

1 PRISON LAW OFFICE
DONALD SPECTER (83925)
STEVEN FAMA (99641)
2 ALISON HARDY (135966)
SARA NORMAN (189536)
3 RANA ANABTAWI (267073)
SOPHIE HART (321663)
4 LAURA BIXBY (301148)
1917 Fifth Street
5 Berkeley, California 94710
Telephone: (510) 280-2621
6 Fax: (510) 280-2704
dspecter@prisonlaw.com
7 *Attorneys for Plaintiffs*

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

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

Case No. 4:01-cv-1351 JST

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' AND CCPOA'S
MOTIONS TO STAY THIS COURT'S
SEPTEMBER 27, 2021 AND
OCTOBER 27, 2021 ORDERS**

Date: November 17, 2021
Time: 2:00 pm
Crtrm.: 6, 2nd Floor
Judge: Hon. Jon S. Tigar

TABLE OF CONTENTS

| | Page |
|--|-------------|
| INTRODUCTION | 1 |
| ARGUMENT | 2 |
| I. Defendants and CCPOA fail to demonstrate that a stay is warranted, because they cannot show irreparable injury would result from denial of a stay since the balance of hardships and public interest weigh heavily against them and since they are unlikely to succeed on the merits. | 2 |
| A. Defendants and CCPOA cannot demonstrate that irreparable injury would result from denial of a stay. | 3 |
| B. The balance of hardships and public interest weigh heavily against granting a stay. | 10 |
| C. Defendants and CCPOA are unlikely to succeed on the merits. | 13 |
| CONCLUSION | 18 |

TABLE OF AUTHORITIES

Cases

| | |
|---|----------|
| <i>Amoco Prod. Co. v. Vill. Of Gambell, AK</i> , 480 U.S. 531 (1987)..... | 8 |
| <i>Bauer v. Summey</i> , No. 2:21-CV-02952, 2021 WL 4900922 (D.S.C. Oct. 21, 2021) | 9 |
| <i>Beame v. Friends of the Earth</i> , 434 U.S. 1310 (1977) | 4 |
| <i>Beckerich v. St. Elizabeth Med. Ctr.</i> , No. CIV 21-105-DLB-EBA, 2021 WL 4398027 (E.D.Ky. Sept. 24, 2021) | 9 |
| <i>Benda v. Grand Lodge of Int’l Ass’n of Machinists</i> , 584 F.2d 308 (9th Cir. 1978)..... | 2 |
| <i>Cruzan v. Director, Mo. Dep’t of Health</i> , 497 U.S. 261 (1990)..... | 15 |
| <i>Fraihat v. ICE</i> , No. 20-55634, 2021 WL 4890884 (9th Cir. Oct. 20, 2021)..... | 12, 16 |
| <i>Goldie’s Bookstore, Inc. v. Super. Ct. of State of Cal.</i> , 739 F.2d 466 (9th Cir. 1984) | 8 |
| <i>Harris v. Bd. of Supervisors</i> , 366 F.3d 754 (9th Cir. 2004) | 10 |
| <i>Helling v. McKinney</i> , 509 U.S. 25 (1993)..... | 13 |
| <i>Hoffman v. Beer Drivers & Salesmens’ Local No. 888</i> , 536 F.2d 1268 (9th Cir. 1976) | 3 |
| <i>Johnson v. Brown</i> , No. 3:21-CV-1494-SI, 2020 WL 4846060 (D.Or. Oct. 18, 2021) | 9 |
| <i>Leiva-Perez v. Holder</i> , 640 F.3d 962 (9th Cir. 2011)..... | 7 |
| <i>Lopez v. Heckler</i> , 713 F.2d 1432 (9th Cir. 1983)..... | 2, 11 |
| <i>Nken v. Holder</i> , 556 U.S. 418 (2009). | 2, 7, 12 |
| <i>Norris v. Stanley</i> , No. 1:21-CV-756, 2021 WL 4738827 (W.D. Mich. Oct. 8, 2021)..... | 9 |
| <i>Parker v. Winnipiseogee Lake Cotton & Woolen Co.</i> , 67 U.S. 545 (1862) | 10 |
| <i>Ruckelshaus v. Monsanto Co.</i> , 463 U.S. 1315 (1983) | 4 |
| <i>Sampson v. Murray</i> , 415 U.S. 61 (1974) | 8 |
| <i>Sobky v. Smoley</i> , 855 F.Supp. 1123 (E.D.Cal. 1994) | 10 |
| <i>Valdez v. Grisham</i> , No. 21-CV-783 MV/JHR, 2021 WL 4145746 (D.N.M. Sept. 13, 2021)..... | 9 |
| <i>Virginian Ry. Co. v. U.S.</i> , 272 U.S. 658 (1926) | 2 |

CDCR Department Operations Manual

| | |
|---------------------------|---|
| CDCR DOM § 33030.1 | 8 |
| CDCR DOM § 33030.4 | 5 |
| CDCR DOM § 33030.16 | 9 |

INTRODUCTION

The uncontroverted evidence in this case shows that both vaccinated and unvaccinated incarcerated people continue to face a substantial risk of serious harm from COVID-19. Defendants and CCPOA do not dispute that mandating staff vaccination would significantly reduce this risk, nor do they dispute that no other measure would be as effective at protecting both vaccinated and unvaccinated incarcerated people. And yet they continue to drag their feet, refusing to take a reasonable measure that would literally save lives. After ostensibly agreeing to an implementation plan on October 12, 2021, Defendants then backpedaled and refused to commit to implementing the vaccine mandate as agreed. And even after this Court set an implementation date more than eleven weeks away to allow for ample time for Defendants to work out any operational difficulties they might encounter, Defendants and CCPOA still press for a stay.

Defendants and CCPOA fall far short of meeting the stringent requirements for a stay. As compared with the irreparable injury faced by incarcerated people if a stay is granted and unvaccinated staff continue to bring COVID-19 into the prisons, Defendants and CCPOA can only speculate about staff shortages and possible—though far from certain—consequences. Even if such staff shortages occur—and it is not at all clear that would happen—they would occur months from now, giving this Court the ability to modify its orders should that become necessary. And CCPOA’s claims of irreparable injury from its members choosing between losing their jobs and receiving a vaccine do not constitute *irreparable* harm that would warrant a stay.

An immediate stay is neither necessary nor appropriate to deal with the remote possibility of harm that is months away, a fact that Defendants appear to concede in the one-month gap between this Court’s order and the filing of their stay motion. Because the speculative injury that Defendants offer in the absence of a stay pales in comparison with

the substantial risk of illness and death that incarcerated people would suffer if the vaccine mandate is further delayed, the balance of hardships and the public interest weigh heavily against granting a stay. And while Defendants and CCPOA attempt to re-litigate the same issues already decided by this Court, they cannot show a likelihood of success on appeal that would merit granting a stay.

ARGUMENT

I. Defendants and CCPOA fail to demonstrate that a stay is warranted, because they cannot show irreparable injury would result from denial of a stay since the balance of hardships and public interest weigh heavily against them and since they are unlikely to succeed on the merits.

“A stay is not a matter of right, even if irreparable injury might otherwise result.” *Virginian Ry. Co. v. U.S.*, 272 U.S. 658, 672 (1926) (citation omitted); *see also Nken v. Holder*, 556 U.S. 418, 433 (2009). Instead, it is “an exercise of judicial discretion” that is “dependent upon the circumstances of the particular case.” *Nken*, 556 U.S. at 433 (citation and quotation omitted). There are four elements that a party moving for a stay must satisfy, and over time, courts have reformulated these four factors into a continuum of tests. “At one end of the continuum, the moving party is required to show both a probability of success on the merits and the possibility of irreparable injury.” *Lopez v. Heckler*, 713 F.2d 1432, 1435 (9th Cir. 1983) (citation omitted). At the other end, “the moving party must demonstrate that serious legal questions are raised and that the balance of hardships tips sharply in its favor.” *Id.* Relative hardship to the parties is the “critical element” in deciding at which point a stay is justified. *Id.* (quoting *Benda v. Grand Lodge of Int’l Ass’n of Machinists*, 584 F.2d 308, 314-15 (9th Cir. 1978)). The party requesting the stay “bears the burden of showing that the circumstances justify an exercise of that discretion.” *Nken*, 556 U.S. at 433-34.

A. Defendants and CCPOA cannot demonstrate that irreparable injury would result from denial of a stay.

Defendants and CCPOA now seek a stay of both this Court's September 27, 2021 order adopting the Receiver's recommendation to mandate vaccination for all correctional workers, as well as the Court's October 27, 2021 order setting a compliance date of January 12, 2022. ECF Nos. 3684, 3721. Defendants and CCPOA claim that, in the absence of a stay, CDCR will suffer staff shortages and therefore "irreparable operational harms." ECF No. 3715-1, Defendants' Motion to Stay Order Re Mandatory Vaccinations Pending Appeal ("Def.' Mot") at 23; *see also* ECF No. 3722, CCPOA's Motion to Stay Order Re Mandatory Vaccinations ("CCPOA Mot.") at 12 (describing a "nightmare scenario" of staffing shortages). But Defendants and CCPOA have made no showing whatsoever that any of the harms they speculate about will occur imminently, if they occur at all.

Nor have they shown why any harms related to staff shortages, if they occur, cannot be addressed by this Court without a stay being granted. As explained below, Defendants plan to impose progressive discipline on noncompliant staff rather than immediately terminating them. That process may persuade staff to get vaccinated as it has in other jurisdictions.¹ But even if it does not, its slow pace will provide ample time, if needed, for the Court to modify the implementation deadline, narrow the mandate, or otherwise modify its orders. And because this Court's order relates to Defendants'

¹ In New York City, for example, the impending deadline for their vaccine mandate "led to an 11th-hour rush of inoculations that shrank the ranks of the unvaccinated." Peter Szekeley, *As Mandate Kicks In, Ranks of Unvaccinated New York Police, Firefighters Dwindle*, Reuters (Nov. 1, 2021) <https://www.reuters.com/world/us/new-york-prepares-fallout-vaccine-mandate-resisted-by-many-police-firefighters-2021-11-01/>.

Similarly, in San Jose, over 100 police officers became vaccinated in the month before the vaccine mandate deadline, raising the vaccination rate of police officers to 92%, not including those who had been granted exemptions. Maggie Angst, *San Jose's Police Union Warned 100 Cops Could Quit Over the City's Vaccine Mandate. Here's What Really Happened*, The Mercury News (Nov. 8, 2021) <https://www.mercurynews.com/2021/11/08/san-joses-police-union-warned-100-cops-could-quit-over-the-citys-vaccine-mandate-heres-what-really-happened/>

1 continuing course of conduct in providing constitutionally adequate conditions of
 2 confinement, this Court retains jurisdiction to modify its orders as needed while
 3 Defendants’ and CCPOA’s appeals are pending. *See Hoffman v. Beer Drivers &*
 4 *Salesmens’ Local No. 888*, 536 F.2d 1268, 1276 (9th Cir. 1976) (“[W]here the court
 5 supervises a continuing course of conduct and where . . . additional supervisory action by
 6 the court is required, an appeal from the supervisory order does not divest the district
 7 court of jurisdiction to continue its supervision, even though in the course of that
 8 supervision the court acts upon or modifies the order from which the appeal is taken.”).

9 As a threshold matter, any claims that irreparable harm will imminently occur are
 10 undercut by the fact that both Defendants and CCPOA waited almost 30 days to file for a
 11 stay after this Court issued its initial order on September 27, 2021. This notable lack of
 12 urgency in applying for a stay demonstrates that no irreparable harm is imminent or will
 13 occur without a stay being granted. *See Ruckelshaus v. Monsanto Co.*, 463 U.S. 1315,
 14 1318 (1983) (Blackmun, J., in chambers) (applicant’s “failure to act with greater dispatch
 15 tend[ed] to blunt his claim of urgency and counsel[ed] against the grant of a stay”);
 16 *Beame v. Friends of the Earth*, 434 U.S. 1310, 1313 (1977) (applicants’ delay in applying
 17 for stay or certiorari “vitiates much of the force of their allegations of irreparable harm”).

18 Further, the assertion that the vaccine mandate must be delayed because prisons
 19 will otherwise face devastating staff shortages is speculative. Defendants only say they
 20 have “concerns” that the mandate will cause substantial increased vacancies, not that
 21 such vacancies are already happening or definitely will happen. ECF No. 3715-3,
 22 Declaration of Connie Gipson (“Gipson Decl.”) at 4 ¶¶ 9-13. In fact, it is far too early to
 23 say whether there will be substantial increased vacancies. *See* ECF No. 3738-2,
 24 Declaration of Tammatha Foss (“Foss Decl.”) at 1 ¶ 2 (“Estimates of the likely staff
 25 resignations, retirements, and separations as a result of the vaccination mandate in the
 26

1 range of 4.5% to 10% are highly speculative.”). It will likely take weeks or months before
2 this will be known, because CDCR’s deliberative staff progressive discipline process will
3 apply to any noncompliance among those who are not granted a medical or religious
4 exemption to vaccination. All of this undercuts the claim that there is a present risk of
5 irreparable harm.

6 In this regard, it is instructive to consider the status of compliance with the
7 California Department of Public Health (CDPH) August 19 order mandating vaccination
8 of all staff at two prisons—the California Health Care Facility (CHCF) and the California
9 Medical Facility (CMF)—and certain staff at the other prisons. The deadline for
10 correctional staff subject to that order to demonstrate full vaccination is November 24.
11 Declaration of Laura Bixby, filed herewith (“Bixby Decl.”), Ex. 1 at 2. Defendants report
12 that as of October 25, 8.26% of correctional officers at CHCF and 10.14% of correctional
13 officers at CMF had neither gotten vaccinated nor requested an exemption. Defs’ Mot. at
14 23. These relatively low percentages show first that mandates work; statewide,
15 approximately 33% of CDCR correctional staff remain unvaccinated. Bixby Decl., Ex. 2.
16 Further, the vaccination rates at CHCF and CMF will almost surely increase given that
17 these numbers date from a month before the actual compliance deadline.

18 If after November 24 there are correctional staff subject to the CDPH order who
19 neither show full vaccination nor have requested (or been granted) an exemption, CDCR
20 will then attempt to persuade staff to comply via progressive discipline in accord with its
21 standard procedures. Bixby Decl., Ex. 1 at 2; *see also* CDCR Department Operations
22 Manual (“CDCR DOM”) § 33030.1 *et seq.* This will begin on November 29 via issuance
23 of a non-adverse corrective action Letter of Instruction (LOI). Bixby Decl., Ex. 1 at 2;
24 CDCR DOM § 33030.4. If thereafter an employee still does not comply, CDCR says it
25 will at some point initiate formal adverse action, a process which may itself take weeks or
26

1 perhaps longer. As CDCR and CCHCS state, they are only “in the beginning stages of
2 requesting adverse action on staff [subject to the CDPH order] who remain out of
3 compliance after receiving a LOI.” Bixby Decl., Ex. 1 at 2.

4 Further, the base adverse action penalty for staff who remain noncompliant,
5 CDCR says, will be what it calls “level 4.” Bixby Decl., Ex. 1 at 2. Per CDCR rules, that
6 penalty consists of either “Salary Reduction 10% for 3-12 months *or* Suspension w/o pay
7 for 6-24 work days.” CDCR DOM § 33030.16. In other words, no staff will be
8 immediately terminated, and Defendants can choose the disciplinary action (reduction in
9 pay) that permits staff to continue reporting to work. And this adverse action presumably
10 will compel many to comply. *See* Foss Decl. at 1 ¶ 2 (“The rate of non-conformance with
11 a policy before progressive discipline has begun is not a reliable indicator of how many
12 employees will ultimately refuse to comply because the progressive discipline process is
13 effective in encouraging compliance.”).

14 Defendants’ and CCPOA’s assertions regarding this Court’s mandate should be
15 considered in light of what has happened and will happen with the CDPH mandate.
16 Given how the disciplinary process is unfolding for noncompliance with the CDPH order,
17 disciplinary action against non-compliant non-exempt staff will likely not begin until
18 shortly after the Court’s January 12, 2022 deadline—more than two months from now.
19 Staff who are not in compliance will then be subject to corrective action and then, after
20 some period of time, to formal adverse action which will allow employees to continue to
21 work. This process will be “lengthy” and “an employee who declines to comply with a
22 policy is unlikely to be excluded from the workplace, if at all, until at least three to four
23 months (or more) after issuance of a letter of instruction.” Foss Decl. at 1 ¶ 4. Clearly, the
24 assertion of substantial staff shortages as a result of the mandate is not only speculative
25 but premature and within Defendants’ control to mitigate.

1 There is no need for this Court to issue a stay of its ruling when the date at which
2 the slow-moving progressive discipline process would start is still months in the future.
3 The Court, of course, retains the ability to modify its order or issue further orders as
4 needed if a problem develops. And given the deliberate pace with which the progressive
5 discipline process unfolds, there would be ample time for the Court to intervene, should it
6 become necessary.

7 Similarly, Defendants' claim that the number of religious exemptions requested in
8 response to the CDPH order indicates "that staff resistance to the vaccine-mandate order
9 will be substantial" is also speculative. Defs' Mot. at 23-24. The fact that many people
10 have requested exemptions shows that the process is working: people who have a valid
11 reason not to be vaccinated have a mechanism to have that recognized. Thus, the large
12 number of exemptions requested neither suggests that staff shortages are imminent nor
13 supports a claim of irreparable injury absent a stay.

14 All of the dire predictions Defendants make to support their claim of irreparable
15 injury are nothing more than pure speculation. Defendants have put forth a declaration
16 from Connie Gipson, wherein she opines that that vacancies "*can* also have severe
17 impacts on prison operations and security." Gipson Decl. at 3 ¶ 6 (emphasis added). She
18 further states that "there *may* be insufficient staff on hand to adequately respond to
19 serious security breaches." *Id.* at 4 ¶ 7 (emphasis added). And she says "[i]f correctional
20 officers at other institutions exhibit similar rates of noncompliance when the vaccine-
21 mandate order is implemented, the statewide impact will be devastating to CDCR's
22 prison operations." *Id.* at 4-5 ¶ 8 (emphasis added). Defendants also speculate that a
23 similar number of staff will quit over the vaccine mandate as did in Washington State,
24 while downplaying the fact that Washington's Department of Corrections issued a
25 statement saying there were no operational impacts due to the vaccine mandate. Defs.

1 Mot. at 24-25 n.2. In fact, Defendants have not pointed to any evidence of serious
 2 problems in any of the many jurisdictions that have already established vaccine mandates
 3 for correctional workers. Moreover, Defendants have in the past asserted that they could
 4 safely run the prisons and provide essential services even under extreme staffing
 5 shortages as low as 50-59%, far below the staffing shortages that Defendants predict will
 6 occur as a result of the vaccine mandate. *See* ECF No. 3240, Declaration of Connie
 7 Gipson at 3-4 ¶¶ 3-7 and Ex. A.

8 None of the evidence Defendants have put forth establishes that irreparable injury
 9 is likely if a stay is not granted. Even assuming staff shortages would be a valid reason to
 10 grant a stay, Defendants have made no showing that staff shortages would be imminent
 11 without a stay. There must be more than just “some possibility” of irreparable injury to
 12 support a finding of irreparable injury. *Nken*, 556 U.S. at 434 (citation and quotation
 13 omitted). Indeed, it must be “the more probable or likely outcome.” *Leiva-Perez v.*
 14 *Holder*, 640 F.3d 962, 968 (9th Cir. 2011); *see also Goldie’s Bookstore, Inc. v. Super. Ct.*
 15 *of State of Cal.*, 739 F.2d 466, 472 (9th Cir. 1984) (“Speculative injury does not
 16 constitute irreparable injury.”). Defendants’ speculative claims about possible staff
 17 shortages, and the possible effects of those possible staff shortages, are insufficient to
 18 demonstrate that irreparable injury is likely in the absence of a stay.

19 Likewise, CCPOA’s claims of irreparable injury do not support granting a stay.
 20 CCPOA raises similar claims as Defendants regarding staff shortages, which fail for the
 21 same reasons: any staff terminations would only occur after a lengthy progressive
 22 discipline process, and CCPOA, like Defendants, can only speculate as to how many staff
 23 will ultimately choose to be terminated months down the line rather than accept the
 24 vaccine. CCPOA Mot. at 10-12. CCPOA’s related claims regarding working conditions
 25 are also speculative, because concerns such as mandatory overtime necessarily depend on
 26

1 how many staff members are actually terminated. *Id.* at 12.

2 CCPOA further claims that forcing its members to choose between receiving the
3 vaccine and being terminated constitutes irreparable injury. CCPOA Mot. at 11. But a
4 harm that can be remedied in the event CCPOA succeeds on appeal is not an irreparable
5 injury. An irreparable injury is one that cannot be adequately remedied by money
6 damages and is often permanent. *See Amoco Prod. Co. v. Vill. Of Gambell, AK*, 480 U.S.
7 531, 545 (1987); *see also Sampson v. Murray*, 415 U.S. 61, 90 (1974) (“Mere injuries,
8 however substantial, in terms of money, time and energy necessarily expended in the
9 absence of a stay, are not enough. The possibility that adequate compensatory or other
10 corrective relief will be available at a later date, in the ordinary course of litigation,
11 weighs heavily against a claim of irreparable harm.”) (citation omitted). It is well-settled
12 that, because loss of employment can be compensated with money damages, it does not
13 support a claim of irreparable injury except in “extraordinary” cases. *Sampson*, 415 U.S.
14 at 91-92, 92 n.68. Here, if CCPOA were to prevail on appeal, any members who were
15 terminated as a result of not accepting the vaccine could have their employment restored
16 and/or money damages awarded to compensate for lost income.

17 For this reason, courts across the country have recently and repeatedly found that a
18 vaccine mandate that requires employees to choose between becoming vaccinated and
19 keeping their jobs does not constitute irreparable injury that would justify a stay or
20 injunction of the mandate. *See, e.g., Valdez v. Grisham*, No. 21-CV-783 MV/JHR, 2021
21 WL 4145746, at *12 (D.N.M. Sept. 13, 2021) (holding that state fair employees and
22 exhibitors who cannot work or exhibit without being vaccinated have not established
23 irreparable harm); *Johnson v. Brown*, No. 3:21-CV-1494-SI, 2021 WL 4846060, at *21-
24 22 (D.Or. Oct. 18, 2021) (holding that nurses, teachers, and others who lost or might lose
25 their jobs for failure to comply with Oregon vaccine mandate had not established

irreparable harm); *Bauer v. Summey*, No. 2:21-CV-02952-DCN, 2021 WL 4900922, at *18 (D.S.C. Oct. 21, 2021) (holding that government employees who lost jobs for failure to comply with vaccine mandates had not established irreparable harm); *Beckerich v. St. Elizabeth Med. Ctr.*, No. CIV 21-105-DLB-EBA, 2021 WL 4398027, at *6-7 (E.D.Ky. Sept. 24, 2021) (holding that healthcare workers who would lose their jobs for failing to be vaccinated had not established irreparable harm); *Norris v. Stanley*, No. 1:21-CV-756, 2021 WL 4738827, at *4 (W.D. Mich. Oct. 8, 2021) (holding that university employee who would lose job if refused vaccine had not established irreparable harm). Thus, the additional harms CCPOA alleges will occur as a result of this Court's order do not meet the requirements for irreparable injury and hence do not justify granting a stay.

B. The balance of hardships and public interest weigh heavily against granting a stay.

The Court adopted the Receiver's recommendation for a vaccine mandate because it found that neither Defendants nor CCPOA disputed that:

COVID-19 continues to pose a substantial risk of serious harm – including death – to incarcerated persons, regardless of their vaccination status; that, even with mitigation measures in place, the virus spreads quickly in a prison setting; that limiting the introduction of the virus is therefore critical to protecting the health of incarcerated persons; that staff are the primary vector of introducing the virus into a prison; or that testing is ineffective at controlling that vector.

ECF No. 3684, September 27, 2021 Order ("Sept. 27 Order") at 18.

It is certainly in the public interest to ensure that needless illness and death are prevented. *See Parker v. Winnipiseogee Lake Cotton & Woolen Co.*, 67 U.S. 545, 551 (1862) (loss of health is irreparable injury); *Harris v. Bd. of Supervisors*, 366 F.3d 754, 766 (9th Cir. 2004) (likelihood of "pain, infection, amputation, medical complications, and death" amounts to irreparable harm); *Sobky v. Smoley*, 855 F.Supp. 1123, 1137 (E.D.Cal. 1994) (possibility that plaintiffs will suffer health problems as a result of State's failure to provide treatment outweighs State interest in continuing existing treatment

1 systems). This Court has found that unvaccinated staff continuing to enter the prisons
 2 creates a substantial risk of serious harm for incarcerated people. Sept. 27 Order at 18.
 3 That risk continues with every day that unvaccinated staff are allowed to enter the prison
 4 and potentially spark further outbreaks. Every day, new people in the prisons contract
 5 COVID-19 and risk serious illness or death; in fact, there have been 332 new cases
 6 among incarcerated people statewide in the last 14 days. Bixby Decl. at ¶5, Ex. 4. And
 7 because full vaccination takes time to achieve, any additional delay in implementation
 8 caused by a stay risks the possibility of a new, more dangerous variant being allowed to
 9 run rampant through the prison system, leading to additional preventable illnesses and
 10 deaths. *See* ECF No. 3638, Receiver’s Report at 21 (“Absent very high levels of
 11 vaccination, the Delta variant and other future variants will become more common in
 12 California, and there almost certainly will be additional large-scale outbreaks in CDCR
 13 facilities.”). The preventable illness and death is not limited to incarcerated people, of
 14 course; there have been 20 staff deaths since the end of July 2021, many of which might
 15 have been prevented had all staff members been vaccinated. Bixby Decl. at ¶5, Ex. 5.

16 The hardship suffered by incarcerated people from continued COVID-19
 17 outbreaks is not limited to the effects of actually contracting COVID-19. Repeated
 18 outbreaks have led to large numbers of staff in quarantine, causing delays in clinical care.
 19 *See* ECF No. 3652, Dr. Joseph Bick Supplementary Declaration (“Bick Supp. Decl.”) at 5
 20 ¶ 9. Over the course of the pandemic, outbreaks and the large numbers of staff on
 21 quarantine or isolation has caused significant backlogs in both primary care and specialty
 22 appointments. *Id.* at 5 ¶¶ 10-11. As the Court found, because of the modifications to
 23 prison operations required to deal with outbreaks, outbreaks “pose other serious risks to
 24 incarcerated persons beyond the direct impacts of COVID-19 infection.” Sept. 27 Order
 25 at 10. As Dr. Bick attests, “these delays cannot continue indefinitely without negatively
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1 affecting patient care.” Bick Supp. Decl. at 4 ¶ 8.

2 Compared to the concrete hardship that all incarcerated people (and even staff)
 3 will face if implementation of the vaccine mandate is further delayed by a stay, the only
 4 hardship Defendants allege is speculative staffing shortages, which may or may not occur
 5 and, if they do occur, will occur far in the future. Even if such shortages do occur, CDCR
 6 has options to address them, such as expending more money to hire more staff, or, as
 7 Plaintiffs have advocated for many years, reducing the prison population by releasing
 8 people from custody. The almost-certain “physical and emotional suffering” that
 9 incarcerated people will suffer if the vaccine mandate is further delayed “is far more
 10 compelling” than the “possibility of some administrative inconvenience or monetary loss
 11 to the government.” *Lopez*, 713 F.2d at 1437. Defendants and CCPOA have no concrete
 12 evidence to demonstrate what, if any, staffing shortages will actually occur as a result of
 13 this Court’s order, much less the actual effect any shortages will have on prison
 14 operations.

15 By contrast, Plaintiffs and the Receiver have demonstrated that COVID-19
 16 remains a serious illness and that COVID-19 is primarily entering the prisons through
 17 infected staff. Bick Supp. Decl. at 3-4 ¶¶ 5-6 (“[T]he Delta variant presents a substantial
 18 risk of harm even to fully vaccinated patients . . . [and] is causing new infections,
 19 reinfections, breakthrough infections, illness, hospitalization, and death”); ECF No. 3638-
 20 1, Declaration of Dr. Joseph Bick (“Bick Decl.”) at 3 ¶ 16 (“The data obtained from
 21 contract tracing and genomic sequencing confirm that CDCR staff are a primary vector
 22 for transmission of COVID-19 into CDCR institutions.”). Because the actual and
 23 substantial risk of serious harm faced by incarcerated people trumps the speculative
 24 difficulty CDCR says it will have with staffing, the balance of hardships and public
 25 interest weigh heavily against granting a stay.

C. Defendants and CCPOA are unlikely to succeed on the merits.

Defendants and CCPOA must make a “strong showing” of likelihood of success on appeal in order to prevail in their motion for a stay. *Nken*, 556 U.S. at 434. They have failed to do so. Defendants and CCPOA recycle arguments that failed to persuade this Court in the first instance about why a vaccine mandate is not necessary. They also rely heavily on *Frailhat v. ICE*, No. 20-55634, 2021 WL 4890884 (9th Cir. Oct. 20, 2021), a case that exclusively addresses ICE’s response to the COVID-19 crisis in a pre-vaccine world and hence has little to no relevance to whether a vaccine mandate is warranted now. None of the arguments Defendants and CCPOA make persuasively demonstrate why a stay is warranted in this case.

This Court, in its September 27, 2021 order, found that Defendants “are aware of a substantial risk of serious harm to incarcerated persons, and, although they have taken many commendable steps during the course of this pandemic, they have nonetheless failed to reasonably abate that risk because they refuse to do what the undisputed evidence requires.” Sept. 27 Order at 2. The Court noted that all parties, including Defendants and CCPOA, agreed that “a mandatory staff vaccination policy would lower the risk of preventable death and serious medical consequences among incarcerated persons” and that no other remedy “will produce anything close to the same benefit.” *Id.* Defendants and CCPOA did not and do not contest the public health bases underlying the Court’s September 27, 2021 order. Instead, they quibble with how the Court arrived at its conclusion that Defendants are aware of a substantial risk of serious harm and have failed to reasonably abate that risk, without ever seriously disputing that conclusion.

First, Defendants and CCPOA claim that the Court’s order disregarded the mitigation measures they have already taken and continue to take to address the COVID-19 pandemic. *See* Defs.’ Mot. at 11-12, 14-16; CCPOA Mot. at 8. Not so. As the Court

1 noted, deliberate indifference “should be determined in light of the prison authorities’
 2 *current* attitudes and conduct.” Sept. 27 Order at 11 (citing *Helling v. McKinney*, 509
 3 U.S. 25, 36 (1993) (emphasis added)). Thus, the Court’s prior ruling that Defendants
 4 were not deliberately indifferent based on earlier mitigation measures done with “a
 5 toolbox without a vaccine has little relevance when the same toolbox now includes a
 6 vaccine that everyone agrees is one of the most important tools, if not the most important
 7 one, in the fight against COVID-19.” Sept. 27 Order at 11-12. The Court discussed the
 8 other measures taken by Defendants, while noting that “no measure or combination of
 9 measures . . . offers the incarcerated population the same level of protection as the
 10 vaccine mandates.” *Id.* at 12. Given that, the Court properly concluded that there was no
 11 evidence that existing mitigation measures reasonably address the risk of death and
 12 illness from COVID-19, and that it would be unreasonable for Defendants not to require
 13 vaccines. *Id.* at 18.

14 Second, the Court did not err in distinguishing the cases that Defendants relied on.
 15 Defendants claim that although the cases they cite involved individual, rather than
 16 systemic claims, they are nonetheless relevant because, Defendants argue, prison officials
 17 do not violate the Eighth Amendment if incarcerated people refuse to accept the vaccine.
 18 *See* Defs.’ Mot. at 17-19. But the Court correctly found that these cases, which all
 19 involve individual claims for injunctive relief, are not relevant to the type of systemic
 20 relief sought here. Moreover, unvaccinated staff who spark further outbreaks pose a
 21 substantial risk of serious harm even to *vaccinated* incarcerated people. Bick Supp. Decl.
 22 at 1 ¶ 5. Thus, the unwillingness of a few incarcerated people to accept the vaccine
 23 cannot be used to justify Defendants’ failure to reasonably address the risk from COVID-
 24 19 faced by *all* incarcerated people, both vaccinated and unvaccinated.

25 Third, the Court did not disregard the “success” of Defendants’ efforts to raise
 26

1 vaccination efforts through voluntary means. *See* Defs.’ Mot. at 20; CCPOA Mot. at 10.
 2 First, the increase in vaccinated staff has been quite small relative to the number who
 3 remain unvaccinated. Further, Defendants claim success for a rise in vaccination rates
 4 that is almost certainly due not to their own efforts, but to the combined effects of the
 5 August 19 CDPH order and this Court’s order. As the Court noted, the rate of staff
 6 vaccination increased by just 1% in July and 2% in August. Sept. 27 Order at 20; ECF
 7 No. 3670-1, Reply Declaration of Dr. Joseph Bick (“Bick Reply Decl.”) at 3 ¶ 11. But as
 8 Defendants report, over 10,000 doses of vaccine were administered to prison staff
 9 between when the Court issued its order to show cause on August 9 through October 21,
 10 2021, increasing the number of staff who have received at least one vaccine dose by 10%.
 11 Defs.’ Mot. at 20. And the rates have continued to rise since, with the percentage of
 12 correctional staff who have received at least one vaccine dose reaching 64% as of
 13 October 28, 2021. Bixby Decl. at ¶¶ 3-4, Exs. 2, 3. This is not a coincidence. What the
 14 increase in these numbers demonstrates is that vaccine mandates are effective in
 15 increasing vaccination rates, even before their deadline. The high rates of vaccination at
 16 CHCF and CMF, the two prisons at which all staff must be vaccinated per the August 19
 17 CDPH order, further demonstrate that the mandates are effective. As of November 1,
 18 three weeks before the deadline for correctional officers at those facilities to be
 19 vaccinated, 84% and 87% of staff, respectively, had been vaccinated at these two prisons.
 20 Bixby Decl. at ¶ 2, Ex. 1 at 5. These percentages are substantially higher than other
 21 prisons’ rates. Bixby Decl. at ¶¶ 4-5, Exs. 2, 3.

22 Fourth, the Court’s remedy is narrowly drawn and satisfies the PLRA’s needs,
 23 narrowness, and intrusiveness requirement. Defendants and CCPOA argue that a more
 24 narrow remedy would have been requiring vaccination of all incarcerated people. Defs.’
 25 Mot. at 21-22; CCPOA Mot. at 10. But that proposed remedy is both less narrow and less

1 effective than the one ordered by the Court. Unlike staff, incarcerated people do not have
 2 the option to quit their jobs to avoid the vaccine. Forcing all incarcerated people to
 3 become vaccinated—with no alternative—would violate their “bodily integrity,” their
 4 right to informed consent for medical treatment, and their right to refuse medical
 5 treatment. *See Cruzan v. Director, Mo. Dep’t of Health*, 497 U.S. 261, 269 (1990).
 6 Forcing incarcerated people to undergo medical treatment without their consent is a far
 7 more drastic remedy than offering staff the choice between accepting the vaccine and
 8 maintaining their current employment. As Dr. Bick noted, “[t]here is no modern
 9 precedent for mandating vaccination for incarcerated persons and doing so would risk
 10 contravening internationally-recognized basic principles on the treatment of incarcerated
 11 persons. . . . Requiring CDCR medical staff to administer mandatory vaccines could
 12 irreparably damage the doctor-patient relationship.” Bick Reply Decl. at 3 ¶ 12.

13 Vaccinating all incarcerated people would also be a less effective remedy. Staff,
 14 not incarcerated people, are the “primary vectors for introducing COVID-19 into CDCR
 15 facilities.” Sept. 27 Order at 13; Bick Decl. at 3 ¶¶ 16-17. Furthermore, as discussed
 16 above, even if all incarcerated people were vaccinated, they would still be subjected to a
 17 substantial risk of serious harm from COVID-19 brought into the prisons by unvaccinated
 18 staff.

19 Finally, Defendants’ and CCPOA’s reliance on *Frailhat* is misplaced. *See* Defs.’
 20 Mot. at 11-14; CCPOA Mot. at 6-10. The orders reviewed in *Frailhat* were substantially
 21 less narrow and less tailored than the vaccine mandate here, involving specific details
 22 about, for example, how to identify those most at risk from COVID-19, what isolation
 23 and quarantine housing should look like, and how to use cleaning products. *Frailhat*, 2021
 24 WL 4890884, at *14-15. Here, the Court has deferred all of the details about
 25 implementation of its order to CDCR. The orders in *Frailhat*, despite commanding

1 system-wide relief, were based on conditions at certain individual ICE facilities, which
2 the court found insufficient to justify system-wide relief. *Id.* at *26. Here, the Court based
3 its ruling not on individual experiences at individual prisons, but rather on undisputed
4 evidence about the risk posed by unvaccinated staff members across the prison system as
5 a whole. Finally and most importantly, *Frailhat* dealt with a pre-vaccine world. The court
6 noted that ICE was attempting to respond to COVID-19 “in the face of scientific
7 uncertainty about COVID-19,” with measures “[u]pdated over time to account for
8 improved understandings of an unprecedented global pandemic.” *Id.* at *21. There is no
9 more scientific uncertainty, as least as regards the effectiveness of vaccines against
10 COVID-19. Defendants and CCPOA did not and cannot dispute that a substantial risk of
11 serious harm from COVID-19 remains, that vaccines would significantly reduce that risk,
12 and that no other measure is as effective at reducing that risk as vaccines. *Frailhat* does
13 not alter the conclusion that failing to implement a vaccine mandate violates the Eighth
14 Amendment, and it therefore does not demonstrate that Defendants and CCPOA are
15 likely to succeed on appeal.

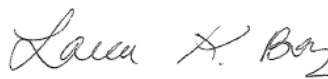
1 **CONCLUSION**

2 A staff vaccine mandate must be implemented without further delay so that it can
 3 effectively protect against future surges and variants of COVID-19. After Defendants and
 4 CCPOA repeatedly protested about the difficulty of implementing the mandate, the Court
 5 gave them ample time to implement it—more than fifteen weeks between this Court’s
 6 initial order and the implementation deadline of January 12, 2022. That should be
 7 enough. Ultimately, whatever possible difficulties Defendants and CCPOA will face in
 8 implementing the vaccine mandate pale beside the lives that will be saved. And given the
 9 deliberate pace with which CDCR and CCHCS implement progressive discipline, there is
 10 simply no urgency that would warrant granting a stay. For all these reasons, the Court
 11 should deny Defendants’ and CCPOA’s motions to stay this Court’s September 27, 2021
 12 and October 27, 2021 orders.

13
 14 Respectfully submitted,

15 DATED: November 8, 2021

PRISON LAW OFFICE

17 By: 

18 Donald Specter

19 Steven Fama

Alison Hardy

20 Sara Norman

Rana Anabtawi

21 Sophie Hart

22 Laura Bixby

23 Attorneys for Plaintiffs

1 PRISON LAW OFFICE
DONALD SPECTER (83925)
2 STEVEN FAMA (99641)
ALISON HARDY (135966)
3 SARA NORMAN (189536)
RANA ANABTAWI (267073)
SOPHIE HART (321663)
4 LAURA BIXBY (301148)
1917 Fifth Street
5 Berkeley, California 94710
Telephone: (510) 280-2621
6 Fax: (510) 280-2704
dspecter@prisonlaw.com
Attorneys for Plaintiffs
7
8

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

12 MARCIANO PLATA, et al.,

13 *Plaintiffs,*

14 v.

15 GAVIN NEWSOM., et al.,

16 *Defendants.*

Case No. 4:01-cv-1351 JST

**DECLARATION OF LAURA BIXBY
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
AND CCPOA'S MOTIONS TO STAY
VACCINE MANDATE ORDERS**

17
18 I, Laura Bixby, declare as follows:

19 1. I am a lawyer admitted to practice in this State and before this Court. I am
20 one of the lawyer for the plaintiff class in this action. I have personal knowledge of the
21 facts set forth herein, and if called as a witness, I could competently so testify.

22 2. On November 1, 2021, my colleague, Steven Fama, emailed a request for
23 information to Defendants that included questions about the CHCF and CMF staff
24 vaccine mandate pursuant to the August 19 CDPH order. I was copied on that email. On

1 November 2, 2021, Steven Fama sent a follow-up email to Defendants requesting
2 additional information about the implementation of the August 19 CDPH order. I was
3 also copied on that email. Also on November 2, 2021, Steven Fama forwarded the email
4 with request for information of Defendants to the Receiver's counsel. I was also copied
5 on that email. On November 4, 2021, staff from CCHCS' Healthcare Compliance
6 Support Section emailed a document responding to these requests. I was also copied on
7 that email. A true and correct copy of this document is attached hereto as **Exhibit 1**.¹

8 3. On November 1, 2021, my colleague, Steven Fama, sent a separate email to
9 CCHCS requesting updated data showing staff vaccination rates as of November 4, 2021.
10 I was copied on that email. On November 5, 2021, CCHCS emailed a document
11 responding to that request with updated data showing CDCR/CCHCS staff vaccine
12 acceptance by work group. I was also copied on that email. A true and correct copy of
13 this document is attached hereto as **Exhibit 2**.

14 4. On November 5, 2021, Steven Fama emailed CCHCS an email with
15 clarifying questions about the document attached in Exhibit 2. I was copied on that email.
16 Later that day, CCHCS replied to Mr. Fama's questions with clarifying information,
17 including the information that the spreadsheet in Exhibit 2 was based on data through
18 October 28, 2021. A true and correct copy of that email is attached hereto as **Exhibit 3**.

19 5. Attached hereto as **Exhibit 4** is a screenshot of CCHCS/CDCR's COVID-
20 19 Tracker, downloaded on November 8, 2021, from
21 <https://www.cdcr.ca.gov/covid19/population-status-tracking>. According to that tracker, as
22 of November 8, 2021, there are 338 active COVID-19 cases among people in custody,
23 with 332 of those cases new in the last 14 days. That tracker also shows that cases among

24 ¹ The document provided by CDCR and CCHCS contained two attachments, Attachment
25 A and Attachment B. As Attachment B was marked "confidential," it is not included with
26 this filing.

1 incarcerated people have increased in the last several weeks, from 54 the week of
2 October 17, 2021, to 156 the week of October 24, 2021, to 177 the week of October 31,
3 2021, to now 338 as of November 8, 2021.

4 6. Attached hereto as **Exhibit 5** is a true and correct copy of CCHCS/CDCR's
5 COVID19 Employee Status website, downloaded on November 7,
6 2021, from <https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/>. According to
7 that report, there have been 48 staff deaths from COVID-19 to date, including 20 staff
8 deaths since the end of July 2021.

9 I declare under penalty of perjury under the laws of the United States of America
10 that the foregoing is true and correct, and that this declaration is executed at Alameda
11 County, California this 8th day of November, 2021.

12 DATED: November 8, 2021

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15 Laura Bixby

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EXHIBIT 1



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



MEMORANDUM

Date : November 4, 2021

To : Steven Fama, Prison Law Office

Subject : **PRISON LAW OFFICE NON-PARAGRAPH 7 CONCERN RELATING TO STAFF VACCINE MANDATE**

California Correctional Health Care Services (CCHCS) and California Department of Corrections and Rehabilitation (CDCR) are providing the italicized information below in response to your e-mail inquiry dated November 2, 2021.

1. As of November 1, 2021, how many vaccinated and unvaccinated custody, non-custodial/non-healthcare, and healthcare staff subject to the August 19, 2021, California Department of Public Health (CDPH) order were there at each prison?

Refer to Attachment A for a breakdown of the vaccination statuses of custody, non-custodial/non-healthcare, and health care staff subject to the CDPH order at each institution as of November 1, 2021.

2. As of November 1, 2021, what was the statewide total number of vaccinated and unvaccinated staff among those subject to the August 19, 2021, CDPH order?

As of November 1, 2021, of the 18,809 staff subject to the CDPH order, 82% (15,341) have been vaccinated, 2% (388) have been partially vaccinated, and 16% (3,080) are unvaccinated (refer to Attachment A).

3. As of November 1, 2021, how many staff subject to the August 19, 2021, CDPH order had requested religious or medical exemptions to the vaccination requirement, and how many of those requests had been granted, denied, or remained pending?

The following data is for religious and medical accommodation requests received in connection with all mandatory COVID-19 vaccination policies and not necessarily just the August 19, 2021, CDPH order. Requests are not classified based on the policies that may have prompted them.

As of November 3, 2021, a total of 3,102 requests for religious accommodations have been received by the Office of Civil Rights (OCR) from CDCR and CCHCS staff. Of these requests, 129 have been approved, 84 were denied, and 2,889 are pending.

As of November 1, 2021, a total of 170 requests for reasonable medical accommodations have been received by CCHCS Human Resources. Of these requests, 107 have been approved, 11 were denied, 15 were withdrawn, and 37 are pending. CDCR Human Resources has received a total of 73 requests for reasonable medical accommodations from CDCR staff subject to the CDPH order. All 73 request are still pending.

MEMORANDUM

Page 2 of 3

Re: Staff Vaccine Mandate

4. What progressive discipline action, if any, has been served on how many of the unvaccinated staff members who had not requested a religious or medical exemption, and when was that action taken (please provide both prison-specific and statewide data)?

Non-compliant staff who have neither requested nor been granted a religious or medical reasonable accommodation shall be subject to progressive discipline, commencing with a Letter of Instruction (LOI), in accordance with the Department Operations Manual Chapter 3, Article 22, Employee Discipline, Section 33030.8, et seq. This does not include staff in Bargaining Unit (BU) 6 for whom the implementation of the CDPH mandate was stayed from October 13 until October 22, 2021. Because of the temporary stay, on October 25, 2021, CDCR granted staff in BU-6 an extension until November 24, 2021, to establish proof of full vaccination. Subsequently, disciplinary action for non-compliant staff in BU-6 who have either failed to request an exemption or whose request was denied shall commence, beginning with an LOI, on November 29, 2021.

Refer to Attachment B for a breakdown of LOIs issued at each institution and the statewide total for CCHCS staff.

CDCR is gathering noncompliance and disciplinary information for CDCR employees and will provide an updated response in the next noncompliance reporting period of October 28, 2021, to November 24, 2021, and will be provided monthly thereafter.

5. Are any other progressive disciplinary actions currently anticipated for staff members who remain unvaccinated, who have not requested a religious or medical exemption? If so, what would those actions be and when would they be done?

CCHCS and CDCR are in the beginning stages of requesting adverse action on staff who remain out of compliance after receiving a LOI. The hiring authority will initiate a Confidential Request for Internal Affairs Investigation/Notification of Direct Adverse Action (Form CDC 989) and provide written instruction to the staff member to receive a vaccination within a set time period of seven to ten days. To ensure consistency of application, the base penalty will remain level 4, but resulting penalties will be adjusted in accordance with the policies regarding progressive discipline, in particular considering the number of instances of misconduct. Throughout the process, mitigating and aggravating factors will also be considered in accordance with policy.

Thank you.

cc: Clark Kelso, Receiver
Directors, CCHCS
CCHCS Office of Legal Affairs
Office of Legal Affairs, CDCR
Office of the Attorney General
Hanson Bridgett, LLP
Jackie Clark, Deputy Director (A), Institution Operations, CCHCS
DeAnna Gouldy, Deputy Director, Policy and Risk Management Services, CCHCS
Annette Lambert, Deputy Director, Quality Management, CCHCS
Jasinda Muhammad, Deputy Director, Human Resources, CCHCS
Migdalia Siaca, Deputy Director, Health Care Services Plata Personnel, CCHCS
Erin Hoppin, Associate Director, Risk Management Branch, CCHCS

MEMORANDUM

Page 3 of 3

Re: Staff Vaccine Mandate

Regional Deputy Medical Executive, Regions I-IV, CCHCS

Regional Health Care Executive, Regions I-IV, CCHCS

Regional Nursing Executive, Regions I-IV, CCHCS

ATTACHMENT A

| Institution | Total staff Vaccination required by CDPH order | | | | | | | | Healthcare | | | | | | | | Custody | | | | | | | | Administrative, Maintenance & Operations Services | | | | | | | |
|-------------|--|------------|-----|----------------------|----|--------------|-----|-----------------------|------------|-----|----------------------|----|--------------|-----|-----------------------|------------|---------|----------------------|-----|--------------|-----|-----------------------|-----------------------|------|---|-----|--------------|-----|---|---|--|--|
| | Total number of staff | Vaccinated | | Partially Vaccinated | | Unvaccinated | | Total number of staff | Vaccinated | | Partially Vaccinated | | Unvaccinated | | Total number of staff | Vaccinated | | Partially Vaccinated | | Unvaccinated | | Total number of staff | Completely Vaccinated | | Partially Vaccinated | | Unvaccinated | | | | | |
| | | # | % | # | % | # | % | | # | % | # | % | # | % | | # | % | # | % | # | % | | # | % | # | % | # | % | # | % | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SW | 18809 | 15341 | 82% | 388 | 2% | 3080 | 16% | 10426 | 9071 | 87% | 167 | 2% | 1188 | 11% | 5536 | 3975 | 72% | 166 | 3% | 1395 | 25% | 2847 | 2295 | 81% | 55 | 2% | 497 | 17% | | | | |
| ASP | 320 | 250 | 78% | 9 | 3% | 61 | 19% | 172 | 133 | 77% | 4 | 2% | 35 | 20% | 93 | 68 | 73% | 5 | 5% | 20 | 22% | 55 | 49 | 89% | 0 | 0% | 6 | 11% | | | | |
| CAC | 179 | 139 | 78% | 1 | 1% | 39 | 22% | 110 | 100 | 91% | 0 | 0% | 10 | 9% | 37 | 21 | 57% | 0 | 0% | 16 | 43% | 32 | 18 | 56% | 1 | 3% | 13 | 41% | | | | |
| CAL | 275 | 225 | 82% | 6 | 2% | 44 | 16% | 147 | 118 | 80% | 2 | 1% | 27 | 18% | 76 | 60 | 79% | 3 | 4% | 13 | 17% | 52 | 47 | 90% | 1 | 2% | 4 | 8% | | | | |
| CCC | 164 | 121 | 74% | 2 | 1% | 41 | 25% | 93 | 77 | 83% | 0 | 0% | 16 | 17% | 55 | 36 | 65% | 2 | 4% | 17 | 31% | 16 | 8 | 50% | 0 | 0% | 8 | 50% | | | | |
| CCI | 304 | 232 | 76% | 9 | 3% | 63 | 21% | 207 | 182 | 88% | 6 | 3% | 19 | 9% | 72 | 33 | 46% | 3 | 4% | 36 | 50% | 25 | 17 | 68% | 0 | 0% | 8 | 32% | | | | |
| CCWF | 487 | 370 | 76% | 7 | 1% | 110 | 23% | 291 | 250 | 86% | 3 | 1% | 38 | 13% | 125 | 63 | 50% | 3 | 2% | 59 | 47% | 71 | 57 | 80% | 1 | 1% | 13 | 18% | | | | |
| CEN | 239 | 200 | 84% | 4 | 2% | 35 | 15% | 142 | 115 | 81% | 2 | 1% | 25 | 18% | 67 | 61 | 91% | 1 | 1% | 5 | 7% | 30 | 24 | 80% | 1 | 3% | 5 | 17% | | | | |
| CHCF | 3390 | 2859 | 84% | 67 | 2% | 464 | 14% | 1721 | 1580 | 92% | 21 | 1% | 120 | 7% | 1064 | 798 | 75% | 31 | 3% | 235 | 22% | 605 | 481 | 80% | 15 | 2% | 109 | 18% | | | | |
| CIM | 602 | 503 | 84% | 20 | 3% | 79 | 13% | 355 | 317 | 89% | 4 | 1% | 34 | 10% | 167 | 123 | 74% | 16 | 10% | 28 | 17% | 80 | 63 | 79% | 0 | 0% | 17 | 21% | | | | |
| CIW | 539 | 457 | 85% | 8 | 1% | 74 | 14% | 351 | 310 | 88% | 3 | 1% | 38 | 11% | 126 | 93 | 74% | 3 | 2% | 30 | 24% | 62 | 54 | 87% | 2 | 3% | 6 | 10% | | | | |
| CMC | 649 | 538 | 83% | 11 | 2% | 100 | 15% | 389 | 344 | 88% | 7 | 2% | 38 | 10% | 163 | 115 | 71% | 3 | 2% | 45 | 28% | 97 | 79 | 81% | 1 | 1% | 17 | 18% | | | | |
| CMF | 2091 | 1810 | 87% | 26 | 1% | 255 | 12% | 812 | 744 | 92% | 5 | 1% | 63 | 8% | 877 | 714 | 81% | 16 | 2% | 147 | 17% | 402 | 352 | 88% | 5 | 1% | 45 | 11% | | | | |
| COR | 624 | 512 | 82% | 17 | 3% | 95 | 15% | 368 | 320 | 87% | 7 | 2% | 41 | 11% | 183 | 126 | 69% | 7 | 4% | 50 | 27% | 73 | 66 | 90% | 3 | 4% | 4 | 5% | | | | |
| CRC | 297 | 248 | 84% | 6 | 2% | 43 | 14% | 174 | 154 | 89% | 3 | 2% | 17 | 10% | 69 | 49 | 71% | 2 | 3% | 18 | 26% | 54 | 45 | 83% | 1 | 2% | 8 | 15% | | | | |
| CTF | 345 | 305 | 88% | 6 | 2% | 34 | 10% | 197 | 185 | 94% | 2 | 1% | 10 | 5% | 83 | 65 | 78% | 3 | 4% | 15 | 18% | 65 | 55 | 85% | 1 | 2% | 9 | 14% | | | | |
| CVSP | 218 | 171 | 78% | 9 | 4% | 38 | 17% | 111 | 93 | 84% | 5 | 5% | 13 | 12% | 58 | 42 | 72% | 3 | 5% | 13 | 22% | 49 | 36 | 73% | 1 | 2% | 12 | 24% | | | | |
| DVI | 9 | 8 | 89% | 0 | 0% | 1 | 11% | 7 | 6 | 86% | 0 | 0% | 1 | 14% | 0 | 0 | 0% | 0 | 0% | 0 | 0% | 2 | 2 | 100% | 0 | 0% | 0 | 0% | | | | |
| FSP | 288 | 244 | 85% | 6 | 2% | 38 | 13% | 159 | 146 | 92% | 2 | 1% | 11 | 7% | 91 | 64 | 70% | 4 | 4% | 23 | 25% | 38 | 34 | 89% | 0 | 0% | 4 | 11% | | | | |
| HDSP | 308 | 204 | 66% | 5 | 2% | 99 | 32% | 182 | 134 | 74% | 3 | 2% | 45 | 25% | 87 | 45 | 52% | 1 | 1% | 41 | 47% | 39 | 25 | 64% | 1 | 3% | 13 | 33% | | | | |
| JSP | 218 | 154 | 71% | 3 | 1% | 61 | 28% | 125 | 92 | 74% | 2 | 2% | 31 | 25% | 63 | 45 | 71% | 1 | 2% | 17 | 27% | 30 | 17 | 57% | 0 | 0% | 13 | 43% | | | | |
| KVSP | 402 | 335 | 83% | 8 | 2% | 59 | 15% | 238 | 204 | 86% | 3 | 1% | 31 | 13% | 98 | 75 | 77% | 5 | 5% | 18 | 18% | 66 | 56 | 85% | 0 | 0% | 10 | 15% | | | | |
| LAC | 501 | 381 | 76% | 12 | 2% | 108 | 22% | 326 | 269 | 83% | 5 | 2% | 52 | 16% | 141 | 85 | 60% | 6 | 4% | 50 | 35% | 34 | 27 | 79% | 1 | 3% | 6 | 18% | | | | |
| MCSP | 603 | 468 | 78% | 8 | 1% | 127 | 21% | 369 | 316 | 86% | 4 | 1% | 49 | 13% | 137 | 73 | 53% | 3 | 2% | 61 | 45% | 97 | 79 | 81% | 1 | 1% | 17 | 18% | | | | |
| NKSP | 395 | 329 | 83% | 5 | 1% | 61 | 15% | 230 | 198 | 86% | 3 | 1% | 29 | 13% | 134 | 109 | 81% | 1 | 1% | 24 | 18% | 31 | 22 | 71% | 1 | 3% | 8 | 26% | | | | |
| PBSP | 257 | 166 | 65% | 3 | 1% | 88 | 34% | 132 | 90 | 68% | 1 | 1% | 41 | 31% | 70 | 37 | 53% | 1 | 1% | 32 | 46% | 55 | 39 | 71% | 1 | 2% | 15 | 27% | | | | |
| PVSP | 307 | 232 | 76% | 6 | 2% | 69 | 22% | 164 | 134 | 82% | 1 | 1% | 29 | 18% | 92 | 62 | 67% | 4 | 4% | 26 | 28% | 51 | 36 | 71% | 1 | 2% | 14 | 27% | | | | |
| RJD | 800 | 674 | 84% | 20 | 3% | 106 | 13% | 475 | 425 | 89% | 11 | 2% | 39 | 8% | 242 | 180 | 74% | 9 | 4% | 53 | 22% | 83 | 69 | 83% | 0 | 0% | 14 | 17% | | | | |
| SAC | 664 | 532 | 80% | 12 | 2% | 120 | 18% | 376 | 331 | 88% | 8 | 2% | 37 | 10% | 176 | 110 | 63% | 3 | 2% | 63 | 36% | 112 | 91 | 81% | 1 | 1% | 20 | 18% | | | | |
| SATF | 591 | 440 | 74% | 15 | 3% | 136 | 23% | 377 | 294 | 78% | 7 | 2% | 76 | 20% | 118 | 77 | 65% | 6 | 5% | 35 | 30% | 96 | 69 | 72% | 2 | 2% | 25 | 26% | | | | |
| SCC | 229 | 176 | 77% | 4 | 2% | 49 | 21% | 132 | 112 | 85% | 0 | 0% | 20 | 15% | 56 | 40 | 71% | 0 | 0% | 16 | 29% | 41 | 24 | 59% | 4 | 10% | 13 | 32% | | | | |
| SOL | 355 | 292 | 82% | 7 | 2% | 56 | 16% | 207 | 188 | 91% | 3 | 1% | 16 | 8% | 86 | 54 | 63% | 1 | 1% | 31 | 36% | 62 | 50 | 81% | 3 | 5% | 9 | 15% | | | | |
| SQ | 638 | 520 | 82% | 17 | 3% | 101 | 16% | 344 | 290 | 84% | 12 | 3% | 42 | 12% | 215 | 163 | 76% | 3 | 1% | 49 | 23% | 79 | 67 | 85% | 2 | 3% | 10 | 13% | | | | |
| SVSP | 690 | 577 | 84% | 23 | 3% | 90 | 13% | 392 | 348 | 89% | 11 | 3% | 33 | 8% | 213 | 160 | 75% | 10 | 5% | 43 | 20% | 85 | 69 | 81% | 2 | 2% | 14 | 16% | | | | |
| VSP | 410 | 338 | 82% | 5 | 1% | 67 | 16% | 255 | 226 | 89% | 3 | 1% | 26 | 10% | 93 | 59 | 63% | 0 | 0% | 34 | 37% | 62 | 53 | 85% | 2 | 3% | 7 | 11% | | | | |
| WSP | 421 | 331 | 79% | 21 | 5% | 69 | 16% | 296 | 246 | 83% | 14 | 5% | 36 | 12% | 109 | 70 | 64% | 7 | 6% | 32 | 29% | 16 | 15 | 94% | 0 | 0% | 1 | 6% | | | | |

ATTACHMENT B

EXHIBIT 2

| Institution | ALL | | | | | | Healthcare | | | | | | Custody | | | | | | Administrative, Maintenance & Operations Services | | | | | | Contractor Staff | | | | | |
|-------------|-----------------------|-----------------------|-----|---------------------------------|-----|-----------------------|-----------------------|-----|---------------------------------|-----|-----------------------|-----------------------|---------|---------------------------------|------|-----------------------|-----------------------|-----|---|-----|-----------------------|-----------------------|-----|---------------------------------|------------------|--|--|--|--|--|
| | Total number of staff | Completely Vaccinated | | Vaccinated with at Least 1 Dose | | Total number of staff | Completely Vaccinated | | Vaccinated with at Least 1 Dose | | Total number of staff | Completely Vaccinated | | Vaccinated with at Least 1 Dose | | Total number of staff | Completely Vaccinated | | Vaccinated with at Least 1 Dose | | Total number of staff | Completely Vaccinated | | Vaccinated with at Least 1 Dose | | | | | | |
| | | # | % | # | % | | # | % | # | % | | # | % | # | % | | # | % | # | % | | # | % | | | | | | | |
| SW | 55941 | 34404 | 62% | 35824 | 64% | 10676 | 9221 | 86% | 9398 | 88% | 26554 | 14274 | 54% | 15017 | 57% | 12099 | 8357 | 69% | 8589 | 71% | 6608 | 2549 | 39% | 2817 | 43% | | | | | |
| ASP | 1408 | 818 | 58% | 855 | 61% | 173 | 134 | 77% | 138 | 80% | 733 | 394 | 54% | 416 | 57% | 397 | 246 | 62% | 256 | 64% | 104 | 44 | 42% | 45 | 43% | | | | | |
| CAC | 745 | 385 | 52% | 403 | 54% | 113 | 101 | 89% | 101 | 89% | 381 | 145 | 38% | 153 | 40% | 153 | 96 | 63% | 101 | 66% | 98 | 43 | 44% | 48 | 49% | | | | | |
| CAL | 1305 | 914 | 70% | 962 | 74% | 151 | 120 | 79% | 123 | 81% | 722 | 496 | 69% | 525 | 73% | 323 | 248 | 77% | 252 | 78% | 109 | 50 | 46% | 62 | 57% | | | | | |
| CCC | 1031 | 434 | 42% | 446 | 43% | 96 | 80 | 83% | 80 | 83% | 583 | 210 | 36% | 218 | 37% | 252 | 110 | 44% | 111 | 44% | 100 | 34 | 34% | 37 | 37% | | | | | |
| CCI | 1669 | 800 | 48% | 852 | 51% | 213 | 184 | 86% | 190 | 89% | 957 | 378 | 39% | 401 | 42% | 337 | 188 | 56% | 194 | 58% | 162 | 50 | 31% | 67 | 41% | | | | | |
| CCWF | 1346 | 854 | 63% | 893 | 66% | 297 | 253 | 85% | 257 | 87% | 530 | 263 | 50% | 285 | 54% | 391 | 276 | 71% | 283 | 72% | 128 | 62 | 48% | 68 | 53% | | | | | |
| CEN | 1335 | 1012 | 76% | 1044 | 78% | 152 | 121 | 80% | 123 | 81% | 737 | 576 | 78% | 593 | 80% | 346 | 275 | 79% | 282 | 82% | 100 | 40 | 40% | 46 | 46% | | | | | |
| CHCF | 4003 | 3118 | 78% | 3226 | 81% | 1717 | 1575 | 92% | 1596 | 93% | 1064 | 791 | 74% | 824 | 77% | 605 | 477 | 79% | 494 | 82% | 617 | 275 | 45% | 312 | 51% | | | | | |
| CIM | 1858 | 1216 | 65% | 1273 | 69% | 362 | 320 | 88% | 325 | 90% | 852 | 496 | 58% | 534 | 63% | 414 | 304 | 73% | 308 | 74% | 230 | 96 | 42% | 106 | 46% | | | | | |
| CIW | 1379 | 907 | 66% | 944 | 68% | 359 | 312 | 87% | 317 | 88% | 486 | 322 | 66% | 335 | 69% | 276 | 217 | 79% | 226 | 82% | 258 | 56 | 22% | 66 | 26% | | | | | |
| CMC | 1952 | 1241 | 64% | 1287 | 66% | 400 | 348 | 87% | 355 | 89% | 882 | 464 | 53% | 479 | 54% | 471 | 362 | 77% | 370 | 79% | 199 | 67 | 34% | 83 | 42% | | | | | |
| CMF | 2820 | 2055 | 73% | 2091 | 74% | 810 | 744 | 92% | 749 | 92% | 878 | 708 | 81% | 725 | 83% | 403 | 352 | 87% | 357 | 89% | 729 | 251 | 34% | 260 | 36% | | | | | |
| COR | 2193 | 1246 | 57% | 1314 | 60% | 376 | 325 | 86% | 332 | 88% | 1135 | 529 | 47% | 572 | 50% | 432 | 291 | 67% | 300 | 69% | 249 | 100 | 40% | 109 | 44% | | | | | |
| CRC | 1324 | 808 | 61% | 839 | 63% | 178 | 157 | 88% | 160 | 90% | 741 | 404 | 55% | 424 | 57% | 284 | 207 | 73% | 212 | 75% | 121 | 40 | 33% | 43 | 36% | | | | | |
| CTF | 1400 | 1028 | 73% | 1062 | 76% | 205 | 191 | 93% | 193 | 94% | 659 | 423 | 64% | 437 | 66% | 393 | 304 | 77% | 313 | 80% | 143 | 110 | 77% | 119 | 83% | | | | | |
| CVSP | 906 | 545 | 60% | 572 | 63% | 117 | 97 | 83% | 102 | 87% | 433 | 242 | 56% | 258 | 60% | 279 | 182 | 65% | 187 | 67% | 77 | 24 | 31% | 25 | 32% | | | | | |
| DVI | 51 | 33 | 65% | 33 | 65% | 9 | 8 | 89% | 8 | 89% | 0 | 0 | NULL | 0 | NULL | 11 | 9 | 82% | 9 | 82% | 31 | 16 | 52% | 16 | 52% | | | | | |
| FSP | 1215 | 742 | 61% | 762 | 63% | 169 | 151 | 89% | 153 | 91% | 593 | 340 | 57% | 352 | 59% | 322 | 214 | 66% | 217 | 67% | 131 | 37 | 28% | 40 | 31% | | | | | |
| HDSP | 1296 | 494 | 38% | 525 | 41% | 185 | 135 | 73% | 138 | 75% | 715 | 196 | 27% | 210 | 29% | 293 | 130 | 44% | 142 | 48% | 103 | 33 | 32% | 35 | 34% | | | | | |
| ISP | 1363 | 786 | 58% | 825 | 61% | 130 | 96 | 74% | 98 | 75% | 686 | 384 | 56% | 405 | 59% | 300 | 195 | 65% | 199 | 66% | 247 | 111 | 45% | 123 | 50% | | | | | |
| KVSP | 1617 | 974 | 60% | 1027 | 64% | 241 | 205 | 85% | 208 | 86% | 964 | 488 | 51% | 527 | 55% | 359 | 246 | 69% | 256 | 71% | 53 | 35 | 66% | 36 | 68% | | | | | |
| LAC | 1702 | 1030 | 61% | 1100 | 65% | 348 | 283 | 81% | 290 | 83% | 808 | 422 | 52% | 450 | 56% | 343 | 229 | 67% | 234 | 68% | 202 | 95 | 47% | 125 | 62% | | | | | |
| MCSP | 1784 | 1073 | 60% | 1101 | 62% | 382 | 322 | 84% | 326 | 85% | 860 | 385 | 45% | 401 | 47% | 455 | 309 | 68% | 313 | 69% | 87 | 57 | 66% | 61 | 70% | | | | | |
| NKSP | 1491 | 893 | 60% | 928 | 62% | 259 | 222 | 86% | 226 | 87% | 779 | 409 | 53% | 425 | 55% | 335 | 220 | 66% | 228 | 68% | 118 | 42 | 36% | 49 | 42% | | | | | |
| PBSP | 1346 | 548 | 41% | 565 | 42% | 136 | 91 | 67% | 92 | 68% | 848 | 261 | 31% | 268 | 32% | 301 | 167 | 55% | 174 | 58% | 61 | 29 | 48% | 31 | 51% | | | | | |
| PVSP | 1338 | 730 | 55% | 757 | 57% | 171 | 140 | 82% | 141 | 82% | 783 | 367 | 47% | 387 | 49% | 309 | 193 | 62% | 196 | 63% | 75 | 30 | 40% | 33 | 44% | | | | | |
| RJD | 2296 | 1489 | 65% | 1547 | 67% | 483 | 430 | 89% | 441 | 91% | 1052 | 624 | 59% | 660 | 63% | 391 | 310 | 79% | 316 | 81% | 369 | 124 | 34% | 129 | 35% | | | | | |
| SAC | 1983 | 1187 | 60% | 1227 | 62% | 387 | 338 | 87% | 347 | 90% | 942 | 513 | 54% | 534 | 57% | 344 | 248 | 72% | 252 | 73% | 310 | 88 | 28% | 94 | 30% | | | | | |
| SATF | 1996 | 1098 | 55% | 1167 | 58% | 380 | 296 | 78% | 303 | 80% | 993 | 454 | 46% | 499 | 50% | 466 | 283 | 61% | 293 | 63% | 157 | 65 | 41% | 72 | 46% | | | | | |
| SCC | 1195 | 595 | 50% | 619 | 52% | 137 | 115 | 84% | 115 | 84% | 654 | 275 | 42% | 291 | 44% | 313 | 168 | 54% | 174 | 56% | 91 | 37 | 41% | 39 | 43% | | | | | |
| SOL | 1491 | 873 | 59% | 902 | 60% | 221 | 195 | 88% | 198 | 90% | 723 | 363 | 50% | 377 | 52% | 376 | 263 | 70% | 274 | 73% | 171 | 52 | 30% | 53 | 31% | | | | | |
| SQ | 2185 | 1364 | 62% | 1435 | 66% | 347 | 292 | 84% | 304 | 88% | 1032 | 672 | 65% | 710 | 69% | 341 | 272 | 80% | 279 | 82% | 465 | 128 | 28% | 142 | 31% | | | | | |
| SVSP | 2052 | 1356 | 66% | 1415 | 69% | 401 | 355 | 89% | 367 | 92% | 997 | 589 | 59% | 621 | 62% | 409 | 290 | 71% | 300 | 73% | 245 | 122 | 50% | 127 | 52% | | | | | |
| VSP | 1211 | 827 | 68% | 846 | 70% | 261 | 228 | 87% | 231 | 89% | 537 | 318 | 59% | 325 | 61% | 317 | 242 | 76% | 246 | 78% | 96 | 39 | 41% | 44 | 46% | | | | | |
| WSP | 1655 | 931 | 56% | 980 | 59% | 310 | 257 | 83% | 271 | 87% | 815 | 373 | 46% | 396 | 49% | 358 | 234 | 65% | 241 | 67% | 172 | 67 | 39% | 72 | 42% | | | | | |

EXHIBIT 3



Laura Bixby <lbixby@prisonlaw.com>

RE: Plata: request for updated staff vaccine data (request to receive it late this week) [urgent request for clarification]

Benavidez, Suzanne@CDCR <Suzanne.Benavidez@cdcr.ca.gov>

Fri, Nov 5, 2021 at 4:17 PM

To: Steven Fama <sfama@prisonlaw.com>, "Kelso, Clark@CDCR" <Clark.Kelso@cdcr.ca.gov>, Kelso <ckelso@pacific.edu>, "Bick, Dr. Joseph@CDCR" <Joseph.Bick@cdcr.ca.gov>, "Kirkland, Richard@CDCR" <Richard.Kirkland@cdcr.ca.gov>, CDCR CCHCS Health Care Compliance Support Section <HCCComplianceSupport@cdcr.ca.gov>
 Cc: "Paul B. Mello" <Pmello@hansonbridgett.com>, Samantha Wolff <SWolff@hansonbridgett.com>, "Damon.McClain@doj.ca.gov" <Damon.McClain@doj.ca.gov>, "Iram.Hasan@doj.ca.gov" <Iram.Hasan@doj.ca.gov>, "Ryan.Gille@doj.ca.gov" <Ryan.Gille@doj.ca.gov>, Martin Dodd <MDodd@fddcm.com>, "Stafford, Carrie@CDCR" <Carrie.Stafford@cdcr.ca.gov>, "Scofield, Bryant" <Bryant.Scofield@cdcr.ca.gov>, Alison Hardy <ahardy@prisonlaw.com>, Sara Norman <snorman@prisonlaw.com>, Sophie Hart <sophieh@prisonlaw.com>, Rana Anabtawi <rana@prisonlaw.com>, "dspector@prisonlaw.com" <dspector@prisonlaw.com>, "Toche, Diana@CDCR" <Diana.Toche@cdcr.ca.gov>, "Foss, Tammy@CDCR" <Tammy.Foss@cdcr.ca.gov>, Laura Bixby <lbixby@prisonlaw.com>, "Ostling, Linda" <Linda.Ostling@cdcr.ca.gov>, Katrina Smith <ksmith@prisonlaw.com>, Jamie Dupree <JDupree@fddcm.com>, "Hartmann, Sarah@CDCR" <Sarah.Hartmann@cdcr.ca.gov>, "Saich, Lara@CDCR" <Lara.Saich@cdcr.ca.gov>, "Gouldy, DeAnna@CDCR" <DeAnna.Gouldy@cdcr.ca.gov>, "Hoppin, Erin@CDCR" <Erin.Hoppin@cdcr.ca.gov>, "Le, Amanda@CDCR" <Amanda.Le@cdcr.ca.gov>, "Martinez, Leticia@CDCR" <Leticia.Martinez@cdcr.ca.gov>, "Blackwood, Allan@CDCR" <Allan.Blackwood@cdcr.ca.gov>, "Oltean, Amanda@CDCR" <Amanda.Oltean@cdcr.ca.gov>, "Galang, Andrea@CDCR" <Andrea.Galang@cdcr.ca.gov>, Plata Team <plata@prisonlaw.com>, "Lopez, Kristine@CDCR" <Kristine.Lopez@cdcr.ca.gov>

Steve, per our Quality Management Unit, here are the explanations you requested regarding the data sent.

1. The data on the attached file was compiled on 10/29/2021, but was based on data through 10/28/2021.
2. For the discrepancy in numbers between CHCF and CMF, the difference is in how contractors were handled. They are included, but also shown as their own category, in the data by Classification. They were excluded from the data looking at the number of positions that were subject to the CDPH order. There were 2 reasons they were excluded from the 2nd data set:
 - a. The information we have on which positions are subject to the CDPH order are based on the position number of the staff. However, contractors don't have position numbers, so we can't tie a contractor to a specific position. Therefore, contractors were excluded from all institutions in that data set, including from CHCF and CMF.
 - b. There is a process in place to add contractors to the BIS application in order to collect their vaccination and testing information. However, there is NOT a process in place to remove contractors from the system who no longer work with CDCR. So, there are very likely contractor staff we include in our data sets that are no longer working with CDCR, and we didn't want to say incorrectly that they are subject to the CDPH order.

[Quoted text hidden]

3 attachments



21.11 COVID Staff Vaccine Acceptance Rate by Classification 20211029.pdf
642K



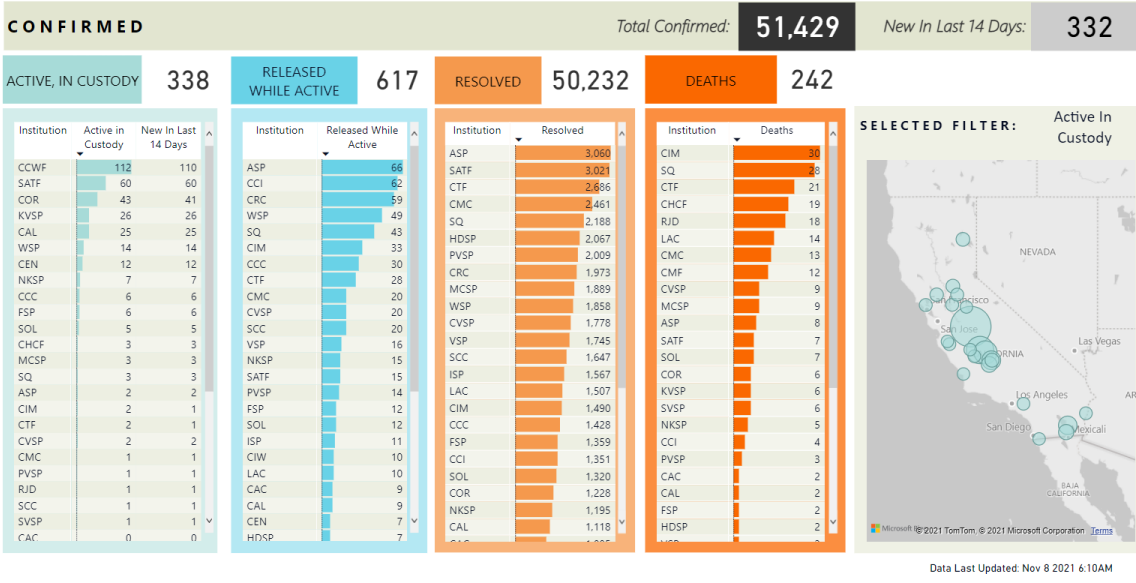
21.11.04 CCHCS CDCR Response RE Staff Vaccine Mandate.pdf
394K



21.08.25 Doc 3657-1 Declaration of Diana Toche, DDS.pdf
2248K

EXHIBIT 4

CDCR PATIENTS: COVID-19 CASES AND OUTCOMES



Confirmed Confirmed Table View Vaccination Testing Trended Reopening Institution View Definitions Version History

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CDCR PATIENTS: COVID-19 TRENDS

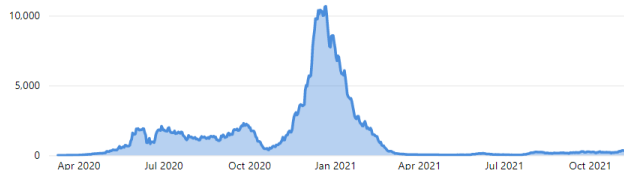
Table View



Week-to-Week Change in Confirmed Case Count

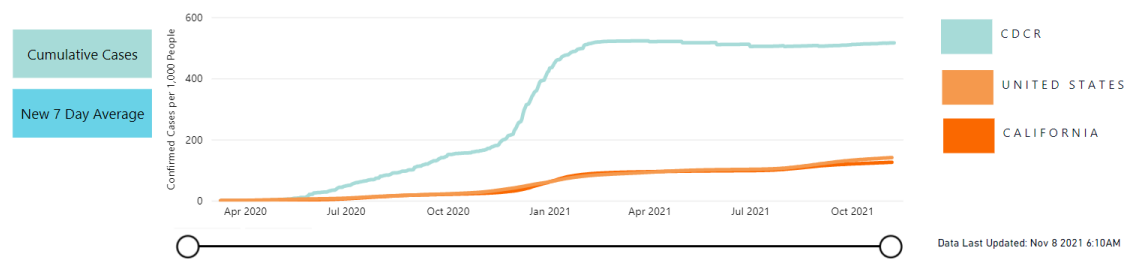
| Week Of | # of New Confirmed Cases | % Change From Prior Week |
|------------------|--------------------------|--------------------------|
| October 31, 2021 | 177 | 13% |
| October 24, 2021 | 156 | 189% |
| October 17, 2021 | 54 | -44% |
| October 10, 2021 | 96 | -13% |
| October 3, 2021 | 110 | 9% |

NEW CASES IN THE LAST 14 DAYS OVER TIME



CONFIRMED CASES - COMPARISON

Per 1,000 People



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EXHIBIT 5

CDCR/CCHCS COVID-19 Employee Status

Current number of active staff cases: 354

Updated as of Oct. 29, 2021 (next update pending)

| Locations | Cumulative Confirmed | Staff Returned to Work | Active Cases | New Cases in Last 14 Days | Staff Deaths |
|--|----------------------|------------------------|--------------|---------------------------|--------------|
| Avenal State Prison (ASP) | 659 | 651 | 8 | 11 | 2 |
| California City Correctional Facility (CAC) | 340 | 337 | 3 | 3 | 2 |
| Calipatria State Prison (CAL) | 447 | 442 | 5 | 6 | 1 |
| California Correctional Center (CCC) | 466 | 449 | 17 | 24 | 0 |
| California Correctional Institution (CCI) | 852 | 842 | 10 | 11 | 2 |
| Central California Women's Facility (CCWF) | 401 | 392 | 9 | 9 | 1 |
| California State Prison, Centinela (CEN) | 502 | 492 | 10 | 11 | 2 |
| California Health Care Facility (CHCF), Stockton | 899 | 890 | 9 | 9 | 3 |
| California Institution for Men (CIM) | 683 | 679 | 4 | 6 | 2 |
| California Institution for Women (CIW) | 445 | 441 | 4 | 5 | 3 |
| California Men's Colony (CMC) | 689 | 685 | 4 | 4 | 0 |
| California Medical Facility (CMF) | 462 | 459 | 3 | 3 | 0 |
| California State Prison, Corcoran (COR) | 1004 | 974 | 30 | 30 | 3 |
| California Rehabilitation Center (CRC) | 581 | 578 | 3 | 4 | 1 |
| Correctional Training Facility (CTF) | 406 | 402 | 4 | 4 | 2 |
| Chuckawalla Valley State Prison (CVSP) | 333 | 329 | 4 | 4 | 1 |
| Deuel Vocational Institution (DVI) <i>*Deactivated as of Sept. 2021</i> | 277 | 277 | 0 | 0 | 1 |
| Folsom State Prison (FSP) | 347 | 338 | 9 | 9 | 0 |
| High Desert State Prison (HDSP) | 789 | 777 | 12 | 15 | 0 |
| Ironwood State Prison (ISP) | 478 | 473 | 5 | 5 | 2 |
| Kern Valley State Prison (KVSP) | 727 | 716 | 11 | 11 | 0 |
| California State Prison, Los Angeles County (LAC) | 723 | 720 | 3 | 4 | 1 |
| Mule Creek State Prison (MCSP) | 624 | 611 | 13 | 15 | 1 |
| North Kern State Prison (NKSP) | 757 | 748 | 9 | 9 | 2 |
| Pelican Bay State Prison (PBSP) | 500 | 498 | 2 | 2 | 0 |
| Pleasant Valley State Prison (PVSP) | 561 | 549 | 12 | 12 | 0 |
| Richard J. Donovan Correctional Facility (RJD) | 637 | 631 | 6 | 6 | 1 |

| Locations | Cumulative Confirmed | Staff Returned to Work | Active Cases | New Cases in Last 14 Days | Staff Deaths |
|---|----------------------|------------------------|--------------|---------------------------|--------------|
| California State Prison, Sacramento (SAC) | 521 | 509 | 12 | 12 | 1 |
| California Substance Abuse Treatment Facility and State Prison, Corcoran (SATF-CSP, Corcoran) | 847 | 831 | 16 | 18 | 2 |
| Sierra Conservation Center (SCC) | 437 | 431 | 6 | 6 | 1 |
| California State Prison, Solano (SOL) | 435 | 425 | 10 | 10 | 0 |
| San Quentin State Prison (SQ) | 528 | 527 | 1 | 2 | 2 |
| Salinas Valley State Prison (SVSP) | 683 | 680 | 3 | 3 | 2 |
| Valley State Prison (VSP) | 404 | 396 | 8 | 8 | 3 |
| Wasco State Prison (WSP) | 705 | 689 | 16 | 16 | 1 |
| Northern California Youth Correctional Center (NCYCC) | 53 | 51 | 2 | 2 | 0 |
| NA Chaderjian Youth Correctional Facility (NAC) | 71 | 67 | 4 | 4 | 0 |
| OH Close Youth Correctional Facility (OH Close) | 44 | 41 | 3 | 3 | 0 |
| Pine Grove | 12 | 12 | 0 | 0 | 0 |
| Ventura | 83 | 83 | 0 | 0 | 0 |
| Richard A. McGee Correctional Training Center, Galt | 172 | 168 | 4 | 4 | 0 |
| Alameda County | 2 | 2 | 0 | 0 | 0 |
| Fresno County | 21 | 21 | 0 | 0 | 0 |
| Humboldt County | 1 | 1 | 0 | 0 | 0 |
| Imperial County | 9 | 9 | 0 | 0 | 0 |
| Kern County | 24 | 24 | 0 | 0 | 0 |
| Los Angeles County | 90 | 90 | 0 | 0 | 0 |
| Mendocino County | 2 | 2 | 0 | 0 | 0 |
| Merced County | 2 | 2 | 0 | 0 | 0 |
| Monterey County | 3 | 3 | 0 | 0 | 0 |
| Orange County | 14 | 14 | 0 | 0 | 0 |
| Riverside County | 20 | 20 | 0 | 0 | 0 |
| Sacramento County | 674 | 640 | 34 | 34 | 3 |
| San Bernardino County | 69 | 69 | 0 | 0 | 0 |
| San Diego County | 5 | 5 | 0 | 0 | 0 |
| San Francisco County | 3 | 3 | 0 | 0 | 0 |
| San Joaquin County | 14 | 14 | 0 | 0 | 0 |
| San Luis Obispo County | 0 | 0 | 0 | 0 | 0 |
| San Mateo County | 1 | 1 | 0 | 0 | 0 |
| Santa Barbara County | 2 | 2 | 0 | 0 | 0 |
| Santa Clara County | 5 | 5 | 0 | 0 | 0 |

| Locations | Cumulative Confirmed | Staff Returned to Work | Active Cases | New Cases in Last 14 Days | Staff Deaths |
|-------------------|----------------------|------------------------|--------------|---------------------------|--------------|
| Solano County | 3 | 3 | 0 | 0 | 0 |
| Stanislaus County | 1 | 1 | 0 | 0 | 0 |
| Tulare County | 2 | 2 | 0 | 0 | 0 |
| Ventura County | 6 | 6 | 0 | 0 | 0 |
| Yolo County | 2 | 2 | 0 | 0 | 0 |
| STATEWIDE TOTAL | 21559 | 21231 | 328 | 354 | 48 |

Current number of COVID-19 related staff deaths: 48

1. May 30, 2020—Staff member from California Rehabilitation Center
2. July 11, 2020—Staff member from North Kern State Prison
3. July 21, 2020—Staff member from California Correctional Institution
4. July 24, 2020—Staff member from Centinela State Prison
5. July 26, 2020—Staff member from Central California Women's Facility
6. July 27, 2020—Staff member from Ironwood State Prison
7. Aug. 2, 2020—Staff member from Valley State Prison
8. Aug. 9, 2020—Staff member from San Quentin State Prison
9. Oct. 4, 2020—Staff member from Wasco State Prison
10. Dec. 14, 2020—Staff member from Mule Creek State Prison
11. Dec. 25, 2020—Staff member from California State Prison, Los Angeles County
12. Jan. 3, 2021—Staff member from Valley State Prison
13. Jan. 7, 2021—Staff member from Centinela State Prison
14. Jan. 9, 2021—Staff member from California Health Care Facility
15. Jan. 11, 2021—Staff member from Richard J. Donovan Correctional Facility
16. Jan. 11, 2021—Staff member from Valley State Prison
17. Jan. 15, 2021—Staff member from Salinas Valley State Prison
18. Jan. 15, 2021—Staff member from Correctional Training Facility
19. Jan. 17, 2021—Staff member from California Institution for Men
20. Jan. 17, 2021—Staff member from California Institution for Men
21. Jan. 20, 2021—Staff member from Deuel Vocational Institution
22. Jan. 20, 2021—Staff member from Chuckawalla Valley State Prison
23. Jan. 21, 2021—Staff member from Correctional Training Facility
24. Jan. 26, 2021—Staff member from California Institution for Women
25. Feb. 1, 2021—Staff member from Calipatria State Prison
26. Feb. 20, 2021—Staff member from California Institution for Women
27. March 7, 2021—Staff member from Sacramento County
28. May 3, 2021— Staff member from California Institution for Women
29. July 27, 2021— Staff member from California City Correctional Facility
30. Aug. 4, 2021— Staff member from Substance Abuse Treatment Facility and State Prison, Corcoran
31. Aug. 10, 2021— Staff member from Sacramento County
32. Aug. 17, 2021— Staff member from California State Prison, Corcoran

33. Aug. 22, 2021– Staff member from California Health Care Facility
34. Aug. 23, 2021– Staff member from Salinas Valley State Prison
35. Aug. 24, 2021– Staff member from California State Prison, Corcoran
36. Aug. 26, 2021– Staff member from Avenal State Prison
37. Sept. 1, 2021– Staff member from Sierra Conservation Center
38. Sept. 7, 2021– Staff member from California Health Care Facility
39. Sept. 16, 2021– Staff member from California State Prison, Sacramento
40. Sept. 27, 2021– Staff member from Substance Abuse Treatment Facility and State Prison, Corcoran
41. Sept. 28, 2021– Staff member from California State Prison, Corcoran
42. Oct. 3, 2021– Staff member from Sacramento County
43. Oct. 6, 2021– Staff member from California Correctional Institution
44. Oct. 8, 2021– Staff member from California City Correctional Facility
45. Oct. 15, 2021– Staff member from Ironwood State Prison
46. Oct. 17, 2021– Staff member from Avenal State Prison
47. Oct. 21, 2021– Staff member from San Quentin State Prison
48. Oct. 25, 2021– Staff member from North Kern State Prison