misconduct involving staff at RJD. For each of these allegations, the Office of Legal Affairs has worked with CDCR executive staff in determining how each allegation should be researched. The same considerations were used when assigning staff to research these allegations.

In the letter, plaintiffs' counsel describe an incident at RJD on February 4, 2019, involving Officer and and Plaintiffs write:



Mr. Freedman Page 2



Mr. Freedman Page 3

to, social worker Joshua Cohen, regarding the incidents drafted." Defendants have confirmed there are no such photographs, videos, or recordings. There are three relevant memos drafted by Clinical Social Worker J. Cohen detailing the allegations of staff misconduct reported to Mr. Cohen related to the alleged incidents in February 2019. Copies of the three memos are enclosed. There are, of course, medical records associated with this incident as well, but they have not been enclosed because plaintiffs already have access to the records through EHRS.

Finally, in the letter, plaintiffs ask that not be returned to RJD once she is discharged from the SVSP PIP. At the time of plaintiffs' letter, was housed in the SVSP PIP. She was moved to an EOP bed at SVSP on July 18, 2019, and then went to a Correctional Treatment Center at CHCF on August 17, 2019. She remained at CHCF in outpatient housing and MHCB housing, and was returned to SVSP on October 30, 2019. Shortly afterwards, was placed in Administrative Segregation Unit (ASU) for safety concerns as staff had received information that was being targeted for possible assault by other inmates. At a classification committee meeting on November 27, 2019, it was determined that given her specific case factors and enemy could only be referred to RJD for transfer. was transferred to RJD on December 13, 2019. Once arrived at RJD, staff realized had a history with Officer As a general rule, CDCR will not exclude an institution from the pool of institutions available for an inmate's housing absent specific enemy concerns or a Staff Separation Alert (staff concerns). RJD has recently issued a Staff Separation Alert based on February 2019 threat to harm Officer At a classification hearing on December 18, 2019, RJD described working on a potential transfer. For your reference, enclosed are copies of the November 27, 2019 and December 18, 2019 classification reviews. CDCR is working to expeditiously move from RJD. She is especially difficult to place given her specific case factors, including DPW status, mental health treatment needs, Level IV custody, and enemy and staff concerns. Defendants note that on December 20, 2019, engaged in some self-harming behaviors, which appear to be related to frustrations over her current housing in ASU and her desire to transfer. Plaintiffs can review the records associated with this incident in EHRS. CDCR is committed to finding an appropriate placement for urgency of the situation. Defendants will provide an update when additional information is

Sincerely,

available.

/s/ Katie Riley

KATIE RILEY Attorney IV STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



Enclosure(s):

Second and Third-Level Appeals and Responses, initiated 2/11/19 128-C dated 2/4/19
Three memos from J. Cohen, Clinical Social Worker
Classification Reviews dated 11/17/19 and 12/18/19

cc:

Coleman Special Master Team
Ed Swanson, Armstrong Court Expert
Coleman and Armstrong, Defendant's Co-Counsel



HEALTH CARE SERVICES

MEMORANDUM

Date	02/11/2019
	Dr. S. Bahro
То	
	J. Cohen, Clinical Social Worker
From	
	ALLEGED STAFF MISCONDUCT
Subject	*

On Monday, 02/11/2019, at approximately 1335 hours, while completing my duties as a primary clinician in FC Building #2, and alleged staff misconduct. The reported the following about C.O. and and C.O.

"Last Monday, at about 2:20 or 2:30, I was in my cell and I sent an inmate to the podium to tell them I had a razor blade in my hand to cut myself. The inmate came back from the podium and told me 'The cops said they don't give a fuck and that you should handle your business.'

I had just went to them before that telling them I needed to roll up due to safety concerns and they told me 'Fuck that! Wait till Thursday when there are no regulars on to pack up your shit.' They contributed to me cutting myself.

After I cut myself I asked someone to tell custody. The inmate saw how bad the cut was so they ran to the podium. waited to recall the entire dayroom before he even came to my door."

When asked if she knew the names of the C.O.'s the IP identified Officer's and

After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

J. Cohen, ASW

Respectfull

Clinical Social Worker

FC EOP

HEALTH CARE SERVICES



HEALTH CARE SERVICES

MEMORANDUM

Date	02/13/2019	
	Dr. S. Bahro	
To	\$	
	J. Cohen, Clinical Social Worker	
From		
	ALLEGED STAFF MISCONDUCT	
Subject		

On Wednesday, 02/13/2019, at approximately 1115 hours, while completing my duties as a primary clinician in FC Building # alleged staff misconduct. handed me a piece of paper on which she had had written the following:

"2-12-19 / P.M. Chow return – getting form 22 signed and was told by C/O if am supposed to fucking care if you kill yourself? If you hadn't said you had a razor I would have given you one to use to help you kill yourself."

When asked for clarification about what the IP is reported she stated the following:

"I went to the podium last night to get my Form-22 signed by custody and that is what said to me"

After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

Respectfully,

J. Cohen, ASW

Clinical Social Worker

FC EOP



HEALTH CARE SERVICES

MEMORANDUM

Date			02/26/2019
		:	
			Dr. S. Bahro
То		:	TO LOCAL TO LANGE
			J. Cohen, Clinical Social Worker
From		:	ALLECED CTAPE MCCONDUCT
Subjec	et	:	ALLEGED STAFF MISCONDUCT
clinician	in FC	Bu	2/26/2019, at approximately 1430 hours, while completing my duties as a primary ilding #2, and alleged staff misconduct. In the handed me a piece of the had written the following:
5	suppos	ed 1	Return PC Chow – Getting From 22 signed and was told by C/O 'Am I to give a fuck if you kill yourself? If you didn't already have a razor I would have given kill yourself!!!'
1	mannei made e	r (p	1530 hours (pm med pass) C/O informs me in a somewhat / lightly threatening osture / tone of voice / facial expression / but no direct verbal threat made) that he was rely aware of 602 paperwork filed by me as well as reports filed by Cohen, from Sgt. and that aforementioned paperwork would never lead to and actions against himself least not ever at RJD')
			M. Dayroom – Sent I/M to request partial roll of T.P. and C/O stated 'no, I'm him anything, He just wrote me up"
	2-20-19	9 S	ame Dayroom – Had another I/M speak to C/O and and C/O (Top tier
(dayroo cell-ma bad shi	m, ate	so I was locked in cell) reguarding [sic] need for 'emergency cell move' to remove my due to his making threatening comments about my being 'in a dangerous spot where ould happen to me' (in the cell w/ him) C/O again stated 'He (meaning myself) g coming after booking me, he better hope (my cell-mate) doesn't hurt him'
	[sic] da	ting	approx. 1445 hour – I/M housed in my block (14) approached me at the after-noon oom, (said I/M wished to stay un-named) and informed me C/O was actively to 'recruit' some-one [sic] to 'roll me off the yard' by force a few days earlier when he
After the	IP rep	ort	ed the allegation above I advised them of the process set forth for IPs to file a

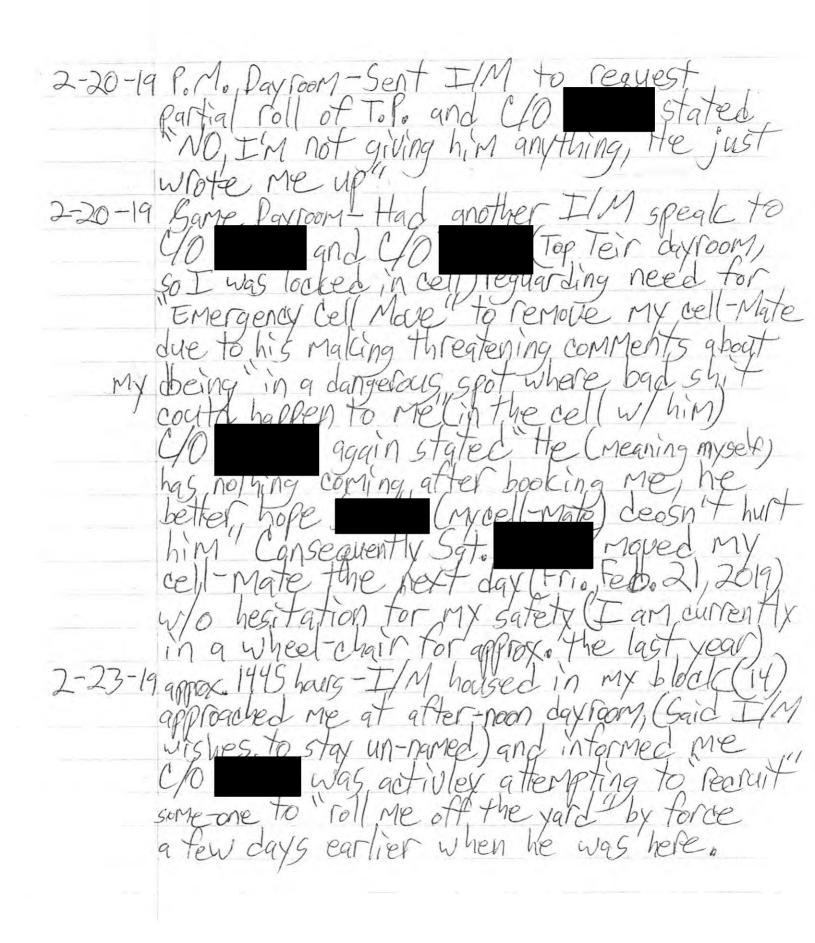
After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

Respectfully,

J. Cohen, ASW

Clinical Social Worker - FC EOP

incident Date Time 2-12-19 Return procesur- Getting Form 22 signed and was told by Am I supposed to give 9 fucle if you kill your self? If you didn't glready have given you one to kill yourself!!! 2-13-19 1300 hours - explained entire sit in top center/ Sqto state and insto tand stay away from me" Sato also gave word as man that there would repercutions or retalliatory, actions, tra hows (pM Med pass) (10 in a some what esture/tone of voice/facial expression/bu ect verbalthreat made that afore mentioned paperwork would nevel lead to any actions, against himself last sta



STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR-0602 (REV. 03/12)

Thoradent occured in

DEPARTMENT OF CORRECTIONS AND REHABILITATION

IAB USE ONLY Institution/Parole Region: Log #: Category:

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink. Appeal is subject to rejection if one row of text per line is exceeded. A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): Action requested (If you need more space, use Section B of the CDCR 602-A) Supporting Documents: Refer to CCR 3084.3. Yes, I have attached supporting documents. List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono): No, I have not attached any supporting documents. Reason : Inmate/Parolee Signati Submitted: By placing eive an interview. Staff - Check One: Is CDCR 602-A Attached? C. First Level - Staff Use Only This appeal has been: Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ ☐ Cancelled (See attached letter) Date: Accepted at the First Level of Review. Title: _____ Date Assigned: _____ Date Due:_ Assigned to: First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below. Date of Interview: Interview Location: Your appeal issue is: Granted Granted in Part Denied Other: See attached letter. If dissatisfied with First Level response, complete Section D. Title: _____ Signature: _____ Date completed:_ Interviewer: (Print Name) Title: _____ Signature: ___ Reviewer: ___ Date received by AC: AC Use Only Date mailed/delivered to appellant _

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 278 of 398 ORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA

INMATE/PAROLEE APPEAL CDCR-0602 (REV. 03/12)

Side 2

D. If you are dissatisfied with the First Level of for processing within 30 calendar days of receiptions.	response, explain the reas pt of response. If you need	on below, attach supp I more space, use Se	porting documents and submit to the Appeals Coordinator ection D of the CDCR 602-A.
Inmate/Parolee Signature:			Date Submitted :
Review. It must be received within 30 calenda Rehabilitation, P.O. Box 942883, Sacramento			ef, Inmate Appeals Branch, Department of Corrections and Section F of the CDCR 602-A.
		-	
		- 3	
			1,21 -1 (3)
			100
The state of the s			
Inmate/Parolee Signature:			Date Submitted:
G. Third Level - Staff Use Only			
This appeal has been: Rejected (See attached letter for instruction) Date of the control of the	ate: Date:	Date:	Date: Date:
Cancelled (See attached letter) Date:	Market State of the State of th		Denied Other:
See attached Third Level response.	Spear today to Grantou	_ crantos in r ait	
			Third Level Use Only Date mailed/delivered to appellant / /
H. Request to Withdraw Appeal: I request the conditions.)	at this appeal be withdrawn	n from further review	because; State reason. (If withdrawal is conditional, list
			130 -C. 10 . 48 = 5
	Inmate/Parolee Signature		Date:
Print Staff Name:	aroloc olynature.		Date

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 279 of 398

STATE OF CALIFORNIA

INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR 602-A (REV. 03/12)

Inmate/Parolee Signature:

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.	
	blue ink.
	Assignment:
_	Received
(Explain your issue):	IT I
at which time he responded "I don't	FEB 1 3 2019
give a damn, handle your buisness' About	RJDOF Appea
15 or 20 minutes later I lost control and ended	Appeal
up sliceng MX (1) to reason all the way from MY	Z
Wrist to my inner elbow exposing the tenden which	0
required 30 setures to close I was subsequently	
placed in RJD MHCB top 4 days for Sovere	111
Selt Injerous Behavior. Mental Health is	Ш
constantly instructing Inmates to inform custody	S
when teeling like Kusting ourselves, but when	
laughed at by statt and told to go ahead and	
nut ourselves it is a direct delibrate	LL
violation of the oath all correctional Officers	
are required to make on this date I	/
notified my Imay Clinician / Mi. Conen 7054	<
tile a control the states he would also	m
The greyar of Statt Misconouct	S
Investe Develop Circuit	0)
Inmate/Parolee Signat	
B. Continuation of CD	

Date Submitted:

Exhibit 51d

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 281 of 398 CONFIDENTIAL SUPPLEMENT TO APPEAL

"APPEAL INQUIRY"

DO NOT COPY OR DISTRIBUTE EXCEPT PURSUANT TO CCR Title 15, Section 3084.9(i) (3) (B) 1.

Date: APR 2 3 2015
Appeal Log Number: RJD-C-19
Inmate/Parolee Name:
CDC Number:
Assigned Reviewer: Name and Title Correctional Lieutenant
Date and place of interview: April 3, 2019, ASU Sergeant Office.
Accused Staff Member(s): Correctional Officer
Synopsis of Allegation: submitted an Inmate/Parolee Appeal (CDCR 602) dated February 11, 2019, alleging Correctional Officer failed to act when he was informed of suicidal ideations. Specifically, alleges Officer was informed by of thoughts of cutting on self.
Witnesses: did not identify any inmate witnesses, but did identify Officer as a staff witness.
A review of the TABE Score List revealed he has a score of 6.8, which is above the required minimum level of 4.0. The Disability and Effective Communication System revealed that services participant in the Mental Health Services Delivery System at the Enhanced Outpatient Program level of care.
Effective communication was established by utilizing primary and alternate methods of communication. The interviewer read the appeal documents to in plain simple English, while facing Inmate and speaking in a loud clear voice. Inmate was able to reiterate what was explained and was able to provide appropriate responses to questions asked as well as ask appropriate questions. Effective communication was established.
Findings: The CDCR 602 dated February 11, 2019, Log #RJD-C- and all related documents have been reviewed for this inquiry:
On April 3, 2019, I conducted an interview with second in the ASU Sergeants Office. During the interview, I questioned regarding the allegation documented on the appeal. I asked the following questions;
 Q.) Can you identify any inmates that may have witnessed this alleged incident? A.) No. Q.) Can you identify any staff that may have witnessed this alleged incident? A.) Yes, the Control booth CO, Officer Q.) Did your cellmate witness this incident?
any orange and the months of the months.

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 282 of 398	
Appeal Log # RJD-C-1	
A.) No. He was on the yard I think. Q.) Do you have anything else to add regarding this allegation? A.) No. I concluded the interview with	
On April 3, 2019, I conducted a confidential interview with C Program Office. The interviewer identified as being assigned to Housing Unit 15 during the incident and would have been on the dayroom at the time of the alleged incident. During the interview, I informed he was solely identified by the Interviewer as a potential witness to the allegations made by During the interview, I questioned a photograph of Inmate vaguely recalled I asked Inmate the following questions:	
Q.) Do you attend Dayroom activities? A.) Sometimes. Q.) Do you recall telling Officer he was feeling suicidal? A.) I don't remember that. Q.) Do you recall cutting on himself? A.) No. I don't remember that happening. Q.) Do you have anything else to add? A.) No. I concluded my interview with	
Interview of On April 3, 2019, I conducted a confidential interview with Inmate C Program Office. The interviewer identified Inmate as being assigned to Housing Unit 15 during the incident and would have been on the dayroom at the time of the alleged incident. During the interview, I informed Inmate but the following the interview of the allegations made by Inmate During the interview, I questioned Inmate During the interview, I questioned Inmate I provided Inmate I provided Inmate I asked Inmate The following questions:	
Q.) Do you attend Dayroom activities? A.) Yes. Q.) Do you recall Inmate telling Officer he was feeling suicidal? A.) Guys are always claiming suicidal in that block.	
carries himself well. Q.) Do you recall Inmate cutting on himself? A.) No. But I know that when these guys say that or do that always puts them in the shower and calls medical for them. I mean. Q.) Do you have anything else to add?	
A.) Inmate stated in part, When these guys say they are going to cut themselves what are they expecting the cops to do if they are just saying it. puts them in the shower until they talk to a doctor but I mean there isn't much he can do. They guys need to stop making things up.	

Sign

Name

Exhibit 52

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is 1 am currently housed at Richard J. Donovan Correctional Facility, ("RJD") on Facility A in Building 3. I am 57 years old.
 - 3. I have been housed at RJD since January 2019.
- 4. During my time at RJD, I have been housed on Facility B, in Building 9 and on Facility A, in Buildings 3 and 4.
- I am an Armstrong class member. I am designated as DPO and I use a wheelchair to ambulate.
- I have a number of serious medical conditions. I have diabetes, heart problems, hypertension. I am classified as high risk medical.
 - 7. I have witnessed staff engage in misconduct against other people at RJD.
- transgender person who is known by the nickname of "get assaulted by officers. It was a solution of the two officers grabbed her and forcefully threw her more than ten feet across the floor and to the ground. Then, the officers jumped on her. They were kneeing her and pulling her arms and roughing her up on the ground. The whole incident lasted for about five minutes. Was yelling out, "Help! Help!" I was about fifteen feet away from the incident in the dining hall and saw the whole thing. I heard that is now in administrative segregation because she was charged with a rule violation for fighting with staff during this incident. But, I saw the whole thing and she was not fighting, she didn't do anything to the officers.

[3477131 1]

Initials

1	9. A few months ago I witnessed an elderly prisoner named Mr.
2	assaulted by staff in Facility B, in Building 9. Mr. and I were both living in that
3	housing unit. I saw an officer in our unit tell Mr. to return to his cell. Mr.
4	replied, "fuck you." Next, I saw the officer, whose name starts with an "H" yell, "Do not
5	disrespect me, I do not disrespect you!" The officer then grabbed Mr.
6	violently to the ground. The officer was very large, approximately 250 lbs and over six
7	feet tall. Mr. is much smaller, is older, and appears frail. At the time this happened I
8	was in the dayroom, about 20 feet away from Mr. I saw him hit the ground really
9	hard. A second officer came over. The officers ordered Mr. to get up. He replied
10	that he couldn't get up. The two officers lifted Mr. up off the ground returned him to
11	his cell.
12	10. On two occasions I saw my cellmate give food, like soups and candy bars, to
13	that same officer with the "H" last name who assaulted Mr. This struck me as really
14	strange, as it is not common for staff members in prison to interact like that with
15	incarcerated people. My cellmate said that the officer asked him for the food and, by the
16	way he said it as a matter of fact, it seemed like he could not say no to the officer. I am not
17	sure what was going on but my cellmate hid the food that he was giving the officer in a
18	paper and handed it to him discretely. The whole transaction was very strange and it made
19	me feel uncomfortable.
20	11. Approximately six months ago, I heard an officer in the waiting area of the
21	medical clinic on Facility B tell me and multiple other incarcerated people who were also
22	waiting that Mr. was a child molester. Mr. had just walked out of the clinic
23	when the officer made this comment. I do not know the name of the officer who said this.
24	It is known in prison that being labeled as a child molester creates a serious safety risk. I
25	interpreted this statement from the officer, telling prisoners that Mr.
26	molester, as an intentional attempt to place Mr. in danger on Facility B.

28

27

Initials _

[3477131 1]

- 12. Multiple times I have also seen staff let fights occur between prisoners right in front of them without stopping them or doing anything to assist the prisoners.
- 13. I have not reported any staff misconduct that I have witnessed. I am afraid to report any misconduct. I believe, because of what I have seen staff do to other incarcerated people, that staff will attack me if I report misconduct. This fear has kept me from reporting misconduct.
- 14. In my experience, people with disabilities or mental health issues are vulnerable because they are unable to protect themselves. Not all staff are bullies, but I have observed that the staff that are bullies pick on people with disabilities or mental health issues and those prisoners do not fight back.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

San Piego, California this May of January, 2020.

3 Initials __

Exhibit 53

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in cell on Facility A in Building 5. I am 76 years old.
- 3. I have been housed at RJD from 2011 until the present. I was initially housed on Facility C, then was moved to Facility D, then was moved to Facility B, and then most recently was moved to Facility A.
- 4. I am an Armstrong class member. I am designated as DPW, which means I use a wheelchair full-time. I am unable to walk. As accommodations for my disability, I have a wheelchair and wheelchair-accessible housing.
- 5. I have a number of serious medical conditions. I am classified as high-risk medical because of heart problems and COPD.
- 6. I was a victim of staff misconduct at RJD. On December 19, 2016, I was making food on a hot plate in my cell, , in Building 10 on Facility B at about 4 p.m. I admit that the hot plate was contraband and that I should not have possessed it. While cooking, I accidentally created some smoke heating up some butter. Officer who was a regular floor officer in the building on Third Watch, noticed the smoke and came over to my cell. He ordered the control tower to open the door to my cell. The cell door opened. He told me to "get the fuck out of there." I complied with his order immediately and went outside the cell in my wheelchair. Officer then entered my cell. He then proceeded to completely trash my cell and destroy my property. He picked up the wheelchair-accessible writing board that I had in my cell, turned around, and threw it out of the cell. It flew over my head and almost hit another prisoner in the dayroom. He ripped my television from its plug and threw it on the bed; in so doing, he broke the

16

17

13

* Earlier that evening I

asked 19 Sergennt 20

a bound my
cell. In 22

response. 23 he said, "Go 24 get fucked.

How do I 25 Know you 26 didr't do it 27

the officer 28 in trouble?" television. He also broke my television antenna. He threw all sorts of food on the floor and then smashing some of it with his boots, including mustard packets which squirted all over the cell floor. He also threw both of my mattresses on the floor. He scattered my legal paperwork all over the cell. He also swore at me.

- 7. I told Officer that I was going to write him up for trashing my cell. He said, "I don't give a fuck what you do." He later returned to my cell and told me that if I was going to write him up, he would write me up for a serious Rules Violation Report. In fact, he ultimately did do that and I lost access to yard & dayroom for 30 days.
- 8. I then attempted to get back into my cell, but I could not do so because the property Officer threw on the ground obstructed the entire floor so that I could not enter with my wheelchair. In particular, the mattresses blocked the cell entrance. Because I'm in a wheelchair, I could do very little to clean up the cell. I asked another prisoner for help. He leaned into the cell and pushed the mattresses back so I could at least fit my wheelchair into the very front of the cell. Once I entered the cell, staff closed the door behind me. I was essentially trapped at the front of the cell, surrounded by my property and unable to move in my wheelchair in the cell.
- 9. I did my best to clean up the mess made by Officer Since I couldn't move my wheelchair around, I crawled over the mattresses and other property to first clean up my legal paperwork. Once I had gathered some of my legal paperwork, I then crawled on my hands and knees to try to get some of the food items off of the floor. I started getting chest pains from exerting myself too much. I then tried moving the mattresses back onto the bed, but I couldn't do it myself. My chest was pounding and I was having a hard time breathing. I needed to recuperate. I unrolled one of the mattresses flat on the floor and lied down on it. That night I slept on the floor.
- 10. After I talked to sorgent I spoke with Sersent Whiting about Officer trashing my cell. Sersent directed me to talk to the thoor officer, who was officer partner. I tried to get him to look at my cell, but he refused.

 [34818961]

 2 Initials

- 12.

10 11

cell.

13

12

14 15

17

16

19

20

18

21 22

23

24 25

26 27

28

+	to breakfast.	Inshed	4 5	ievsent	to view my	rellibit	ne said	he	didnot	have t	
1.	I was continui	ing to hav	e ch	iest pair	is that mad	le it impos	ssible fo	r n	ne to ma	ake	

The next morning I crawled back over to my wheelchair and

much progress cleaning up my cell. I slept on the floor the second night in a row.

- 13. I slept on the floor for a third night because I was still unable to clean my
- 14. Finally, on the fourth day, I was able to get the mattresses back onto the bed. It wasn't until the very end of the fourth day that I was able to fully clean my cell and restore it to the way it was before Officer trashed it.
- I filed a 602 staff complaint about the incident. I was interviewed by a 15. lieutenant. My 602 was denied.
- 16. A few months later, Officer without any justification, trashed my cell another time, although not quite as badly as the first time. I believe he did this in retaliation for filing the first 602 about the first incident. I filed a 602 about this incident as well. It was also denied.
- still works at RJD. Since he trashed my cell, I have been 17. moved to Facility A. I have seen him working the dining hall on Facility A as recently as the start of December. He has also worked in my building, Building 5, as a floor officer on several occasions since I moved the building in September 2019. As far as I know, he's never faced any discipline for trashing my cell.
- 18. I've also seen some officers do some terrible things to other incarcerated people at RJD.

9

10

11

15

17

18

19

20

21

23

24

25

26

19. In February or March 2019 at about 2 p.m., I saw officers brutally beat a Hispanic prisoner on the Facility B Yard. The prisoner was sitting on a bench near the basketball court in front of Building 6. One officer—Officer 1—approached him and started talking with him. I could overhear them discussing whether the prisoner had been smoking something. Another officer—Officer 2—approached Officer 1 and the prisoner.

Officer 2 ordered the prisoner to come talk to him. The prisoner complied and walked around the bench to speak with Officer 2. While the prisoner was talking to Officer 2, he was standing with the back of his knees up against the low, metal bench. All of the sudden and without the prisoner showing any signs of aggression, Officer 2 pushed the prisoner in his chest. The prisoner fell backward over the bench, tumbling head over heels. He landed on his back, then rolled over part of the way toward his stomach. Officer 1 then grabbed the prisoner by the right arm and rolled him fully onto his stomach. Officer 1 "chicken winged" him, pulling the prisoner's arm behind his back. Officer 2 then came around the bench and jumped directly onto the back of the prisoner. Officer 2 landed on the prisoner with his right knee, putting all of his weight into the prisoner's back. Officer 2 proceeded to hit the prisoner in the head repeatedly, punching with one of his arms and hitting the prisoner with a pepper spray canister with his other arm. Additional officers then flooded into the area. The officers all began beating the prisoner. One officer had his knee on the prisoner's neck and was using his baton to hit the prisoner in his face. I noticed other officers hitting him all over his body with their batons. I think there 5 to 7 officers who participated in beating up this prisoner. I would estimate that about 45 seconds passed from the time Officer 1 jumped on the prisoner's back until the end of the altercation. At no time did I see the prisoner resist in any way. I and watched the entire time. was about 15-20 yards away from this incident approximately

When the prisoner returned to our housing unit 20. side of his face, his forehead, and his chin were bruised. He told me that his left eye socket

27

5

6 7

10 11

8

14 15

12

13

18

16

19 20

21

22

23 24

25

26 27

was broken. He had multiple stitches in his right eyebrow area. And he also had stitches in his lip. He had been so disfigured that it made me feel a little nauseous looking at him.

- I helped the prisoner write a staff complaint. My understanding is that the 21. staff complaint was denied.
- 22. I saw at least some of the officers involved in the incident working regularly on Facility B after the incident. As far as I am aware, none of the officers faced any discipline for attacking this prisoner.
- 23. I recall another incident in the Facility B dining hall where an officer beat up and pepper sprayed a prisoner for no reason. In early-2018, I was sitting in the dining hall for dinner. At the table next to me, one prisoner—Prisoner 1—offered another prisoner— Prisoner 2—his tray of food. An officer told Prisoner 2 that he could not have two trays. Prisoner 2 replied that he was given the tray by Prisoner 1. Prisoner 1 confirmed that he had given away his tray. The officer told Prisoner 1 to "get the hell out of here" and then told Prisoner 2 to give the officer the extra tray. Prisoner 2 picked up the tray and gave it to the officer in a what appeared to be a normal, non-hostile manner. As he was giving him the tray, Prisoner 2 said, "Sir, I was given the tray." The officer replied, "Don't get smart with me." The officer then immediately took out his pepper spray canister and started spraying Prisoner 2 right in the face. As far as I could tell, he discharged the whole canister. Prisoner 2 was wiping his face and then fell down to the ground. The officer, with the assistance of another officer, cuffed Prisoner 2 and took him out of the dining hall. I was only a few feet away when this incident happened. As far as I could tell, there was absolutely no reason for the officer to use any force against Prisoner 2.
- 24. After the incident, I saw the officer who used the pepper spray regularly working on the yard. I was told by Prisoner 2 that he was found guilty of a Rules Violation Report for assaulting the officer. He served six months in administrative segregation.

25. Seeing what happened to these prisoners and how I was treated makes me hurt emotionally. I feel empathy for the victims who are abused unjustifiably. These incidents also make me angry that in a so-called civilized society we treat people like this. These officers are supposed to represent the law. Instead, I have seen the officers take action that I believe violates the law and the rights of prisoners.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

Son Dieas , California this of day of January 2020.

27 | 28 | _[3481896.1]

Exhibit 54

DECLARATION OF

l, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is . I am currently housed at Richard J. Donovan Correctional Facility ("RJD"). I am 30 years old.
- 3. I have been housed at RJD from July 2013 to the present. During my time at RJD, I have been housed in Buildings 1, 2, and 3 on Facility A, and in Building 8 on Facility B. I am currently housed in Building 8, cell 103.
- 4. I am a *Coleman* class member. I am at the CCCMS level of care. I have previously been at the EOP level of care. I am diagnosed with schizoaffective disorder, bipolar disorder, and anti-social disorder. I take a number of medications that help me control my nightmares, anxiety, and depression. In the past, I have attempted suicide.
- who is a friend of mine. On April 24, 2019, I was returning from the college class to Building 2 on Facility A, which is where I was housed at the time. There were three officers, one of whom was Officer standing just to the side of the entrance to Building 2. One of the officers was talking to the control tower officer, Officer through the window in the control tower that is located above the building entrance. When I got near the officers and the entrance, they stopped talking to each other. The gate to the building was open. I walked into Building 2 and entered the dayroom. I remember having to wait about two or three minutes before Officer opened the door to my cell, cell 145. When I got into my cell, I put down my school materials and put on my ADA worker vest. I then went out of the cell to start performing my job as an ADA worker, pushing prisoners in wheelchairs to different locations on Facility A.

[3480957 1]

Initials

1	6. I was walking from my cell to the exit of the building. I could see in front of
2	me that all of the cells on the bottom floor of the A Section of the building—which
3	includes cells —were open, with the exception of cell , which was Mr.
4	's cell. I remember hearing another prisoner,
5	in the tower, "You forgot." Officer said, "Don't worry about it." I
6	then walked out of the building. It struck me as really strange that Officer had not
7	opened cell because usually, the tower officer opens all of the doors in a section at the
8	same time, so it was weird that all of the doors were open except one.
9	7. I walked outside of the building. When I went through the exit, I noticed
10	that Officer and another officer were still standing just outside the entrance to
11	Building 2, in the dirt to the side of the walkway. Officer looked upset.
12	8. I walked along the walkway from Building 2 until I reached the track. I then
13	turned left along the track. I reached the walkway that cuts across the yard from in
14	between Buildings 2 and 3 to the dining hall and started walking down it. After I had
15	walked only a few feet on the walkway that cuts across the yard, I heard a sound behind
16	me of keys jangling from being bounced up and down. I turned around and saw Officer
17	running quickly into Building 2 from the area of the track in front of Building 1.
18	Officers usually only run when there is an emergency. When there is an emergency, there
19	is usually an alarm. Because I saw Officer running, I assumed an alarm was about
20	to sound. When no alarm went off for a few seconds, I kept walking to the dining hall and
21	then ate dinner. After dinner, I returned to Building 2 and went back to my cell.
22	9. At about 7 p.m., my cell door opened for evening yard and dayroom. I saw
23	Mr. standing near the medical area of the building. His face was really swollen,
24	his arm was also visibly swollen and looked like it had gone limp. His shirt also had a lot
25	of blood on it. I asked him what happened. He said, "These motherfuckers jumped me in
26	the rotunda." We call the sally port between the outside of Building 2 and the dayroom in

Initials

27

Building 2 the "rotunda." The rotunda is a short hallway with gates on either end that are

1	controlled by the control tower. He told me that the officers let him out of his cell last and
2	by himself to leave the building to go to dinner. He told me that he walked into the
3	rotunda. He told me that he saw two officers, including Officer coming into the
4	rotunda at the same time he was trying to go out. He told me that he tried to turn around to
5	leave the rotunda to get out of the officers' way, but could not because Officer
6	had shut the gate behind him. He told me that the officers then came further into the
7	rotunda and started beating him up. He told me that Officer then joined the attack.
8	He also told me that he could see Officer taking a video of the whole incident
9	from the tower through a window in the floor of the tower. He told me that one of the
10	officers was saying "Shoot this motherfucker." He told me that Officer somehow
11	hurt his hand and then all of the officer left.
12	10. I walked with Mr. and Mr. to the window at the nurse's
13	station in the building. Mr. knocked on the window, which was covered with a
14	plastic bag so that no one could see in. A nurse in the station, I believe it was Nurse
15	Sanchez, then lifted up the plastic bag. Mr. asked for help. Given the way that
16	the nurse and Mr. were standing, I am certain that the nurse could see that Mr.
17	's face had been injured and that there was blood on his shirt. The nurse
18	responded, "The COs told me to leave it alone and not do anything." The nurse then
19	pulled the bag back over the window.
20	 Another nurse in the building, Nurse 2, then walked back to the nurse's
21	station from somewhere else. Mr. told this nurse what had happened and asked
22	this nurse for help. The nurse stuttered and held his hands up in front of his body,
23	indicating to me that he was confused about what to do. He then opened the door and went
24	into the nurse's station without saying anything or doing anything to help Mr.
25	12. I and two other incarcerated people then went over to the guard station in the
26	middle of the dayroom to talk to Officer who was serving as one of the floor
27	officers at the time. We all asked for him to ensure that Mr.

Initials

1	treatment. Officer said "Ain't that medical over there? It's not our field." I
.2	interpreted Officer statement as meaning that, if Mr. needed medical
3	attention, he should ask medical staff directly. I told Officer that Mr.
4	had asked medical staff for help and medical staff had said that the officers had ordered
5	them to not provide medical care. I also told him that whatever the officers had done to
6	Mr. needed medical attention. Officer
7	then said, "What are you talking about?" I interpreted his statement as meaning that he
8	was denying that officers played any role in hurting Mr.
9	was hurt.
10	13. About a minute later, Nurse 2 came out of the nurse's station. He had a
11	clipboard with a form on it that CDCR uses to document people's injuries. Mr.
12	explained to the nurse what had happened. The nurse started marking down Mr.
13	's injuries.
14	14. At this point, I and other incarcerated people were pretty upset that Mr.
15	was not able to get any real medical care for his serious injuries. We made it
16	pretty clear to staff that we were not happy. Officer ordered Mr. to go
17	back to his cell because he was allegedly inciting a riot. Officer also said that if
18	Mr. did not go back to his cell, he would make everyone go back to their cells.
19	Mr. complied with Officer order and went back to his cell.
20	15. I then tried to walk over to Mr. as seell to talk to him. Officer
21	ordered me to get away from Mr. s door. I followed his order. A few
22	minutes later, dayroom ended and I went back to my cell.
23	16. From the time that I went into my cell, which was about 8:45 p.m., until
24	officers conducted their nightly count, which was about 9:20 p.m., I stood at the window
25	of my cell and watched Mr. see cell, cell . I observed his door open one time
26	and officers talking to him with the cell door closed at a later time. As far as I am aware,
27	Mr. remained in his cell for the period from about 8:45 to 9:20.

1	17. The next day at about 10 a.m., I was on the yard near the program area. I
2	saw a female mental health clinician walking with Sergeant near me. I heard her
3	say to Sergeant "His arm is swollen, he didn't get any medical attention, his jaw is
4	swollen." I believed that she was referring to what happened to Mr.
5	18. No staff member has ever come to talk to me about the incident with Mr.
6	
7	19. Officer regularly worked in the control tower in Building 2 from the
8	date of Mr. sincident until I moved out of Building 2 in July 2019. Officer
9	was also often in the building after the incident because he escorted incarcerated
10	people from the building to mental health group sessions. I also saw Officer on the
11	yard often; he also worked in the Building 2 tower on at least one occasion after the
12	incident. I remember having to calm Mr. down on a few occasions when Officer
13	came into Building 2. Mr. was upset that Officer was able to be
14	around him after beating him up.
15	20. In late 2018, I saw , who was another incarcerated person in
16	Building 2 and a friend of mine, get beat up badly by staff. Mr. was his
17	medications from the medication window inside the unit.
18	Officer shined a flashlight in Mr. s eyes. Mr.
19	complained about Officer doing that. Officer and Mr. started shouting at
20	each other. Officer ordered Mr. to get down on the ground. Mr.
21	his arms and said "I don't have to get down, I have a vest." Mr. was referring to the
22	mobility-impaired vest that he was wearing. It is my understanding that people who have
23	those vests do not need to get down on the ground during an alarm. Officer then hit
24	his personal alarm, which set off the alarm in the building. Officers rushed into the
25	building from other locations. The first officer that came in was Officer
26	walked right behind Mr. and, without saying anything, grabbed Mr. and body
27	slammed Mr. onto his head. It looked to me that the impact knocked Mr.
28	

because after he hit the ground, he stopped moving. Other officers started punching and kicking Mr. Officers also sprayed him in the face with pepper spray. For the entire time, Mr. was limp on the ground. As far as I could see, he wasn't reacting to any of the kicks or punches because he was unconscious. I would estimate that the officers beat him on the ground while he was unconscious for about one minute.

- 21. The officers then picked him up and started dragging his limp body toward the exit of the building. Just before they reached the rotunda, I saw Mr. start to wake up. He started to struggle with the officers. It looked to me that he was panicking. The officers then slammed him on the ground again. They then picked him up and escorted him through the rotunda and out of the building.
- 22. Mr. did not return to the building for a few weeks. Once he did get back, he told me that, because of the assault, he had to have fluid drained from his brain.
- I remember another incident in June 2019. I was walking back from breakfast to Building 2. I was in front of Building 1 at the time. Across the yard, on the track in front of the work change area, two incarcerated people were fighting on the ground. I did not realize it at the time, but one of the people was a friend of mine. Mr. was on top of the other incarcerated person. Two officers, Officers responded to the fight. Both of them took out their batons and started smashing Mr. . After they had hit him two times in the upper body, Mr. lied down on the ground, face down, in a position that people in prison refer to as "proning out." Even though he was now compliant, the officers continued beating him with their batons. It looked like they were hitting him as hard as they possibly could. It reminded me of videos I've seen of the Rodney King beating. Each officer hit Mr. about three times after he had proned out, for a total of about six strikes. After Mr. had proned out, Officer hit Mr. so hard in the head with one of his strikes that the metal baton actually broke into two pieces. After that strike, the officers stopped beating him. I was the person that the officers had assaulted after I saw him on the learned that Mr.

28

25

26

27

yard later that day. He looked like a walking monster. His face was incredibly swollen. Both officers still continue to work regularly at RJD. I often saw both of them on Facility A before I was transferred to Facility B in September 2019. I saw Officer on the yard of Facility B in early-December.

- 24. I was also a victim of staff misconduct at RJD. On May 21, 2016, I was housed in Building 2 on Facility A. I walked out of the building to go to breakfast. I walked out to the track and turned left to walk toward the pathway that cuts across the yard to the dining hall. About ten incarcerated people around me started fighting. They fought for a few minutes. I did not participate in the fight. I was just trying to just stay out of the way and be safe. After a few minutes, there was an order over the yard PA system for everyone to get down and prone out. I complied with the order. I lied face down on the ground with my upper body and chest on the track and my legs on the dirt just to the outside of the track. My arms were extended up above my head.
- 25. Shortly after the announcement, officers started arriving to the area where I was and where the fight had happened. By the time the officers arrived, no one was fighting. Everyone who I could see was laying down on the ground.
- 26. I saw Officer running toward me. He was about ten feet away. He yelled "Get down!" He then took out and extended his baton. I remember clearly the sound the baton made when he whipped it out. He then hit me really hard with his baton on my arms about 8 or 9 times. He was hitting me so hard that my arms were jerking in reaction to the strikes. I was turning my head side to side to avoid being hit in the head with the baton. He only stopped hitting me when another officer came up to him, pushed Officer way, and told him "Stop, he's not doing anything." Another officer then pepper sprayed me and two other incarcerated people who were near me. The pepper spray made it so that I had trouble breathing. I was placed in hand cuffs and taken to the Facility A gym, where I was able to wash off the pepper spray. As far as I am aware, other

7

8

13

14

11

16

17 18 19

20 21

23

22

24 25

26 27 than the two people who were pepper sprayed along with me, I am the only person who any officers used force against as part of this incident.

- 27. I suffered some serious injuries as a result of this beating. Officer chipped a bone in my elbow that still causes me pain and problems today. The chipped bone sometimes touches a nerve in my arm and causes my forearm and fingers to go numb. I've been told by my doctor that I need to have surgery to remove the bone chip. I also had scrapes on my face caused by scraping my head on the pavement trying to avoid being hit by the baton. I have a scar on my left eyebrow as a result.
- I was found guilty of participating in a riot and had 90 days of credit taken 28. away as a punishment.
- I believe that Officer intentionally targeted me for attack during the 29. incident. Prior to the incident, I had some history with Officer About a month prior to the incident, Officer would not let me go to religious services. I immediately got a 602 grievance form, filled it out explaining about how he had not allowed me to go to religious services, and then handed it to him. He then let me go to religious services.
- 30. Shortly after, Officer searched my cell while I was at breakfast. He alleged that he found a tarantula and five gallons of pruno, which is alcohol made in prison. I admit that I had a pet tarantula, but he completely made up the fact that there was alcohol in my cell. I believe that he made up that I had alcohol and then later attacked me on the yard in retaliation for me threatening to file a 602 about being denied access to religious services.
- 31. I filed a 602 staff complaint about Officer attacking me on the yard. My 602 was denied at all levels.
- A few months later, I had to have a cast put on my right leg. When I 32. returned to Building 2 after seeing the doctor, I was placed by Officer in a cell, in which someone else had already been assigned the lower bunk. I could not climb up to the upper bunk because of my cast. Officer promised me that before

8

the officers locked everyone up for the night, she would move me to a cell where I could be assigned to a lower bunk. However, when she left the building at the end of her shift at 10 p.m. that night, she never moved me to another cell. In fact, when she left the building that night, she looked right at me in my cell and just walked out of the building. As a result, I was forced to sleep on the floor of the cell that night. I was not moved into a cell where I could sleep on a lower bunk until the following night.

- 33. Being a victim of misconduct and witnessing what happened to Mr.

 Mr. and Mr. has made my mental health much worse. I've had some pretty bad things happen to me before I came to prison. I saw someone get shot in the head when I was 16 years old. My best friend was killed when I was 16 years old. My brother got killed a few months later. I almost was killed twice before I was arrested. And a friend of mine committed suicide when I was 20 years old. Seeing the way officers treat incarcerated people here at RJD has triggered feelings I have about witnessing violence in my past. I often have nightmares about all of those things that wake me up and keep me from sleeping.
- 34. I now also have nightmares about being a victim of staff misconduct and about what happened to my friends at RJD. I am also more anxious and depressed. Every time I see certain officers that I know have hurt other people or who carry themselves in a hostile way, I'm afraid that that they are going to hurt me. I do my best to avoid interacting with staff to try to manage my anxiety and anger. For example, if I run out of soap or indigent envelopes, I'll ask other incarcerated people to help me rather than asking staff because I don't want to have to interact with staff and risk being beaten up again.
- 35. The misconduct I have witnessed and experienced makes me feel powerless. It seems to me that staff can do whatever they want without any consequences. As far as I know, none of the staff involved in the incidents discussed above ever faced any discipline for those incidents.

- 36. From my experience at RJD, staff seem to primarily beat up weak people, including people with disabilities, people with mental illness, and old people. In the time that I've been at RJD, I have never seen staff target a healthy, strong, young person. The assaults on weaker people send a message to everyone: this is what will happen to you if you get out of line.
- 37. I have been in CDCR prisons for about 10 years of my life. I've been housed in a number of different CDCR prisons, including California Correctional Institution and Pleasant Valley State Prison. The staff misconduct at RJD is worse than at those other prisons. Staff misconduct happens much more frequently at RJD than at the other prisons I have been at.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

R.J. PONOVAN.

this 7thday of January 2020.

Exhibit 55

DECLARATION OF

2

declare:

3

I have personal knowledge of the matters set forth herein, and if called as a 1.

5

witness, I could and would competently so testify.

number is

Facility D in Building 20. I am 70 years old.

8

9

10 11

12

13 14

15

16

17 18

20

21

22

23 24

27

28

My California Department of Corrections and Rehabilitation ("CDCR") 2. . I am currently housed at Richard J. Donovan Correctional Facility on

I have been incarcerated at RJD from May 5, 2013 to the present. During 3. my time at RJD, I have been housed in the following locations: C13, B10, and D20.

- I am an Armstrong class member. I am designated as DPM. I have number of degenerated discs in my back and neck from being shot down multiple times while flying in helicopters while serving my country in Vietnam. I also have had two shoulder replacements and three other surgeries to correct other injuries from my service in Vietnam, as well as multiple surgeries on my knees to reconstruct torn ligaments. Due to my shoulder replacements, I cannot lift my right arm above my waist. I use a walker to keep me stable and prevent me from falling when I walk around. I am also housed in a lower bunk and on a lower tier due to my mobility impairments.
- I am a Coleman class member. I am at the CCCMS level of care. I have 5. been diagnosed with post-traumatic stress disorder (PTSD) from my experiences in Vietnam. My PTSD gives me persistent nightmares, flashbacks, insomnia, and anxiety, and causes me to relive the war, the smells of battle, and the deaths of friends I served with. My PTSD causes problems with cellmates due to my frequent nightmares and flashbacks.
- I have a number of other serious medical conditions. I have tinnitus due to my time in Vietnam, which causes persistent ringing in my ears. I was recently diagnosed with diabetes, which my doctor told me I will soon need treatment for. I also have Barrett's Esophagus due to my gastroesophageal reflux disease, which causes me to

5

7 8 9

11 12

13 14

16

17

15

18

19 20

21

23 24

25

27

28

experience frequent chest pain and heartburn. Due to my medical conditions, I am classified as high risk medical.

- I was a victim of staff misconduct at RJD. On December 8, 2019 at approximately 11:30 a.m., I was returning from canteen and entered my unit to return to my cell (). I went up to my cell-front and waved at the tower officer to open my cell for me. After my cell door began to open, I put my walker to the side and put one arm on the door frame to keep me stable so I would not fall as I entered my cell. As I entered my cell, however, the door began to close. I yelled at the tower "Hey! Old and Slow!" to make clear that I needed more time to get into my cell. There was no response - the door just kept closing. I was pushed sideways by the door, which hit and injured my arm and shoulder. I fell against the wall due to the impact with the door. As I was falling, I caught myself against a box next to the wall to prevent myself from falling to the ground. As I fell against the wall, my cellmate jumped up to make sure I wasn't hurt. I then regained my footing and walked slowly and wobbly back to my bed.
- Later that day, at approximately 1:00 p.m., I was let out of my cell for yard. I left my cell and went to talk to the tower officer about what had happened earlier. I noticed that the tower officer was not the regular officer. I told her "I need more time to get in and out of my cell." She replied "I gave you five minutes with the door open." When I told her that I hadn't received anywhere close to five minutes earlier that day, she waved me away and would not talk to me further.
- I have also had the door shut on me in the past by other tower officers in the 9. shut the door on me while she was working as a tower officer in D20 Unit. Officer 2018. Due to having the door closed on me that time, I had bleeding and cuts on my hand from where the door had shut on it.
- I have also witnessed staff engage in misconduct against other incarcerated 10. people with disabilities at RJD. On December 9, 2019, at approximately 7:00 p.m., I saw as he was leaving the tower officer in my unit close the door on Mr. is elderly and uses a walker to ambulate. As the cell door was closing his cell. Mr.

Initials 2 [3476447.1]

on him that evening, I yelled at the tower officer "Old and Slow!" to make it clear that he needed more time, but Mr. was hit by the cell door and fell against the wall.

- 11. In my opinion and based on my experiences, including all of the incidents discussed above where officers have closed doors on old incarcerated people with disabilities, some custody officers do not care about the needs of incarcerated people who have disabilities. It seems to me that it is easy to not close doors on people and provide old, slow, and disabled people with a bit of extra time to get into and out of their cells. Yet staff close doors on people frequently.
- 12. I have been in CDCR prisons for about 17 years of my life. I have been housed in a number of different CDCR prisons, including RJD, Kern Valley State Prison, California Substance Abuse Treatment Facility, and Pleasant Valley State Prison. The staff misconduct at RJD is far worse than what I have experienced or seen at any other state prison. The staff at RJD simply do not care about the needs of prisoners under their supervision. From what I have seen, officers at RJD are indifferent to how incarcerated people are doing and especially indifferent to the needs of incarcerated people with disabilities.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

SAN DIEGO, California this <u>O7</u> day of January 2020.

Initials

[3476447.1]

Exhibit 56

DECLARATION OF 2 declare: I have personal knowledge of the matters set forth herein, and if called as a 3 1. witness, I could and would competently so testify. 4 My California Department of Corrections and Rehabilitation ("CDCR") 5 2. . I am currently housed at Richard J. Donovan Correctional Facility number is 6 ("RJD") in the C12 Unit. I am 31 years old. 7 I have been housed at RJD multiple times over the last few years. I was 8 3. housed at RJD from May 2017 to April 2018, when I transferred to LAC for about a week. 9 I then returned to RJD on April 14, 2018 and have been incarcerated here ever since. 10 During my time at RJD, I have been housed in the B9 Unit, the infirmary, the C13 Unit, 11 12 and the C12 Unit. I am a transgender woman. I take hormone therapy to lower my 13 4. testosterone. My pronouns are she/her/hers. My birth name is 14 I am a Coleman class member. I am at the CCCMS level of care. I suffer 5. 15 from bipolar disorder and anxiety. I take Zoloft for my depression and bipolar disorder. I 16 also take Buspar for my anxiety. I also take Zyprexa when I need it to help me calm down. 17 I have a number of serious medical conditions. I am HIV positive and take 6. 18 medications to control my HIV. I have been HIV positive for nine years now. I also a seizure disorder, which dates back to when I was a child. I have seizures when I am really 20 stressed. I take Keppra for my seizure disorder. I am classified as high risk medical. 21 I was a victim of staff misconduct at RJD. On October 2, 2018, at 22 7. approximately 10:00 a.m., I was walking from the yard with my cellmate, 23 back to the B9 Unit. As I walked through the sally port and into the unit, Officer came up and told us that he was doing "random pat downs" and told me that he had to pat 25 me down. As his partner, Officer took my cell-mate to be patted down, Officer me to the wall besides the office in the unit and patted me down against the 27 wall. He then patted me down again, more forcefully, so I asked him "Why are you being 28

[3476021.1]

- 11	
ı	so rough?" He replied "I'm going to take you into the sally port and do a strip search." I
2	asked him whether he could call the sergeant to be present during the strip search. Officer
3	not respond, but only grabbed my hands, put them behind my back, and brought
4	me into the sally port. He then threw me up against the wall while holding my hands. It is
5	my belief that these actions were in retaliation for my question about the roughness of his
6	second search.
7	8. At that point, I asked Officer he was doing this to me. In
8	response, he began aggressively shaking my entire body, twisting me back and forth by my
9	hands. I screamed "Why are you doing this?" He did not respond. Officer
0	continued to shake my entire body back and forth. Suddenly, he lifted me up and threw
1	me hard against the ground. I heard my left leg snap. I landed hard on my face on the
2	concrete. Officer landed on top of me. I started screaming and crying that my leg
3	was broken as he climbed on top of me and repeatedly punched me in the head and the
4	back.
5	9. As I was yelling, Officer yelled to Officer who was still in the
6	building searching other incarcerated people, "Call in a staff assault!" I was stunned
7	because I had not assaulted Officer in any way. I was still on my stomach,
8	screaming and crying at the top of my lungs, when more officers began to arrive. As
9	officers arrived, one of them, Officer (took over from and handcuffed
0	me. A sergeant ordered Officer to turn me over onto my back. As I was turned over,
1	I saw that my lower leg was swollen to the size of my thigh and that my leg turned
2	outwards unnaturally. It looked - and felt - clearly broken. The sergeant then ordered
3	another officer, Officer to cuff up my legs, even though it was clear that my leg
4	had been broken. Officer then roughly grabbed my broken leg, twisting it as I
5	yelled in pain, and placed it in leg cuffs. The cuffs squeezed around my broken leg.
6	10. Approximately five minutes later, an ambulance arrived and backed up
27	behind the unit. Sergeant asked me whether I could walk and I told him I could not.
28	He then told Officer to pick me up and place me up against the wall. I pleaded with

[3476021.1]

the officers to help me get up and get to the ambulance. They told me to walk on my own, even though there was a gurney in the unit that I could have been placed on. I hobbled out of the unit, dragging my broken leg behind me, as the officers watched. No one – nursing staff, the EMT, or officers – helped me get to the ambulance. As I got to the door of the ambulance, I couldn't get up over the bumper. Staff would not help me. So I fell into the ambulance. One of the officers, Officer then got into the ambulance, grabbed the back of my shirt, and dragged me into the ambulance and onto the gurney.

- 11. I was then taken to the TTA building, where I was examined by a doctor. He immediately told me that my leg was likely broken and called 911 to take me to the emergency room. This time, I was transported by outside EMTs, who placed me on a gurney and placed me gently into the ambulance. At the emergency room, I was examined by doctors and nurses, who sedated me for a transport to another hospital that had a trauma unit. I was then transported by ambulance to Alvarado Hospital. Again, these EMTs placed me on a gurney and carefully transferred me to the second hospital. At Alvarado Hospital, an orthopedic surgeon, Dr. Jacobson, set my leg to protect it and scheduled me for surgery the next morning. I told him that I had been injured by an officer at RJD and that my leg broke when the officer threw me to the ground. He told me that, due to the type of fracture, my leg had likely broken from being twisted by Officer
- 12. The next morning, I had surgery on my leg. Dr. Jacobson put a metal plate and several screws into my leg to stabilize it. I stayed in the hospital for five to six days and was then discharged back to RJD. Upon arriving at RJD, I was placed into a cell in the CTC building, where I stayed for four months. I was in a wheelchair the entire time. After four months, I was released from the CTC and placed into the C13 Unit. I was on crutches and in a protective boot for the next eight weeks. I only started walking without any assistive devices in July 2019.
- 13. While I was at the hospital, I was interviewed by a sergeant while I was in my hospital bed. I told him what had happened to me. The sergeant videotaped my injuries. The interview lasted only five minutes.

- about Officer excessive and unnecessary use of force against me. I did not file this appeal immediately after returning from the hospital, because I did not have the resources including a pen or pencil or any appeal forms for several weeks. Approximately a week later, I was interviewed by Lieutenant and Sergeant This interview was recorded as well. They asked me to describe what had happened and if I had any witnesses. I gave them my cellmate's name and a full account of what had happened. They told me that they would investigate my complaint and that I would get a response.
- appeal. The response stated that an investigation had been conducted and that Officer conduct that day had not violated CDCR policy. I immediately appealed the response to the next level. In January 2019, I received a response to my appeal from headquarters, stating that my complaint should never have been accepted at any level due to the time constraints not having been met, even though I had not been able to file an appeal earlier because I had not had access to any forms or writing materials following my return from the hospital.
- 16. While I was in the CTC, I was issued a Rules Violation Report ("RVR") for "Battery on a Peace Officer." Six weeks later, I was found guilty of the RVR. At the hearing, the officers would not answer my questions and would not let me call my cellmate nor anyone else as a witness. I immediately appealed the guilty finding. My appeal about the RVR was denied at every level.
- 17. This incident made my depression worse. Once I returned to RJD, I was very scared and unsure about what would happen to me. My psychiatrist increased my anti-depressant dosage to help me cope with my increasing depression in the weeks after the incident. I think about Officer me all the time. Since the incident, I only get around three or four hours of sleep a night. The incident has put me on edge all the time. I feel like at any time I could be attacked by officers again.

- 11	
1	18. In November 2019, I was told by another incarcerated person that two
2	incarcerated people had approached an officer in my unit, Officer and asked if
3	they could assault me. According to what this other person told me, Officer I
4	told them "Do it. I don't like anyway." Two days later, at approximately 2:30 p.m.,
5	I was in the C12 Unit on the dayroom and I was approached by two other incarcerated
6	people. They rushed me and started punching me repeatedly in the head and stomach.
7	Officers in my unit at the time, including Officer who was in the control tower, and
8	Officer 2 who was working on the floor of the unit, watched as I was assaulted.
9	The assault lasted for a few minutes before another incarcerated person stopped the assault
0	and protected me. I suffered bruising and abrasions to my face and chest from this
1	incident.
2	 I have also seen officers engage in staff misconduct against other
3	incarcerated people at RJD. In June or July 2019, at approximately 8:30 p.m., I saw
4	officers in the C13 Unit use excessive force on another incarcerated person who refused to
5	go inside his cell. I don't know the person's name, but he is white, wore glasses, is older
6	but not elderly, had a lower bunk, lower tier placement, and was designated as CCCMS. I
7	was in my cell, C13-102, at the time and saw officers trying to force the person into his
8	cell on the other side of the unit. Officer and another officer, whose name I do not
9	know but who I believe is and whose name may start with the letter, were
20	laughing, saying "Oh, you're going to go in there," and motioning to the cell. After the
21	incarcerated person continued to refuse to enter his cell, they slammed him into the ground
22	and began beating him with closed fists and batons while kicking him repeatedly with their
23	boots. As they beat him, I heard him yell and scream for them to stop. The assault lasted
24	for approximately three or four minutes before he was cuffed up and dragged out of the
25	unit. I have not seen him since.
26	20. I still see the officers that were involved in the staff misconduct against me
27	and that I witnessed frequently, even after they were accused of staff misconduct. Officer
20	ty may need accessionally. Two months ago. Sergeant was moved onto

[3476021.1] 5 Initials

1	my yard. I try to avoid both of them as much as I can. Officer and Officer
2	still work on C-Yard. Officer now works on A-Yard – I saw him
3	recently in the library.
4	21. Officers regularly harass me now about the incident with Officer
5	Officers have regularly told me that they "know I'm the type" to file complaints against
6	officers. After I filed a lawsuit about the excessive use of force incident, multiple officers
7	began asking me why I was suing their co-workers and causing trouble for them.
8	22. In my time at RJD, there have been a few times that I needed help but didn't
9	ask for it because I was afraid of what would happen to me. I now avoid officers as much
10	as I can and do not feel comfortable or safe around them. I do not even ask officers for
11	simple things such as request forms, razors, or toilet paper, which I instead ask other
12	incarcerated people to get for me.
13	23. If I was feeling suicidal, I would not ask officers for help. If I felt very
14	depressed in the middle of the night, I would rather sit in my cell and wait to talk to
15	nursing staff in the morning rather than ask custody officers for help.
16	24. I no longer feel like there is any point in filing staff complaints about staff
17	misconduct. I couldn't believe that my appeals were denied. Officer broke my leg.
18	I did not do anything wrong. And yet my staff complaint against Officer denied
19	when RJD found he did not violate any policies. And my appeal of the RVR for battery
20	against a peace officer was also denied, even though Officer had assaulted me, not
21	the other way around. After I was assaulted by other incarcerated people in November
22	2019 and officers did not intervene right away, I did not file a staff complaint because I
23	knew it would not lead anywhere.
24	777
25	171
26	111
27	111
28	111

Initials

[3476021.1]

25. In my opinion, staff target people who are transgender, who have mental health problems, who are elderly, and who have disabilities with staff misconduct. I feel that officers target people who are weak and defenseless to assert their authority and maintain their control. The officers are bullies. They prey on people who cannot defend themselves so that they can continue to demean us and treat us like we are not human.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

San Diego, California this 8 day of January 2020.

Initials

Exhibit 56a Filed Under Seal

Exhibit 57

DECLARATION OF

I, declare:

- I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
- 2. My California Department of Corrections and Rehabilitation ("CDCR") number is ______. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 2. 1 am 64 years old.
- 3. I have been housed at RJD from February 2017 to the present. During my time at RJD, I have been housed in Facility A, Building 2 with the exception of the first week that I was at RJD, when I was housed in Facility B, Building 6.
- 4. I am an *Armstrong* class member. I am designated as DLT and DNH. I have had hearing problems since I was a kid. My hearing issues sometimes cause me to lose my balance. As accommodations for my disabilities, I have a lower bunk, lower floor housing, hearing aids, therapeutic shoes, and a hearing-impaired vest.
- I am also a Coleman class member. I am at the EOP level of care. I have been diagnosed with paranoid schizophrenia. As treatment for my mental illness, I receive group and individual therapy.
- I have a number of serious medical conditions. I have a pacemaker for a low pulse rate. I also take medication to control my blood pressure. I am classified as highrisk medical.
- 7. I was a victim of staff misconduct at RJD. On April 24, 2019, I was in my cell—cell in Building 2 on Facility A—prior to release for dinner. The tower guard, Officer did did not release me for dinner at the same time as other prisoners in the building. Instead, Officer released me from my cell only after all other prisoners in the building who wanted to go to dinner had been released from their cells and had exited the building. This was unusual because incarcerated people are typically released for dinner in groups, not individually. Officer finally opened my cell door at

approximately 5:00 p.m. I walked out into the dayroom. As far as I could tell, I was the only person in the dayroom other than the floor officer, Officer I walked through the dayroom to the sally port, a short hallway between the dayroom inside of the building and the door to the outside of the building. At each end of the sally port, there is a gate that is controlled by the control tower officer. In order to exit the building, you have to pass through the gate that separates the dayroom from the sally port, walk through the sally port hallway, and then pass through the gate that separates the sally port from the outside of the building.

Once I passed through the gate that separates the sally port from the 8. dayroom, three officers—Officer Officer A. and Officer entered the sally port from outside the building. They rushed toward me. Officer who was in front of the other two officers, said "I'm gonna kick your ass." I tried to back up to get away from them, but the gate that separates the sally port from the dayroom was already closed so I was trapped in the sally port with the officers. Officer had closed the gate behind me, but I had not heard it close because of my hearing impairment. I told the officers, "I'm not gonna fight you." Officer said again, "I'm gonna kick your ass." Officer then took a fighting stance, but somehow tripped or slipped and fell to the ground. While Officer was on the ground, the other two officers started kicking me in my chest until I fell to the ground. I fell to a seated position with my back against the sally port gate. Officer then got back to his feet and started hitting me in my face repeatedly. He hit me about 50 times. At the same time, prowas stomping and kicking me in my chest, legs, and my left arm. The Officer officers attacked me for about two minutes. During the attack, I thought that the officers were going to kill me. There was nothing that I could do to stop them from beating me up. The attack finally stopped when Officer threw another punch to hit me in the face, but missed and instead hit the gate behind me. He screamed out in pain. All three officers then left the sally port.

28

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

- 9. During the assault, I saw Officer filming the officers beating me up with a cell phone through a window in the floor of the tower that lets the tower officer be able to see into the sally port. I also saw that throughout the assault, Officer stood just on the dayroom side of the sally port gate, watching as the officers attacked me.
- 10. The officers beat me up very badly. I had a number of serious injuries from the attack. I was crying from the pain. The officers broke my left arm, which swelled up immediately. The officers also hit my head so hard and so many times that they broke my jaw. The officers' punches to my head also caused a large cut to my tongue; it felt like the inside muscle of my tongue was leaking out into my mouth. My clothes were covered in blood. I also had a number of large bruises and cuts on my head and chest.
- 11. After the officers stopped attacking me, I got up off the ground and walked out of the sally port onto the yard. I saw Officers A. and and running toward and into Building 1. Officer was standing just outside of Building 2. He said to me, "I ain't no joke, bitch." Officer then walked over to Building 1.
- 12. As far as I am aware, at no time during the assault did the officers use their radios to call for help from other officers. As far as I am aware, the officers also did not hit the buttons they carry that sound an alarm. In my experience, officers typically hit their alarms when they are involved in an incident (including a physical altercation) because, when an alarm goes off, other officers respond to the area. I was never charged with a Rules Violation Report or any other form of discipline related to the incident. I also was not placed in the Administrative Segregation Unit ("ASU") after the incident or even taken to a holding cage. As a result, I do not believe that the officers reported the incident or their use of force.
- 13. I am not certain but I think I may have been attacked because I sometimes file 602 grievances about officers. In particular, I think that the attack on April 24, 2019 was in retaliation for a 602 I filed against Officer for stealing my property. I believe the attack is related because earlier that day out on the yard, Officer told

7

15

16

13

21

22

19

25

26

27

me "They're gonna kick your ass." I interpreted his statement as meaning that officers were going to beat me up.

- After the assault was over and the officers left the sally port, I walked from 14. Building 2 to the dining hall. Even though my face was bloodied and bruised and my shirt was covered in blood, none of the officers that I passed by at the dining hall offered to help me. I walked into the dining room, looked around, and then walked right back out. I then went back to Building 2.
- Once inside Building 2, I went to Nurse Sanchez, who worked in the 15. building. I told her that I had been beaten up by officers and that I thought my arm was broken. I asked her to give me a pass to the Triage and Treatment Area ("TTA") or to push her alarm to call for emergency medical assistance. She refused, stating that Officer and another officer told her not to give me a pass
- I then went to talk to Officer and another officer who was on the dayroom floor. I asked them for a pass to the TTA. They refused and ordered me to go back to my cell.
- At about 7:00 p.m., my cell door opened for evening dayroom. I again asked Nurse Sanchez to provide me with medical assistance or a pass to the TTA. At this point my broken arm continued to swell and was causing extreme pain. She again refused, telling me that the officers told her not to give me a pass.
- I then asked Officer if he would give me a pass to go to the TTA. He refused and told me that "You shouldn't have been talking shit." He also said that "nothing happened, so you don't need medical care." Other people, including and , also tried, without success, to convince and Nurse Sanchez that I needed urgent medical attention for my broken arm and other injuries. Instead, Officer told me that I had to go back to my cell because I was inciting a riot in the building. I went back to my cell to avoid any additional problems with the officers.

1

12

14

15

24 25

26

27

28

- 19. While I was in my cell, I was in an incredible amount of pain, especially from my broken arm. My whole body began to stiffen up so that I could barely move
- At about 8:30, Officer yelled from in front of the sally port to my cell 20. that he was there to take me to the TTA. I declined, because I was afraid that he was going to beat me up, as I had previously had a verbal altercation with him and he had written me up for a rules violation. After what had happened earlier in the day, I did not feel comfortable walking to the TTA with only custody staff.
- 21. At about 1:00 a.m. on April 25, 2019, a nurse from the TTA came to my cell and took me to the TTA. I was ultimately diagnosed with a fracture to my arm and a fracture to my jaw.
- 22. Later on April 25, 2019, I reported to my mental health clinician, Dr. Valaskatnjis, that officers had beaten me up.
- 23. On May 15, 2019, I filed a 602 staff complaint about the assault. On June 3, 2019, I received a Second Level response to the 602 (I believe the First Level was bypassed) that indicated that the ISU was still investigating my allegations. I appealed the Second Level response on June 25, 2019. On October 23, 2019, I received a Third Level response to my 602, which indicated that my staff complaint had been referred to the Office of Internal Affairs ("OIA") for further investigation. I have not been provided with any information regarding the results of the OIA investigation.
- 24. My broken arm has not healed properly. As a result, it still causes me a lot of pain. I have been told by medical staff that it may be necessary to have surgery to rebreak the bone and set it with a plate and pins. In addition, the attack has made my mental health worse. After the assault, I became sad and depressed and had problems sleeping.
- 25. I still regularly see some of the officers that were involved in attacking me. I have seen Officer A on Facility A number of times since the attack. Officer

1		
2		
3		
4		1
5		0.00
6		
7		1
8		
9		
10		E
11		
11		
13		
14		
15		
16		
16 17 18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
77.00	u	

28

is a regular in Building 1, so I see him on the yard frequently. Officer still works regularly in the tower in Building 2 during Third Watch.

- 26. Since the attack, I am much more reluctant to ask staff for any type of help that I might need for mental illness or for my disabilities. I am afraid that if I interact with staff, it will cause them to beat me up again.
- 27. I have been in CDCR prisons for about 40 years of my life. I've been housed in a number of different CDCR prisons, including Correctional Training Facility, Folsom State Prison, California Medical Facility, Avenal State Prison, California State Prison Solano, and California Men's Colony. The staff misconduct at RJD is the worst that I have seen at any prison.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

San Dulyo, California this 7 day of January 2020.

Exhibit 57a

Filed Under Seal

Exhibit 57b



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

Michael Freedman

Email: MFreedman@rbgg.com

May 31, 2019

VIA ELECTRONIC MAIL ONLY

SUBJECT TO PROTECTIVE ORDERS

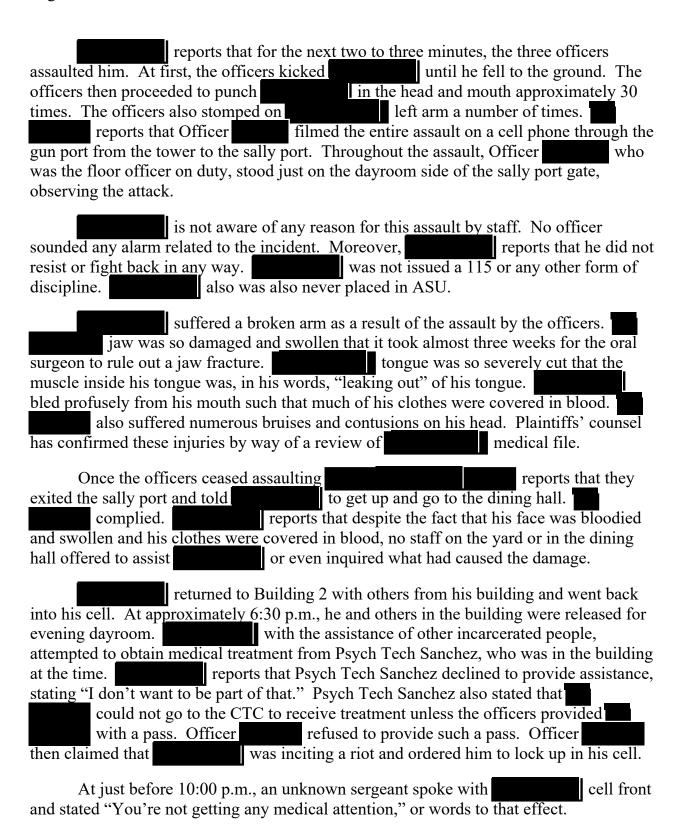
Russa Boyd CDCR Office of Legal Affairs P.O. Box 942883 Sacramento, CA 94283-0001 russa.boyd@cdcr.ca.gov

Re: Armstrong v. Newsom; Coleman v. Newsom: Advocacy Letter re: DNH, EOP Class Member, Regarding Staff Misconduct at RJD
Our File Nos. 0581-03, 0489-03

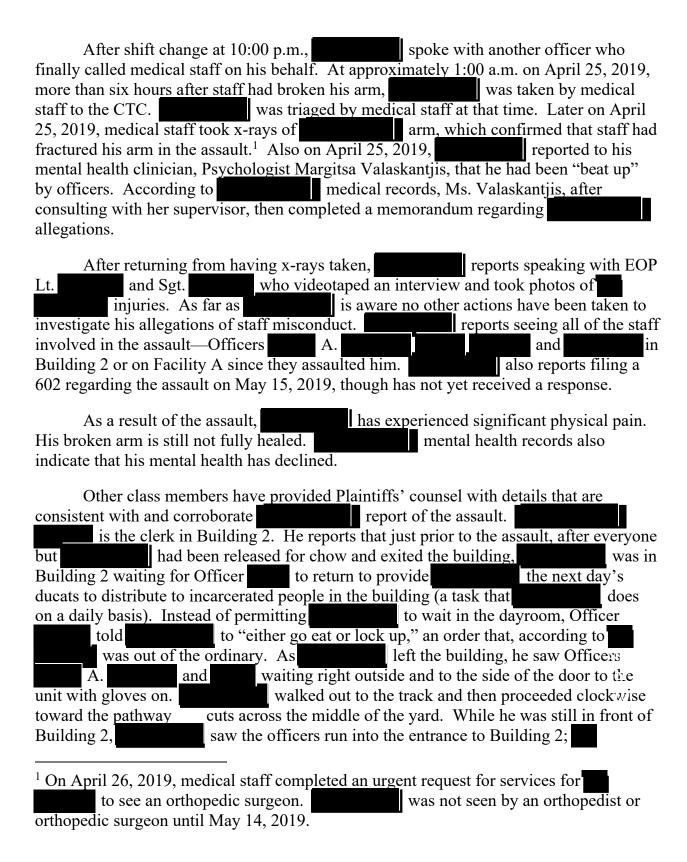
Dear Russa:

I write regarding	a 64-year-old Armstrong and
Coleman class member at RJD who reports	he was assaulted by staff at RJD on April 24,
2019. is DNH, is a participan	t in the EOP, and has a pacemaker.
	reports that he was in his cell— in
Building 2 on Facility A—prior to release f	or evening meal. Building 2 is one of the two
EOP housing units on that facility. The tow	ver guard, Officer did not release
for dinner at the same time as other	er prisoners in the same section of the building
as Instead, Officer	released from his cell only after
all other prisoners in the building had alread	dy been released for the meal and had exited
the building. When cell doc	or opened at approximately 5:00 p.m., he
walked from his cell to the sally port of Bui	lding 2. Once he entered the sally port,
Officer closed the gate that separat	es the sally port from the dayroom. Three
officers—Officer Officer A.	and Officer then ran into the sally
	between them and the gate behind

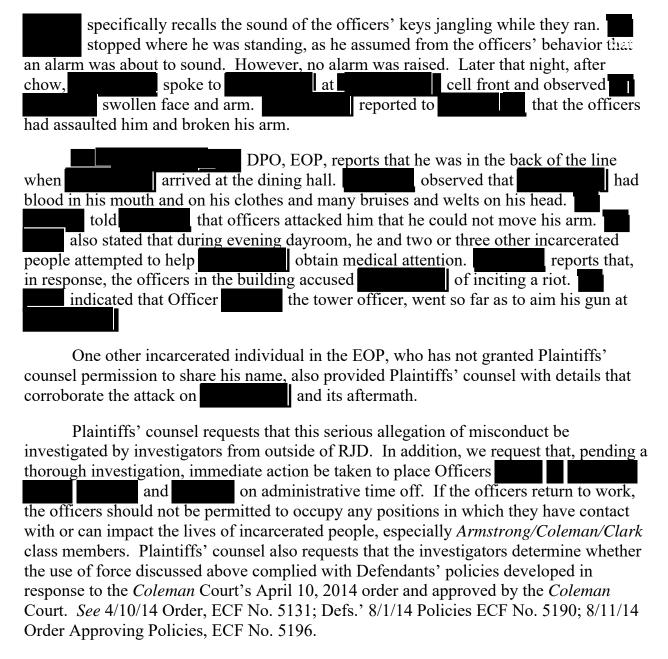
Russa Boyd May 31, 2019 Page 2



Russa Boyd May 31, 2019 Page 3



Russa Boyd May 31, 2019 Page 4



No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people, non-custody staff members, or others who may have witnessed the

assault and/or its aftermath. In addition, all evidence, including photographs and videos

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd May 31, 2019 Page 5

of injuries and video footage of the incident itself, should be obtained and preserved immediately for review. Likewise, any footage and relevant data from cell phone and the other involved staff should be obtained and preserved immediately. Plaintiffs' counsel request that staff do not engage in retaliation, and any witnesses, in response to these allegations. including against Plaintiffs' counsel also requests that Defendants produce (1) the log number for 602, the date it was received by RJD, and a copy of the 602 as received; injuries taken by medical or custody (2) any photographs or videos of staff; (3) any video of interviews with regarding this incident; (4) the memorandum regarding the incident drafted by Ms. Valaskantiis on April 25, 2019; and (5) pursuant to California Penal Code § 832.7(b)(1)(C), any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by Officers or directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman By: Senior Counsel

Kristin Moose

MLF:aa

cc: Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hrvatin
CDCR OLA Armstrong
Jerome Hessick
Tyler Heath
Damon McClain
Roy Wesley
Melissa Bentz
Dillon Hockerson

Elise Thorn Office of Inspector General

Coleman Special Master Team Prison Law Office

Exhibit 57c



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

Michael Freedman

Email: MFreedman@rbgg.com

July 12, 2019

Armstrong v. Newsom; Coleman v. Newsom: Advocacy Letter re: DNH,

VIA ELECTRONIC MAIL ONLY

SUBJECT TO PROTECTIVE ORDERS

Regarding Staff

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs russa.boyd@cdcr.ca.gov ursula.stuter@cdcr.ca.gov

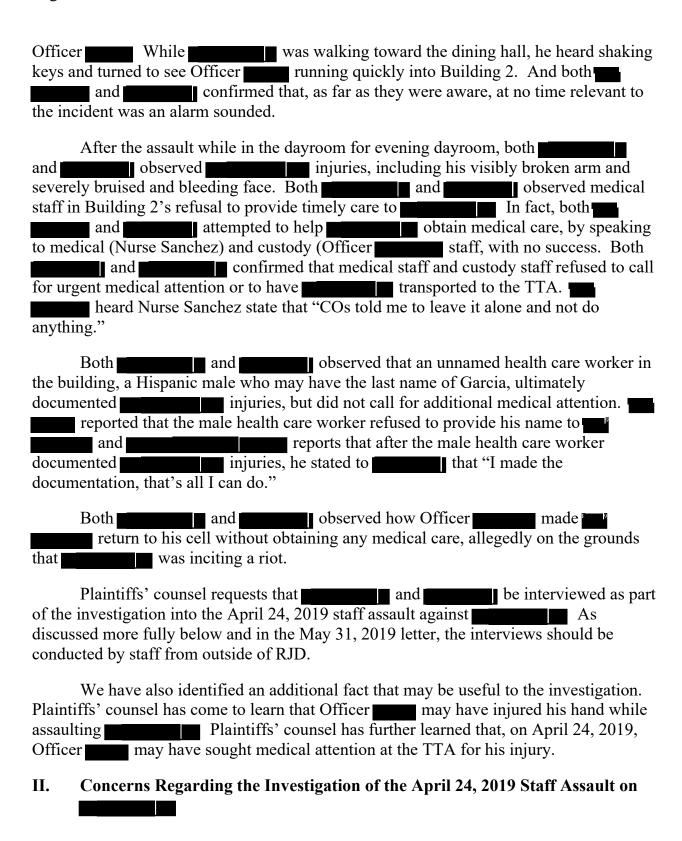
EOP Class Member,

Misconduct at RJD

Re:

Our File Nos. 0581-03, 0489-03 Dear Russa and Ursula: I write to bring to CDCR's attention additional information regarding the staff on April 24, 2019, and to raise concerns about assault against what we understand has occurred in the investigation to date. This letter is intended to supplement my letter of May 31, 2019 regarding the staff assault on I. Additional Witnesses (and Additional Fact Regarding the Incident (Officer May Have **Injured His Hand and Sought Medical Treatment)** We have identified additional witnesses who observed events relevant to the incident and are willing to speak with investigators. Both and witnessed being kept in his cell until everyone else from Building 2 had been released; was one of the last people to leave the building for dinner, while actually and observed remained in the building during dinner. Both multiple officers waiting outside of Building 2 during the release of people for dinner. confirmed that one of the officers standing outside of Building 2 was

Russa Boyd July 12, 2019 Page 2



Russa Boyd July 12, 2019 Page 3

We also write to raise serious concerns regarding the manner in which CDCR is conducting its investigation of the staff assault against Plaintiffs' counsel specifically requested in our April 24, 2019 letter that "this serious allegation of misconduct be investigated by investigators from outside of RJD.... No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations."

Plaintiffs' counsel is aware that and and one of the witnesses identified in our May 31, 2019 letter, have been interviewed as part of the investigation. Rather than being interviewed by non-RJD ISU staff, both individuals were interviewed by local, RJD ISU staff led by Lieutenant Perhaps more troublingly, ISU staff pulled and out for interviews by entering Building 2, escorting them from the building, and transporting them across and off of the yard in a golf cart. Such actions place and at risk by widely associating them with an ISU investigation.

Additionally, as of July 2, 2019, _______ one of the other witnesses to events related to the assault, has not yet been interviewed. Plaintiffs' counsel expects that ______ who we indicated in our May 31, 2019 letter possesses information that corroborates ______ recollection, will be interviewed as part of the investigation. _____ should, as we requested, be interviewed by staff from outside of RJD.

Finally, we are concerned that at least some of the officers involved in the April 24, 2019 assault remain on Facility A in positions in which they continue to have contact with and exercise control over incarcerated people. It is our understanding that as recently as June 30, 2019 (and perhaps more recently as well), Officer has been in his usual post in the tower in Building 2 and Officer has been in his usual post in Building 1. As we stated in our May 31, 2019 letter, given the seriousness of the allegations, all of the officers involved in the April 24, 2019 assault should, pending the completion of the investigation, be placed on leave or, at a minimum, moved to positions where they have no interaction or control over incarcerated people.

///

///

///

///

Russa Boyd July 12, 2019 Page 4

The issues we have raised regarding the attack on and the related investigation are extremely serious. Accordingly, please respond to this letter and the May 31, 2019 letter by no later than July 26, 2019.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman

By: Senior Counsel

MLF:aa

cc: Ed Swanson Jerome Hessick Laurie Hoogland Nicholas Weber Tyler Heath Kristin Moose Sharon Garske Damon McClain Elise Thorn

Roy Wesley Office of Inspector General Jay Russell Melissa Bentz Coleman Special Master Team Adriano Hrvatin

CDCR OLA Armstrong Dillon Hockerson Prison Law Office

Exhibit 57d

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



December 30, 2019

VIA EMAIL ONLY
Michael Freedman

Rosen, Bien, Galvan & Grunfeld

MFreedman@rbgg.com

RE: ARMSTRONG V. NEWSOM; COLEMAN V. NEWSOM: ADVOCACY LETTER RE:

Dear Mr. Freedman:

I write in response to your July 12, 2019 and May 31, 2019 letters regarding *Armstrong* and *Coleman* class member (1). Mr. reported to you that he was assaulted on or about April 24, 2019 while housed at Richard J. Donovan Correctional Facility (RJD). Mr. alleged that custody staff trapped in him in between the sally port where multiple officers then assaulted him.

Subsequent to the receipt of your May 31, 2019 letter, and prior to the receipt of your second letter, an inquiry into the allegations of staff misconduct was completed¹. The inquiry included interviews with multiple staff and with inmates, a review of all available documentation and the Strategic Offender Management System. The inquiry resulted in referral to the Office of Internal Affairs (OIA) via a 989 for an Internal Affairs Investigation into the above-noted allegations of staff misconduct on July 17, 2019. OIA accepted the case on August 14, 2019 and there is currently an open investigation.

/// ///

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

Mr. Freedman Page 2

CDCR considers the staff misconduct allegation inquiry open and pending completion of an internal affairs investigation.

Sincerely,

/s/ Ursula Stuter

URSULA STUTER Attorney Office of Legal Affairs

Exhibit 58

DECLARATION OF

, declare:

- 1. I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.
 - 2. My California Department of Corrections and Rehabilitation ("CDCR") number is _______. I am currently housed at California State Prison Los Angeles County ("LAC") on Facility D in Building 4.
 - I was housed at Richard J. Donovan State Prison ("RJD") from January 18,
 2018 until July 31, 2018, when I was transferred to the California Medical Facility.
 - 4. During my time at RJD, I was housed in the C14 Unit and in a Mental Health Crisis Bed. When I was housed at RJD, the C14 Unit housed prisoners who, like me, were at the EOP level of care.
 - 5. I am an Armstrong class member. I am designated as DPM. I am diagnosed with peripheral neuropathy, which causes my feet to feel alternatively cold, numb, tingling, and very hot. My problems with my feet cause me to lose my balance easily, so I need to use a walker to get around. I also struggle to go upstairs and I have a lower bunk chrono. I had the same disabilities, limitations, and accommodations during the time that I was at RJD.
 - 6. I am a Coleman class member. I am currently at the EOP level of care. I was also at the EOP level of care during the time that I was housed at RJD. I am diagnosed with bipolar disorder (Type II), borderline personality disorder, and major depressive disorder. My bipolar disorder sometimes makes me feel manic, up for days at a time and unable to sleep. Other times, I feel very depressed. I often struggle to sleep and only get five intermittent hours of sleep a night.
 - 7. I have also been diagnosed with post-traumatic stress disorder. When I was a child, I moved in and out of the foster care system. During my adolescent years I went to live with a foster parent who repeatedly molested me and abused me both physically and

Initials:

mentally. These experiences continue to haunt me and make me feel like I am not wanted or needed. I struggle chronically with what happened to me as a child and my feelings of shame from those experiences.

- 8. The mental health treatment I receive helps me cope with my mental health problems. I participate in anger management classes, classes on how to manage my moods, and other groups that help me cope day-to-day. I take Trazodone, an anti-depressant, which helps me feel more stable and happier. I also take other medications to help keep my mood stable and help with my daily life.
- 9. I have a number of serious medical conditions. I suffer from end-stage liver disease. I have cirrhosis and fibrosis of my liver due to Hepatitis C, which I have had for many years. I also take high blood pressure medications to control my chronically high blood pressure. I also take a medication for my stomach, so that I do not get an ulcer as a result of my liver problems. I am classified as high risk medical.
- 10. I was a victim of staff misconduct at RJD. On 6, 2018, I went to the Facility C chow hall for dinner at around 5:00 P.M. I went to get some Kool-Aid from the dispenser, but it was empty, so I went and asked an officer working in the chow hall to refill the Kool-Aid. In response, he yelled at me "What do I look like? A fucking kitchen worker? Go ask a fucking kitchen worker." I was taken aback, so I said "Excuse me." The officer yelled "What did you fucking say?", so I repeated "Excuse me" and then sat down at a table.
- 11. I did not know this officer's name, so after I sat down I looked over at him so that I could see his name tag. He saw me looking at him and came over to me, yelling "You got a fucking problem?" I replied "No, I'm just trying to get your name, that's all." The officer then yelled his name at me and asked me "What building are you from?" After I told him where I was housed, he told me "I'll deal with you later" and then walked away.
- 12. After dinner ended that day, he told me "Step to the side." After the chow hall emptied, he told me to step outside and the wall. He grabbed my walker and threw it three or four feet away from me. The officer then aggressively searched me while

7

10

11

12 13

16

17

15

18 19

20 21 22

23

25 26

Later that day, the same prisoner started yelling in the unit "I cut myself! I cut myself!" and no officers responded. None of the officers in the unit at the time - Officer a few others - said or did anything in response to the prisoner's cry for help. They did not get mental health staff or provide any other assistance. The next morning, I saw officers take the prisoner out of the unit. From where I was, I saw that the prisoner's wrists were bandaged. I did not see that prisoner again after that.

- frequently allow prisoners to 17. I also saw Officer and Officer I fight without intervening. The officers would just watch the prisoners fight and, after the fight had concluded, would just tell the prisoners to go back to their cells.
- Witnessing these incidents often made my mental health deteriorate. 18. Because of the regular physical and sexual abuse I experienced from authority figures, including my foster parents, every time I witness or experience staff abuse I am forced back into my childhood years of abuse. Witnessing authority figures abuse those under their control triggers my post-traumatic stress disorder and makes me think about things that I really do not want to think about ever again.
- To the best of my knowledge, none of the officers I saw engaging in staff 19. misconduct at RJD were ever disciplined or reassigned. As of the time I left RJD in July 2018, they continued to work in the same units or other posts.
- In my time at RJD, there have been a few times that I needed help but did not 20. ask for it because I was afraid of what would happen to me. I felt like I could not ask for help from clinical staff, officers, or anyone else. I worked hard to avoid all of the officers in my unit and not ask them for anything because of what I experienced and witnessed.
- I have been in CDCR prisons for about twenty-five years of my life. I have 21. been housed in a number of different CDCR prisons, including RJD, LAC, CMF, Mule Creek State Prison, California Substance Abuse Treatment Facility and State Prison, California Health Care Facility, High Desert State Prison, Salinas Valley State Prison, and several other facilities. The staff misconduct at RJD is the worst that I have ever

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 347 of 398

experienced. It seemed to me that staff misconduct happened more frequently at RJD and, when it did happen, was worse.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Lancaster, California this 16 day of December, 2019.

7 8

Exhibit 58a

Filed Under Seal

Exhibit 59



50 Fremont Street, 19th Floor San Francisco, California 94105-2235 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Penny Godbold

Email: pgoldbold@rbgg.com

November 14, 2017

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov

Re: Armstrong v. Brown

Staff Misconduct Allegation from Richard J. Donovan Correctional Facility

Our File No. 0581-03

Dear Russa:

As you are aware, Plaintiffs' convened a small meeting with Associate Director, Brian Duffy, Warden Paramo, the Chief Deputy, and other key staff during the most recent, October 2017, RJD monitoring tour. During that meeting, Plaintiffs' counsel provided the institution with information about a staff assault that was alleged in C-15. All but refused to be interviewed in conjunction with the incident.

and others who stated they witnessed the incident, reported observing Sergeant exchange words with an inmate through the door of sergeant reportedly left the cell front for a few minutes and then returned to the cell with a crew of officers. Sergeant then reportedly entered the cell where an altercation could be heard. Then, the prisoner from who was dragged by his feet down a flight of stairs, banging his head on the steps along the way. This incident reportedly occurred in plain view of everyone in the C-15 housing unit sometime during the first months of 2017. Plaintiffs' counsel was unable to identify the name of the prisoner who was in cell 216. Nevertheless, multiple class members reported observing this incident and reported being deeply disturbed by what they saw.

Russa Boyd November 14, 2017 Page 2

As discussed in the May 2017 Armstrong RJD report, and multiple other reports by Plaintiffs' counsel, when class members observe staff assaults, it has a direct and negative effect on their ability to obtain required disability accommodations. As a result of observing this and other staff misconduct incidents, class members report that they are reluctant to turn to staff for help and reluctant to request disability accommodations from staff out of fear of those staff members. In this case, where the allegation is against a Sergeant, the concern is heightened. Prisoners not only fear staff but also fear their supervisors, the very staff members they should be able to turn to report staff misconduct. When this happens, class members report they have no recourse for reporting staff misconduct, much less seeking accommodations, and they are even less likely to do so.

Plaintiffs do not currently allege that the staff assault occurred against a class member. As stated above, the identity of the prisoner in is unknown. However, because this alleged incident was observed by multiple class members, and has a direct impact on the ability of class members to request and obtain disability accommodations, Plaintiffs request that this incident be investigated. During the tour, staff stated that the information shared during Plaintiffs' meeting was enough to initiate the investigation.

After reviewing our notes, Plaintiffs identified two additional allegations against this staff member that do not pertain to the assault described above but which both relate to the very serious allegation of falsification of documents. reported that Sergeant fabricated documents responding to his allegations regarding stolen property. Plaintiffs' counsel requested, but has not yet received, copies of the documents in question. reported that he filed a 602 regarding staff misconduct by an Officer on the yard. He reported that Sergeant handled the 602 and on it the Sergeant states that he interviewed who reported that he had nothing further to add in connection with his misconduct claim. According to he was not ever interviewed and in fact it would have been impossible to interview him on the date recorded by the Sergeant on the 602 because he (and other inmates on C) were locked down in the gym while the yard was being searched. Plaintiffs also request that these allegations be investigated.
///
111
111
///

Russa Boyd November 14, 2017 Page 3

Plaintiffs do not object to these allegations being addressed through the Complex Litigation Coordination Committee process. However, given the effect that allegations of this nature have on class members' ability to obtain disability accommodations, Plaintiffs are concerned about the outcome of these investigations and what action will be taken by CDCR.

We look forward to communicating with CDCR about these allegations as the investigations progress.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

Penny Godbold

By: Of Counsel

PMG:cg cc: Ed Swanson Joanne Chen Sharon Garske Janet Chen Patrick McKinney Bryan Kao Co-Counsel

Exhibit 60



50 Fremont Street, 19th Floor San Francisco, California 94105-2235 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Penny Godbold

Email: pgoldbold@rbgg.com

March 2, 2018

VIA E-MAIL AND U.S. MAIL

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd Nick Weber CDCR Office of Legal Affairs P.O. Box 942883 Sacramento, CA 94283 Russa.Boyd@cdcr.ca.gov Nick.Weber@cdcr.ca.gov

Re: Armstrong v. Brown and Coleman v. Brown:

Reports of Abuse of Class Members at RJD

Our File Nos. 581-3 and 489-3

Dear Russa and Nick:

I write regarding allegations of abuse and excessive force against *Armstrong* and *Coleman* class members at Richard J. Donovan Correctional Facility ("RJD").

These incidents were reported to our office separately by a *Coleman* class member, who reported that he witnessed the events that occurred and by a class member in both *Armstrong* and *Coleman* who was involved in the incident.

reportedly notified CDCR about witnessing these events, including turning over alleged video footage of the staff members involved in the incidents but, as of his last communication with Plaintiffs' counsel, he was never interviewed by any CDCR staff in conjunction with any investigation of the allegations.

Russa Boyd Nick Weber February 28, 2018 Page 2

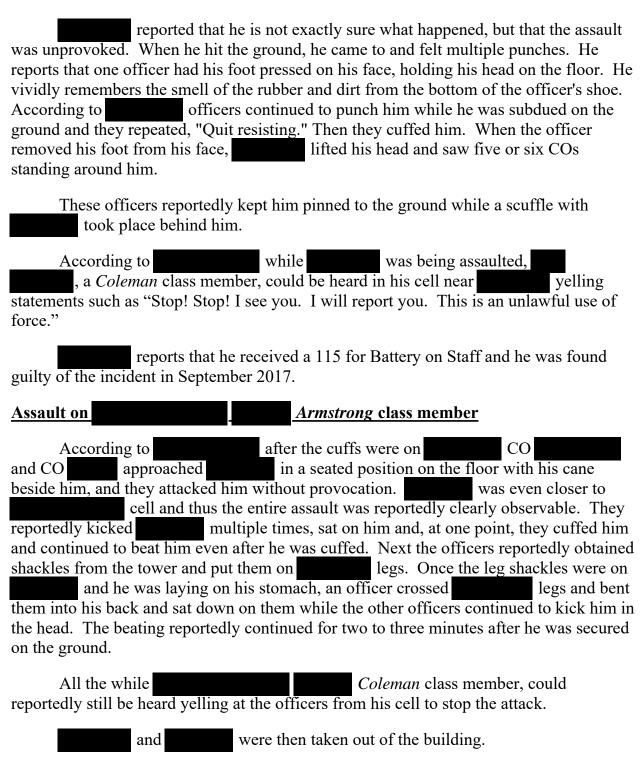
was reportedly interviewed after filing a staff complaint but it remains unclear who interviewed him and to what end. The interview occurred several months after the event.

Both report that on or around July 17, 2017, in RJD Housing Unit C-14, an EOP housing unit that also houses *Armstrong* class members with disabilities impacting placement, three *Coleman* class members, two of whom are also *Armstrong* class members, were assaulted by staff members. Both witnesses state that the assaults were unprovoked and started after a staff member in the unit, a CC-1, was initially assaulted by a different inmate in the unit.

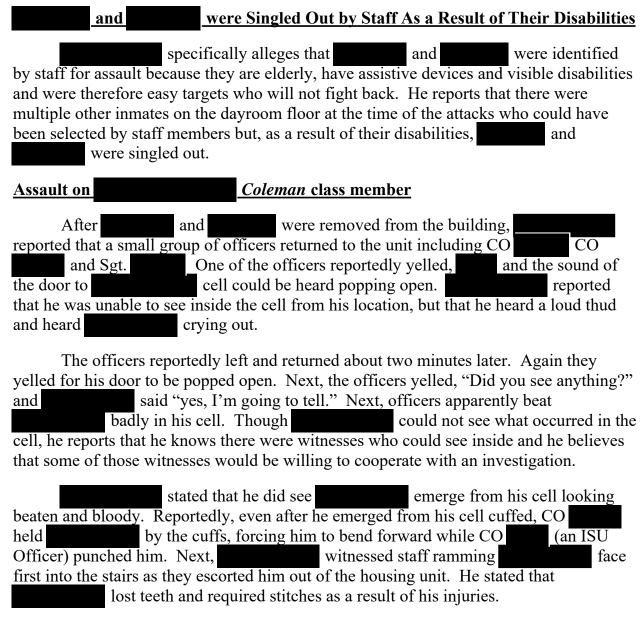
Assault on Armstrong and Coleman class member

Both and	report that following the initial assault on the
CC-1, all staff that were on the dayro	om floor left the unit together. There were
approximately 15 or so inmates still of	out of their cells on the dayroom floor at this time
	two Armstrong class members. The
officers were out of the unit for appro	eximately three minutes. When they returned, there
were about 8-10 officers including C	O who, according to
appeared to be leading the returning	officers. CO reportedly returned to the unit
	d with his cane and a vest, on during the alarm.
According to both	
recall" which prompted people to sta	
reports that he attempted to return to	
-	rds his cell, CO drew back and punched
	out and sending him a few feet from where he was
	observed glasses explode on contact
	imp on including CO who was
reportedly hitting him in the head.	was reportedly on the ground and not
moving, and appeared to be unconsci	ous according to who stated that
did not ball up or move hi	s hands to try and protect himself during this time.
Other officers were reportedly kickin	g him in the face and body while CO hit his
head. They cuffed him and reportedl	y continued to hit and kick him after he was cuffed.
	eportedly included an Investigative Services Unit
(ISU) officer. According to	it was evident that it was an ISU officer
because their uniform differs. The IS	SU officer that was involved is believed to be either
Officer or Officer who	were both seen in the unit.

Russa Boyd Nick Weber February 28, 2018 Page 3



Russa Boyd Nick Weber February 28, 2018 Page 4



After about 10 minutes, staff returned, cuffed everyone still out in the dayroom and threatened that if anyone reported anything, they would wind up just like those three.

Request For Information

Plaintiffs request a complete investigation into the alleged incidents of abuse and assaults of the *Armstrong* and *Coleman* class members described above, including interviews with the prisoners who were involved as well as any prisoners, nursing staff, EOP mental health staff, medical staff, counseling staff or other non-custody staff

Russa Boyd Nick Weber February 28, 2018 Page 5

witnesses in the building at the time of the incident who may be willing to cooperate in an investigation. These serious allegations should be investigated by staff members outside of RJD and not by ISU at RJD given that these allegations of abuse specifically involve ISU staff members at RJD. Also, consistent with Plaintiffs' November 17, 2017, letter (attached as Exhibit 1) investigations should be conducted in a professional and confidential manner and should ensure anonymity to significantly reduce any risk of retaliation from staff. CDCR should determine who was in the unit at the time of the alleged incident and interview people who were in a position to have seen what happened. Witness stories should be corroborated and be used to either bolster or discredit accounts of what happened and should not be treated as separate and individual allegations. Also, the fact that someone has not filed an appeal about the incident should not be used to discredit their verbal account of what they witnessed because, as stated in multiple tour reports, many class members at RJD express fear of retaliation for filing appeals. Computer Voice Stress Analysis should not be used during the interview process. Lastly, people who have transferred to other prisons and are no longer at RJD but who were potentially a witness to the alleged events should be interviewed.

Plaintiffs request to be notified within one week who is conducting the investigation. Also, given the seriousness of the allegations and the fear of retaliation expressed by class members at RJD, Plaintiffs' counsel request to be present during interviews of any class members.

· · · · · · · · · · · · · · · · · · ·
The allegations regarding and should be handled pursuant to the <i>Armstrong</i> Accountability protocols because, as stated above, they were allegedly targeted for abuse and assault as a result of their disabilities. Regarding investigations involving and pursuant to previous agreement by the parties, Plaintiffs' counsel is available to travel to any location to review the investigative reports generated as a result of these allegations within two weeks.

Russa Boyd Nick Weber February 28, 2018 Page 6

Lastly, reports that he has been notified that he will be transferred back to RJD. As a result of the serious misconduct allegations he has made against staff members at RJD, and allegations regarding staff assault and retaliation at RJD which Plaintiffs and CDCR are aware of, Plaintiffs request that an alternative placement be found for him and that his safety is ensured wherever he is transferred.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:HW:cg

cc: Armstrong Co-Counsel Teauna Miranda Coleman Co-Counsel Georgia Johas-Darnell Ed Swanson Laurie Hoogland Evelyn Matteucci Joanne Chen Brunce Beland Nicholas Meyer Patricia Lee Steven Blum Trennie Rios Pam Cantelmi Erin Anderson John Dovey Amber Campbell Vincent Cullen Sharon Garske Donald Meier Bryan Kao Judy Burleson Erick Rhoan Kelli Abernathy Danielle O'Bannon Laurene Payne Ceasar Aguila Janet Chen Kelly Mitchell Rita Lowe

Samantha Chastain
Olga Dobrynina
CCHS Accountability
OLA Armstrong
Office of the Inspector General
of California
Coleman Special Master Team
Katherine Tebrock
Jeff Macomber
Elise Thorn
Andrea Moon
Melissa Bentz
Patricia Ferguson

Exhibit 61



50 Fremont Street, 19th Floor San Francisco, California 94105-2235 T: (415) 433-6830 • F: (415) 433-7104 www.rbgg.com

Penny Godbold

Email: pgoldbold@rbgg.com

March 14, 2018

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov

Re: Armstrong v. Brown: Letter re Mobility Impaired Class Member at RJD,

Our File No. 581-3

Dear Russa:

I write regarding the investigation into alleged Armstrong violations involving Mr. a wheelchair user, states that he has DPO, at RJD. neuropathy and pain in both legs which causes difficulty balancing and standing. His most recent 1845 confirms his difficulty balancing and states that he has Ataxia, neurological impairment, or Parkinson's. (see Exhibit A). The form further states that he has a severe orthopedic condition of the hips, knees, ankles or feet and that he is unable to stand and pivot, even with staff assistance. *Id*. filed a staff complaint against Officer regarding a December alleged that Officer conducted a search of Mr. 6, 2017, search. Mr. in a public location – an occupied dayroom – and forced him to stand up out of his wheelchair against a wall with nothing to hold on to and would not let him use his cane or his wheelchair for support. Mr. reported that he was struggling to remain standing and stay balanced when Officer pulled his pants down in front of everyone. Mr. also alleged that, following the search, he was forced to walk without assistance to collect his assistive devices that were thrown by Officer further alleged that Officer during the search. Mr. was rough with him

Russa Boyd March 14, 2018 Page 2

and his assistive devices during the search and that he had no regard for his disabilities. He included two signed statements from witnesses reporting the same facts.

The appeal inquiry response states that the matter was investigated and staff <u>did</u> <u>not</u> violate CDCR policy with respect to the issues appealed. A copy of the appeal and response is attached for reference. (see Exhibit B).

It is a violation of the ADA, *Armstrong* Remedial Plan, and CDCR policy to fail to accommodate people with disabilities during searches. Searches of people with disabilities, especially those with wheelchairs or other severe mobility limitations, require reasonable accommodation and professionalism. (ARP IV.I.8) Further, unclothed body searches are to be conducted in a safe manner and in an area that allows the inmate to preserve some measure of dignity and self-respect. (DOM 52050.16.5) Mr. allegations that he was required to stand without his wheelchair or anything to hold on to during the search, that he was required to walk without any assistance to collect his wheelchair and assistive devices following the search, and that his pants were pulled down in a public location during the search are all alleged violations of CDCR policy.

Plaintiffs request to know the exact basis for concluding that no violation of CDCR policy occurred in this case. If the investigation failed to address any of these alleged violations, the matter should be re-investigated. If the investigation did not include statements from witnesses who reportedly saw the incident and are willing to cooperate in the investigation, the matter should be re-investigated. If the investigation concluded that any of these allegations occurred, the violation of CDCR policy must be confirmed.

//
//
//
//
//
//

//

Russa Boyd March 14, 2018 Page 3

Plaintiffs request to see the underlying investigative reports regarding this incident. We look forward to receiving your response within 14 days.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold By: Of Counsel

PMG:hw

cc: Armstrong Co-Counsel Annakarina De La Torre-Fennell Donald Meier Ed Swanson Jane Mackie Judy Burleson Kelly Mitchell Kelli Abernathy Joanne Chen Teauna Miranda Laurene Payne Nicholas Meyer Ceasar Aguila Patricia Lee Georgia Johas-Darnell Trennie Rios Laurie Hoogland Rita Lowe Brunce Beland Tamiya Davis Samantha Chastain Erin Anderson Steven Blum Olga Dobrynina Sharon Garske Pam Cantelmi **OLA Armstrong** Erick Rhoan John Dovey **CCHS** Accountability Danielle O'Bannon Vincent Cullen

Exhibit 61a

OFFICE OF LEGAL AFFAIRS

Patrick R. McKinney II **General Counsel** P.O. Box 942883 Sacramento, CA 94283-0001



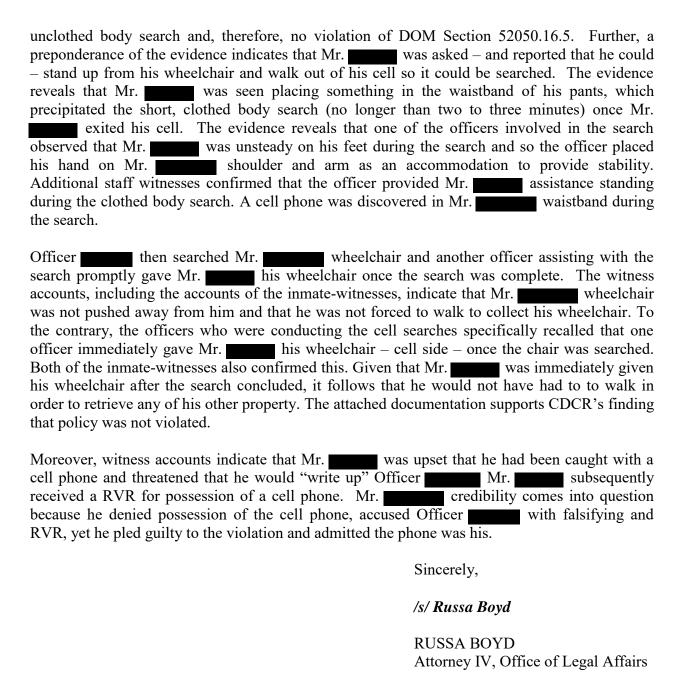
June 12, 2018

VIA ELECTRONIC MAIL ONLY

Penny Godbold

Rosen, Bien, Galvan & Grunfeld PGodbold@rbgg.com Re: Armstrong v. Brown: Letter re Mobility Impaired Class Member at RJD, DPO Dear Penny: I write in response to your letter dated March 14, 2018, in which you state that Armstrong class DPO, alleges Officer conducted a search of him in a public location – an occupied day room – and forced him to stand up out of his wheelchair against a wall with nothing to hold on to and would not let him use this cane or his wheelchair for support. alleges that he struggled to remain standing and that Officer pulled his pants down in front of everyone. Mr. also alleges that he was forced to walk without assistance to collect his assistive devices that were thrown by Officer during the search. submitted an 1824 regarding the allegation described above. RJD elected to process the allegation as a staff complaint. Subsequently, the allegations were also reviewed as part of an Armstrong non-compliance inquiry. Both inquiries determined that no violation of CDCR policy occurred in this case. You request to know the exact basis for CDCR's conclusion that there was no violation of policy, and you request copies of the underlying investigative reports. Defendants decline to produce the Confidential Supplement (Attachment C) to the staff complaint. compliance inquiry completed in response to the 1824 Mr. submitted provides information to address your concerns and supports CDCR's conclusion that policy was not violated by staff. Attached to this letter is a copy of the non-compliance inquiry package, with employee names redacted pursuant to the August 22, 2012 Court Order (ECF No. 2180). The documents reflect two inmate-witnesses, and six staff witnesses were interviewed, and that SOMS and the relevant FLSA time sheet were reviewed. The attached documents contain the evidence supporting the conclusion that CDCR staff did not violate policy. In summary, seven of the nine witnesses reported that Mr. pants were never pulled down during the search. Therefore, the evidence supports the conclusion that there was no

Ms. Godbold Page 2



Encl.

Donald Meier cc: Co-counsel Armstrong-RBGG Armstrong-PLO Kelly Mitchell Ed Swanson Georgia Johas-Darnell Joseph (Jason) Williams Erick Rhoan Teauna Miranda Laurene Payne Vince Cullen Laurie Hoogland Armstrong CAT Caesar Aguila Samantha Chastain Olga Dobrynina

Exhibit 61b

Allegation of Non-Compliance Inquiry Worksheet

*** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

	ALLEGATION (to be included in Fi	inal Inquiry Memorandum)	
mate/Parolee:		isability Class member: 🛛 Arms	trong (DPP)
Allegation of Non-Compliance:	Inmate is DPO, alleges when conducting a cell wheelchair cushion on the cell floor and would	search, a staff member was rou	
Employee Identified Last/First: (If unknown, the involved o	employee(s) shall be determined through superv	risor/manager review and entere	ed by the reviewing staff member)
	DISCOVERY REVIEW (to be included	in Final Inquiry Memorandur	n)
Date of Discovery: 12/14/2017	Source of Allegation/Reported By: 1824	4 LOG #	
Date Allegation Inquiry Initiate	ed: 12/19/2017 Assigned To: G.	LT Date Inquiry Due to	ADA Coordinator: 1/10/18
	INMATE INTERVIEW (to be included	in Final Inquiry Memorandur	n)
*** All inquiries SH	ALL include an interview with the inmate/parole	ee who is the subject of the alleg	gation – no exceptions ***
Staff Conducting Interview	(print name and title): G.	D	ate of Interview: 12/20/2017
Disability Code Requiring E/C:	2. Accommodation (Primary Method Required):	3. Effective Communication (Chec	ck all that apply):
□ TABE ≤4 □ LD □ DPH	☐ Glasses ☐ Hearing Aids ☐ Loud/Clear Speech	☑ Reiterated, in own words, what was explained.	
□ DPV □ DNH □ DPS □ DDP □ EOP	☐ Speak ☐ Written ☐ SLI ☐ Reads Lips Slowly Notes	Provided appropriate, substantive responses to questions asked.	☐ Did not appear to understand the communication.
⊠ N/A	☑ Other: Simple language 1,2 steps ☐ N/A	☐ Other: Other. ADL Prompts Ut	ilized
waistband. Inmate was sea exited the cell. The cushion	I door opened. The inmate stood up withous arched then staff searched wheelchair and was placed on the lower bunk to be search ered the cell. RVR indicates inmate plea	pushed it next to the inmatched by canine unit. Canine of	te so he could be seated. Inmat operator indicates cushion was o
	FINDINGS (to be included in Fina	al Inquiry Memorandum)	
report. Search team and hous he placed his hand on inmate	to stand for several minutes while he was bein ing unit staff were interviewed and provide inm to provide stability should inmate lose his bala ured it was free of contraband. RVR indicates in	g searched, his cushion was throate stood up when cell door was nce. The cushion was not return	opened. One staff member provide ned to the inmate as it needed to be
	SUMMARY OF AD	AC REVIEW	The second second
	everal staff witnesses including ISU and floor sta none located in his waistband, however, RVR ind		were not true. Inmate claims he di
	ADAC RECOMME	NDATION	
Allegation is not confirmed. Re	ecommend no further action.	. 1	
Print Name: R. Din,	Signature: R.	Din D. At	Date; 1/17/2018
	HIRING AUTHORI	TY REVIEW	
Allegation: Confirmed	Not Confirmed Action Requi		1/41/2
Signature:Updated 4/13/2016	-	Di	ate:

State of California Department of Corrections

Memorandum

January 10, 2018 :

To D. Paramo Warden

Subject: ALLEGATIONS OF STAFF MISCONDUCT BY

SYNOPSIS OF CIRCUMSTANCE

	submitted a Reas	sonable Acco	mmodation F	≀equest, due	to the
allegations on the afor	ementioned form	the Richard	J. Donovan (Correctional	Facility
elected to treat this for	m as an appeal a	ind it will be d	completed as	a staff comp	laint. It
was issued appeal log	# RJD-A-1	it was da	ited Decembe	er 06, 2017.	Inmate
alleged that	on December 00	3, 2017 an	unidentified	IGI Squad	Officer
searched his cell. Inma	ite allege	that the Off	icer made hin	n stand in fro	ont of a
wall, made him place	his hands behind	his back, pu	illed down his	pants and	did not
allow him to use his w					
his wheelchair pillow a	ind threw it in the	cell. Inmate	also	claimed the	Officer
got rough with him.			<u></u>		

INTERVIEW WITH

On Wednesday, December 20, 2017, at approximately 1150 hours I interviewed Inmate in the Investigative Services Unit interview room.

Effective communication was established in the following manner: A review of the

Disability and Effective Communication System (DECS), at the time of the interview Inmate a Test of Adult Basic Education (T.A.B.E.) score of 11.3 which is above the minimum threshold score of 4.0. Inmate is not a participant in the Mental Health Delivery System.

1 established Effective Communication with Inmate by speaking slowly, clearly and using simple English. I explained to Inmate the reason for the interview and asked Inmate if he understood to which he said he did. When I asked him a question Inmate provided appropriate, substantive responses to questions asked.

l asked inmate if he could identify who the Correctional Officer who allegedly had done everything he wrote on his Reasonable Accommodation Request. Inmate informed me that it was Officer and I asked Inmate if Officer had been by himself. Inmate informed me that there was another male

TCDC 1617 (3/89)

Page 2 Cont.:

me that he wanted Officer to leave him alone, his allegations investigated and Officer punished for what he did. I asked Inmate if he was being	Officer and a female Officer with a dog but he said he did not know their names and he had no issues with either one of them only Inmate described Correctional who is a K-9 Officer. I asked Inmate to describe the male Officer. Inmate informed me it was the little black Officer that works on the Squad, Inmate described Correctional Officer who is assigned to the Investigative Services Unit. I asked Inmate to tell me what happened. Inmate informed me that on December 6, 2017, at about 1045 A.M. he was sitting in his wheelchair in his assigned cell facing away from the cell door with his head phones on listening to music, Inmate informed me that he heard a tap at his cell door and turned to face the cell door. Officer informed him that they would be conducting a cell search, The cell door opened and Officer informed him that they would be conducting a cell search, The cell door opened and Officer informed him off his wheelchair to which he replied that he had not that he had stood up by himself. Inmate informed me that informed me that Officer had made him stand in front of his cell with his hands on his head and that he was an ADA Inmate who had difficulties standing on his own. Inmate said that Officer had pulled his pants and boxers down and looked up his butt. I asked Inmate had done so in front of the female Officer. Inmate informed me that Officer had done so in front of the female Officer. Inmate informed me that Officer had done so in front of the female Officer. Inmate informed me that Officer had done so in front of the female Officer. Inmate informed me that officer had done so in front of the female Officer. Inmate informed me that Officer had done so in front of the female Officer. Inmate informed me that Officer had done so in front of the female Officer. Inmate informed me that the had locked in his butt and that he was embarrassed because Officer had because informed me that Officer had because he was never interviewed by Officer had he never said the cell phone was his. I asked Inmate had informed
	I asked Inmate what he wanted out of his allegations. Inmate informed me that he wanted Officer to leave him alone, his allegations investigated and

Cont.:
INTERVIEW WITH
On Wednesday, December 20, 2017, I conducted an interview with Inmate in the Investigative Services Unit. I informed Inmate that Inmate had identified him as a witness to an incident that occurred on December 06, 2017, On Facility A, Housing Unit 4. I asked Inmate informed me that he was sitting on the aforementioned day. Inmate informed me that he was sitting on the dayroom table between A & B section. He observed Inmate is said the Officer made him stand and he pushed the wheelchair inside the cell and then threw his pillow on the ground. I asked Inmate if he observed Officer search inmate in Inmate in the pants and boxers down. Inmate in the had observed Officer wheelchair about ten feet away from Inmate informed me that he had not. I asked Inmate in the had heard Inmate in request his wheelchair and the Officer was speaking to him in a mean tone of voice. I asked Inmate informed me that he couldn't hear what was being said but Inmate informed me that he couldn't hear what was being said but Inmate informed me that he couldn't hear what was being said but Inmate informed me that the short black Officer had given him the wheelchair. Inmate informed me that the did not. I asked Inmate informed me that he did not. I asked Inmate informed me that been informed me that the short black Officer had given him the wheelchair. Inmate informed me that the short black Officer had given him the wheelchair. Inmate informed me that the short black Officer had given him the wheelchair. Inmate informed me that he are informed me t
INTERVIEW WITH INMATE
On Wednesday, December 20, 2017, I conducted an interview with Inmate in the Investigative Services Unit. I informed that Inmate had identified him as a witness to an incident that occurred on December 06, 2017, On Facility A, Housing Unit 4. Inmate informed me that he saw Officer denied Inmate access to his wheelchair and his cane. Inmate informed me that Officer pulled Inmate pants and boxers down. I asked Inmate where all this occurred, he replied in front of cell I asked Inmate if he had observed Inmate sitting in his wheelchair at any time during the time this incident was happening. Inmate informed me that once had finished searching him Officer gave Inmate having to walk to his wheelchair. I asked Inmate said put it next to him. I asked Inmate if he had heard the conversation between Officer

Page 4 Cont.: informed me that they were both and Inmate inmate tell Inmate that he was going talking back and forth, he heard Officer to write him up and Inmate told Officer that he was going to write him if he had any other information that could help me up. I asked Inmate informed me that Officer had lied on informed me that Officer had not interviewed by the life on the Rules Violations Report. Inmate had not interviewed by the life of the Rules Violations Report. Inmate had not interviewed by the life of the Rules Violations Report. Inmate had not interviewed by the life of the Rules Violations Report. Inmate had not interviewed by the life of the Rules Violations Report. Inmate had not interviewed by the Rules Violations Report. In the Rules Violation Report. In the Rules complete this inquiry. Inmate the 115. I asked him how Officer if he had heard Inmate and Officer asked Inmate speaking. replied that he had. I asked Inmate why he was then Inmate saying Officer didn't interview Inmate Inmate informed me that what we were having was an interview not just talking in the Housing Unit. I that Officer speaking with Inmate informed Inmate interview that a desk and chairs were not necessary to interview someone. Inmate did not agree. I asked Inmate if he had been honest with all the information he provided to which he said he had. I concluded the interview. INTERVIEW WITH CORRECTIONAL OFFICER M On Wednesday, December 20, 2017, at approximately 1300 hours I conducted an interview with Correctional Officer M. In the Investigative Services Unit interview room. I informed Officer of the allegations being made by Inmate against Correctional Officer land I asked Officer land if he knew who was. Officer informed me that he hasn't had a lot of interaction but that he was present on December 6, 2017, when Officer with Inmate found Inmate in possession of a cell phone. I asked Officer tell me what happened on that day. Officer informed me that Officer Officer and he were walking around in different Housing Units conducting random cell searches. They were walking the lower tier of Housing Unit 4. Officer looked inside of cell and knocked on the cell door and informed the Inmate inside that he would be conducting a search of his cell. Officer [requested the cell door to be opened. Officer asked the Inmate if he could walk and the Inmate who was identified as replied that he could. Officer instructed Inmate to step out of the cell. Officer informed me had put something in his waistband. When inmate stepped out of the cell Officer instructed him to face the wall and place his hands on his head to which he complied. Officer started conducting a clothed body search. I observed that the Inmate was not steady on his feet so I placed my hand on his shoulder and arm so he would not fall while conducted the discovered a cell phone in Inmate waist band. Officer finished the clothed body search and found nothing else on him. Officer stepped inside the cell and searched the wheelchair and found no contraband. Officer the informed me that the wheelchair was clear, I grabbed the wheelchair and gave it to Inmate I instructed him to move towards the benches or the dayroom until we finished the search. Inmate complied but I could tell he was upset at based on his demeanor. Once Inmate out of the way, Officer stepped out of the cell and Officer entered the cell with her K9 partner. She cleared the cell and we moved on to another cell. I

Page 5

Cont.: had searched the wheelchair pillow that if Officer asked Officer used to sit on. Officer informed me that he was not sure. Inmate I if he observed Officer asked Officer throw the pillow on the ground. said he didn't. I asked Officer if he had observed Officer Officer pull Inmate pants and boxer shorts down at any time. Officer replied that he never saw Officer do that I asked Officer doing that. Officer replied that there possible that he missed Officer was no way possible he could have missed that since he never left Inmate side until he told him to move to the dayroom area. I asked Officer if he had heard the conversation that Officer and Inmate had. Officer had approached inmate but he could not hear what said that Officer informed me that inmate was being said. Officer yelled at Officer that he was going to write him up. We exited the Housing Unit. I asked Officer if he observed Officer being unprofessional at any time during the replied that he had not. I asked Officer interaction with Inmate Officer wheelchair about 10 if he had observed Officer move Inmate walk to it on his own. Officer feet away from him and made inmate sated "No I gave Inmate wheelchair." I asked how long was made to stand without his wheelchair. Officer informed me Inmate that it was a couple minutes just as long as it took Officer to conduct the clothed body search and search the wheelchair. I asked Officer if Inmate had been made to stand without a wheelchair for the duration of the cell search. Officer stated "As soon as was done searching the wheelchair I gave it to him and told him to move away until we were done with the search. I if he had any other information that would be helpful in asked Officer completing this inquiry. Officer said that I should speak with Officer observed the entire process from a few feet away. I asked Officer if he had been truthful with all the information provided, to which he replied yes. I concluded the interview. INTERVIEW WITH CORRECTIONAL OFFICER B On Wednesday, December 20, 2017, at approximately 1400 hours I conducted an interview with Correctional Officer B. in the Investigative Services Unit of the allegations being made by Inmate interview room. I informed Officer against Correctional Officer D. I asked Officer present during the December 06, 2017, search of Inmate and his assigned cell. Officer informed me that she was. I asked her to tell me what happened. informed me that they had been conducting random cell searches. I who she meant by "they". Officer asked Officer replied informed me that Officer approached cell and I. Officer tapped on the cell door and told the Inmate he was looked inside. Officer going to search his cell. Officer instructed the Control Booth Officer to open the cell door. The cell door opened and Officer said something to the Inmate but I could not hear what was said because I was about 10 to 12 feet away because I

had my K9 " with me. I saw the Inmate step out of the cell and faced the wall.

Co	nt.: Market Mark
har wa that entropy the the the off but being be	started a clothed body search. I observed Officer placed his not on the Inmate's shoulder. Officer put it in his pocket. I was informed by later the had found a cell phone. Officer put it in his pocket. I was informed by search and tered the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell. I observed Officer put it in his pocket. I was informed by search and leared the cell of the cell and I entered the cell with put in his pocket. I was informed by search and leared to the cell and I entered the cell and I entered to cell with the wheelchair a couple areas but there was nothing are we exited the cell and went to the next cell. I asked Officer put if she observed in a saked Officer put if she observed officer put in his pocket. I was not learn the cushion was at officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100% sure. I asked Officer put in his pocket. I was not 100%

REWIEW OF FLSA TIME SHEET

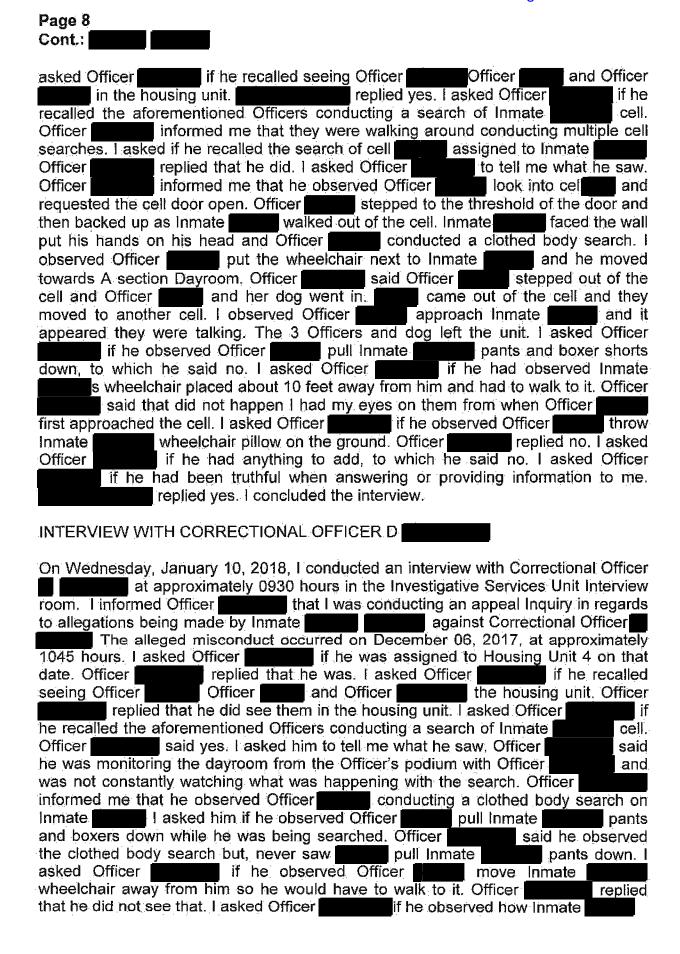
Page 6

On Thursday, December 21, 2017, I reviewed F.L.S.A. time sheet dated December 06, 2017, for Facility A, Second Watch to determine the Officers that were assigned to the Housing Unit. Correctional Officer was assigned as the Control Booth Officer, Correctional Officer and Correctional Officer were assigned as the Floor Officers.

Page 7	 	
Cont.:		

INTERVIEW WITH CORRECTIONAL OFFICER J

On Thursday, December 21, 2017, at approximately 0900 hours I conducted an interview with Correctional Officer J. In the Investigative Services Unit Interview room. I informed Officer I had I was conducting an appeal Inquiry in regards to allegations being made by Inmate I was conducting an against Correctional Officer I had a proximately 1045 hours. I asked Officer I if he was assigned to Housing Unit 4 on that date. Officer I replied that he was. I asked Officer I in the housing unit. Officer I replied that he remembers that date and they were in the housing unit. I asked Officer I replied that he remembers that date and they were in the housing unit. I asked Officer I replied that he remembers that date and they were in the housing unit. I asked Officer I replied that he remembers that date and they were in the housing unit. I asked Officer I replied that he remembers that date and they were in the housing unit. I asked Officer I replied that he remembers that date and they were in the housing unit. I asked officer I replied that he remembers that date and they were in the housing unit informed me that he saw Officer I replied that he remembers that date and they were in the was given his wheelchair and went towards the Inmate I benches on A section. The cell was searched and after they conducted another search I observed Officer I approach Inmate I but I couldn't hear what they were talking about because of the distance. As the ISU staff were walking out the housing unit Inmate I told Officer I all asked Officer I all and Officer I all
INTERVIEW WITH CORRECTIONAL
On Thursday, December 21, 2017, at approximately 0945 hours I conducted an interview with Correctional Officer in the Investigative Services Unit interview room. I informed Officer that I was conducting an appeal Inquiry in regards to allegations being made by Inmate against Correctional Officer. The alleged misconduct occurred on December 06, 2017, at approximately 1045 hours. I asked Officer if he was assigned to Housing Unit 4 on that date. Officer replied that he was the Control Booth Officer. I



Page 9 Cont.:	
got his wheel chair. Officer said he did not see that, he informed me that once the clothed body search was complete he turned back to monitor the dayroom and saw in his chair on the dayroom. I asked Officer said he observed Officer speak to Inmate Officer said he observed Officer speak to Inmate of the was on the dayroom but, he could not hear what was said or if they had a conversation, informed me that he heard Inmate tell that he was going to write him up as the three Officers were exiting the Housing Unit. I asked Officer if he had any other information that would help me complete this assignment. Officer replied that he did not asked Officer if he had been truthful with his answers to which he said yes I concluded the interview.	l r t e t
INTERVIEW WITH CORRECTIONAL OFFICER D	
On Tuesday, January 09, 2018, I attempted to serve Correctional Officer his Notice of Interview due to a staff complaint. Officer informed me that he waived his 24 hours preparation time and wanted to go forward with the interview at this time.	
On Tuesday, January 09, 2018, at approximately 1000 hours I conducted an interview with Correctional Officer in regards to the allegations being made by Inmate said he did. I informed Officer of the allegations made by Inmate said he did. I informed Officer of the allegations made by Inmate said he did. I informed Officer of the allegations made by Inmate said he did. I informed Officer of the allegations made by Inmate said he were in Housing Unit 4 conducting random cell searches. Officer and he were in Housing unit 4 conducting random cell searches. Officer informed me that he looked inside the cell and observed Inmate stiting in his wheelchair facing away from the cell door. Officer said he observed Inmate wearing head phones so he tapped on the cell door to get Inmate attempting to conceal an unidentified item because he noticed movement by the time the cell and ordered the cell door opened. Officer informed me that by the time the cell door was opened Inmate had turned his wheelchair to face the cell door. Officer instructed Inmate to exit the cell. Officer said Inmate stood up and exited the cell, as he walked out the cell Officer instructed Inmate to turn and face the wall so he could perform a clothed body search, to which Inmate complied. Officer said during the search he discovered a cellula telephone in Inmate waist area. Officer said he removed the cell phone placed it in his uniform pocket and continued with the search which was negative for any additional contraband. Officer said he told Officer that he was done with the clothed body search and he entered the cell and searched he under the wheelchair which was negative for contraband. Officer said he pushed the wheelchair which was negative for contraband. Officer said wheelchair and gave it to inmate moved towards the cell door. Officer grabbed the wheelchair and gave it to inmate to towards the cell door. Officer said he noved towards the	

Page 10 Cont.:

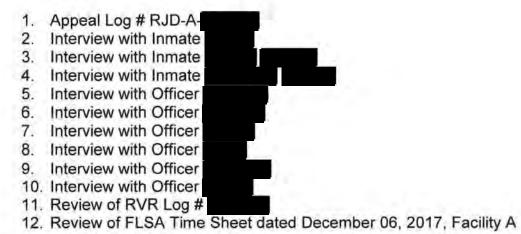
entered the cell with her K9 and conducted a search of the Davroom Officer I cell. The K9 showed interest in a couple areas which were searched they exited the cell and moved on to another cell. Officer approached inmate the Dayroom and attempted to interview him but did not want to talk, Officer refused to asked him where he had obtained the cell phone to which he would be receiving a Rules answer. Officer informed Inmate Violations Report for possession of a cell phone and walked out the Housing Unit, I pants and boxer shorts down asked Officer if he had pulled Inmate in the Dayroom. Officer said he had not I asked Officer if he had made Inmate stand for a long period of time while being searched. Officer was standing for approximately 2 or 3 minutes max. I said the Inmate if he had placed Inmate wheelchair approximately 10 asked Officer feet away from Inmate and made him walk to it. Officer said that he his chair Officer said that when he was done did not give Inmate gave it to Inmate searching it he pushed it towards the cell door and Officer l asked Officer if he had thrown Inmate wheelchair cushion said he placed it on the bunk. I asked Officer if he on the floor. Officer had lied on the Rules Violations Report that he issued Inmate by writing that said the cell phone was his. Officer said he did not lie on the RVR. I asked Officer if the had any other information regarding this issue that he would like to add. Officer said that Inmate was upset when he told said he conducted the search of him he would be receiving an RVR, Officer the wheelchair within policy. I asked Officer if he had been truthful with his answers to which he replied he had. I concluded the interview.

REVIEW OF SOMS

On Wednesday January 10, 2018, I reviewed SOMS Disciplinary section and reviewed RVR Log # 3863624, authored by Correctional Officer D. issued to Inmate for possession of a cellular telephone; date of violation was December 06, 2017, at approximately 1045 hours. The adjudicating hearing date was December 10, 2017, hear by Correctional Lieutenant in Inmate pled guilty and took responsibility for the cell phone.

Page 11 Cont.:

EVIDENCE



CONCLUSION

In reviewing all staff and Inmate interviews there is insufficient evidence to substantiate Inmate allegations against Correctional Officer It also appears that Inmate is being dishonest when he alleged that Officer lied on the Rules Violations Report by writing that Inmate took ownership of the cell phone. Inmate plead guilty to the offense and took responsibility for the cell phone.

There is insufficient evidence to substantiate Inmate allegations against staff. I recommend this issue be closed with no further inquiry needed.

Correctional Lieutenant Investigative Services Unit RJDCF State of California

Department of Corrections and Rehabilitation Richard J. Donovan Correctional Facility

Memorandum

Date

December 19, 2017

To

J. Juarez, AW Associate Warden

Facility A

Subject:

ALLEGATION OF DISABILITY PLACEMENT PROGRAM (DPP) / DEVELOPMENTAL DISABILITY PROGRAM (DDP) POLICY NON-COMPLIANCE:

On December, 14, 2017, RJD Americans with Disabilities Act (ADA) Office was advised via 1824 log# 17- of a DPP/DDP noncompliance concern. Specifically, inmate is DPO, alleges on or about 12/6/17, ISU staff conducted a cell search and tossed his wheelhair pad. Additionally, Moffet claims staff were rough with him. Inmate states he was ordered to stand while being searched and twice he almost fell.

This alleged <u>violation is confidential in nature</u> and has been logged on the Armstrong/Clark Staff Accountability Log and requires an inquiry. A supervisor shall conduct the inquiry and prepare a memorandum, addressed to D. Paramo, Warden.

The memorandum must include:

- Summary of Alleged Violation (as noted above in this memorandum)
 - -Date and source of discovery
 - -Effected inmate's name, CDCR number, DPP/DDP code
 - -Name and title of staff member(s) included in allegation (if known)
- Inquiry Summary
 - -Steps taken to complete a thorough inquiry into the allegation
 - -List and copies of all source(s) of information used to reach conclusion
 - -Date of <u>mandatory</u> interview with effected inmate, what methods were used to establish EC (if required) and whether or not EC was achieved.
- Findings
 - -Results of inquiry and whether the allegations were confirmed or not confirmed
 - -Specific information or evidence that supports the results of findings
 - -Name and title of staff member(s) revealed to be involved in allegation
 - -Name and title of staff member(s) revealed to be responsible in allegation (if confirmed)
 - -Signature Block with name and title of supervisor conducting inquiry

Do not take any employee corrective action. Appropriate corrective action will be determined by the Hiring Authority.

Please return completed memorandum to my office. Due Jan 10, 2018. If you have any questions regarding this issue, contact me at 619-671-7515.

R. DIN

Associate Warden ADA Coordinator

Case 4:94-cv-02307-CW Document 2922-4 Filed 02/28/20 Page 381 of 398 the second of the second section of the second section of Made de Obyesta INSTITUTION LAMB use TRYS REASONABLE ACCOMMODATION REQUEST COCR 1824 (69) Date Received by Staff israff use only *** TALK TO STAFF IF YOU HAVE AN EMERGENCY *** DEC 0.7 2017 Do not use a CDCR 1824 to request neglith care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDCR 7362 or a CDCR 602 HC INSTRUCTIONS You may use this form it you have a physical or mainful disability or it you believe you have a physical or mental disability. You may use this form to request a specific reasonable accommodation which, if approved will enable you to access and/or participate in a program, service, or activity. You may also use this form to submit an alternation of disability based discrimination. Sugmit Mus form to the Custody Appeals Office The 1924 process is intended for an individual's accommudation request. Fact individual's request requires a case-by-case review [RECTURE 1024 to a retitient process and an appeal process. All CLOCK 6474 to the 12 All about the attentioned if you have received an 1824 nacision that you disagree with you may submit in deposit in JPLF 302 or 600 till if you are disagreeing with a medical diagnosis/freatment decision) WHAT CAN'T YOU DO I WHAT IS THE PROBLEM: I have bolonce problems when trying to stand from my wheelchair, today it/6/17 the IGI Squad Serviced ney Cell, made me stand in first of a what in the clay while they pulled my pants down, threw my wheelchair poller on the floor and would tallow me to refer it, made me place My hands behind my head, after almost falling down twice, they got even respectively me, with me resumm for my hope. WHAT DO YOU NEED. IGI Squad that entered one coll has No reguest for ADA patrents, or their disabilities. After the Search the Up IGI member throw my Consider for my wheelthair into my call and would not let me retrieve it, wher would be allow one to be resented in my wheelchair for another 5 minutes. It was postine (Varyroom time for lower tier this yo pulled my pants down as I was almost talking in front of the whole dayroom. Which of the following best describes your disability that caused you to file this request: X Difficulty walking or getting pround Chicuity seeing C Difficulty hearing D Difficulty falking [7] Cin extrey distusts C) Difficulty using urms harris El Debeuty reaming C. Difficults there are neighborhooding Cl. Montaining and that Other Disability (briefly describe) I am ist a wheelchair. DO YOU HAVE ANY DOCUMENTS THAT DESCRIBE YOUR DISABILITY? No II Not Sure D Yes D List and attach documents if available including 1645, 7410, 128-C) understand staff have a night to interview or examine me NED Assistance completing this form provided by Last Noone First Name a chature

Exhibit 62



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

Penny Godbold

Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: Armstrong v. Newsom: Advocacy Letter re Class Member Experiencing

Staff Misconduct at RJD Our File No. 581-3

Dear Russa and Ursula:

I write regarding a recent staff misconduct incident involving an *Armstrong* class member. On January 21, 2019, an "elderly ADA inmate" who uses a walker, and is believed to be EOP and have intellectual disabilities, was reportedly attacked by Officer on RJD's Facility C. This incident was reported by an eye witness who is not willing to disclose his name or identifying information for fear of retaliation by staff. The events as he witnessed them are stated below:

On January 20, 2019, during morning meal, the witness observed an "elderly ADA inmate" who was using a walker coming from the C13/C14/C15 side of the yard toward the dining hall in the direction of work change.

The witness observed Officer stop this class member and ask him where he was going. The class member stated that he was on his way to medical to let them know he was on a hunger strike. Officer was heard telling this inmate that he did not need to go to medical, that Officer would let medical know that he was on a hunger strike. At this point the class member protested, stating that he must go to medical to tell them himself.

Russa Boyd Ursula Stuter February 26, 2019 Page 2

The witness entered the dining hall and did not observe what happened next. However, he heard over the dining hall officer's radio that there was a 10-15 in restraints being taken to the C Facility Gym.

The witness left the dining hall and proceeded to medical for medication. He observed Officer escorting the elderly class member in handcuffs. They approached the yard access gate by education and were stopped by Sergeant appeared to order the handcuffs off and, according to the witness, appeared to admonish Officer The elderly class member then began walking towards his housing unit and Sergeant walked with Officer back to the dining hall.
The following morning, January 21, 2019, at approximately 7:00 am, the witness observed a commotion in front of the dining hall. He observed Officer and the same "elderly ADA inmate" from the incident the day before. The witness saw Officer grab the class member and push him up against the fence between the dining hall and the yard. He saw Officer knock the elderly man in the torso causing him to fall to the ground.
The witness observed Officer jump forcefully on the elderly man's back and heard the elderly man scream out in pain.
Next he reportedly heard Officer yell for the class member to "stop resisting!" According to the witness, the elderly man was pinned down by the officer, was in visible pain, and was not resisting.

Next, the witness observed multiple nearby staff members converge on the scene, and begin punching and kicking the elderly man. He was secured in handcuffs and lifted by his elbows off the ground and taken in the direction of the medical clinic.

Next, the witness observed the elderly man be pushed or otherwise collapse to the ground mid-escort. The witness observed two psych-techs who were walking by also witness this incident. The two psych-techs stopped.

The officers reportedly attempted to pull the elderly man to his feet but he did not get up and remained on all fours. At this point the witness saw Officer kick the man in the rib area causing him to scream out and collapse to the ground.

Russa Boyd Ursula Stuter February 26, 2019 Page 3

Sergeant responded to the scene but did not intervene. Sergeant reportedly appeared to encourage the attacks on the elderly class member and the witness observed the abuse continue.

Sergeant responded and reportedly appeared to ultimately stop the attack.

Following the incident, the witness observed medical staff arrive and examine the class member. He was seen being then taken to the Facility C gym.

Following the incident, the witness observed all of the officers involved including Officer and Sergeant walking back towards the dining hall, laughing and, at one point, "fist bumping" one another. As Officer approached a group of inmates on the ground by the dining hall he was heard saying, "Yeah, anyone else feel like going on hunger strike?"

Multiple witnesses were on the yard during this incident and possibly witnessed what occurred including inmates from C-11 who were released from chow at the time.

We request that the name and identity of the class member involved in the incident be provided to us. We also request to review all copies of investigation reports produced as a result of this incident, including all 115s received, any unusual occurrence reports produced and any videos of the incident.

Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations.¹ Plaintiffs' counsel would like to discuss with you additional steps that

[3354326.1]

¹ As Plaintiffs' counsel has reported multiple times, people incarcerated at RJD will not cooperate with ISU staff during investigations. They are believed to be affiliated with the officers reportedly involved in the misconduct because they are friends with and, in at least one case, married to officers who work at the prison. They are not considered an impartial or trustworthy source for reporting acts of serious misconduct. Further, simply being identified by ISU staff for interview in a staff misconduct investigation reportedly places people at great risk of harm from retaliation by staff. In addition, the OIG has reported on serious failings of the ISU process. *See* Office of the Inspector General Fact

Russa Boyd Ursula Stuter February 26, 2019 Page 4

should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold By: Of Counsel

PMG:cg Enclosures

cc: Ed Swanson

Sharon Garske

Annakarina De La Torre-Fennell

Co-counsel

Sheet regarding Special Review of SVSP's Processing of Inmate Allegations of Staff Misconduct, revised February 11, 2019, attached as Exhibit A.

Exhibit 62a

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill General Counsel P.O. Box 942883 Sacramento, CA 94283-0001



November 1, 2019

VIA EMAIL ONLY

Penny Godbold Rosen, Bien, Galvan & Grunfeld, LLP Pgodbold@rbgg.com

RE: ARMSTRONG V. NEWSOM: ADVOCACY EMAIL RE: CLASS MEMBER EXPERIENCING STAFF MISCONDUCT AT RJD

Dear Ms. Godbold:

I write in response to your February 26, 2019, letter regarding an "elderly ADA inmate" who was allegedly assaulted by correctional staff on or about January 20 and 21, 2019. Your letter describes a report from an anonymous inmate witness in relation to an inmate, also not identified, who used a walker and who was involved in an incident on C-Yard at Richard J. Donovan Correctional Facility (RJD).

Prior to the receipt of your letter, a thorough inquiry had already been completed.¹ In January 2019, several investigators were at RJD to conduct interviews regarding staff misconduct allegations from the previous year. During the course of their inquiries regarding the prior year allegations, two confidential inmate interviews resulted in allegations of staff misconduct that had some similarity to the description of events you provided. Upon receiving this information, the outside investigators recommended further review.

-

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

Ms. Penny Godbold Page 2

The Hiring Authority informs me that the matter has been referred to the Office of Internal Affairs for an administrative investigation and is currently pending.

As such, your request for investigatory documents related to the described incidents is denied pending the outcome of an investigation.

Sincerely,

/s/ Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

Cc: Russa Boyd, Attorney IV
Tamiya Davis, Attorney III

Exhibit 62b

Filed Under Seal

Exhibit 63



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

Penny Godbold

Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd Ursula Stuter CDCR Office of Legal Affairs Russa.Boyd@cdcr.ca.gov Ursula.Stuter@cdcr.ca.gov

> Re: Armstrong v. Newsom: Advocacy Letter re DNH Class Member, Experiencing Staff Misconduct at RJD Our File No. 581-3

Dear Russa and Ursula:

I write regarding multiple staff misconduct allegations at RJD reported by Armstrong class member , DNH. Mr. reports that the staff misconduct he experienced most recently was in retaliation for filing a staff misconduct case against a tower officer, Officer , who shot Mr. in the face.
Mr. reports that on December 14, 2018, he requested that Officer and in B-7 make copies of his legal mail through the food port while it was open because staff were handing out breakfast. One officer reportedly responded, "Fuck no, you filed on ." Mr. reportedly requested to talk to the Sergeant and stated that he wanted to food port left open. Next, Officer reportedly said, "Slam the food port on his hand" at which point Officer did so. Mr. reported that his hand was fractured and was placed in a cast as a result of the incident. Health care records, attached as Exhibit A , confirm that Mr. received a fracture.
After returning from a doctor's appointment on December 17, 2018, at approximately 8:10 am, three officers and Sergeant were reportedly waiting for Mr. They told him to lie down in the sally port where he was reportedly cuffed, shackled, bull chained, and taken back to his cell. His cellie at the time, Mr.

Russa Boyd Ursula Stuter February 26, 2019 Page 2

, was cuffed and removed from the cell. Next, Mr. was reportedly
placed on his knees in front of the cell to remove the ankle restraints. He reports that
suddenly, in response to a signal from Sergeant, his cell door closed on his neck
and chin, causing him to lose feeling in his body and crash to the ground. Next Sergeant
threatened him stating, "Don't get up, if you get up I will say you threatened
me." Mr. was reportedly unable to get up because he experienced temporary
paralysis as a result of the injury. He was reportedly taken to the hospital in an
ambulance. He reports that he was diagnosed with a neck contusion, that he coughed up
blood for five days and has ongoing pain in his neck and lower back as a result of the
injury. Health care records, attached as Exhibit B , confirm that Mr.
medical staff that he had neck pain and was unable to move his arms and legs following
the incident. These records also confirm that he was diagnosed with a neck contusion
and report that his symptoms may represent a serious emergency issue.

The health care records document that a CO witness, who arrived with the inmate patient, reported that the inmate got down on his hands and knees and put his head in the way [of the door], acting like he was struck by the door though he never made contact with the object. These statements appear inconsistent with Mr. diagnosed injuries.

Attached as **Exhibit C**, is a declaration from Mr. he saw Mr. get hit by the door and saw him fall to the ground.

Plaintiffs' request to review all video evidence, including videos of dayroom activity on December 14, 2018 and December 17, 2018 which may have caught these incidents on camera. Plaintiffs' counsel further request that all 115's and any unusual occurrence reports be reviewed. We request to review copies of all investigative reports produced as a result of this incident.

///

///

///

///

Russa Boyd Ursula Stuter February 26, 2019 Page 3

Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations. Plaintiffs' counsel would like to discuss with you additional steps that should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

Sincerely,

ROSEN BIEN GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold By: Of Counsel

PMG:cg Enclosures

cc: Ed Swanson

Sharon Garske

Annakarina De La Torre-Fennell

Co-counsel

Exhibit 63a

Filed Under Seal

Exhibit 63b

OFFICE OF LEGAL AFFAIRS

Howard E. Moseley General Counsel (A) P.O. Box 942883 Sacramento, CA 94283-0001



March 15, 2019

VIA EMAIL ONLY

Penny Godbold Rosen Bien Galvan & Grunfeld LLP pgodbold@rbgg.com

Re: Armstrong v. Brown, Advocacy Letter re DNH Class Member, Experiencing Staff Misconduct at RJD

Dear Ms. Godbold:

This letter is to acknowledge receipt of the advocacy letter received from your office on February 26, 2019, regarding allegations concerning experiencing staff misconduct at R.J. Donovan (RJD) Correctional Facility.

The California Department of Corrections and Rehabilitation takes every allegation made against the Department seriously. We note that your letter does not raise allegations that Mr. was denied access to or excluded from participation in CDCR programs, services or activities based on a disability in violation of the Americans with Disabilities Act. 42 U.S.C. § 12112(a). We have determined that the staff misconduct allegations described in your February 26, 2019 letter are appropriate for referral to the processes articulated in Chapter 3, Articles 14 and 22 of CDCR's Operations Manual, which govern Internal Affairs Investigations and employee discipline. These processes were specifically implemented as a result of the *Madrid* class action litigation. Insofar as you have indicated not to notify the ISU staff at RJD of the above mentioned allegations, we have forwarded the allegations to Director (A) Connie Gipson, of the Division of Adult Institutions. Legal Liaison, Ursula Stuter, will provide you with updates regarding these allegation(s) when additional information becomes available.

//
//

//

Penny Godbold Page 2

If we need any additional information in order to address these matters, we will contact your office.

Sincerely,

/s/ Erin D. Anderson

ERIN D. ANDERSON Appeals and Compliance Coordinator Office of Legal Affairs

cc: Russa Boyd, Attorney IV Tamiya Davis, Attorney Ursula Stuter, Attorney