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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 10, 2020
Time: 10:00 a.m.
Crtrm.: 6, 2nd Floor

1 The parties submit the following joint statement in advance of the December 10,
2 2020 Case Management Conference.

3 **I. POPULATION REDUCTION**

4 *Plaintiffs' Position:* As California experiences its most extensive surge of the
5 pandemic, it is clear that further population reductions in CDCR are necessary to minimize
6 the risk of harm from COVID-19, particularly at prisons with primarily open-air,
7 congregate living spaces, and among those at increased risk of harm if infected.
8 Defendants have acknowledged that reduced population contributes to fewer infections and
9 deaths (*see* ECF No. 3469 at 3-4) and last week Secretary Allison reaffirmed that CDCR
10 prisons' "large population and physical layout make us particularly susceptible to the
11 spread of COVID-19."¹ With active cases at every prison, including 13 prisons with at
12 least 100 active cases, and the Receiver's new mandate that those placed on quarantine be
13 housed in solid-door cells (*see* Section III.A., *infra*), there is now an even more heightened
14 imperative to reduce crowding so that people are not put at risk. We call on the Governor
15 and CDCR to do so.

16 As previously reported (*see* ECF No. 3487 at 1:17-2:1), the prison and camp
17 population has essentially plateaued, with natural releases along with those under the one
18 continuing early release program – for certain people within 180 days of release – balanced
19 against new arrivals from the county jail.² While intake from the county jails has been
20 temporarily suspended, CDCR reports that as of November 23, 2020 nearly 8,000 people
21 in the jails are pending transfer to its prisons. At the same time, the number of early
22

23 ¹ "Important COVID-19 message from Secretary Allison," December 4, 2020,
24 available at <https://www.cdcr.ca.gov/insidecdcr/2020/12/04/important-covid-19-message-from-secretary-allison/> (last accessed December 4, 2020).

25 ² The most recent available CDCR data shows that on December 2, 2020, the
26 Institution and Camps population was 93,962. *See* Weekly Report of Population,
27 <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/12/Tpop1d201202.pdf>. As previously reported, that
28 population for several weeks had averaged approximately 94,250. *See* ECF No. 3487 at 2,
n. 3. On November 11, 2020, it was 94,340.

1 releases continues to be scant compared to the first month of the programs begun in July,
 2 when nearly 4,500 were provided release (*see* ECF No. 3417 at 5:14-17). In contrast,
 3 CDCR data shows that in the four weeks from October 21 to November 18, 2020, only 382
 4 people were released early.

5 Unfortunately, even as the number of COVID-19 infections in the prisons has surged
 6 to the highest levels ever, CDCR and the Governor have only very recently – informing us
 7 only on the date of this filing, after not mentioning it at all when drafts were exchanged on
 8 December 7 – begun further population reduction efforts, even though they have always
 9 had clear authority to do so. There have been no further medical reprieves of sentence
 10 since the four granted a month ago (*see* ECF No. 3487 at 2:4-14).³ Now, as Defendants
 11 report below, they are again considering release for some who are the most medically
 12 vulnerable. This appears to be a version of the program stopped at the end of September
 13 after a paltry percentage of those eligible were considered, and a miniscule 1% of those
 14 eligible – approximately 50 of 6,600 people – were released (*see* ECF No. 3460 at 2:20-
 15 3:5). With regard to these new reviews, the number of people eligible, and when such
 16 reviews will be completed, are not stated. While these new reviews are welcome, this key
 17 information is necessary to fully understand its possible impact.⁴

18 We also appreciate that, as Defendants also state below, a relatively small number of
 19 people have been released who were serving determinate terms consecutive to lengthy
 20 indeterminate terms for which they had previously been found suitable for release. We
 21 believe CDCR's actions in these cases result from our advocacy regarding an elderly and
 22 medically vulnerable person who had served a lengthy indeterminate term for which he
 23

24
 25 ³ On November 11, we asked about the conditions attached to the reprieves, including
 26 what type of community placement will be required and who will be responsible for health
 27 care for those released. Defendants provided responses in their final revisions to this
 28 Statement, which we appreciate.

⁴ Also, that some or even all approved for release may or will be referred to a
 superior court for resentencing, instead of being immediately released under the CDCR
 Secretary's emergency authority, is concerning, as such judicial review can take weeks.

1 was found suitable for and approved for parole approximately two years ago, and was now
 2 serving a determinate term for two in-prison drug offenses which occurred approximately
 3 15 and 25 years ago, respectively.

4 Despite these new actions, Defendants have not re-started the early release program,
 5 also ended in September, for certain people within a year of release at certain prisons.
 6 CDCR also has not granted incarcerated people additional “Positive Programming
 7 Credits,” as it did in early July when it rightfully recognized that the pandemic limits the
 8 ability to earn sentence-reducing time credits, despite announcing a mandatory 14-day
 9 further restriction on programming on November 25. The Governor and Secretary must
 10 take all these and other actions now, to further reduce crowding so as to reduce the spread
 11 of the virus, and thus sickness and death, in the prisons.

12 *Defendants’ Position:* As of December 2, 2020, CDCR has experienced a
 13 population reduction of 23,380, representing a nearly 20 percent decrease in the size of the
 14 population, since the start of the COVID-19 public health crisis.⁵ Between July 1 and
 15 December 2, 2020, 6,842 people were released from institutions and camps through the
 16 COVID-19 early-release programs Defendants announced on July 10.⁶ This represents
 17 244 more early releases than those reported in the November 18 case management
 18 statement.⁷ An additional 10,606 were released in accordance with their natural release
 19 dates during this period. As of December 2, CDCR’s institutions have a population of
 20
 21
 22

23 ⁵ This figure is calculated by taking the difference between the total population in
 24 institutions and camps on February 26, 2020 and December 2, 2020. Weekly population
 25 reports can be found at [https://www.cdcr.ca.gov/research/weekly-total-population-report-](https://www.cdcr.ca.gov/research/weekly-total-population-report-archive-2/)
[archive-2/](https://www.cdcr.ca.gov/research/weekly-total-population-report-archive-2/).

26 ⁶ See ECF No. 3389 at 2:4-5:4 and [https://www.cdcr.ca.gov/covid19/expedited-](https://www.cdcr.ca.gov/covid19/expedited-releases/)
[releases/](https://www.cdcr.ca.gov/covid19/expedited-releases/) for details regarding CDCR’s COVID-19 early-release program announced on
 27 July 10, 2020.

28 ⁷ See ECF No. 3487 at 3:17-4:1.

1 92,259,⁸ representing a decrease of 346 since Defendants' last reporting on November 18⁹
2 and an overall decrease of nearly 20 percent since the beginning of March. [25
26
27 ⁸ See December 2, 2020 population report at <https://www.cdc.ca.gov/research/wp-content/uploads/sites/174/2020/12/Tpop1d201202.pdf>.](https://word-

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28 ⁹ See ECF No. 3487 at 4:4-5.

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7 CDCR is conducting individual reviews of medically high-risk patients to determine
8 their eligibility to be released early. Eligible patients are those with COVID-19 weighted
9 risk scores of three or more, and who have either served the base term of their sentence or
10 are within one year of release. Determinately sentenced patients who have the highest risk
11 for morbidity or mortality should they contract COVID-19—those with COVID-19-
12 weighted risk scores of six or more—and who are not required to register as a sex offender
13 under Penal Code section 290 are being reviewed first. Among these people, those who
14 pose a low risk for violent recidivism will be approved for release or referred to the courts
15 for expedited consideration for recall of sentence and resentencing, depending on how
16 much time remains on their sentences. A number of these individuals have been
17 incarcerated for a period of time that has exceeded their base term. Their sentences carry
18 enhancements that were previously mandatory, but are now at a judge's discretion after the
19 passage of Senate Bill 1393, which became effective on January 1, 2018. Therefore, the
20 Secretary is asking the courts to review certain high-risk medical cases for possible recall
21 and resentencing under Penal Code section 1170, subdivision (d)(1).

22 The Secretary also individually reviewed 24 indeterminately sentenced people who
23 were granted parole for their commitment offenses, but remained in prison serving
24 separate terms for offenses committed while in prison. The Secretary approved 19 people
25 for release and they have all been released.

26 Finally, responding to Plaintiffs' footnote 3, Housing varies depending on
27 individual. Some people will be placed with family or friends, and others at community
28 housing. Medical will be provided through Medi-Cal.

1 In addition, the Secretary individually reviewed 24 people who had finished serving
2 indeterminate sentences (had final parole grant) but remained in prison serving a separate
3 term for an in-prison crime. She approve 19 people for release and they have all been
4 released.

5 CDCR continues to process early releases on a rolling basis through the 180-day
6 early-release program announced on July 10, which has accounted for the vast majority of
7 early releases since then. This discretionary early-release program was implemented as an
8 added safety measure at a time when more comprehensive COVID-19 related policies
9 were still being developed. Since then, CDCR adopted additional significant safety
10 measures to reduce the spread of COVID-19, including, as described below, a reduction in
11 intake from county jails, comprehensive testing, quarantine, isolation, and movement
12 protocols, policies regarding personal protective equipment, and plans for COVID-19
13 testing of staff and incarcerated persons.

14 Additional measures include, but are not limited to, aggressive testing strategies in
15 each of CDCR's 35 institutions, contact tracing conducted by healthcare staff, quarantine
16 and isolation protocols that go beyond what the Centers for Disease Control has
17 recommended, a movement matrix that requires compliance with stringent safety protocols
18 when moving incarcerated people, staff testing, protective equipment, ongoing
19 collaborations with counties regarding compliance movement matrix protocols in advance
20 of intake, and measures to increase compliance with PPE policies. Plaintiffs have actively
21 contributed to the development of safety protocols implemented by the Receiver and
22 monitored CDCR's compliance with these protocols, many of which are mentioned above
23 and in sections below. CDCR continues to evaluate, improve, and update these policies in
24 close coordination with the Receiver.

25 **II. INTAKE**

26 *Plaintiffs' Position:* Particularly in light of the significant increase of COVID-19 in
27 the community, we support the decision to suspend intake at least until December 13.

28 *Defendants' Position:* CDCR accepted 355 incarcerated persons into custody from

county jail intake during the week of November 16, 2020, as follows:

Week of:	Number of Incarcerated Persons	Sending County	Receiving Institution
November 16	CANCELED	Stanislaus	NKSP
November 16	12	Nevada	NKSP
November 16	12	Siskiyou	NKSP
November 16	29	Solano	NKSP
November 16	89	Santa Barbara	WSP
November 16	89	Monterey	WSP
November 16	86	Sacramento	WSP
November 16	38	Riverside	CCWF
Total Week of November 16:	355		

Intake was paused at North Kern State Prison the week of November 23, 2020, though 162 incarcerated persons were accepted that week into Wasco State Prison and Central California Women's Facility, as follows:

November 23	89	San Joaquin	WSP
November 23	28	Sonoma	WSP
November 23	10	San Benito	WSP
November 23	16	Del Norte	WSP
November 23	19	Los Angeles	CCWF
Total Week of November 23:	162		

In response to the increase of COVID-19 cases in the community and consistent with public health and health care guidance, CDCR suspended intake from county jails effective November 26, 2020, through at least December 13, 2020. CDCR will continue to evaluate when, and to what extent and under what conditions, it is safe to resume intake from county jails.

1 **III. QUARANTINE AND ISOLATION**

2 *Plaintiffs' Position:*

3 **A. Set Aside of Quarantine and Isolation Space**

4 The parties will file a joint brief regarding the adequacy of the set-aside spaces on
 5 December 9. Plaintiffs, in challenging Defendants' practice of quarantining people
 6 exposed to the virus in shared air spaces, provided their draft expert declaration to
 7 Defendants on November 30, their draft proposed order on December 2, and their draft
 8 brief on December 3. Plaintiffs have made themselves available to Defendants to answer
 9 questions, and have done so fully on two occasions in the week of November 30.

10 On December 4, the Receiver issued a new policy regarding quarantine, stating that
 11 "post-exposure quarantine in shared airspace housing more than 2 persons fails to
 12 adequately achieve the intended goals of a COVID-19 post-exposure quarantine to
 13 facilitate the prompt identification of new cases and to help limit the spread of COVID-19
 14 to new, uninfected people. The first choice for post-exposure quarantine housing should be
 15 solid-door cells occupied by only one person. Quarantine cohorting as defined in the
 16 Interim Guidance is to be used with no more than 2 persons per shared airspace housing."
 17 The Receiver further noted that there are five prisons – Avenal State Prison, California
 18 Rehabilitation Center, Chuckawalla Valley State Prison, Folsom State Prison, and San
 19 Quentin State Prison – where "the available facilities are insufficient" to comply with these
 20 standards. He directed that "[a]ll efforts should be made" at those prisons "to find
 21 quarantine alternatives that satisfy the purposes of a post-exposure quarantine as set forth
 22 above."

23 Plaintiffs have also challenged Defendants' failure to set aside precautionary
 24 quarantine space as required by the Receiver in the August 19 Movement Matrix.
 25 Defendants have not provided a clear policy on precautionary quarantine set-aside space.

26 **B. Development of Policies and Procedures on Quarantine and Isolation**

27 As noted in multiple Joint Case Management Conference Statements, Plaintiffs
 28 have for several months requested that the Receiver, in conjunction with CDCR, draft a

1 procedure that clearly lays out what steps should be taken when a patient is confirmed or
2 suspected to be COVID-positive. Our request was grounded on a series of concerning
3 housing moves we identified at multiple prisons, where there appeared to be significant
4 delays in moving COVID-positive patients to isolation or COVID-exposed patients to
5 quarantine. We asked that the Receiver mandate the steps that should be taken to ensure
6 that patients are moved into the appropriate housing on a timely basis, including the
7 assignment of a point-person who is ultimately responsible for the patient bed moves and
8 for daily monitoring of each patient's housing assignment.

9 In response to our concerns, on December 4, CCHCS reported it had recently put in
10 place an automatic notification system, which sends an email to a designated group of staff
11 at each prison within one hour of a positive test result being received. CCHCS reported it
12 is working on shortening that timeframe. CCHCS also reported it has now assigned staff
13 at each institution to verify that patients have been timely and appropriately moved.
14 Finally, CCHCS said it is working on a dashboard to measure timeliness of moves at each
15 prison. We support these steps and believe they are necessary to ensure patients are being
16 appropriately isolated and quarantined, which is essential to prevent the spread of the
17 virus.

18 **C. Monitoring Use of Quarantine and Isolation Space**

19 Plaintiffs' primary way to monitor use of quarantine and isolation spaces at the
20 prisons is through CCHCS's Outbreak Management Tools (OMTs). Prisons with active
21 COVID-19 outbreaks (defined by CCHCS for this purpose as 10 or more active cases)
22 have been directed to upload OMTs daily; prisons without outbreaks have been directed to
23 upload OMTs weekly. The OMTs provide information regarding isolation housing of
24 those with active COVID, including where such patients are housed. However, most
25 prison's OMTs do not include specific housing information for those who are quarantined
26 (*e.g.*, what housing units are being used, whether people are in cells behind solid doors,
27 and, if not, why such cells are not available). We have asked that the OMTs be modified
28 to include this essential information about quarantine housing, so that we and CCHCS

1 regional and headquarters managers can effectively monitor whether people are being
2 safely quarantined. On December 4, CCHCS said it would consider our request.

3 *Defendants' Position:* CDCR has completed its efforts to set aside large amounts of
4 previously identified isolation and quarantine space at the prisons. CDCR has continued to
5 work with Plaintiffs, the Receiver, the *Coleman* Special Master, and the *Armstrong* Court
6 Expert to ensure that appropriate isolation and quarantine space is reserved for class
7 members of all three class actions and to modify reserved spaces and plans for quarantine
8 and isolation as needed across the system.

9 The parties have met and conferred about Plaintiffs' motion regarding quarantine
10 and isolation space. Specifically, the parties had a preliminary discussion regarding
11 Plaintiffs' position on December 1, 2020, though Plaintiffs were unclear as to the relief
12 they would be seeking as of that time. Subsequently, on Thursday, December 3, 2020,
13 Plaintiffs provided a draft of their portion of the joint brief and further clarified their
14 position and requested relief that same day via videoconference. Their position, as
15 Defendants understand it, is that inmates in quarantine must be housed in a single-cell with
16 a solid door or else Defendants will be in violation of the Eighth Amendment, regardless of
17 Defendants' compliance with the Court's July 2020 Order, and with the public health
18 guidance regarding appropriate quarantine practices of the Receiver, Center for Disease
19 Control, and California Department of Public Health.

20 On December 3, 2020, the Receiver sent the parties a table that describes the places
21 where currently quarantined patients are being housed, and, on December 4, 2020, the
22 Receiver issued new guidance regarding housing options for patients being quarantined.
23 Defendants are still evaluating these documents and look forward to discussing them with
24 the Receiver.

25 Defendants provided Plaintiffs with a document on December 4, 2020, setting forth
26 their preliminary responses in bullet-point format to both Plaintiffs' motion and to the
27 declaration of Dr. Luring. Defendants also inquired whether Plaintiffs' position had
28 changed in light of the Receiver's statement on quarantine (issued December 4, 2020),

1 including whether they believed that the parties would benefit from postponing the hearing
2 on Plaintiffs' quarantine motion so the parties could further discuss the Receiver's
3 December 4th guidance.

4 Also on December 4, 2020, Defendants produced to Plaintiffs a new chart that sets
5 forth the spaces that have been reserved under the Court's July 2020 order for quarantine
6 and isolation and further describes substantial additional space at many prisons that is
7 currently available for quarantine or isolation if needed.

8 On the evening of December 7, 2020, after Defendants provided Plaintiffs with their
9 brief and supporting declarations, Plaintiffs informed Defendants that their position had
10 changed in light of the Receiver's December 4th guidance. Now their position is that
11 double celling is reasonable for post-exposure quarantine, in contrast to their original
12 position that quarantine following an exposure in anything short of a single cell with a
13 solid door violates the Eighth Amendment.

14 Defendants believe that Plaintiffs' motion is premature and fails to satisfy requisite
15 legal standards. We have suggested instead that the parties meet and confer with input
16 from the Receiver to further explore the issues Plaintiffs have raised and the specific relief
17 they request to determine whether there may be an informal way to resolve their concerns.

18 **IV. SAFELY HOUSING MEDICALLY VULNERABLE PEOPLE**

19 *Plaintiffs' Position:* Living in open air congregate living spaces places people at
20 high risk for contracting COVID-19. In an effort to reduce the risk of harm to those people
21 most vulnerable to severe harm or death from the virus, the Receiver recommended on
22 October 21, 2020 that those with higher COVID Weighted Risk scores who are currently
23 in congregate housing be offered transfers to closed-front celled housing. During our
24 weekly conferences with CCHCS Regional Health Care Chief Executive Officers (CEOs)
25 and their supervisor and Defendants, and periodic conferences with the Receiver and his
26 staff, we have since then continued to discuss how this directive will be implemented. As
27 explained below, we very recently learned of a significant change in approach: the
28 rehousing program is likely to be mandatory for people identified as high risk at certain

1 prisons, rather than voluntary.¹⁰

2 We discussed the program with Defendants and the Receiver's staff on December 3
3 and 4. We were told the program will initially focus on offering housing to those with a
4 Weighted COVID-19 Risk Score of greater than six, before widening to the pool of people
5 with Risk Scores of three or higher, and that the program is rolling out first at San Quentin
6 State Prison (SQ), and will then begin at Avenal State Prison (ASP), Chuckawalla Valley
7 State Prison (CVSP), and California Rehabilitation Center (CRC). In an effort to
8 effectively monitor this process, we have requested, but not yet received, an updated list of
9 all people with a risk score of three or higher, and an updated list of all celled housing
10 available statewide to accommodate the moves from dorms to celled housing.

11 On December 3, we were told that people would first be offered a voluntary move,
12 but if people declined the voluntary move, they may be compelled to move. The following
13 day, Tammy Foss, Director, Corrections Services, confirmed that the moves would be
14 mandatory, and explained that the process would be streamlined: all people with a COVID
15 Weighted Risk Score of three or higher at the four prisons (SQ, ASP, CVSP and CRC) will
16 be scheduled for a classification hearing to prepare for transfer to a facility where they will
17 be housed in a cell.

18 *Defendants' Position:* The Receiver has provided the parties with a report
19 proposing that CDCR offer over 8,000 high risk medical patients living in dorms the
20 opportunity to move into a single cell. On December 3, 2020, Plaintiffs, CDCR, and
21 CCHCS met to discuss the movement of medically high-risk patients from dorms to cells
22 including a discussion of Plaintiffs' recommendations following a survey of incarcerated
23

24 ¹⁰ As indicated in our last CMC statement, recognizing that many people living in
25 dorms were reluctant to transfer from dorms to cells, we conducted a survey of people who
26 had been offered but refused housing in cells based on health concerns. We collated the
27 findings, drafted recommendations for strategies to increase participation, and presented
28 them to Defendants. Defendants have declined to implement most of the suggestions that
we offered.

1 people. CCHCS has identified 83 medically high-risk patients at San Quentin (which
 2 includes incarcerated persons on death row) with a COVID risk score of 6 and above. Of
 3 those, ten have agreed to move. The remaining medically high-risk patients will meet with
 4 the Unit Classification Committee to discuss appropriate housing alternatives, and will be
 5 moved. Movement for these 83 incarcerated persons will ultimately not be voluntary.

6 During this meeting, Plaintiffs inquired whether CCHCS and CDCR should
 7 prioritize movement of medically high-risk patients at other institutions ahead of San
 8 Quentin. However, as was explained during the meeting, now is the best time to move
 9 medically high-risk inmate patients while there is no COVID-19 outbreak at San Quentin
 10 and these patients can therefore be transferred safely.

11 On December 4, 2020, CCHCS informed the parties that going forward, the moves
 12 of medically high-risk patients will be more streamlined to avoid delays in moves. The
 13 Unit Classification Committee will no longer be preceded by an offer to move voluntarily.
 14 Instead, healthcare staff will now participate in the Unit Classification Committee and
 15 provide patient education.

16 The Defendants remain committed to working with the Receiver to facilitate
 17 movements of medically high-risk patients from dorms to cells, or any other movements,
 18 to safely house medically high-risk patients when such movement is recommended and
 19 approved by the appropriate public health and corrections experts.

20 **V. TESTING AND TRANSFER PROTOCOLS**

21 *Plaintiffs' Position:* Transfers between prisons continue, although in reduced
 22 number recently, presumably due to substantial COVID-19 outbreaks at more than 20
 23 prisons. Testing and quarantining of those transferred, to reduce the risk of COVID-19
 24 transmission, remain governed by CCHCS's August 19 "Movement Matrix." The disaster
 25 at San Quentin earlier this year, resulting from the failure to timely test people for COVID-
 26 19 before they were transferred from the California Institution for Men, and the failure to
 27 adequately quarantine those people after they arrived at the prison, requires full
 28 compliance with risk-prevention requirements to minimize the chance of COVID-19

1 spread when people are moved. CCHCS last week again said it is aware of no cases of
2 COVID transmission resulting from people transferred pursuant to Matrix requirements.

3 Monitoring compliance with the Movement Matrix's testing and quarantine
4 requirements remains a challenge. Unfortunately, CCHCS has reaffirmed that the Transfer
5 Registries, which show whether Matrix requirements have been met for each person
6 transferred, do not yet display reliable data. More positively, CCHCS reports that it has
7 implemented a modified form in its Electronic Health Records System (EHRS), so that
8 nurses can verify in writing that Movement Matrix requirements were followed by the
9 sending prison before a person transfers.

10 CCHCS has also circulated a draft revised Movement Matrix, which we have
11 commented upon. The biggest proposed change, which we believe after consultation with
12 a public health expert is reasonable, is the elimination of pre-transfer quarantine in favor of
13 a double-testing requirement before transfer along with post-transfer quarantine and
14 testing.

15 *Defendants' Position:* Since the current iteration of the movement matrix went into
16 effect on August 21, 2020, DAI, CCHCS, and leadership teams at all institutions have held
17 meetings, conference calls, and training sessions to help staff understand and implement
18 the matrix. As directed by the matrix, movement is limited and controlled, and must be
19 pre-approved by CDCR headquarters, which is working in collaboration with CCHCS
20 (including Ms. Foss and Dr. Bick). Additionally, there is continued enforcement of the
21 safety protocols requiring all county staff and incarcerated people arriving at CDCR on
22 intake buses to wear N95 masks during transport. Further, CDCR and CCHCS continue to
23 utilize measures to track patient information for transfers. Staff at each prison have
24 procedures and processes in place to follow the requirements of the matrix. Further, on
25 October 6, 2020, CCHCS implemented an online registry to track all transfer information
26 for incarcerated persons. The registry is easily accessible, updateable, and contains
27 comprehensive information that allows staff to review medical and other important data
28 before, during, and after transfers. Finally, the prisons continue to offer comprehensive

COVID-19 testing for incarcerated people, and the specific protocols for each prison are outlined for Plaintiffs during routine calls with CCHCS staff.

VI. COVID-19 TESTING

A. Incarcerated Population Testing

Plaintiffs' Position: CCHCS has revised its guidance to mandate serial retesting in certain circumstances, and weekly testing of certain incarcerated person workers, including those who work in kitchens.¹¹ An automated system to track whether such ordered testing is actually done remains under development. That said, substantial COVID-19 testing is occurring. Several prisons have recently added nurses to support increased testing, and a number of prisons test never-infected patients weekly. Such has been done at San Quentin since late June, with some patients now having been tested two dozen times.

CCHCS reports it very recently automated the ordering of COVID-19 tests, and finally implemented templates by which doctors' notifications to patients of test results are accompanied by essential educational information (however, we do not know how frequently these templates are actually being used). It also reports having done just over 500,000 COVID-19 tests statewide since the pandemic began. These robust testing strategies and efforts must continue, and be coupled with effective quarantining and other risk reduction practices including population reduction, to minimize the spread of the virus.

B. Staff Testing

Plaintiffs' Position: Staff testing continues under CCHCS's October 30 "Employee Testing Guidance," and continues to be carried out by vendors. On December 4, CCHCS reported that it has begun hiring nurses to conduct testing after-hours and at the entrances

¹¹ Periodic testing of those who work in Prison Industry Authority (PIA) factories, which we understand have been the locus of multiple outbreaks, remains discretionary. We recently received from CDCR a list of currently operational PIA facilities, and will further discuss with CCHCS the need for mandated periodic testing of incarcerated people who work at them.

1 to the prisons; it anticipates all such nurses will be hired by the beginning of January.
2 Hiring of these nurses is critical, as staff who are symptomatic will not be tested until these
3 nurses are in place.

4 As reported in the last Joint Case Management Conference Statement, we
5 previously requested CCHCS revise the Guidance to provide for more frequent
6 surveillance testing for staff whose jobs require high levels of contact with incarcerated
7 people, such as those working in kitchens and factories. On December 4, CCHCS said it
8 will mandate weekly testing for this group in the next version of the Guidance, which is
9 currently being updated. We appreciate this step and all CCHCS's work to develop a
10 COVID-19 testing policy for staff.

11 Unfortunately, we still have no access to employee testing data,¹² and thus no way
12 to monitor compliance with the Testing Guidance—including whether staff have refused to
13 be tested. Regarding refusals, we recently asked CCHCS about staff refusing to test at the
14 Substance Abuse Treatment Facility (SATF), after hearing concerns from patients at that
15 prison. SATF has recently experienced a devastating outbreak: on November 25, at what
16 we hope was the height of the outbreak, there were 1200 active cases among the
17 incarcerated population and hundreds more on quarantine for exposure to the virus. Six
18 people incarcerated at SATF have died due to complications with COVID-19 in the past
19 three weeks, and the prison currently has more than 200 staff with active, confirmed cases
20 of COVID-19.

21 Despite the magnitude of this outbreak, we learned from CCHCS on December 4
22 that 52 staff members at SATF had recently refused to be tested for COVID-19. CCHCS
23 reported that these staff members had received Letters of Instruction (LOIs), which we
24 understand is a first step in the progressive discipline process. CCHCS also reported that
25

26 ¹² On December 4, CCHCS reported that the staff testing reports were being validated,
27 and it anticipated providing reports to Plaintiffs soon. However, as of this filing, we have
28 not received any reports.

1 these staff members were permitted to continue working, even though they could be
 2 infected and transmitting the virus. We have asked CCHCS and CDCR whether these 52
 3 staff members work in jobs that require contact with the incarcerated population, and if so,
 4 whether they can be reassigned to an administrative role until they agree to test or are
 5 placed on administrative leave. We have also asked whether any of the 52 have refused to
 6 test more than once. Finally, we have asked how many staff have refused to be tested at
 7 the 34 other prisons in the past two weeks, and whether CDCR/CCHCS can produce bi-
 8 weekly reports of refusals, as is done for noncompliance with face covering and physical
 9 distancing policies.

10 *Defendants' Position:* Defendants note that Plaintiffs have raised issues in this
 11 section that appear to be directed to the Receiver's office and CCHCS. Defendants will
 12 not attempt to respond on their behalf, but remain committed to working with them in
 13 addressing Plaintiffs' concerns.

14 **VII. Staff Compliance with Face Covering and Physical Distancing Requirements**

15 *Plaintiffs' Position:* On December 4, Defendants produced to Plaintiffs the first set
 16 of biweekly reports of staff noncompliance with face covering and physical distancing
 17 requirements, as directed by the Court. *See* ECF No. 3492. These report document 521
 18 incidents of noncompliance among custody staff and 210 incidents among medical staff.¹³
 19 Almost all of the noncompliance reported was for failing to follow mask wearing
 20 requirements, and, particularly for custody staff, the vast majority of the corrective action
 21 taken was in the form of verbal counseling.

22 We appreciate CDCR's and CCHCS's efforts to address this problem, but are
 23 extremely disappointed that eight months into this pandemic, compliance with mask-

24
 25 ¹³ Defendants provided two reports: one from CDCR, primarily reporting
 26 noncompliance among custody staff, and one from CCHCS, reporting noncompliance
 27 among medical and mental health staff. CCHCS's report included incidents between
 28 10/27/2020 and 12/2/2020. The vast majority of incidents reported in CDCR's report also
 occurred between those dates, though several prisons included reports from earlier on in
 the pandemic.

1 wearing—a fundamental public health measure necessary to prevent the spread of the
2 virus—is still a significant problem at some prisons. In particular, we are concerned to see
3 so many reported incidents of noncompliance at prisons with active COVID-19 outbreaks,
4 including 32 incidents among custody staff and 17 incidents among medical and mental
5 health staff in recent weeks at SATF, while that prison was in the midst of a very serious
6 outbreak. It is equally disconcerting to see, via the reports, that statewide dozens of nurses
7 and at least six primary care providers received progressive discipline due to violating
8 face-covering mandates.

9 Also of note, on December 2 we sent CDCR and CCHCS a copy of a log or letter
10 written by a named resident of San Quentin’s all-dorm H-Unit (which primarily houses
11 people who have not been infected with COVID-19) providing the dates and times of 20
12 instances between November 18 and 29 when staff – more than two dozen are named – did
13 not comply with face-covering requirements, including for an entire shift within a housing
14 unit. We asked that immediate action be taken on those named and described as violating
15 the face-covering mandate and that action be taken to end what, based on the numerous
16 instances of non-compliance described, appears to be a pervasive disregard of face-
17 covering mandates by some at San Quentin. We are awaiting a response.

18 We continue to believe that an outside agency should monitor staff’s compliance
19 with mask-wearing policies in CDCR. As discussed at the last Case Management
20 Conference, the Office of the Inspector General plans to conduct random audits of
21 CDCR’s compliance with the mandatory mask requirement at all 35 state prisons between
22 December 7, 2020 and March 7, 2021. We understand the Inspector General will
23 periodically update the Court and the parties throughout this audit period; we have not yet
24 received the first update.

25 *Defendants’ Position:* CDCR has determined that light-weight, polypropylene
26 procedure masks, sometimes referred to as surgical masks, are a more effective facial
27 covering for preventing the spread of COVID-19, thereby protecting both staff and
28 inmates. Effective November 23, 2020, all employees, contractors, and visitors working,

1 visiting or performing duties at a CDCR institution, indoors and outdoors, are required to
 2 wear a procedure mask at all times. Exceptions to the wearing of masks are made for the
 3 following situations:

4 1) eating or drinking, if a minimum of six feet of physical distance is maintained
 5 from all other individuals;

6 2) When alone in an office with the door closed;

7 3) When alone in a tower or enclosed control booth with no other individuals
 8 present.

9 Employees and contract workers are provided two procedure masks per shift, per
 10 day, upon entry to an institution. Visitors will also be provided two procedure masks upon
 11 entry to the institution or facility and as needed throughout the day. Staffing working a
 12 double shift will be provided additional masks for the next shift. Procedure masks will be
 13 provided at the screening point (e.g., entrance gate or first pedestrian entrance). If staff,
 14 contractors, or visitors arrive without a mask, they will be required to put on a procedure
 15 mask prior to screening.

16 Defendants have also prepared and provided Plaintiffs with mask compliance logs
 17 on December 4, 2020. As Plaintiffs note, the vast majority of corrective active action
 18 taken was verbal counseling, however, the vast majority of instances of noncompliance
 19 were a first offense. For those instances of noncompliance that were a repeat offense,
 20 nearly all offending CDCR staff members received progressive discipline.

21 Defendants remain committed to enforcing mask wearing and social distancing
 22 statewide. Further, Defendants issued a memorandum updating and clarifying
 23 expectations for staff mask usage and physical distancing in a December 4, 2020 directive.
 24 Staff are required to review and acknowledge the directive via CDCR's training portal.
 25 Supervisors are notified of any staff who have failed to review and acknowledge the
 26 directive. A copy of that directive is attached as Exhibit A.

27 **VIII. Prison-Specific Updates**

28 *Plaintiffs' Position:* We continue to have weekly conferences with CCHCS

1 Regional Health Care Chief Executive Officers (CEOs) and their supervisor regarding
2 COVID-related matters at individual prisons. In recent weeks, we have asked whether air-
3 handler units (AHUs) in cell blocks at certain prisons are a concern with respect to the
4 spread of the virus. This concern has heightened with a significant outbreak at High
5 Desert State Prison (High Desert). After the outbreak at that prison began last month,
6 CCHCS in response to our query said that housing unit ventilation was a concern for viral
7 spread, due to air being recirculated in housing units especially during cold weather (High
8 Desert is located in Susanville, where the average low temperature in November and
9 December is below freezing). CCHCS said an environmental survey was being done at the
10 prison. That survey, provided last weekend, reported that in all High Desert housing units
11 during cold weather months, heating and ventilation is done via 100% recirculated air, and
12 for many buildings, that air recirculates not only within buildings (including between
13 otherwise separate sections) but also between housing units including across separate
14 facilities. We are seeking further information about the role of the ventilation system in
15 High Desert's outbreak, and whether this is a concern at other prisons. On December 9,
16 CDCR said the information about High Desert was incorrect, and provided further details
17 about ventilation at the prison. We are reviewing and will follow up with CDCR and
18 experts as necessary.

19 *Defendants' Position:* Starting November 26, 2020, Defendants implemented a 14-
20 day modified programming schedule. A copy of that directive as attached as Exhibit A.
21 Also, in response to the State's Stay-at-Home Order, Defendants implemented a directive
22 instructing that the minimum number of staff are onsite to perform in-person, essential
23 functions, and that staff that can telework to the maximum extent possible. A copy of that
24 directive as attached as Exhibit C.

25 **IX. Vaccines**

26 *Plaintiffs' Position:* CCHCS reports it has worked for months to prepare for and
27 obtain COVID-19 vaccines, and has been aggressively advocating for its patients' needs.
28 The Receiver says these efforts were in part responsible for the State's inclusion of

1 “correctional facility hospitals” and “[s]killed nursing facilities, assisted living facilities,
2 and similar settings for older and medically vulnerable” people in “Tier One” of
3 California’s vaccine distribution plan, and “correctional facility clinics” in “Tier Two” of
4 its vaccine distribution plan. See <https://covid19.ca.gov/vaccines> (last accessed Dec. 6,
5 2020).

6 More practically, CCHCS says it expects delivery in the very near future at
7 essentially every prison of freezers capable of sub-zero storage, necessary for at least one
8 of the COVID-19 vaccines. The Receiver reports that CCHCS has been told it should plan
9 on offering its first doses of vaccines to patients the second week of January. CCHCS
10 could not say how much vaccine they will receive initially or subsequently, in part because
11 they say conversations with and decisions by the California Department of Public Health
12 and its control agency (and Governor’s office) are still occurring. But CCHCS says that,
13 consistent with the state as a whole, its initial and perhaps subsequent supplies may or will
14 be limited,¹⁴ so it is establishing vaccination priorities, focusing first on patients who have
15 not been infected and are the most medically vulnerable.¹⁵

16 We highly commend the Receiver’s and CCHCS’s efforts, and share the hope that
17 vaccines may eventually substantially reduce the harm caused by the pandemic in the
18 prisons.¹⁶ However, that the number of vaccine doses to be received, and when they will
19

20 ¹⁴ The Centers for Disease Control will allocate vaccine supplies to the fifty states.

21 ¹⁵ This approach to prioritization is in accord with our general views. Still, we have
22 asked for written specifics from CCHCS so that the plan’s details can be considered.

23 ¹⁶ Information about vaccine efficacy and adverse effects is not yet fully known,
24 including because the elderly and medically vulnerable were not included in trials. See
25 “The Exclusion of Older Persons From Vaccine and Treatment Trials for Coronavirus
26 Disease 2019—Missing the Target,” *JAMA Internal Medicine*, September 28, 2020,
27 available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2771091>. It
28 also is not yet known how long any immunity produced by a vaccine will last. In any
event, we understand it may take months for broad societal (and thus CDCR-wide) benefits
to occur even if vaccines are safe, effective, and widely received. Thus, all current risk
reduction measures must continue, and be improved as necessary.

1 be received, are not known creates concern, as it raises the possibility that allocations will
 2 not be commensurate with the clear, present, and continuing danger from COVID-19 faced
 3 by those in prison. CDCR houses approximately 55,000 people who have at least one risk
 4 factor for severe complications if infected with the virus, and more than 15,000 whose age
 5 or medical conditions make them highly vulnerable to severe complications. Almost all
 6 are housed in congregate or other settings in which substantial, massive, or mega-
 7 outbreaks are occurring, have occurred, or could.¹⁷ Social distancing and attendant
 8 safeguards are to say the least very difficult in prison. CDCR to date has been unable to
 9 adequately quarantine large numbers of those exposed to the virus, and information now
 10 suggests the possibility the some housing unit ventilation systems serve to spread the virus.
 11 With 93 dead, approximately 700 hospitalized, and more than 25,000 infected so far –
 12 along with a massive disruption in programs and the stopping of in-person visiting – the
 13 people incarcerated in CDCR have suffered inordinately from COVID-19, and continue to
 14 face an extreme risk of harm from the virus. Offering vaccinations to the medically
 15 vulnerable in prison should be given the highest priority.

16 *Defendants' Position:* Defendants note that Plaintiffs have raised issues in this
 17 section that appear to be directed to the Receiver's office and CCHCS. Defendants will
 18 not attempt to respond on their behalf, but remain committed to working with them in
 19 addressing Plaintiffs' concerns.

20 **X. Other COVID-19 Related Matters**

21 *Defendants' Position:* On December 4, 2020, Secretary Allison issued an important
 22 COVID-19 message regarding Governor Newsom's December 3, 2020 stay at home order.
 23 In pertinent part, Secretary Allison advised staff that procedure masks are required and
 24 _____

25 ¹⁷ With regard to potential catastrophes, we note that to date only a relatively small
 26 number of COVID-19 infections have been reported at the California Health Care Facility,
 27 California Medical Facility, and Richard J. Donovan Correctional Facility, which each
 28 have percentages and numbers of medically vulnerable patients in their populations
 similar to or greater than at San Quentin (28 deaths, 149 hospitalizations due to COVID-
 19) and California Institution for Men (27 deaths, 179 hospitalizations).

1 provided at all institutions, and cloth masks are required at all other work sites. She
 2 reminded staff that she expects staff to wear their mask properly to protect themselves and
 3 those around them. Secretary Allison also informed staff that supervisors and executives
 4 are performing spot checks throughout the institutions and work sites to ensure
 5 compliance, and that those who are not following directions will face disciplinary action.
 6 Secretary Allison's full message is available at:

7 [https://www.cdcr.ca.gov/insidecdcr/2020/12/04/important-covid-19-message-from-](https://www.cdcr.ca.gov/insidecdcr/2020/12/04/important-covid-19-message-from-secretary-allison/)
 8 [secretary-allison/](https://www.cdcr.ca.gov/insidecdcr/2020/12/04/important-covid-19-message-from-secretary-allison/).

9 **XI. Updates on Medical Care Matters Not Directly Related to COVID-19**

10 *Plaintiffs' Position:* CCHCS on November 30 provided the first of what will be
 11 monthly reports on Medication Assisted Treatment (MAT) and pending appointments for
 12 substance use disorder patients. The data shows 6,541 current active MAT patients, with
 13 6,843 other patients pending an initial appointment with a licensed provider, 6,242 of
 14 which are overdue. Although we asked for it, CCHCS did not provide data as to the how
 15 long appointments are overdue. We believe based on individual case reviews that
 16 thousands have been pending for months. The substance use disorder and MAT programs
 17 are necessary and save lives, and the current efforts to reduce the massive appointment
 18 backlog, previously described (*see* ECF No. 3487 at 21:19-22:4), are necessary. CCHCS's
 19 future monthly reports will show whether these efforts are adequate to substantially reduce
 20 the backlog.

21 *Defendants' Position:* CDCR circulated a new video regarding its Integrated
 22 Substance Use Disorder Treatment Ambassador Program. A link to the video is:
 23 <https://vimeo.com/485633742>.

1 DATED: December 9, 2020

HANSON BRIDGETT LLP

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3
4 By: /s/ Paul Mello

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EXHIBIT A





CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

MEMORANDUM

Date: December 4, 2020

To: California Department of Corrections and Rehabilitation - Headquarters,
Regional, and Field Office Staff
California Correctional Health Care Services - Headquarters, Regional, and Field
Office Staff
Division of Juvenile Justice - Headquarters, Regional, and Field Office Staff

From: 
KATHLEEN ALLISON
Secretary
California Department of Corrections and Rehabilitation


J. CLARK KELSO
Receiver

Subject: STAFF WEARING FACIAL COVERINGS AND PHYSICAL DISTANCING
REQUIREMENTS AT HEADQUARTERS, REGIONAL, AND FIELD OFFICE LOCATIONS

This memorandum updates and clarifies expectations and requirements outlined in the, June 26, 2020 and October 27, 2020, memoranda regarding the wearing of facial coverings and the practice of physical distancing at all California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and Division of Juvenile Justice (DJJ) offices including headquarters, regional, and field office locations.

All staff working or performing duties at any CDCR, CCHCS, or DJJ headquarters, regional, and field office location shall practice physical distancing (i.e., remaining six feet apart) and properly wear facial coverings at all times. Properly worn facial coverings shall cover the nose, mouth, and chin and do not have significant gaps around the nose or other parts of the face. Facial coverings should be three layers and easy to breathe through, and the ear loops or ties should be tight enough to keep the facial covering from sliding down the nose. Sleeve-style facial coverings (gator masks), bandanas, and facial coverings with exhalation valves or vents shall not be worn.

If CDCR, CCHCS, or DJJ programs located at headquarters, regional and field office locations need additional Prison Industry Authority (PIA) cloth masks for staff, a Purchase Requisition may be

MEMORANDUM

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submitted to BMBPreq@CDCR.ca.gov for CDCR and DJJ and to m_HCSAcquisitionRegu@cdcr.ca.gov for CCHCS. PIA cloth mask information and pricing can be found in the PIA product catalog at <http://calpia.ca.gov>.

Pursuant to California Department of Public Health's (CDPH) November 16, 2020 [Guidance for the Use of Face Coverings](#), the exceptions to this requirement are as follows:

- When a staff member is alone in a hard-walled office or room with a closed door.
- When a staff member is actively eating or drinking, provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household or residence.
- When a staff member is outdoors and maintaining at least 6 feet of physical distancing from others not in their household. When outdoors at the worksite, staff shall have a face covering with them at all times and shall wear it if they are within 6 feet of others who are not in their household.

Additionally, pursuant to CDPH November 16, 2020 [Guidance for the Use of Face Coverings](#), a face covering must be worn in a car unless alone or solely with members of their own household. Therefore, employees traveling together or utilizing vanpools or carpools must wear masks during the entire duration of the trip unless all riders are from the same household.

REASONABLE ACCOMMODATIONS AND RELIGIOUS ACCOMMODATIONS

Staff unable to wear an approved face covering due to a medical, mental health, or developmental disability shall notify their supervisor and Return-to-Work Coordinator to engage in the interactive process. Staff requesting a religious accommodation shall contact their local Equal Employment Opportunity Coordinator. Staff who have submitted a request for reasonable or religious accommodation due to the inability to comply with CDCR/CCHCS face covering or Personal Protective Equipment guidelines may request permission to remain off work using leave credits or an unpaid leave of absence pending a determination on their request. The Department shall engage in the interactive process with staff to ensure that a timely reasonable or religious accommodation determination is made.

REQUIREMENTS FOR NON-COMPLIANCE

All departmental supervisors and managers are responsible for ensuring subordinate staff consistently wear approved facial coverings correctly and practice physical distancing. When managers or supervisors observe a subordinate employee failing to adhere to facial covering or physical distancing directives, corrective action shall be taken in accordance with Department Operations Manual, Article 22, Employee Discipline, section 33030.8, Causes for Corrective Action. Additionally, supervisors and managers shall document each instance of non-compliance

MEMORANDUM

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with any directives contained within this memorandum on facial coverings and physical distancing to track repeat offenses and take corrective and adverse actions, as appropriate.

For each instance of staff non-compliance, supervisors and manager shall immediately notify the respective Employee Discipline Unit, Employee Advocacy and Prosecution Team, Office of Legal Affairs, CDCR, or Performance Management Unit (PMU), CCHCS. The attached Non-Compliance Tracking Log shall be completed with information provided by each supervisor or manager and maintained by the respective Employee Discipline Unit, Employee Advocacy and Prosecution Team, Office of Legal Affairs, CDCR, or PMU, CCHCS. The Non-Compliance Tracking Log shall be retained until further notice and will be requested for, unannounced as well as regularly scheduled, audits or reviews.

Supervisors and managers who fail to enforce these directives shall be subject to progressive discipline including:

- Verbal Counseling
- Employee Counseling Record (CDC Form 1123)
- Letter of Instruction
- Adverse Action or Rejection During Probation, dependent on the employee's tenure.

As a reminder, the Employee Discipline Unit or your area's assigned Health Care Employee Relations Officer in PMU are available to provide assistance throughout the progressive discipline process.

Attachment

Non-Compliance Tracking for Staff Failure to Maintain Physical Distancing, Wear, or Properly Wear Face Covering
(Insert Name of Headquarters, Regional, or Field Office Location)

Unit	Employee's Name (Last, First Name)	Classification	Face Covering or Physical Distancing Non-Compliance	Date of Failure	Repeat Offense (Yes/No)	Type of Corrective Action Taken (Verbal Counseling; ECR, LOI)	Corrective Action Issuance Date	ECR/LOI Date of 30-Day Follow-up Discussion with Employee	Date 989 Request Submitted to Hiring Authority (if applicable)	Comments

CONFIDENTIAL

EXHIBIT B

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: November 25, 2020

To: Associate Directors, Division of Adult Institutions
Wardens

Subject: **COVID-19 MANDATORY 14-DAY MODIFIED PROGRAM (3)**

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

Effective Thursday, November 26, 2020, all institutions will implement a mandatory 14-day modified program. Each institution will be responsible for either creating or amending their current Program Status Report taking all of the following information into consideration:

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

Associate Director, Division of Adult Institutions

Wardens

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- Showers – maintain distancing and disinfect between each use per memoranda: *COVID-19 Guidance for Daily Program Regarding Social Distancing for Cell or Alternative/Dorm Style Housing of Eight Person Cohort* dated, May 11, 2020, and *COVID-19 Related Cleaning Protocols for Institutions* dated, April 8, 2020.
- Health care services – limited to essential clinical services including urgent/emergent and by priority patients. When applicable, such as no inmate movement at all, conduct 7362 rounds in the housing units.
- Request for Health Care Services Forms, CDCR-Form 7362, will be distributed and picked up in the housing units by healthcare staff when access to the 7362 box is restricted by movement.
- Medication(s) distribution – Wardens, please work with your Chief Executive Officers and Chief Nurse Executives to establish a process. When applicable, conduct podium pass within the unit. If movement to the yard, canteen, and/or feeding in the dining halls continues, med pass shall be maintained at the pill windows, maintaining physical distancing and not mixing inmates from different housing units.
- Law Library – PLU or paging option while maintaining physical distancing in the library
- Dayroom – maintain reduced occupancy to ensure increased physical distancing
- Recreation – One housing unit/dorm at a time. Do not mix inmates from different units.
- Canteen is permitted – shall be conducted in a manner to ensure physical distancing. If unable to accommodate physical distancing, facilitate delivery method
- Packages are permitted
- Phone calls are permitted – ensure physical distancing and disinfect between each use
- Religious programs shall be cell front, or deliver materials to the housing unit/dorm/cells
- Community Based Organization or volunteer program materials to be provided either cell front or to the dorm
- Educational materials to be provided either cell front, or to the dorm
- Transfer and inmate movement
 - Inter-Camp Transfers are permitted to comply with the reduction of Conservation Camps
 - Only essential moves approved via the movement matrix and via Population Management Unit in conjunction with Health Care Population Oversight Program

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

Associate Director, Division of Adult Institutions

Wardens

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All institutions will be required to provide a copy of their Program Status Report, Part-A, to their respective Associate Director each day for this 14-day period. Institutions are expected to brief staff and inmate advisory committees on this directive as this modified program is currently only slated to be in effect for 14-days, through December 9, 2020.

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



CONNIE GIPSON

Director

Division of Adult Institutions

cc: Kimberly Seibel
Charles Callahan
Patrice Davis
Justin Penney



State of California
Department of Corrections and Rehabilitation

OPEN ENTERPRISES AS OF NOVEMBER 26, 2020- REVISED

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



State of California
Department of Corrections and Rehabilitation

OPEN ENTERPRISES AS OF NOVEMBER 26, 2020- REVISED

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

EXHIBIT C



MEMORANDUM

Date: December 4, 2020

To: California Department of Corrections and Rehabilitation All Staff
California Correctional Health Care Services All Staff
Division of Juvenile Justice All Staff

From:

DocuSigned by:

Jennifer Osborn

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JENNIFER OSBORN

Director, Administration

California Department of Corrections and Rehabilitation

DocuSigned by:

LARA SAICH

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LARA SAICH

Director (A), Health Care Policy and Administration

California Correctional Health Care Services

Subject: CALIFORNIA'S REGIONAL STAY AT HOME ORDER AND DEPARTMENTAL DIRECTIVE

As a result of continued widespread transmission of COVID-19, on December 3, 2020, California's Department of Public Health issued a [Regional Stay at Home Order](#). Additionally, certain state government functions will be impacted, effective December 7, 2020, through at least December 28, 2020. For state services, the Order will be applied on a statewide basis rather than regionally.

California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and Division of Juvenile Justice (DJJ) operations and staff are critical and essential; therefore, staff necessary to perform critical functions shall remain in the office, institution, or facility, while adhering to all physical distancing and mask directives. Hiring Authorities, managers, and supervisors shall assess their operations immediately to ensure the minimum number of staff are onsite to perform in-person, essential functions, and that staff that can telework are doing so to the maximum extent possible.

As needed, each respective program area shall provide additional guidance to ensure consistency in application ensuring critical and essential operations are not impacted, while maximizing compliance with the directive for telework.

MEMORANDUM

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Each respective program area shall also assess travel scheduled through at least December 28, 2020, and postpone all non-essential travel. Headquarters and Regional staff should limit their presence at the institutions and facilities to mission-critical visits only which cannot be postponed until the conclusion of the Stay at Home Order.

As a reminder, Hiring Authorities shall continue with mandatory, daily COVID-19 Statewide Program Impact Tracking at: <http://teamsite/team/Exec/OR/COVID-19ImpactTracking/SitePages/Home.aspx>. Daily reporting is required before 11 a.m. (with the exception of weekends, which can be reported Monday for the preceding weekend). This data is required for control agency reporting, and non-compliance will be monitored and addressed as necessary. If there are questions, contact covid19atoscreening@cdcr.ca.gov.

Information technology (IT) equipment needs for staff teleworking identified by Hiring Authorities, managers, and supervisors may be requested via a ticket to the appropriate IT support team.

Tips, tools, and resources regarding telework are available on the intranet at <http://intranet/Pages/Telework-Info.aspx>.

We recognize this is an extremely challenging time for everyone and thank you for your dedication to our very important work for the State of California.