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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

MARCIANO PLATA, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

CASE NO. 01-1351 JST

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

Judge: Hon. Jon S. Tigar
Date: December 16, 2021
Time: 2:00 p.m.
Crtrm.: 6, 2nd Floor

The parties submit the following joint statement in advance of the December 16, 2021 Case Management Conference.

I. COVID-19 VACCINE

A. Patients

Plaintiffs' Position: According to CCHCS Vaccine Registry data as of December 14, 80% of the approximately 100,000 incarcerated in CDCR are fully vaccinated. Another 2% have received a first dose (although it is not clear how many of those intend to receive a second dose). 17% have refused the vaccine, and 1% have not been offered it (the vast majority of the latter are new arrivals).

We believe these vaccination rates could be higher if incentives were offered, particularly at prisons and yards where vaccine acceptance is lower than the overall rate. On November 29, we asked the Receiver and Defendants to design and implement a robust incentive program to encourage vaccination; such programs were established for staff starting eight months ago. Such incentives could include money, free phone calls, and special food, among other things. On December 9, we were told, "CCHCS and CDCR continue to evaluate the efficacy of vaccine incentives among the patient population and consider viable options that would encourage vaccinations." We appreciate an evaluation is ongoing, and believe the Receiver should set a date in the near future for reporting on what has been determined, including whether a patient vaccine incentive program will be recommended.[1]

[1] Defendants imply below that we are inconsistent in asking for patient vaccine incentives because in June and July we expressed doubts about the efficacy of further incentive programs for staff vaccinations. Defendants overlook that we did not criticize vaccination incentives offered to staff earlier this year, including (1) the establishment in

Separately, the prompt offering of booster vaccine to all eligible patients is imperative. A booster for eligible CDCR patients is necessary not just because federal guidelines call for it (see below), but because, as the Receiver testified earlier this year, if COVID were designing its ideal home it would build a prison (*see* ECF No. 3548 at 7:10-12), and because there is currently no vaccine mandate in effect for all CDCR prison staff, who are the primary vectors of COVID outbreaks in the prisons.

As previously reported (*see* ECF No. 3717 at 2:9-20), CCHCS had previously offered vaccine boosters to the immunocompromised and patients fully vaccinated more than six months ago with Pfizer, consistent with then-existing federal recommendations. Current federal recommendations call for boosters for all who are six months beyond their primary vaccination with Pfizer or Moderna, or two months beyond primary vaccination with J&J's Janssen.

CCHCS now offers a booster to all such patients, and on November 29 stated "efforts are underway to offer all eligible patients a COVID-19 booster by the end of the year." On December 7, CCHCS elaborated that it was "currently utilizing all available resources to offer boosters to eligible patients by the end of the year without compromising other health care services or clinic resources, including the authorization of overtime, hiring of registry staff, and engaging in patient discussions regarding boosters during routine medical appointments."

According to December 14 CCHCS Vaccine Registry data, approximately 70,000 patients were as of that date eligible for a booster; 73% of those had received one, 18% had refused, and 10% had not yet been offered it. We appreciate the efforts of the Receiver, CCHCS, and prison staff to offer and provide vaccine, including boosters, to patients.

Defendants' Position: CCHCS began offering the Pfizer booster to eligible patients

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April of a program, retroactive to January 1, providing for 80 hours of full-pay supplemental sick leave for those who got vaccinated (*see* ECF No. 3579 at 7:28 – 8:8), and (2) the program instituted in May that provided vaccinated staff with gifts cards and the possibility of other prizes through a kind of lottery. In contrast, no vaccine incentives have been provided for patients.

shortly after the United States Food and Drug Administration (FDA) amended its grant of emergency use authorization. A statewide meeting was held on September 30, 2021 to provide direction to institutions and ensure all eligible patients were given access to the Pfizer booster, and a memorandum was released on October 1. Similarly, CCHCS began offering Janssen and Moderna boosters to patients the third week of October 2021, not long after the FDA released its emergency use authorization for those vaccines. CCHCS does not anticipate (and has not experienced) any barriers to procuring adequate supplies of the vaccine boosters. Additionally, CCHCS has indicated that it is presently using all available resources to offer booster doses to eligible patients by the end of the year, including through the use of overtime, hiring of registry staff, and encouraging the acceptance of boosters during routine medical appointments.

On November 29, 2021, Plaintiffs' counsel emailed CCHCS and advised that they believe the vaccination rate among the incarcerated population would be higher if they "were provided meaningful incentives to get vaccinated." Plaintiffs' counsel asked that CCHCS "promptly design and implement a robust incentive program that includes special meals or food, money, canteen resources, tablet credits, video calls, and any other meaningful resource to encourage [incarcerated] people to get vaccinated."[2] Defendants will consider these incentive ideas and continue to do all that they can to encourage vaccine acceptance by incarcerated persons.

B. Staff

Plaintiffs' Position: Mandating vaccination for staff, the primary vector of COVID

[2] Notably, Plaintiffs have previously doubted the efficacy of incentive programs in the context of staff vaccination. *See*, *e.g.*, ECF No. 3605 (June 25, 2021 Joint Case Management Conference Statement) at 5:5-7 ("Further incentive programs will not substantially increase staff vaccination rates, based on recent experience and studies of vaccine incentives in similar contexts."); *see also* ECF No. 3623 (July 27, 2021 Joint Case Management Conference Statement) at 5:6-8 (*id.*). Indeed, Plaintiffs advised both the Receiver and this Court that "[t]he low efficacy of incentives to date is not unexpected. Medical researchers believe that '[i]ncentives alone are unlikely to deliver the population immunity that will end the pandemic.'" ECF No. 3605-1 at 5.

infections in the prisons, is necessary to reduce the substantial risk of harm the virus poses to incarcerated people. Unfortunately, on November 26, the Ninth Circuit Court of Appeals granted Defendants' request for a stay of this Court's September 27 and October 27 orders requiring implementation of a vaccine mandate for all CDCR prison staff who work in the prisons.

Vaccination thus remains voluntary for all prison staff except for, according to CCHCS data, approximately 20,000 (of approximately 56,000 who work in the prisons) who are subject to the August 19 California Department of Public Health (CDPH) order that mandates their vaccination unless granted a medical or religious exemption. CDCR and CCHCS implemented that mandate via an August 23 Memorandum, and staff were required to be fully vaccinated or have requested an exemption by either October 14 or, if a member of Bargaining Unit 6, by November 24.

Even though it applies to only approximately one-third of those who work in CDCR, the CDPH mandate has worked to substantially increase vaccination rates among that staff, and thus also the overall rate among staff statewide. The efficacy of the mandate is perhaps best shown by the staff vaccination rates at California Health Care Facility (CHCF) and California Medical Facility (CMF), the two prisons for which the CDPH order required all staff be vaccinated (or exempted) due to the heightened vulnerabilities of the people incarcerated in those prisons. In mid-July, approximately one month before the CDPH order, the overall staff vaccination rates at CHCF and CMF, per CCHCS data, were 64% and 62%, respectively, with custody staff rates of 50% and 57%, respectively. As of December 3, the overall vaccinate rates at those two prisons were 82% and 76%, respectively, with custody staff rates of 79% and 87%, respectively.[3] As for the overall statewide prison staff vaccination rate, CCHCS data as of August 20, just before the

[3] It is unfortunate that Defendants question the efficacy of the CDPH staff vaccine mandate just weeks after having vigorously defended it from challenge by the very staff whose safety it in part is designed to protect. *See* Order Denying Plaintiff's Request for Preliminary Injunction, Nov. 5, 2021, *Robert Davis, Jr., et al. v. California Department of Public Health, et al.*, No. BCV-21-102318 (Kern County Sup. Ct.).

mandate was implemented, showed that 54% of CDCR prison staff had received at least one dose of vaccine. As of December 3, CCHCS reports that 67% had received a dose.

Having required vaccination for certain staff, CDCR and CCHCS must take prompt disciplinary action against those who fail to comply and have neither an exemption request pending nor granted. Frustratingly, we cannot say whether that is being done. As explained by Defendants below, data about who is not vaccinated or exempt is apparently inaccurate. Further, and partly related to the data problem, we have yet to receive complete and reliable information about how many total staff at each prison are required to be vaccinated, the number of those currently unvaccinated who have neither a granted or pending exemption request, and the disciplinary action, if any, initiated against those staff.

Further complicating our understanding is the lack of information to date regarding contractor staff, who must comply with the CDPH mandate but, as we understand it, cannot be disciplined for failing to comply by either CDCR or CCHCS. Contractors constitute a substantial percentage of staff who work in the prisons. At CHCF and CMF, the two prisons at which the CDPH mandate applies to all staff, contractors constitute 17% and 26% of staff, respectively. Those contractors also have relatively low rates of vaccination, according to CCHCS data: 61% at CHCF and 27% at CMF.

CCHCS and CDCR must promptly provide full and accurate reporting of staff vaccination data, including in particular as it relates to those subject to the CDPH mandate, and full and accurate reporting regarding efforts to progressively discipline or otherwise take action regarding those to whom the mandate applies who remain unvaccinated and have neither an exemption granted or a such a request pending, including contractor staff.

Defendants' Position: Defendants first reported in the Supplemental Declaration of Connie Gipson in Support of Defendants' Reply for Motion to Stay Order Re: Mandatory COVID-19 Vaccinations that her staff "at CHCF and CMF have discovered that CCHCS's vaccine registry showed some correctional officers as noncompliant even though they had actually been vaccinated." ECF No. 3741-1 at 2:20-22. After her staff meticulously

combed through the list of allegedly noncompliant staff at those institutions, the percentage of noncompliant staff dropped from 10.14% to 2% at CMF and from 8.26% to 5.2% at CHCF. *Id.* at 2:22-27. Thus, the extent to which the CDPH order increased the staff vaccination rate at these two institutions is still being assessed. But to the extent that the CDPH order is succeeding in increasing staff vaccination rates, it would further confirm that Defendants' targeted efforts are working.

CDCR has continued to investigate the issue and believes there is a potentially serious issue with the source data for the vaccine registry that may be inflating the denominator and the purported number of unvaccinated staff for at least some prisons. For instance, it appears that staff who do not work at a particular prison are sometimes being counted in the denominator for that prison, certain unvaccinated staff are counted multiple times, and some vaccinated staff are showing up in the registry as unvaccinated. Officials have also discovered that in some cases, visitors who were tested months ago at a particular prison are included in the staff denominator for the prison they visited, even though they are not employed at the prison. Indeed, when CMF and CHCF dedicated staff to look into this issue, they discovered that many letters of instruction were mistakenly issued to vaccinated staff. For example, 143 Letters of Instruction (LOIs) were issued at CHCF on or about October 15, 2021 to healthcare staff who presented as unvaccinated and out of compliance with the October 14, 2021 deadline set forth by the August 19, 2021 CDPH order. After receiving letters of instruction, numerous staff provided proof of vaccination that had not previously been captured by Employee Health and Safety, others obtained a religious or medical exemption, and a number of other staff were determined to be out on long-term leave and thus not currently subject to the mandate. As a result, approximately 69 of the 143 letters of instruction were rescinded. Similarly, an initial list from CCHCS showed 207 custody staff were noncompliant at CHCF. But when corrections to the data were made, including accounting for staff who had been vaccinated, had obtained an exemption, or left the institution, the list dwindled to only 15

noncompliant staff, which means that only 15 staff were unvaccinated and had not requested a medical or religious exemption. Letters of instruction were issued to 3 staff members; 3 additional staff are mid-compliance (meaning, they have had one of two shots[4] and are awaiting their third); and 9 letters are pending service (these staff members work an irregular schedule (3-7 times per month) and will be served when they are onsite).[5] At CMF, the same analysis was performed for custody staff and CDCR discovered that, in fact, all staff who had not left that institution had either been vaccinated or obtained an exemption and thus were compliant. It is unclear how long CCHCS's reports have been understating the number of vaccinated staff and whether the problems extend back to August 2021 or even before.

CDCR is working with CCHCS on an expedited basis to determine the cause of the data errors, the extent of the errors (including whether it is system-wide and to what degree), and what can be done to correct the errors. All parties have an interest in resolving this issue as soon as possible. Defense counsel met and conferred with Plaintiffs' counsel on December 6, 2021 to apprise them of this development.

Plaintiffs demand that they immediately be provided with a "full and accurate reporting" of staff vaccination data and the number of those subject to discipline appears to be based on a misunderstanding of what the data reflects. This information is not a static data point, as Plaintiffs seem to believe. Aside from staff who are, on an ongoing basis, transferred into and out of certain positions and institutions that are subject to the CDPH order, staff also continue to provide evidence of vaccination or have a pending request for religious accommodation or medical exemption. Moreover, Plaintiffs' suggestion that they have not received data on these subjects is misleading. For instance, on December 9, 2021, Plaintiffs received information pertaining to their request for the number of staff

[4] One staff member recently transferred to CHCF and two others recently returned from long-term sick leave.

[5] These numbers are intended as a point-in-time illustration; compliance numbers fluctuate as staff are transferred into and out of institutions.

statewide, and at each institution, who are subject to the CDPH order; how many are vaccinated or unvaccinated; of the unvaccinated, how many (statewide and at each institution) requested a religious or medical exemption, and how many of those exemptions have been granted, denied or are pending. CCHCS's December 9, 2021 response to Plaintiffs also advised that "the California Department of Corrections and Rehabilitation (CDCR) and CCHCS are beginning a process to perform manual review of vaccination data at each institution to improve the accuracy of the vaccination data (e.g., excluding inactive staff in reports), ensuring vaccination records are correctly incorporated for vaccinated staff."

II. STAFF TESTING AND MASKING REQUIREMENTS

Plaintiffs' Position: While mandatory vaccination for all prison staff is necessary to reduce the substantial risk of harm to incarcerated people from COVID, the granting of a stay of the order requiring such vaccinations underscores the importance of other measures adopted by Defendants to reduce the risk of harm. In particular, requiring unvaccinated staff to COVID test twice-weekly and wear a N95 mask while at work are crucial measures to stop the spread of COVID-19. Indeed, Defendants have insisted that these are reasonable measures that obviate the need for mandated vaccinations for staff. *See, e.g.*, ECF No. 3715-1 at 15:9-10 ("Workers who cannot show proof of vaccination must be tested for COVID-19 twice per week").

However, information recently provided by CDCR shows that large percentages of staff required to be tested twice weekly are not doing so, and that most of those workers face no consequences. Attached hereto as Exhibit A is a document provided on November 30, showing, per the document's title and column headings, the percentage of CDCR custody and nursing staff who were compliant with COVID testing requirements statewide and at each prison in recent weeks. The number of these staff who are required to test twice-weekly is approximately 10,000. Statewide, the compliance rates were 69% (week ending October 24), 68% (week ending October 31, 77% (week ending November 7), and

61% (week ending November 14, the most recent week reported). In other words, the data indicates that statewide in recent weeks approximately 20% to 40% of staff who were supposed to COVID test twice did not do so. Further, the rates at some prisons were substantially below the statewide averages, indicating that even larger percentages of staff did not comply with the testing requirement at those prisons. In sum, the table indicates that each week between approximately 2,000 to 4,000 staff statewide were required to but did not comply with twice-weekly COVID testing.

However, although thousands did not COVID test as required, CDCR between October 28 and November 24 issued progressive discipline against fewer than 20 staff members for failing to test. *See* CDCR Non-Compliance Tracking Log – 10/28/2021 to 11/24/2021, attached hereto as Exhibit B. The lack of enforcement of the COVID testing requirement via progressive discipline is deeply concerning, as it puts incarcerated persons at risk of infection from unvaccinated staff who may be COVID positive. Defendants must promptly establish means to identify staff required to COVID test twice weekly, and couple that with a process that immediately identifies those who do not comply, disciplines them for that non-compliance, and bars them from prison grounds until they do.

Defendants' Position: Defendants agree that adherence to masking and testing policies is an important part of a multilayered response to the COVID-19 pandemic. Defendants continue to enforce a mask mandate for all staff, and require unvaccinated workers to wear N95 masks and submit to twice-weekly testing[6]—twice the frequency required by the July 26, 2021 CDPH directive. *See* Office Gov. Gavin Newsom, *California Implements First-in-the-Nation Measures to Encourage State Employees and Health Care Workers to Get Vaccinated* (Jul. 26, 2021) https://www.gov.ca.gov/2021/07/26/california-implements-first-in-the-nation-measures-to-

[6] CDCR and CCHCS must certify their vaccination status with their supervisors so that the supervisors will know what type of mask each person should be wearing. Supervisors are tasked with ensuring all unvaccinated staff wear N95 masks, and wear them properly throughout their shifts.

encourage-state-employees-and-health-care-workers-to-get-vaccinated/ (requiring weekly COVID-19 testing).

However, Plaintiffs mischaracterize Defendants' position by suggesting they "insist" any single measure "obviates" the need for a staff mandate. Defendants' consistent position has been that their comprehensive COVID-19 response far exceeds the requirements of the Eighth Amendment, and therefore a court-ordered staff vaccination mandate would run afoul of the Prison Litigation Reform Act's (PLRA) restrictions on prospective relief. *See, e.g.*, ECF Nos. 3660 & 3673. Defendants continue to encourage staff and the incarcerated population to accept the vaccine in the largest possible numbers. *Id*.

Based on the data discrepancy discussed in the COVID-19 Vaccine section above, the data illustrating who is subject to twice-weekly testing is likely unreliable, partly because fully-vaccinated staff who are not subject to the testing requirement may show as noncompliant with testing. As discussed above, CDCR and CCHCS are working together to address this issue on an urgent basis. CDCR intends to verify staff testing and discipline data after resolving issues identified with vaccination data.

III. VENTILATION

Plaintiffs' Position: Those who live and work in CDCR housing units face significant risk of airborne transmission of COVID-19. *See* ECF No. 3717 at 7:20 – 8:13. In an effort to mitigate this risk, Defendants installed MERV-13 filters in housing unit Air Handling Units (AHUs), where possible. They also inspected and evaluated AHUs and ventilation systems, the results of which showed a substantial need for repair or replacement in many prisons. *Id*. at 8:14 – 9:20. At the October 28 Case Management Conference, Defendants agreed that housing unit ventilation improvements are an important component of COVID-19 mitigation measures, and the Court expressed its desire that they present a clear schedule for determining the heating and air conditioning systems that are not properly functioning and repairing those that are not.

With regard to installation of MERV-13 filters, Defendants report below that all AHUs which can accommodate such filters have had them installed.

With regard to a schedule for repairs, Defendants report below that two rounds of re-inspections and possibly repairs (no specifics are provided) resulted in a reduction of AHUs not performing below 90% of design specifications from nearly 500 (in August) to, 150, spread across ten prisons, as of December 6 (*see* Exhibit C). We only learned of this great reduction in the number of AHUs in need of repair on December 11, when Defendants provided a draft of this Statement which included that information, and we plan to ask for further information. For example, documents previously provided by CDCR indicated that AHUs in nearly three dozen large housing units at Avenal State Prison had "outlived their lifespan" and that staff are "constantly making repairs and tweaks to these units in any attempt to squeeze every minute of operation possible." But now, CDCR says no AHUs at that prison need replacement or repair.

Defendants on December 6 also provided a repair schedule (*see* Exhibit C) for the AHUs that need repairs, with "estimated" completion dates between January and April 2022. Obviously, repairs will not be done at these ten prisons before winter, a crucial misstep given the role of AHUs in recirculating housing unit air in cold weather months. *See* ECF No. 3717 at 7:26 – 8:1.

Further, while improved filtration and repaired AHUs are important, housing unit ventilation systems have other components which also must work adequately. *See* ECF No. 3717 at 8:4-14 (describing March 2021 CalPROTECT report citing among other things inoperative exhausts and unintended pressurizations leading to potential infection scenarios). In that regard, we understand that CDCR's ventilation system inspections this past summer identified many problems with components other than AHUs, such as ducts and exhaust fans. Defendants must address these problems as well.

In addition, we look forward to CalPROTECT's report, said to be coming at the end of this year, of its inspection of 11 other prisons earlier this year, which we hope will

provide further information on the risk of harm from COVID resulting from ventilation systems. Finally, we continue to believe that CDCR must not only repair its ventilation systems, but assess whether residents are safe from airborne spread of COVID-19 at current population levels (and, if not, what population each housing unit could safely support), so that it can be better prepared in the event of a vaccine-evading variant or emergence of a similar airborne disease. *See* ECF Nos. 3717 at 10:6-10 and 3592 at 15-17.

Defendants' Position:

In addition to the previously reported air-filtration upgrades throughout the prison system, CDCR has made significant progress on repairs to housing-ventilation units and now provides a schedule for the completion of that work.

In the last Case Management Statement, Defendants reported that 29 housing units were still awaiting replacement MERV-13 filters. It was later determined that one of those housing units does not recirculate air and therefore does not need a MERV-13 filter, and another of those housing units is unable to use a MERV-13 filter. The filter replacement for the remaining 27 housing units is complete.

As of late August 2021, CDCR had identified 490 air-handling units that were performing below 90% of design specifications. As identified in the last Case Management Conference Statement, the Facility Planning, Construction, and Management Division began performing prison site visits in September 2021 to review the procedures followed by plant-operations staff in performing the original airflow measurements and to review repair procedures and priorities. As a result of those site visits and additional actions by plant-operations staff, 94 air-handling units that had previously measured below 90% of design specifications were repaired and are now operating at 90% or better of design specifications.

On November 12, 2021, the prisons with the remaining 396 air-handling units performing below 90% of design specifications were directed to perform another round of inspection, part replacement (as needed), and repairs, and then to re-measure the airflow.

This round of inspections and repairs was completed on December 6, 2021, and now only 150 air-handling units at ten institutions are performing below 90% of design specifications. These ten prisons have developed schedules for additional repair or replacement activities, with expected completion dates ranging from January through April 2022.

Attached as Exhibit C is a chart listing for each prison the air-handling units now performing at 90% or better of design specifications, the air-handling units performing below 90% of design specifications, and a schedule for completion of the outstanding maintenance and repairs.

IV. IMPACT OF COVID-19 ON MEDICAL CARE SERVICES

Plaintiffs' Position: Unfortunately, COVID continues to adversely impact medical services. For example, there continue to be delays in specialty services for many patients; there were as of October 27 more than 8,500 overdue specialty service appointments, according to CCHCS-provided data. This total is essentially the same as reported in July, and only approximately 500 fewer than reported in May. *See* ECF No. 3623 at 13:12-13.

Further, CCHCS data shows that as of October 27, there were 913 backlogged (overdue) ultrasound exams for end stage liver disease patients. This total is greater than the number overdue reported in July, and not materially different than the backlogged total report in May. *Id*. at 13:16-17. As previously explained, these exams are a key cancer screening procedure, and the failure to timely provide them has been identified as a key factor in a number of possibly preventable deaths. *See* ECF No. 3605 at 13, n. 5.

CCHCS has also recently said that COVID has had a significant impact on the providing of group counseling to patients diagnosed with substance use disorder who are a part of the Integrated Substance Use Disorder Treatment (ISUDT) Program (this program is discussed in more detail below). CCHCS says the virus has required reducing the size of groups, limited the mixing of patients from different housing units, and limited the ability to obtain the counselors who facilitate the group – all of which contributes to the

fact that most ISUDT patients are not yet even offered groups. It also said on December 1 that nearly 10% of those who are assigned to groups cannot attend because of COVID quarantine restrictions.

Defendants' Position: Defendants will continue to work with the Receiver and CCHCS to ensure the delivery of medical care services to patients to the full extent possible during the COVID pandemic. More recent data provided by CCHCS indicates that quarantines are preventing less than 10% of patients from attending ISUDT groups. In fact, a December 3 report from CCHCS indicates that quarantines only prevented about 2.7% of patients from attending those groups.

V. INTEGRATED SUBSTANCE USE DISORDER TREATMENT (ISUDT)

Plaintiffs' Position: We continue to appreciate CCHCS's and CDCR's efforts to increase the number of ISUDT patients, including those receiving Medication Assisted Treatment (MAT). As of December 14, there were approximately 13,800 patients receiving MAT, per the CCHCS public ISUDT Dashboard.[7] Another approximately 3,200 are likely to be added to that total by July 2022, given the number currently pending initial appointments and the rate at which such patients are being seen, as indicated in monthly data provided by CCHCS. In addition, approximately 40,000 incarcerated people await screening to determine if ISUDT services are necessary; it is anticipated a quarter to one-third will need those services.

Almost all CCHCS primary care providers (PCPs) have the federal "x-waiver" necessary to prescribe MAT, though only approximately 50% are currently actively managing such patients. In addition to increasing the number of PCPs who manage MAT patients, CCHCS is working to increase nursing staff so that it can adequately provide MAT. It is also working to increase resources so that more patients can receive necessary cognitive behavioral intervention (only about 40% of patients currently receive group counseling, an integral part of the program). We are hopeful the Governor and Legislature

[7] See https://cchcs.ca.gov/isudt/dashboard/.

will provide additional funding so that so that necessary care can be adequately provided to all substance use disorder patients who need it.

We also followed up with CCHCS about the information in the Receiver's most recent Triennial Report indicating that in recent months approximately 40% of MAT-prescribed patients were not been linked to a community-based medication source upon release (*see* ECF Nos. 3668 at 12 and 3717 at 16:5-12). CCHCS staff said the Receiver's reported data was incorrect due to documentation errors, and that only 12% of released patients were not linked to a community provider. CCHCS said it was training staff to correctly document this information, and making efforts to further increase the percentage of patients linked to community services. We will continue to monitor these efforts. Again, we appreciate the work being done to provide incarcerated people with necessary ISUDT. It saves lives, and changes many for the better.

Defendants' Position: Defendants join Plaintiffs in applauding the success and importance of the ISUDT and MAT programs, and agree with Plaintiffs' above summary of a December 1, 2021 meeting with ISUDT staff. Defendants look forward to continued collaboration with their CCHCS partners to expand its reach and effectiveness within the incarcerated population.

VI. INDIVIDUAL PRISON CONCERNS

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

Plaintiffs' Position: We recently asked CCHCS about three matters related to medical services at LAC. First, the prison has a huge backlog of overdue Primary Care Provider (PCP) appointments. The number of overdue PCP appointments at LAC, and the rate of such appointments per 100 patients, have grown substantially in recent months. In June, according to CCHCS data, there were 475 backlogged PCP appointments at the prison, and the number has been rising ever since. The most recent data provided by CCHCS shows 1,997 overdue PCP appointments as of October 15 at LAC, with 1,300 of those overdue for more than 30 days. These are by far the largest such numbers among the prisons.

LAC's reported rate of 71.0 overdue PCP appointments per 100 patients is nearly 15 times higher than the statewide average, and its number of overdue appointments older than 30 days is greater than that number at all other prisons combined.

When asked in September about overdue provider appointments at the prison, CCHCS in October said LAC had experienced a significant shortage of providers. CCHCS data for the last six months, however, shows that LAC always reported that at least 90% of its established staff PCP positions were filled when telemedicine and registry staff were taken into account, and CCHCS, in its color-coded reports, has for each such month indicated that the provider fill rate at the prison was adequate (in the green zone). Given this, on November 16, we asked further about the shortage and the appointments backlog.

We also on November 16 asked about the lack of stable medical clinic managers at LAC, a problem that has persisted for years. Between mid-2017 and January, 2019, LAC had six different Chief Medical Executives (CMEs), including those acting in that position, and had experienced a similar turn-over among Chief Physicians. In the most recent approximately two and one-half years, the prison has not had a permanent (CME); the position has been vacant, sometimes for months at a time, or filled by a person in an acting capacity.

On December 2, we asked CCCHS about the persistent problem of untimely responses by LAC to patients' healthcare grievances. We first asked about this in April, based on data showing that only 43% of such grievances were timely answered in February. In May, CCHCS said the prison "anticipates the backlog will be resolved within two months." However, the rate of timely responses has not markedly improved, with the most recent data provided, covering the months of September and October, showing that barely one-half of grievances were timely answered. LAC is the only prison in the state with such persistently poor performance regarding timely responses to healthcare grievances.

Defendants' Position: Defendants will continue to collaborate with the Receiver and CCHCS as they work to address the backlogs of PCP appointments and responses to healthcare grievances at LAC.

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

Plaintiffs' Position: Defendants accurately describe below the recent actions of the *Armstrong* court, that court's expert, and other matters related to staff misconduct at SATF, which we discussed in the October 26 Case Management Conference Statement (*see* ECF No. 3717 at 17:25 – 19:18). While we appreciate that upon further review, twenty of the sixty-one Rule Violation Reports (RVRs) issued by medical staff were voided, we are concerned that these RVRs were approved by both the regular RVR review process at SATF, as well as the SATF CEO's review done in response to concerns we raised after our August 2021 site visit. (*See* ECF No. 3717 at 19:21-21 ("The SATF CEO reviewed the 61 RVR's referenced by Plaintiffs and determined that all were appropriate and none should be rescinded.").) The voiding of these RVRs happened only after inquiries made by Plaintiffs' counsel in both *Armstrong* and *Plata*, and only after the involvement of the court expert in *Armstrong*. We believe the issuing of RVRs by medical staff represents a larger issue at SATF of a staff culture of disrespect towards patients. While the work in *Armstrong* on this matter is critical, and we will continue to coordinate with our *Armstrong* colleagues to address these problems, the problems with medical staff at SATF must also be addressed in *Plata*. We plan to continue our discussions with the Receiver and CCHCS regarding how to implement reforms going forward.

Defendants' Position: On November 8, 2021, the *Armstrong* court issued an order citing the parties' last Joint Case Management Conference Statement filed on October 26, 2021 in this case and referencing the parties' statements regarding RVRs issued at SATF. *Armstrong v. Newsom*, U.S. Dist. Court for the Northern Dist. of California, Case No. 94-cv-2307 CW, ECF No. 3338 (Nov. 8, 2021). The *Armstrong* court's November 8, 2021 order requires the *Armstrong* "Court Expert to investigate and report to the Court on the issues raised by Plaintiffs' counsel in the above-referenced case management statements."

Id. at 3:14-16. The order permits the *Armstrong* Court Expert to interview staff and request "whatever information he deems necessary." *Id.* at 3:16-19. The order requires coordination with the Receiver in this case and the *Coleman* Special Master. *Id.* at 3:22-25. At the conclusion of his investigation, the Court Expert will file a written report with the *Armstrong* court with any appropriate recommendations. *Id.* at 3:26-27. Defendants defer further discussion of this topic pending conclusion of the *Armstrong* Court Expert's investigation. However, Defendants did recently inform Plaintiffs that twenty of the sixty-one RVRs were voided in the interest of justice following a recent meeting between health care and custody leadership at SATF.

C. California Health Care Facility (CHCF)

Plaintiffs' Position: Defendants recently informed the Court that due to a "new approach" by the Federal Centers for Medicare & Medicaid Services, the CDCR's medical parole process is now restricted to people on ventilators. *See* ECF Nos. 3704-1 at 7-8 and 3747-2 at 5-6. Defendants further indicated that people previously granted medical parole and placed in community skilled nursing facilities, are expected to be returned to CDCR prisons unless they are on a ventilator. *See* ECF No. 3747-2 at 5-6. On November 9, the Receiver's counsel told us the Receiver had concluded that 70 medical parolees will soon be forced to return to CDCR prisons. That same date, we asked for further information about this, including the names of the patients who will be returned to prison, and we are awaiting a response. Among other things, we are concerned about the potential impact on medical and particularly nursing services in the prisons if dozens of patients who require substantial and in some cases total care, including with activities of daily living, are returned to prison. In this regard, we believe CHCF, the prison primary site of CDCR Correctional Treatment Center (CTC) beds, will be most impacted.

Defendants' Position: As Plaintiffs note, Defendants recently advised the Court and the parties of a change in federal regulations affecting CDCR's medical parole process. *See* ECF No. 3747, Ex. B at 5-6 & Attachment A. Defendants will continue to

apprise the Court and parties of updates regarding the program in the regular Three Judge Panel status reports.

D. Wasco State Prison (WSP)

Plaintiffs' Position: In the October 26 Case Management Statement, we explained that on October 13 we told Defendants that WSP was showering people with disabilities and not known to have or to have been exposed to COVID in units housing people with active COVID or are on quarantine because they possibly had COVID.[8] *See* ECF No. 3717 at 12:15 – 13:5. Defendants below report that training was done and a procedure issued that are designed to stop that practice. Those actions were necessary. It is telling that this practice, which violated fundamental public health COVID prevention tenets, was neither identified nor corrected until we brought it to Defendants' attention.

Defendants' Position: On October 26, 2021, Defendants reported remedial measures implemented at WSP to ensure that wheelchair-using patients not on quarantine or isolation have access to wheelchair-accessible showers in housing units not used for quarantine or isolation. ECF No. 3717 at 13:6-15:3.[9] Further to that update, all Facility B and Receiving and Release staff were provided on-the-job training regarding the procedure described in the previous statement. *Id.* That procedure has been formalized in a memorandum WSP issued to all staff on November 2, 2021.

/ / /

[8] We thank Ben Bien-Kahn of Rosen, Bien, Galvan and Grunfeld, L.L.P. for promptly bringing this dangerous practice at WSP to our attention after he was told about it during interviews of incarcerated people done as class counsel in *Armstrong, et al. v. Newsom, et al* (N.D. Cal. No. 94-cv-02307 CW).

[9] As previously reported in the October 26, 2021 case management conference statement, WSP issued direction that all newly-arriving intermittent wheelchair users (DPO) and permanent wheelchair users (DPW) are to be housed in a housing unit with ADA-accessible showers not being used for quarantine or isolation. These patients remain in this housing unit for the duration of the fourteen-day post-intake precautionary quarantine period. After this fourteen-day period, dorm-eligible patients are moved to dorms, and patients who are not dorm-eligible and require a wheelchair-accessible cell remain in that housing unit pending transfer.

VII. DELEGATIONS

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

On November 29, the Receiver informed the parties he was scheduling a meet-and-confer in late January regarding the delegation of medical care at the California Rehabilitation Center (CRC), and provided his draft assessment of medical care at that prison. On December 7, 2021, the Receiver scheduled these meet-and-confers as follows: CRC, January 25, 2022; Richard J. Donovan Correctional Facility (RJD), February 24, 2022; Wasco State Prison (WSP), March 29, 2022; and California State Prison – Solano (SOL), April 26, 2022.

Plaintiffs' position: The Receiver's draft assessment of care at CRC appears to reflect the new model for evaluating the appropriateness of care the Court mentioned in its October Order. On December 2, we asked the Receiver questions about the assessment so that we can adequately understand the new model and the resulting conclusions regarding care. These questions, among other things, concerned the "qualified, independent physician" who conducted approximately 20 qualitative chart reviews used in the assessment, the identities of the patients whose care was reviewed, whether a nursing care expert was used, and why care related to a number of major medical delivery system components was not reviewed after April 2021. On December 6, the Receiver's counsel provided answers to some of the questions, and indicated that responses to the others would be forthcoming. We appreciate the Receiver's help, so that we can adequately consider the assessment and understand the new evaluation process. We will provide the

Receiver any relevant information regarding CRC before or at the meet-and-confer.

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

DATED: December 14, 2021

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Exhibit A

CDCR Staff Testing Rate

Measurement Period: 10/18/2021 - 11/14/2021

Methodology

Testing Cycle Definition:

Weekly Testing- calendar week from Monday to Sunday.
Twice Weekly Testing- Two tests must be completed at least 3 days apart.

Denominator for each testing cycle:

Custody and Nursing staff confirmed to work at least twice during that testing cycle, at least 3 days apart, as documented in the Telestaff application.

Excluded from the Denominator:

Non-Custody vaccinated and non-Nursing vaccinated staff
Staff off work during each testing cycle
Staff associated with any of the following "posts" within the Telestaff application were considered not to have worked for that shift
1W S Extended Leave
2W S Ext Leave
2W S EXT LV
2W S Extended Leave
3W S Extended Leave
Camp Extended Leave
Ext Leave/Extended Leave
Jury Duty
Leave of Abscence/Leave of Absence
Leave Of Absence CHCFN
S Ext Leave
S Extended Leave
S Leave
SOL Extended Leave
Staff associated with the following camp facility names:
CCCX - Custody
CIWX - Custody
SCCX - Custody

Numerator

Staff in the denominator with at least two documented completed COVID-19 tests, at least 3 days apart in the BIS application.

COVID Testing Rates by Institution for CDCR Custody

and Nursing Staff Confirmed to Work via Telestaff During the Calendar Week

Institution	Week Ending 2021-10-24			Week Ending 2021-10-31				Week Ending 2021-11-07				Week Ending 2021-11-14			
	Total Staff Included in Denominator	Staff In Denominator with No Test During the Week	Percentage of Staff in Denominator with Compliant Testing During Week	Total Staff Included in Denominator	Staff In Denominator with No Test During the Week	Percentage of Staff in Denominator with Compliant Testing During Week	% Difference from Previous Week	Total Staff Included in Denominator	Staff In Denominator with Non-Compliant Testing During the Week	Percentage of Staff in Denominator with Compliant Testing During Week	% Difference from Previous Week	Total Staff Included in Denominator	Staff In Denominator with Non-Compliant Testing During the Week	Percentage of Staff in Denominator with Compliant Testing During Week	% Difference from Previous Week
Statewide	10,556	3,273	69%	10,015	3,245	68%	-1%	9,488	2,143	77%	+9.8%	9,941	3,909	61%	-16.7%
ASP	302	71	76%	295	66	78%	+1%	272	47	83%	+5.1%	292	99	66%	-16.6%
CAC	205	56	73%	203	56	72%	-0%	186	36	81%	+8.2%	203	54	73%	-7.2%
CAL	204	68	67%	189	56	70%	+4%	178	36	80%	+9.4%	195	80	59%	-20.8%
CCC	203	54	73%	195	50	74%	+1%	187	34	82%	+7.5%	193	83	57%	-24.8%
CCI	512	150	71%	496	141	72%	+1%	463	99	79%	+7.0%	472	155	67%	-11.5%
CCWF	230	75	67%	215	77	64%	-3%	203	50	75%	+11.2%	214	88	59%	-16.5%
CEN	169	36	79%	157	41	74%	-5%	145	25	83%	+8.9%	139	52	63%	-20.2%
CHCF	351	190	46%	292	172	41%	-5%	265	136	49%	+7.6%	274	169	38%	-10.4%
CIM	350	89	75%	330	90	73%	-2%	315	60	81%	+8.2%	331	108	67%	-13.6%
CIW	178	48	73%	160	45	72%	-1%	150	26	83%	+10.8%	151	51	66%	-16.4%
CMC	394	94	76%	385	103	73%	-3%	386	70	82%	+8.6%	374	105	72%	-9.9%
CMF	184	72	61%	133	48	64%	+3%	128	36	72%	+8.0%	121	40	67%	-4.9%
COR	504	96	81%	482	98	80%	-1%	447	61	86%	+6.7%	468	109	77%	-9.6%
CRC	281	104	63%	271	106	61%	-2%	253	56	78%	+17.0%	269	115	57%	-20.6%
CTF	209	50	76%	201	44	78%	+2%	192	35	82%	+3.7%	192	48	75%	-6.8%
CVSP	167	45	73%	165	43	74%	+1%	153	28	82%	+7.8%	158	54	66%	-15.9%
FSP	186	36	81%	172	34	80%	-0%	178	27	85%	+4.6%	183	53	71%	-13.8%
HDSP	451	135	70%	426	115	73%	+3%	396	58	85%	+12.3%	426	171	60%	-25.5%
ISP	277	92	67%	264	92	65%	-2%	246	80	67%	+2.3%	263	111	58%	-9.7%
KVSP	379	115	70%	367	109	70%	+1%	347	60	83%	+12.4%	365	140	62%	-21.1%
LAC	354	157	56%	342	140	59%	+3%	323	86	73%	+14.3%	343	141	59%	-14.5%
MCSP	418	121	71%	379	116	69%	-2%	361	68	81%	+11.8%	394	159	60%	-21.5%
NKSP	330	77	77%	318	80	75%	-2%	288	42	85%	+10.6%	307	90	71%	-14.7%
PBSP	391	137	65%	375	141	62%	-3%	375	82	78%	+15.7%	420	261	38%	-40.3%
PVSP	373	105	72%	370	110	70%	-2%	356	77	78%	+8.1%	372	122	67%	-11.2%
RJD	361	196	46%	341	195	43%	-3%	319	139	56%	+13.6%	332	201	39%	-17.0%
SAC	362	123	66%	345	158	54%	-12%	316	87	72%	+18.3%	342	174	49%	-23.3%
SATF	470	108	77%	453	126	72%	-5%	428	69	84%	+11.7%	456	135	70%	-13.5%
SCC	228	80	65%	222	79	64%	-0%	214	49	77%	+12.7%	229	114	50%	-26.9%
SOL	275	87	68%	261	94	64%	-4%	259	65	75%	+10.9%	274	112	59%	-15.8%
SQ	341	169	50%	326	169	48%	-2%	320	169	47%	-1.0%	328	227	31%	-16.4%
SVSP	375	145	61%	352	141	60%	-1%	321	84	74%	+13.9%	328	133	59%	-14.4%
VSP	172	29	83%	176	28	84%	+1%	173	18	90%	+5.5%	176	41	77%	-12.9%
WSP	370	63	83%	357	82	77%	-6%	345	48	86%	+9.1%	357	114	68%	-18.0%

Exhibit B

CDCR Non-Compliance Tracking Log – 10/28/2021 to 11/24/2021

Title	Institution	Unit	Agency	Classification	Date Non-Compliance	Type Non-Compliance	Repeat Offense	Action Taken	Date Corrective Action	Date 989 Request	Comment
7610	COR	Facility A	CDCR	CORRECTNL OFFICER	11/18/2021	Refusal to Test	No	Letter of Instruction	11/22/2021		Refused to test.
7582	FSP	Personnel	CDCR	CORRECTNL OFFICER	11/18/2021	Face Covering	No	Verbal Counseling	11/18/2021		Failed to properly wear a mask.
7573	FSP	Personnel	CDCR	CORRECTNL OFFICER	11/17/2021	Face Covering	No	Verbal Counseling	11/17/2021		Failed to properly wear a mask.
7572	FSP	Personnel	CDCR	CORRECTNL OFFICER	11/17/2021	Face Covering	No	Verbal Counseling	11/17/2021		Failed to properly wear a mask.
7578	FSP	Personnel	CDCR	CORRECTNL OFFICER	11/17/2021	Face Covering	No	Verbal Counseling	11/17/2021		Failed to properly wear a mask.
7574	FSP	Personnel	CDCR	CORRECTNL LIEUTENT	11/16/2021	Face Covering	No	Verbal Counseling	11/16/2021		Failed to properly wear a mask.
7559	FSP	IST	CDCR	CORRECTNL OFFICER	11/15/2021	Face Covering	No	Verbal Counseling	11/15/2021		Failed to properly wear a mask.
7571	FSP	Personnel	CDCR	CORRECTNL OFFICER	11/15/2021	Face Covering	No	Verbal Counseling	11/15/2021		Failed to properly wear a mask.
7609	COR	Facility A	CDCR	CORRECTNL OFFICER	11/12/2021	Refusal to Test	No	Letter of Instruction	11/22/2021		Refused to test.

CONFIDENTIAL

CDCR Non-Compliance Tracking Log – 10/28/2021 to 11/24/2021

7551	CAC	C Yard	CDCR	CORRECTNL OFFICER	11/12/2021	Refusal to Test	No	Employee Counseling Record	11/12/2021		Refused to test.
7590	COR	Facility A	CDCR	CORRECTNL OFFICER	11/12/2021	Refusal to Test	No	Letter of Instruction	11/18/2021		Refused to test.
7556	FSP	Visiting	CDCR	CORRECTNL OFFICER	11/12/2021	Face Covering	No	Verbal Counseling	11/12/2021		Forgot to wear a mask.
7555	FSP	Visiting	CDCR	CORRECTNL OFFICER	11/12/2021	Face Covering	No	Verbal Counseling	11/12/2021		Failed to properly wear a mask.
7564	ASP	Plant Operations	CDCR	CARPENTER II COR F	11/10/2021	Face Covering & Physically Distancing	No	Verbal Counseling	11/10/2021		Failed to adhere to physical distancing.
7525	FSP	Other	CDCR	CORRECTNL OFFICER	11/9/2021	Face Covering	No	Verbal Counseling	11/9/2021		Failed to properly wear a mask.
7524	FSP	Other	CDCR	CORRECTNL LIEUTENT	11/9/2021	Face Covering	No	Verbal Counseling	11/9/2021		Forgot to wear a mask.
7594	SVSP	Health Care Access Unit	CDCR	CORRECTNL SERGEANT	11/8/2021	Refusal to Test	Yes	Letter of Instruction	11/18/2021		Refused to test.
7618	ASP	Complex I	CDCR	CORRECTNL OFFICER	11/8/2021	Refusal to Test	No	Letter of Instruction	11/23/2021		Refused to test.
7616	ASP	Complex III	CDCR	CORRECTNL OFFICER	11/8/2021	Refusal to Test	No	Letter of Instruction	11/18/2021		Refused to test.
7615	ASP	Food Services	CDCR	CORR SUP CK	11/8/2021	Refusal to Test	No	Letter of Instruction	11/17/2021		Refused to test.

CDCR Non-Compliance Tracking Log – 10/28/2021 to 11/24/2021

7614	ASP	Food Services	CDCR	CORR SUP CK	11/8/2021	Refusal to Test	No	Letter of Instruction	11/17/2021		Refused to test.
7601	ASP	Complex I	CDCR	CORRECTNL SERGEANT	11/8/2021	Refusal to Test	No	Letter of Instruction	11/18/2021		Refused to test.
7584	SVSP		CDCR	CORRECTNL COUNS I	11/8/2021	Refusal to Test	No	Verbal Counseling	11/18/2021		Refused to test.
7575	COR	Facility B	CDCR	CORRECTNL OFFICER	11/7/2021	Refusal to Test	No	Letter of Instruction	11/12/2021		Refused to test.
7486	FSP	Other	CDCR	CORRECTNL OFFICER	11/4/2021	Face Covering	No	Verbal Counseling	11/4/2021		Failed to properly wear a mask.
7553	CAC	Watch Office	CDCR	CORRECTNL SERGEANT	11/1/2021	Refusal to Test	No	Employee Counseling Record	11/12/2021		Refused to test.
7552	CAC	Operations	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Employee Counseling Record	11/12/2021		Refused to test.
7550	CAC	Operations	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	Yes	Employee Counseling Record	11/12/2021		Refused to test.
7617	ASP	Complex II	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Letter of Instruction	11/9/2021		Refused to test.
7600	ASP	Complex III	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Letter of Instruction	11/9/2021		Refused to test.
7599	ASP	Complex III	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Letter of Instruction	11/9/2021		Refused to test.
7613	SVSP	Central Operations	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Letter of Instruction	11/18/2021		Refused to test.
7612	ASP	Complex II	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No		11/7/2021		Refused to test.
7580	SVSP	Central Operations	CDCR	CORRECTNL OFFICER	11/1/2021		Yes	Letter of Instruction	11/16/2021		Refused to test.

CDCR Non-Compliance Tracking Log – 10/28/2021 to 11/24/2021

7576	SVSP	A Yard	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	Yes	Letter of Instruction	11/16/2021		Refused to test.
7592	SOL	A Yard	CDCR	CORRECTNL OFFICER	11/1/2021	Refusal to Test	No	Letter of Instruction	11/17/2021		
7587	SCC	Admin-Testing	CDCR	CORRECTNL OFFICER	10/31/2021	Refusal to Test	No	Letter of Instruction	11/17/2021		Refused to test.
7419	SCC	A Yard	CDCR	CORRECTNL OFFICER	10/28/2021	Face Covering	No	Verbal Counseling	10/28/2021		Forgot to wear a mask.
7546	COR	Facility B	CDCR	CORRECTNL OFFICER	10/28/2021	Refusal to Test	No	Letter of Instruction	11/4/2021		Refused to test.

Exhibit C

Housing Unit Air Handling Unit Inspections
- Summary of Performance Measurements -

Institution	AHU Performance				Planned Repair Action(s) for AHUs with Airflow Below 90% of Design Specifications	
	Total Number of AHUs	Number of AHUs with Airflow at Least 90% of Design Specifications	Number of AHUs with Airflow Below 90% of Design Specifications	Number of AHUs Pending Airflow Measurement	Description	Estimated Date for Completion of Planned Repair Action(s)
ASP	66	66	0	———	———	———
CAC[1]	120	74	46	———	Utilize existing repair/maintenance contract	3/31/2022
CAL	70	70	0	———	———	———
CCC[2]	53	48	3	2	Replace worn parts	1/31/2022
CCI	37	37	0	———	———	———
CCWF	62	54	8	———	Perform thorough cleaning/maintenance	2/28/2022
CEN	68	65	3	———	Replace worn parts	1/31/2022
CHCF[3]	62	———	———	———	———	———
CIM[4]	47	40	0	7	———	———
CIW	25	25	0	———	———	———
CMC	64	33	31	———	Adjust fan speeds	3/31/2022
CMF[4]	19	15	0	4	———	———
COR	57	57	0	———	———	———
CRC	16	16	0	———	———	———
CTF	8	8	0	———	———	———
CVSP[5]	25	25	0	———	———	———
FSP[4]	28	19	5	4	Replace AHU	2/28/2022

[1] CAC is a facility leased from a building owner; maintenance of AHUs is the responsibility of the building owner.

[2] Two AHUs at this prison have inaccessible ductwork and are not available for staff to measure airflow from the AHU.

[3] CHCF was constructed with a Building Management System that automatically controls airflow based on established parameters and field sensor communications. Because the system automatically varies airflow as required, it does not lend itself to the AHU inspection measurements.

[4] AHU airflow design specifications cannot be identified for certain AHUs at these prisons.

[5] These rows exclude newly-installed AHUs from the ISP/CVSP HVAC replacement project. These AHUs are under warranty by the General Contractor.

Housing Unit Air Handling Unit Inspections
- Summary of Performance Measurements -

Institution	AHU Performance				Planned Repair Action(s) for AHUs with Airflow Below 90% of Design Specifications	
	Total Number of AHUs	Number of AHUs with Airflow at Least 90% of Design Specifications	Number of AHUs with Airflow Below 90% of Design Specifications	Number of AHUs Pending Airflow Measurement	Description	Estimated Date for Completion of Planned Repair Action(s)
HDSP	46	46	0	———	———	———
ISP[5]	9	1	8	———	Replace AHUs in phases via existing capital outlay project	4/30/2022
KVSP	26	26	0	———	———	———
LAC	68	68	0	———	———	———
MCSP	63	63	0	———	———	———
NKSP	54	54	0	———	———	———
PBSP	60	60	0	———	———	———
PVSP	68	68	0	———	———	———
RJD	74	74	0	———	———	———
SAC[4]	18	12	4	2	Contract for repair services	1/31/2022
SATF	80	80	0	———	———	———
SCC	53	17	36	———	Perform thorough cleaning and maintenance	3/31/2022
SOL	67	67	0	———	———	———
SQ[4]	20	11	6	3	Perform thorough cleaning and maintenance	3/31/2022
SVSP	62	62	0	———	———	———
VSP	77	77	0	———	———	———
WSP	60	60	0	———	———	———

[1] CAC is a facility leased from a building owner; maintenance of AHUs is the responsibility of the building owner.

[2] Two AHUs at this prison have inaccessible ductwork and are not available for staff to measure airflow from the AHU.

[3] CHCF was constructed with a Building Management System that automatically controls airflow based on established parameters and field sensor communications. Because the system automatically varies airflow as required, it does not lend itself to the AHU inspection measurements.

[4] AHU airflow design specifications cannot be identified for certain AHUs at these prisons.

[5] These rows exclude newly-installed AHUs from the ISP/CVSP HVAC replacement project. These AHUs are under warranty by the General Contractor.