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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 MARCIANO PLATA, et al.,
12 *Plaintiffs,*
13 v.
14 GAVIN NEWSOM., et al.,
15 *Defendants.*

Case No. 4:01-cv-1351 JST

**[REVISED PROPOSED] ORDER ON
QUARANTINE SPACE**

16 The Court finds that it is the unanimous opinion of public health experts from both
17 parties, the Receiver, and the Centers for Disease Control and Prevention (CDC) that
18 people in CDCR on quarantine for known coronavirus exposure are at significantly
19 greater risk of contracting COVID-19 if they are placed in cells with porous or barred
20 doors or in dormitories instead of in cells with solid doors. That is because contact
21 through the air in shared air spaces¹ is one of the primary modes of transmission of the
22 disease.

23
24 ¹ The term “shared air spaces” refers to places where there is no meaningful barrier
25 separating people breathing the same air, such as cell walls and solid doors.

1 Based on the record before the Court, Defendants do not have enough solid-door
2 cells at 12 of the 35 prisons to adequately provide safe quarantine space for people who
3 are at risk of contracting COVID-19.

4 Defendants knowingly place people in their custody at substantial risk of serious
5 harm when they fail to identify, prepare, and set aside sufficient space to quarantine them
6 in a cell with a solid door. Failure to take appropriate measures to provide quarantine in a
7 solid-door cell thus constitutes deliberate indifference to the serious health needs of the
8 patient population. Order Denying Plaintiffs' Emergency Motion to Modify Population
9 Reduction Order, April 4, 2020, ECF No. 3261 at 8 ("the Eighth Amendment requires
10 Defendants to take adequate steps to curb the spread of disease within the prison
11 system"); *see also Jolly v. Coughlin*, 76 F.3d 468, 477 (2d Cir. 1996) ("correctional
12 officials have an affirmative obligation to protect inmates from infectious disease").

13 Plaintiffs have demonstrated that CDCR has to date failed to take adequate steps
14 to prevent this risk of harm to the people in its custody, including by housing people in
15 shared air spaces for quarantine at prisons with celled housing available or that could
16 have been made available.

17 The risk of harm to members of the Plaintiff class increases as cases and deaths in
18 the community reach new heights, intensive care hospital beds are overwhelmed in many
19 of the counties with CDCR institutions, and a new, far more transmissible strain of the
20 coronavirus has appeared in California. But a remedy is also at hand, since effective
21 vaccines are available. California has announced that it will vaccinate all people in
22 CDCR custody during Phase 1B Tier Two of its vaccination plan. The Governor has
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24

1 authorized people in Phase 1B Tier Two to be vaccinated. According to Defendants, it is
2 possible that vaccination of the full CDCR population will begin shortly. The Court finds
3 that vaccination of all people in CDCR custody will remedy the harm identified and that
4 there are no barriers to immediately beginning this process.

5 Accordingly, the Court hereby orders the following:

6 1. Defendants and CCHCS shall immediately begin to offer the vaccine to all
7 people incarcerated in CDCR starting with those most at risk from serious complications
8 or death from COVID-19;

9 2. The Governor shall provide adequate doses for these vaccinations; and

10 3. People who are COVID-naïve and unvaccinated shall be quarantined only
11 in solid-door cells as of February 1, 2021.
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14 The Court finds that this Order is narrowly drawn, extends no further than
15 necessary to correct the violation of the Federal right, and is the least intrusive means
16 necessary to correct the violation of the Federal right.
17

18 IT IS SO ORDERED.

19 Dated: January __, 2021

20 _____
21 THE HONORABLE JON S. TIGAR
22 U.S. DISTRICT COURT JUDGE
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