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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

**RALPH COLEMAN, et al.,**

Plaintiffs,

**v.**

**GAVIN NEWSOM, et al.,**

Defendants.

2:90-cv-00520 KJM-DB (PC)

**TWELFTH JOINT UPDATE ON THE  
WORK OF THE COVID-19 TASK  
FORCE**

This report provides the parties' twelfth COVID-19 Task Force joint update and covers issues discussed since the eleventh joint update filed on February 19, 2021.<sup>1</sup> This report covers

<sup>1</sup> At the June 26, 2020 status conference, the Court directed the parties to file a joint report with updates "on the work of the Task Force" by July 15, 2020 and "every two weeks thereafter." (ECF No. 6741.) The Court modified this schedule on August 26, 2020, directing the parties to file COVID-19 Task Force updates every other Friday by 12:00 p.m., beginning on August 28, 2020. (ECF No. 6837.) On September 25, 2020, the Court extended the deadline to file the sixth joint update to October 2, 2020 at 12:00 p.m. and directed that further joint updates be filed every

the Forty-Seventh (March 2, 2021) and Forty-Eighth (March 16, 2021) COVID-19 Task Force meetings and various small workgroup meetings between representatives from Defendants and the Special Master's team. Unless otherwise indicated, the small workgroup meetings include members of Defendants' leadership and the Special Master's team, and not Plaintiffs. The Special Master typically holds weekly meetings with Plaintiffs to update them on the status of the workgroups.

## **I. UPDATE REGARDING COVID-19 CASES IN CDCR AND DSH**

### **A. CDCR's Report On COVID-19 Cases, Testing, and Vaccines**

CDCR reported the following vaccination statistics as of March 12, 2021. Systemwide, approximately 58% of COVID-19 naïve patients have been vaccinated. At least first doses of vaccine have been offered to 67% of incarcerated patients, and the overall acceptance rate is 66%. Acceptance rates are higher for at-risk populations, with 89% acceptance among COVID-19 naïve people age 65 or greater, and 83% acceptance among COVID-19 naïve people with a COVID-19 weighted risk score of 3 or greater. All clinical and custody staff working at institutions have been offered vaccination. Approximately 22,701 or 42% of institution-based staff have received at least first doses through CDCR and 26,022 or 40% of all staff have received at least first doses through CDCR. Approximately 1,495 or 71% of MHSDS staff have received at least first doses through CDCR. CDCR is providing education to incarcerated people and staff and hopes to increase acceptance rates.

Consistent with public health guidelines, CDCR will offer vaccination to all incarcerated people, including previously-infected patients. CDCR reported that it is taking various actions to further encourage vaccination among staff and patients, including education, repeatedly and consistently offering vaccination to those who have refused, and pursuing the new single-dose Johnson & Johnson vaccine.

The following table shows CDCR's report on the total number of confirmed COVID-19 cases, currently active, resolved to date, currently hospitalized, hospitalized to date, deaths to

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four weeks. (ECF No. 6886.)

date, and the number and percentage of those cases who are *Coleman* class members and their level of care.

COVID Result	Total Patients	MHSDS Patients Only	MHSDS patients as % of total
Active	63	26 (22 CCCMS, 2 EOP, 1 ICF, 1 ACUTE, 0 MHCB)	41%
Resolved	43,982	12,997 (10,790 CCCMS, 2,010 EOP, 112 ICF, 47 ACUTE, 38 MHCB)	30%
<b>TOTAL Active + Resolved (as of March 15, 2021)</b>	44,045	13,023 (10,812 CCCMS, 2,012 EOP, 113 ICF, 48 ACUTE, 38 MHCB)	30%
Currently Hospitalized (as of March 15, 2021)	5	3 (2 CCCMS, 0 EOP, 1 ICF, 0 ACUTE, 0 MHCB)	60%
Cumulative Hospitalized (as of March 15, 2021)	1,276	441 (357 CCCMS, 70 EOP, 12 ICF, 1 ACUTE, 1 MHCB)	35%
Deaths (as of March 15, 2021)	216	83 (69 CCCMS, 13 EOP, 1 ICF, 0 ACUTE, 0 MHCB)	38%

CDCR reports that the resolved cases reported above only include patients who are in a CDCR institution at the time the data is pulled. This is a subset of patients tracked on the public COVID-19 tracker website, which includes patients who have left CDCR. CDCR reports the above hospitalization numbers include re-admissions of some patients who were discharged and then re-admitted, and includes hospitalizations of patients who are no longer in CDCR custody. CDCR reports this number includes all hospitalizations since March 2020 that occurred 3 days before through 21 days after a patient's first positive COVID test, but excludes patients who were COVID-19 positive and admitted to outside hospitals for reasons other than COVID-19.

According to CDCR, as of March 16, 2021, it had tested 119,884 unique incarcerated people and formerly incarcerated people. According to CDCR's publicly available Population COVID-19 Tracking dashboard reports, as of March 14, 2021, CDCR's rate of confirmed cases per 1,000 incarcerated people (519.3 per 1,000) is higher than the rates in California (91.7 per

1 1,000) and the United States (89.3 per 1,000).

2 As of March 16, 2021, CDCR has designated twenty-four<sup>2</sup> institutions as closed to  
3 movement of incarcerated people not considered “resolved” COVID-19 patients. The closed  
4 designations for California Correctional Women’s Facility, North Kern State Prison, and Wasco  
5 State Prison are qualified by an exception for Reception Center intake.

6 **A. DSH Report Regarding COVID-19 Cases, Facilities, and Vaccines**

7 At the March 16, 2021 Task Force meeting, DSH reported that it has continued offering  
8 vaccination to all patients across its five hospitals and has made vaccination information publicly  
9 available at the following website: <https://www.dsh.ca.gov/COVID-19/Vaccination.html>. All  
10 DSH staff and patients are eligible. DSH’s website reports, as of March 17, 2021, a total of 8,277  
11 vaccines have been administered to patients and 14,161 vaccines have been administered to staff,  
12 including first and second doses. Although the website does not show data specific to the  
13 *Coleman* units, it shows at least first doses have been administered to 74% of patients and 70% of  
14 staff at DSH-Atascadero; 77% of patients and 60% of staff at DSH-Coalinga; and 72% of patients  
15 and 59% of staff at DSH-Patton.

16 As of March 16, 2021, DSH reports it has performed 63,047 tests on a cumulative total of  
17 7,090 patients across all five hospitals. A total of 1,877 patients (including non-*Coleman*  
18 patients) and 1,935 staff have tested positive to date, with a total of 14 patients and 11 staff  
19 testing positive in the past 14 days across the five hospitals. A total of 57 patients have died to  
20 date, none of whom are *Coleman* class members.

21 As of March 16, 2021, DSH-Atascadero has had a cumulative total of 18 COVID-19  
22 positive *Coleman* patients. No *Coleman* patients are currently symptomatic or positive for  
23 COVID-19. DSH-Atascadero has no units on quarantine, and no active isolation units.

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25  
26 <sup>2</sup> The eleven CDCR institutions currently open to movement are: Avenal State Prison,  
27 California Institution for Men, California Institution for Women, California Medical Facility,  
28 California Rehabilitation Center, Chuckawalla Valley State Prison, Correctional Training  
Facility, Kern Valley State Prison, Ronald J. Donovan, Substance Abuse Treatment Facility, and  
San Quentin.

As of March 16, 2021, DSH-Coalinga has had no COVID-19 positive *Coleman* patients. DSH-Coalinga has 5 housing units on quarantine. One isolation unit is active.

As of March 16, 2021, DSH-Patton has had a cumulative total of 2 COVID-19 positive *Coleman* patients. No *Coleman* patients are currently symptomatic or positive for COVID-19. DSH-Patton has 1 housing unit on quarantine, and no active isolation units.

## II. UPDATES ON DSH CENSUS, WAITLIST, AND ADMISSIONS

DSH reported at the Task Force meetings that since DSH lifted its temporary suspension of admissions effective April 16, 2020, DSH has admitted a total of 175 *Coleman* class members, including 19 since the last Task Force update filed on February 19, 2021. As of March 16, 2021, DSH reports there were 147 *Coleman* class members at DSH-Atascadero (with 108 available beds and 1 bed on hold), 25 at DSH-Coalinga (with 25 available beds), and 12 at DSH-Patton (with 18 available beds). On January 12, 2021, due to a surge in COVID-19 cases, DSH suspended admissions of all patient categories for 30 days except for *Coleman* patients and patients categorized as Offenders with Mental Health Disorders. DSH reports it resumed admission of all patient categories after the expiration of the 30 day suspension, or earlier at several hospitals.

DSH reported at the Task Force meetings it received a total of 6 new *Coleman* referrals from CDCR since the last Task Force update filed on February 19, 2021. As of March 16, 2021, Defendants report there are four patients awaiting admission to DSH-Atascadero, DSH-Coalinga, and DSH-Patton, including zero ICF patients awaiting admission for more than 30 days. Of the four patients awaiting admission to DSH-Atascadero, DSH-Coalinga, and DSH-Patton, two are housed at institutions CDCR has closed to movement.

## III. UPDATES ON THE CDCR AND DSH SMALL WORKGROUP ACTIVITIES.

The Special Master's experts have held small workgroups with CDCR and DSH leadership, without Plaintiffs or Defendants' counsel, focused on specific topics.

### A. CDCR Workgroup

The CDCR small workgroup discussed desert institution transfers of EOP and CCCMS class members. As of the March 2, 2021 task force meeting, Defendants reported they had reduced the number of class members at desert institutions from 130 to 100 and were down to

1 three or four remaining EOP class members in those institutions. Defendants agreed to prioritize  
2 the remaining EOP class member transfers out of the desert institutions. The parties also agreed  
3 that transfers out of administrative segregation are high priority. CDCR reported that the small  
4 workgroup also discussed PIP and MHCB transfers, the status of the ISUDT program, the  
5 potential to increase group therapy in light of vaccine rollouts, vaccine competency evaluations in  
6 the CHCF PIP, and providing patients easier access to telephone calls.

#### 7 **B. DSH Workgroup**

8 Defendants report that the DSH small workgroup continued to meet weekly to discuss  
9 individual and institutional level public health data for the purpose of ensuring safe transfers  
10 during the December-January statewide COVID-19 surge and moving forward, including  
11 transfers of patients pursuant to the March 1, 2021 updated temporary transfer guidelines  
12 addressing patients with presumed immunity. Additionally, Defendants report that the DSH  
13 small workgroup is being used to collaboratively review the CDCR waitlist to proactively assess  
14 the current treatment needs of the individuals on the waitlist to identify patients who can be safely  
15 transferred to DSH.

### 16 **IV. UPDATES ON OTHER KEY TASK FORCE TOPICS**

#### 17 **A. Returning to Program Guide-Level Care and Roadmap to Reopening**

18 At the March 2, 2021 Task Force meeting, CDCR reported it is discussing revisiting the  
19 August 14, 2020 Roadmap to Reopening based on the patient population's level of COVID-19  
20 immunity due to vaccines and/or prior infection rather than new cases within each institution, but  
21 was not prepared to share any proposal with the Task Force.

22 Also on March 2, 2021, Plaintiffs raised questions regarding how to pull data from the  
23 Mental Health On Demand Reports to determine the number of standard confidential groups for  
24 patients at the EOP, ICF, and Acute levels of care, as well as concerns about the low amount of  
25 treatment scheduled and offered. On March 16, 2021, CDCR provided Plaintiffs with  
26 information about how to run different queries of CDCR's data system to show amounts of  
27 treatment scheduled. The parties anticipate continuing to meet and confer on this issue.  
28

At the March 16, 2021 Task Force meeting, CDCR verbally reported on two examples of individual institution's COVID-19 Mitigation Corrective Action Plans (CAPs). Following the meeting, Defendants provided a written summary of the status of the CAP process. The parties plan to continue to meet and confer about the CAP process in connection with providing Program Guide level treatment.

#### **B. Program Guide Departures**

At the March 2 Task Force meeting, the parties discussed 114-A logs for patients in TMHUs and Shower and Yard in Segregation Compliance reporting. The parties have continued to meet and confer outside the full Task Force setting as memorialized in the last Program Guide Departures Filing. *See* ECF 7086 at 7-8 (March 15, 2021).

#### **C. Least Restrictive Housing (LRH)**

At the March 2, 2021 Task Force meeting Plaintiffs raised questions about the LRH process in light of the zero referrals to DSH in the two prior weeks. At the March 16, 2021 Task Force meeting, Defendants reported they undertook, with the participation of experts from the Special Master's team, to identify patients who could transfer to DSH. CDCR's HCPOP team re-reviewed all patients currently on the ICF waitlist to identify patients potentially eligible for unlocked dorm settings and transfer to DSH, then IRU conducted clinical reviews to screen out patients they considered to have contraindications for treatment at DSH. CDCR also identified all ICF patients currently in a PIP with an LRH designation of unlocked dorms, and re-reviewed those patients for potential eligibility or contraindications for transfer to DSH. CDCR identified a total of 45 patients to review with DSH. Of those 45, CDCR and DSH have reviewed 11 and agreed that 5 are clinically appropriate for referral to DSH. CDCR and DSH will continue to review the remaining patients for potential transfer to DSH.

Plaintiffs stated their position that one potential categorical disqualification for DSH identified by Defendants—a polydipsia diagnosis—should not be a categorical disqualification given DSH has units for treating such patients. Defendants agreed to discuss that in a small workgroup meeting.

Plaintiffs also requested information on whether Defendants planned to review the waitlist



1 and existing PIP census to identify patients eligible for lower LRH setting short of DSH, noting,  
2 in particular, the significant number of open beds in CMF L1.

3 DATED: March 19, 2021

Respectfully submitted,

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5  
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9 DATED: March 19, 2021

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