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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: March 26, 2021
Time: 2:30 p.m.
Crtrm.: 6, 2nd Floor

1 The parties submit the following joint statement in advance of the March 26, 2021
2 Case Management Conference.

3 *Plaintiffs' Introduction:* It's very good news that the number of active COVID-19
4 cases among incarcerated people has dropped to such a low level. It's also good that
5 Defendants, as they state below, are working to ensure that programming for incarcerated
6 people returns to what it was before March 2020. But it is far too early to declare the
7 pandemic over in California's prisons and resume the delegation process, as Defendants
8 below suggest should happen very soon. CCHCS has made significant, encouraging
9 progress in vaccinating those who are incarcerated and who work in CDCR prisons, but
10 that work is far from complete. For example, Defendants state below the Avenal State
11 Prison has reached more than 90% immunity, but only about 30% of the incarcerated
12 population at Avenal has received one or more doses of the vaccine. Most are
13 unvaccinated and contracted COVID-19 during the massive outbreaks at that prison in the
14 summer and fall of 2020, and are thus susceptible to reinfection.

15 We believe that CCHCS's primary tasks at present are, in addition to caring for
16 current and ongoing COVID cases, to complete offering vaccination to all in CDCR, fully
17 vaccinate those who want it, then address the high refusal rates among patients at some
18 prisons and housing units within prisons and among certain staff classifications statewide.

19 Once vaccination is substantially complete, CCHCS should focus on what we
20 believe are substantial backlogs in specialty services, including possibly unidentified needs
21 for such services, and restarting its primary care clinical services. In this regard, we note --
22 and this comes as no surprise -- that the monthly Dashboards show very poor compliance
23 with medical service requirements in general and especially with those for specialty
24 appointments. We understand the reasons for the backlogs and hope compliance can
25 rapidly improve, but we expect the process to require significant time and resources. We
26 also expect that CCHCS and CDCR will focus more attention on certain statewide medical
27 service issues, including problems with emergency response care, the substantial backlog
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1 of health care incident report reviews (the first step in patient safety improvement efforts,
2 including root cause analyses), and expanding substance abuse treatment.

3 *Defendants' Introduction:* For more than a year, Defendants, their partners at
4 CCHCS, and public health experts have worked tirelessly to address the ever-moving
5 target that is COVID-19. As this Court acknowledged at the last case management
6 conference, because of Defendants' and CCHCS's actions during the course of the
7 pandemic, infections have declined significantly (currently down from over 10,000 to only
8 40 active cases) and "we're entitled to feel good about the progress that has been made."
9 (Case Mgmt. Conf. Tr., 5:22-24, Mar. 4, 2021.) As discussed in greater detail in the
10 Vaccination section, CCHCS recently noted that CDCR has been one of the most proactive
11 correctional organizations in the world in recognizing the public health imperative to
12 vaccinate those who live and work in correctional facilities. As a result, there is increasing
13 optimism about the ability to resume programing and in-person visiting.

14 As of March 22, 2021, 47% of the incarcerated population has been vaccinated with
15 at least one dose of a COVID-19 vaccine, and 78% have some form of immunity to the
16 virus (either through vaccination or having previously contracted the virus). Some
17 institutions have levels of immunity through vaccinations and prior infections that exceed
18 90% of the population, including Avenal State Prison, California Men's Colony, California
19 Rehabilitation Center, Correctional Training Facility, Chuckawalla Valley State Prison,
20 Mule Creek State Prison, and Valley State Prison. Furthermore, 42% of staff have
21 received at least one dose of vaccine. These successes in the vaccination rollout far exceed
22 those achieved by other states and even most nations. In light of these significant gains,
23 CDCR will be demobilizing the Department Operations Center (DOC), which was
24 originally established on March 15, 2020. It will transition to a COVID-19 Support Team,
25 which will be comprised of one liaison each from CDCR, CCHCS, and support staff.

26 Defendants are taking steps to ensure that life for incarcerated persons returns to
27 what it was before March 2020, and Defendants are pleased that the Court is
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1 contemplating resuming its onsite visits because onsite tours will more fully demonstrate
2 their many successes and ongoing efforts to address and mitigate risks associated with
3 COVID-19. In light of these achievements, and cognizant of the fact that all must remain
4 vigilant in the fight against COVID-19, Defendants are hopeful that the parties can
5 intensify their focus on the delivery of constitutionally adequate medical care on a system-
6 wide basis.

7 Since the last Case Management Conference held before the COVID-19 pandemic,
8 on November 5, 2019, the Office of the Inspector General has issued five Cycle 6 reports,
9 finding the delivery of medical care “Adequate” at Wasco State Prison, CSP-Solano,
10 Valley State Prison, California Rehabilitation Center, and CSP-Los Angeles County. Only
11 one of these institutions has been delegated, and it is Defendants’ expectation that the
12 delegation review process will resume in the very near future so that this case can continue
13 on its previous trajectory toward resolution.

14 **I. VACCINES**

15 As of March 22, 2021, 71% percent of all incarcerated people have been offered at
16 least one dose of the vaccine, and 67% of all people offered have accepted the vaccine.
17 This amounts to 45% percent of the incarcerated population having received at least one
18 dose of the vaccine. Vaccination rates of medically high-risk incarcerated people are as
19 follows: 99% of all COVID-19 naïve patients aged 65 or older have been offered the
20 vaccine, and they accepted at a rate of 90%; 99% of all COVID-19 naïve patients with a
21 COVID-19 weighted risk score of 6 or higher have been offered the vaccine, and they
22 accepted at a rate of 91%; and 98% of COVID-19 naïve patients with a COVID-19
23 weighted risk score of 3 or higher have been offered the vaccine, and they accepted at a
24 rate of 83%. Additionally, as of March 22, 2021, 42% of staff who work in CDCR’s
25 institutions have been given at least one dose of the COVID-19 vaccine. Employees and
26 incarcerated people are still required to wear personal protective equipment and practice
27 physical distancing even after receiving the vaccine.
28

1 *Plaintiffs' Position:* We are pleased with the overall progress with vaccinations,
 2 which are necessary to minimize the risk of harm in the dangerous congregate settings of
 3 CDCR prisons. CCHCS in the last three weeks provided second doses to an impressive
 4 number of patients, although limited vaccine supplies greatly reduced the number of
 5 patients who could be offered a first dose, compared to previous weeks. CCHCS reports
 6 that a substantially larger vaccine allocation was received this week, and greatly increased
 7 numbers of first dose offers are thus expected. We believe this larger allocation will result
 8 in offers of vaccine to essentially all of the approximately 2,000 COVID-susceptible
 9 patients who are age 65 and older or medically high risk, who had not yet been offered
 10 vaccine as of March 20. We raised concerns about these patients last week, and very much
 11 appreciate that on March 20 CCHCS asked each prison to consider those patients'
 12 vaccination needs, then reported on March 22 that approximately 300 of them had been
 13 offered a first dose in the previous two days.¹

14 *Defendants' Position:* As Plaintiffs acknowledge, Defendants and CCHCS have
 15 made good progress with vaccine distribution to the incarcerated population. Currently,
 16 78% of the incarcerated population has protection against COVID-19 as a result of either
 17 receiving the vaccine or recovering from the virus, and nearly all medically high-risk
 18 incarcerated people, including those who are 65 or older, have been vaccinated.² The State
 19 is committed to vaccinating the remaining population as quickly as possible, consistent
 20 with public health guidelines, and based on supplies received from the federal government.

21 To keep the staff and patient populations informed and to continue to encourage

22 ¹ We do not agree with Defendants' assertion below that those who have recovered
 23 from the virus have "protection against COVID-19." CCHCS says that those who are
 24 recovered and more than 90 days from their initial infection date are "COVID susceptible."
 25 It requires that such patients be tested for COVID-19, to quarantine if exposed to an active
 26 case, and be medically isolated if they test positive. CCHCS is vaccinating these patients
 against COVID-19, in accord with public health guidelines.

27 ² Plaintiffs added their footnote 1 above approximately thirty minutes before the
 28 deadline to file this statement. Defendants are unable to draft a response at this time, but
 can respond at the case management conference or at a later date.

1 acceptance of the COVID-19 vaccine, the State remains focused on educating its staff and
2 incarcerated population on the benefits of taking the vaccine. Among other educational
3 efforts, incarcerated people receive one-on-one counseling from medical professionals if
4 they do not initially accept the vaccine, and medical staff specially meet with medically
5 high-risk COVID-19-naïve patients who refuse the vaccine. Staff and incarcerated people
6 can request the vaccine later if they do not accept it when first offered. According to the
7 Receiver's Office, there is no correlation between the rate at which staff accept the vaccine
8 and the rate at which incarcerated people accept the vaccine; therefore, whether or not staff
9 are willing to accept the vaccine does not affect incarcerated people's willingness to accept
10 the vaccine. Currently there are no plans to mandate vaccinations at this time. Consistent
11 with Centers for Disease Control and Prevention guidelines, CDCR continues to require
12 staff and incarcerated people to wear masks, practice social distancing, and participate in
13 regular COVID-19 testing as frequently as twice per week, regardless of whether they have
14 been vaccinated.

15 As reported by the Receiver's Office, few if any correctional systems in the world
16 have been more proactive in recognizing the public health imperative to vaccinate those
17 who live and work in correctional facilities. By doing so, the State has been able to
18 prevent unnecessary illness and death both within CDCR's institutions and beyond in the
19 outside community. When the State first started its vaccination efforts in late December,
20 CDCR had over 10,000 active COVID-19 cases among its staff and patients. With the
21 active support of the administration, the tireless efforts of CCHCS and CDCR's vaccine
22 working group, and the relentless work of staff in the institutions, nearly half of CDCR's
23 incarcerated population and staff have received at least one dose of COVID-19 vaccine.
24 The results, as reported by the Receiver's Office, could not be clearer. CDCR's
25 institutions have had only 33 new COVID-19 cases over the past two weeks—the lowest
26 number since April 2020—and 23 institutions have had zero new cases over the past two
27 weeks. According to the Receiver's Office, COVID-19 infection rates among staff have
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1 also dramatically decreased. CCHCS staff continue to improve public data on the website
 2 to ensure accurate reporting of staff cases. CCHCS plans to take advantage of these low
 3 numbers by redoubling its efforts to vaccinate those who have not yet been offered the
 4 vaccine and also those who have moved past their initial vaccine hesitancy. The
 5 Receiver's Office is optimistic that, in the coming months, programming will increase and
 6 in-person visits will resume, taking into consideration necessary safety precautions.

7 **II. POPULATION REDUCTION**

8 *Plaintiffs' Position:* Unfortunately, CDCR's population is increasing. Having re-
 9 opened intake from the county jails, the institution and camp population has increased by
 10 more than 600 since February 3, per the Department's Weekly Total Population Reports.³

11 Population reduction remains necessary. CDCR's prisons are still the ideal home
 12 for the coronavirus, and stopping its spread has proven to be almost impossible. The
 13 current decrease in active cases and continuing vaccination efforts do not guarantee that
 14 there will be no further outbreaks. The full impact of immunity from vaccines and
 15 previous infection is not yet known, including because of possible virus variants, and
 16 because infections can occur, and have already occurred, among those fully vaccinated.
 17 Staff, the primary vector for patient infections, will continue to put patients at risk by
 18 bringing infections into the facilities. Housing unit ventilation, especially in cold weather
 19 months, appears to spread the virus, even between solid door cells (see Section VI, below).
 20 More generally, public health experts warn of a possible fourth surge of infections.⁴

21 We appreciate that CDCR continues its program providing for early release for
 22 some with less than 180 days to serve. This appears to benefit about 350 people per
 23 month. We believe that CDCR should reinstitute the program, implemented for

24 ³ See Cal. Dep't of Corr. & Rehab., *2021 Weekly Total Population Reports*,
 25 <https://www.cdcr.ca.gov/research/2021-weekly-total-population-reports/>.

26 ⁴ See Annie Vainshtein & Matthias Gafni, *Why another COVID surge could hit the*
 27 *Bay Area in the months ahead*, San Francisco Chronicle (March 11, 2021),
 28 <https://www.sfchronicle.com/local/article/san-francisco-Bay-Area-fourth-COVID-surge-spring-16016459.php>.

1 approximately three months in mid-2020, that allowed early release for some with less
2 than one year left to serve.

3 We also appreciate that the Governor earlier this month granted medical reprieves
4 to 11 persons determined to have a heightened risk from COVID-19. This action
5 recognizes the continuing risk of harm to incarcerated people. We believe reprieves
6 should be granted to many others.

7 With regard to sentence-reducing credits, we appreciate, as Defendants explain
8 below, that those who have taken self-study education classes during the pandemic are
9 taking or may soon be able to take classroom-based tests that CDCR expects will result in
10 significant milestone and education credit awards. We plan to ask Defendants about these
11 credit awards.

12 Finally, we appreciate that CDCR, as Defendants also report below, plans to revise
13 its rules to increase credit-earning opportunities for some people. This revision was first
14 announced by CDCR Secretary Allison to the *Coleman* court in December. It should be
15 implemented promptly, not sometime this summer, as Defendants state below is their
16 current “hope.” Because it will be (absent special action by the Secretary only)
17 prospective only, this revision will not immediately result in a material reduction in the
18 overall population, but may do so in the long term; we plan to ask Defendants about this
19 once final revisions are announced.

20 *Defendants’ Position:* CDCR’s population has decreased by 25,761, or about 22%
21 since the start of the COVID-19 public health crisis.⁵ Between July 1, 2020 and March 17,
22 2021, 7,952 people were released from institutions and camps through the COVID-19
23 early-release programs Defendants announced on July 10, 2020.⁶ This represents 228

24 ⁵ This figure is calculated by taking the difference between the total population in
25 institutions and camps on February 26, 2020 and March 17, 2021. Weekly population
26 reports can be found at [https://www.cdcr.ca.gov/research/weekly-total-population-report-
archive-2/](https://www.cdcr.ca.gov/research/weekly-total-population-report-archive-2/).

27 ⁶ See ECF No. 3389 at 2:4-5:4 and <https://www.cdcr.ca.gov/covid19/expedited->
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1 more early releases than those reported in the case management conference statement filed
 2 on March 2, 2021.⁷ An additional 14,799 people were released in accordance with their
 3 natural release dates. CDCR's institutions currently house 90,064 people.⁸ The slight
 4 increase in population since Defendants' last reporting results from increased intake from
 5 county jails. Weekly intake only occurs after approval by CDCR, healthcare staff, and the
 6 Receiver's office after assessing the receiving institutions' capacity to safely receive and
 7 quarantine people from county jails. Intake is done in accordance with the Movement
 8 Matrix, which requires stringent movement protocols, including COVID-19 testing,
 9 quarantine, and personal-protective-equipment practices.

10 Incarcerated people continue to be released through the 180-day early-release
 11 program announced on July 10, 2020. Defendants implemented this and other early-
 12 release programs in response to the COVID-19 pandemic at a time when other protections
 13 were still being developed in accordance with public health guidelines that were changing
 14 rapidly. The current status of the pandemic within CDCR's institutions, however, has
 15 changed dramatically since the time the early release program and positive programming
 16 credits (PPC) were implemented – including the fact that 58% of the COVID-naïve
 17 incarcerated population is currently vaccinated and there are only 39 active cases of
 18 COVID-19 within the institutions. As a result, the Secretary is not contemplating
 19 exercising her discretion to award further PPCs at this time.

20 Per the Court's order, a CDCR official⁹ will attend the March 26, 2021 case

21 _____
 22 [releases/](#) for details regarding CDCR's COVID-19 early-release program announced on
 23 July 10, 2020.

24 ⁷ See ECF No. 3558 at 5:2-4.

25 ⁸ See March 17, 2021 population report at [https://www.cdcr.ca.gov/research/wp-](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/03/Tpop1d210317.pdf)
 26 [content/uploads/sites/174/2021/03/Tpop1d210317.pdf](https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/03/Tpop1d210317.pdf).

27 ⁹ Charles Callahan, Deputy Director of Facility Support, will be appearing as
 28 CDCR's representative in accordance with the Court's Order to discuss CDCR's current

1 management conference to answer the Court's questions related to population reduction.
2 Secretary Allison, CDCR's General Counsel, and counsel for the parties participated in an
3 *in camera* session with the Court on March 19, 2021, in which the Secretary provided
4 information about credit awards to incarcerated people.

5 As previously reported, CDCR awarded 12 weeks of positive programming credits
6 to 83,347 eligible incarcerated people in 2020 to offset the impact of COVID-19 on
7 people's ability to earn credits through regular programming. The impact of the 2020
8 credit award was significant: the incarcerated population earned a total of 4,428,779 days
9 of credits in 2019, and 8,649,378 days in 2020. The 2020 positive programming credit
10 award resulted in more than twice as many credits being awarded to the incarcerated
11 population than in the previous year, even though the incarcerated population was 22%
12 smaller at the end of 2020 than it was in 2019. This data is reflected in the document
13 attached as Exhibit A. Although CDCR does not contemplate awarding another round of
14 positive programming credits at this time, it is increasing good time credit earning rates for
15 certain people, including people serving sentences for violent offenses, and people serving
16 sentences for nonviolent offenses with second- and third-strike enhancements. CDCR
17 expects this increase will have a significant impact on the incarcerated population's ability
18 to earn credits, and hopes to implement the new credit-earning policy by this summer.
19 Additionally, due to reduced movement and programming in accordance with COVID-19
20 safety measures, incarcerated people have been completing coursework for milestone and
21 education programs on their own time, outside a classroom setting. When classes resume,
22 incarcerated people may submit their completed work and take tests to earn credits.

23 Testing is already underway at institutions where programming has resumed. CDCR

24 _____
25 policy on awarding credits to incarcerated persons. He will also be available to answer any
26 additional questions the Court may have regarding information that has not already been
27 provided in the current statement, earlier Case Management Conferences, or the *in camera*
28 meeting.

1 expects this will result in significant milestone and education credit awards.

2 **III. QUARANTINE AND ISOLATION**

3 *Plaintiffs' Position:* As reported in the last Case Management Conference
 4 Statement, CCHCS administrators recently undertook a prison-by-prison review of the use
 5 of quarantine status and the set-aside space. The review documented a significant decrease
 6 in the number of people on quarantine: as of March 18, CCHCS reported 5,097 on
 7 quarantine, of which about 2,000 were on quarantine due to exposure to COVID-19.
 8 *Compare* ECF No. 3558 at 6 (March 2, 2021 Joint Case Management Conference
 9 Statement) ("more than 9,000 people remained on quarantine as of February 25, despite
 10 active case numbers of fewer than 500"). We are glad to see a decrease in the number of
 11 patients on quarantine due to possible exposure to COVID-19, and believe it is appropriate
 12 given the significant decrease in active cases among the incarcerated population.¹⁰

13 A large number of those on quarantine as of March 18 were in precautionary, post-
 14 transfer quarantine (3,032 out of 5,097). This includes new arrivals from county jails and
 15 transfers from reception centers to other prisons, among others. The issue of providing
 16 appropriate quarantine space for these transfers is discussed further in Section V, below.

17 As explained in previous Case Management Conference Statements, Plaintiffs
 18 remain concerned about the use of punitive measures against people who refuse to comply
 19 with health-related bed moves and, in particular, the issuance of Rules Violation Reports

21 ¹⁰ We note here that the number of active cases reported on the CDCR Population
 22 COVID-19 Tracking website does not include patients who are "re-positive," a term used
 23 for those who test positive after an initial infection is deemed resolved. CCHCS says a
 24 "re-positive" may not be a "re-infection," even though some test positive months after the
 25 initial infection and after repeatedly testing negative in the interim. Although not counted
 26 as active cases, "re-positive" patients and their close contacts are housed exactly as if they
 27 were active cases: the positive-testing patient is placed on medical isolation for at least 14
 28 days and all contacts, including at times entire large dorms, are placed on
 quarantine and subjected to testing for the same period. CCHCS reports there are currently
 288 "re-positive" patients and that it is considering how to determine if these patients are
 in fact re-infected.

1 (RVRs) to people who refused such moves during the surge several months ago.
2 Defendants have acknowledged that they issued RVRs to 83 people at one prison for
3 refusing these moves during this period, while at three other prisons, people who refused
4 instead received counseling chronos. The one prison's heavy-handed response raises
5 concerns about fairness and equity. ECF No. 3558. Some we spoke with who had
6 received RVRs raised plausible concerns about significant safety risks if they were to
7 comply with the orders, some raised legitimate concerns that further movement would
8 cause wider spread of the virus, while others described receiving inconsistent messages
9 regarding the necessity for the moves.

10 On February 11, we requested a list of all people who were issued an RVR in the
11 previous 90 days for failure to comply with a COVID-related housing move, and for the
12 dismissal of those RVRs. After we made this request, Defendants issued a February 24
13 memo "to standardize a process to address inmates who refuse to comply with direction to
14 move" to housing as recommended by health care staff based on COVID-19 protocols, to
15 document noncompliance with a counseling chrono, and, if necessary, to use "progressive
16 discipline . . . in accordance with" California regulations for disciplinary methods. On
17 February 26, after receiving this new directive, we requested that Defendants also provide
18 information on whether people who had received RVRs during the relevant period for bed
19 move refusals were first provided 128Bs (general chronos) demonstrating that they had
20 been counseled about the bed moves.

21 Defendants responded on March 22 that "it is not CDCR's position to rescind RVRs
22 for refusing a housing move," and they do not have "an automated report to reference"
23 who received a 128-B before receiving an RVR for refusing these moves. It thus appears
24 that Defendants cannot show they issued chronos to people before issuing RVRs, in accord
25 with the February 24 memo.

26 Defendants also stated they could not provide a list of people who received an RVR
27 for refusing moves that were related to quarantine or isolation orders. They provided
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1 instead a list of all people who received an RVR for “refusing to accept assigned housing-
2 delaying a Peace Officer” regardless of the purpose for the move during the relevant
3 period. We pointed out that Defendants had previously identified 83 people at California
4 State Prison, Los Angeles County who received RVRs for refusing health-related moves,
5 and had asserted that no one at three other prisons received RVRs related to such moves.
6 ECF No. 3558. We asked why CDCR could not do a similar assessment at the remaining
7 prisons, and asked for copies of all RVRs and adjudications for those who received them
8 for refusing a health care related move.

9 Late on March 23, Defendants refused to provide the RVRs, asserting that the
10 request is unreasonable and is “far afield from the confines of this case.” We disagree.
11 Class members have reported that some have been punished for resisting possibly ill-
12 conceived health-related movement orders because they feared for their health and safety.
13 As class counsel, we have a duty to investigate this issue, and we intend to continue our
14 efforts. As Defendants have declined to provide us with critical information, we will
15 assess our options to obtain the necessary information and will update the Court as
16 appropriate.

17 We also continue to urge Defendants to use positive incentives to encourage
18 compliance with health-related housing moves. Defendants stated on March 10 that they
19 had offered 533 extra video visits to people at eight prisons, but none of the visits had
20 actually been completed as of March 5. We asked clarifying questions on March 11, and
21 have not received a substantive response.

22 *Defendants’ Position:* As reported in the prior statement, Defendants continue
23 making efforts to ensure that prisons comply with the Receiver’s isolation and quarantine
24 guidance provided on December 4 and 18, 2020, by closely monitoring the prisons’ use of
25 reserved quarantine space. Additionally, Defendants are awaiting CCHCS’s anticipated
26 “reset” of the Quarantine and Isolation set-aside space. The reset is being considered
27 based on the progress made in vaccinating COVID-naive incarcerated persons, the number
28

1 of incarcerated persons who have recovered from COVID, and the low rates of infection
2 throughout the system.

3 CDCR is also in the process of upgrading its video conferencing platform in
4 response to incarcerated persons selling their visits and visits not being scheduled because
5 the visitor was not pre-approved. A statewide call is being scheduled for this week to
6 discuss the logistics finalizing how to implement the new video visiting system, and part of
7 the discussion will be how prisons should inform incarcerated persons how to schedule
8 visits.

9 Meanwhile, because of the significant reductions in active COVID cases, CDCR is
10 working with CCHCS to restart in-person visits on a limited basis starting April 10,
11 2021¹¹. The visiting protocols will incorporate measures to prevent COVID transmission,
12 including temperature and symptom screenings, COVID-19 testing, physical distancing,
13 required face coverings, limitations on the number of visitors at a given time, and
14 limitations on the duration of visits.

15 Plaintiffs requested data on the number of incarcerated persons who received RVRs
16 for failure to accept housing assignment related to a healthcare-related bed moves. CDCR
17 is able to retrieve the list of incarcerated persons that received RVRs for failure to accept
18 housing assignments, but it is not able to readily separate that data into categories of
19 discipline related to healthcare-related moves versus refusals for a reason unrelated to
20 COVID. As COVID-positive numbers continue to rapidly decline, the need to rehouse
21 inmates for quarantine or isolation purposes should also decline, reducing the instances
22 where an RVR might be issued. In the meantime, the statewide memorandum issued on
23 February 24, 2021, is still in effect and provides uniform guidance for progressive
24 discipline at all institutions.

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26
27
28 ¹¹ <https://www.cdcr.ca.gov/news/2021/03/23/california-department-of-corrections-and-rehabilitation-to-begin-phased-reopening-of-in-person-visiting-on-april-10-2021/>

1 **IV. STAFF SCREENING AND TESTING**

2 *Plaintiffs' Position:* Staff testing remains a critical component of preventing the
3 introduction and spread of COVID-19 in the prisons.

4 As reported in the last Case Management Conference Statement, CCHCS recently
5 announced a significant improvement to the staff testing program: beginning March 1, all
6 staff are asked during the entrance screening process whether they have been tested within
7 the prison's current required timeframe, and whether they have experienced symptoms of
8 COVID-19 within the previous 10 days. If the employee reports that they have not been
9 tested within the required timeframe, or reports current or recent symptoms of COVID-19,
10 they are immediately tested onsite via a rapid test. We appreciate these efforts and hope
11 they will both improve compliance with staff testing requirements and reduce the risk of
12 viral infections among residents and other staff.¹²

13 We remain concerned, however, that this process relies entirely on staff self-
14 reporting compliance with the testing policies during entrance screening. We previously
15 raised this concern, and suggested CCHCS also develop systems to independently verify
16 compliance. On March 17, we requested an update on this request. We have not yet
17 received a response.

18 *Defendants' Position:* Defendants continue to enforce the heightened entrance
19 screening protocols developed in coordination with the Receiver's Office and CCHCS,
20 which oversee COVID-19 testing and screening for CDCR employees. These protocols
21 are described in detail in the case management conference statement filed on March 2,
22 2021. (See ECF No. 3358 at 13-14.) Defendants are committed to working with their
23 healthcare partners to ensure the safety of all those inside CDCR's institutions with these
24 stringent screening protocols and other safety measures.

25 **V. INTAKE**

26 *Plaintiffs' Position:* CDCR reopened intake from county jails on a limited basis ten

27 ¹² We do not know to what degree this has improved compliance as we have not yet
28 received staff testing data for March.

1 weeks ago. In recent weeks, CDCR has authorized specified counties to send between 470
2 and 590 people per week to the Reception Centers at North Kern State Prison, Wasco State
3 Prison, and Central California Women's Facility.

4 In order to make space for the people arriving from the counties, Defendants had to
5 transfer large numbers of people from the Reception Centers to other prisons. On March
6 3, the Receiver provided Plaintiffs with a plan for these transfers that CCHCS indicated
7 would be implemented to reduce the risk of COVID spread. We provided comments on
8 the plan on March 9. We did not receive a response. This week, we received information
9 from CDCR that appeared to indicate transfers had been done that were inconsistent with
10 the March 3 plan. We wrote to CCHCS to inquire about these transfers. On March 24,
11 CCHCS informed us that a different plan had been implemented on March 11, and sent the
12 new plan, along with a revised list of post-transfer quarantine spaces at each prison, and
13 responses to our comments on the previous plan. We are reviewing these documents and
14 will raise questions and concerns with the Receiver and Defendants.

15 Regarding the quarantining of new arrivals from the county jails in the Reception
16 Centers, we recently learned that, in mid-February, CCWF began using eight-person
17 dormitories to house people arriving from the county jails. We raised concerns about this
18 practice, noting that the Movement Matrix provides that quarantines should be completed
19 in a single cell, and cohorting can only be done if "essential," with cohorts that are "as
20 small as possible (2-4 persons)." We were informed CCWF was housing no more than
21 four people in each dormitory. However, on March 12, after reviewing the records of a
22 recent arrival who tested positive for COVID-19 and appeared to have had seven dorm-
23 mates while on quarantine, we raised the concern that the cohorting was not happening as
24 directed. On March 19, CDCR confirmed that while the directive to cohort all new intake
25 in groups of four or fewer had been given, it had not been followed at CCWF. CDCR
26 stated that CCWF re-housed the approximately 100 people still on intake quarantine into
27 cohorts of four or fewer on March 12, and that the population report would be reviewed
28

1 daily to ensure this directive is adhered to for future intake. We appreciate Defendants'
 2 candor and quick response to address these concerns, including in particular the plan to
 3 monitor this issue to ensure new arrivals to CCWF are appropriately housed. We are
 4 concerned, however, that neither CDCR nor CCHCS were aware of this problem before
 5 we brought it to their attention.

6 *Defendants' Position:* CDCR continues to perform intake on a limited basis.
 7 Incarcerated persons who meet the intake criteria are housed in reception centers and are
 8 only moved to receiving institutions with CCHCS oversight and approval. Presently, there
 9 is no requirement that persons accepted from the counties be vaccinated before transfer to
 10 CDCR. But CCHCS and CDCR monitor whether new residents have received the vaccine,
 11 and if so, how many doses. CDCR completes the vaccination of new patients in
 12 accordance with public health guidelines and based on their eligibility in appropriate
 13 priority groups.

14 CDCR accepted 476 incarcerated persons from county jails for the week of March
 15 8, 2021, and 425 for the week of March 15, 2021. For the Week of March 22, 2021,
 16 CDCR has authorized intake of 590 incarcerated persons from county jails, and 580 for the
 17 week of March 29, 2021.

18 **VI. VENTILATION**

19 *Plaintiffs' Position:* On March 7, a multidisciplinary team of experts from AMEND
 20 at UC San Francisco and UC Berkeley Schools of Public Health and Public Policy gave a
 21 presentation to the parties regarding ventilation and COVID-19 spread in housing units at
 22 the Substance Abuse Treatment Facility and State Prison at Corcoran (SATF). The
 23 presentation was based on a December 2020 site visit to the prison.

24 The experts found that COVID-19 spread last fall through all types of SATF
 25 housing units, whether large dorms, buildings with smaller (six to eight person) dorms, or
 26 those in which one or two people were housed in cells with solid doors. Statewide, it was
 27 determined that the large outbreaks late last year mostly occurred not in dorms or
 28

1 cellblocks with barred doors, as in the earlier part of the year, but in units with solid door
2 cells. The experts said this shift may have been due to the use of recirculated heated air in
3 the units during cooler weather. The experts further described “critical” space and staffing
4 shortages during its outbreak and noted that the prison’s ventilation system may have been
5 designed for the stated capacity, not the actual current population. Among other things,
6 the experts said SATF’s outbreak likely resulted from movement of patients in isolation or
7 quarantine, and “some combination of poor air exchange, recirculation, and unbalanced
8 ventilation/pressurization” in those systems, and shared staff between units with active
9 cases and those which had none.

10 With regard to ventilation, the experts reported that its tests of four SATF housing
11 units showed air exchange rates far below those recommended by the World Health
12 Organization (WHO) for reduction of aerosol transmission of virus. The experts also
13 found that the prison used air filters of a lower grade than recommended by the Centers for
14 Disease Control for viral capture, and that the ventilation system was poorly functioning,
15 thus promoting virus spread. In short, the experts’ findings showed that SATF cellblocks,
16 even with solid doors, functioned as de facto dorms with regard to aerosol virus spread.

17 The experts said that to meet WHO minimum standards for containing airborne
18 infection, housing density must be substantially reduced in all SATF buildings. Each
19 SATF large dorm, which can house approximately 50 people each, should house only
20 three. Its small dorms, which house six people each, and its solid-door cells, which
21 currently mostly house two people each, should each house only one person.

22 The experts recommended, among other things, population reduction, the urgent
23 hiring of a HVAC specialist to re-evaluate and re-balance SATF’s ventilation system,
24 implementation of COVID-19 tests with a turnaround time of less than 24 hours, and the
25 development and implementation of plans for stable cohorts of residents, custody, and
26 healthcare staff.

1 We understand that the Receiver will both take and recommend action in response
2 to the experts' report, including determining whether experts should review other prisons'
3 housing unit ventilation systems. We believe this should occur. We also believe CDCR
4 should immediately hire a HVAC specialist at SATF, as recommended by the experts.

5 *Defendants' Position:* Recognizing that ventilation plays a role in the health of
6 CDCR's incarcerated and staff populations, CDCR has continued to monitor and evaluate
7 housing unit ventilation consistent with internal guidance regarding maintenance and
8 repair of heating, ventilation, and air conditioning (HVAC) units, and indoor ventilation
9 during COVID-19. Since December, four institutions (Chuckawalla Valley State Prison
10 (CVSP), High Desert State Prison (HDSP), North Kern State Prison (NKSP) and the
11 Richard J. Donovan Correctional Facility (RJD) have installed MERV-13 filters in their
12 housing unit air handling units. Even though the nationwide high demand for MERV-13
13 filters is delaying delivery and installation at other institutions, many have installed partial
14 shipments of MERV-11 and MERV-13 filters to increase filter efficiency. MERV 13
15 filters are more efficient at filtering out small particles and contaminants than the current
16 MERV 8 and 10 filters that are used at most institutions. Because certain facilities at
17 certain institutions utilize only outside air and not HVAC systems or recirculated air, they
18 do not require filter upgrades, but airflow will continue to be monitored in these areas.
19 Additionally, some institutions have increased the percentage of outside air as they were
20 directed to do in December 2020.

21 On February 26, 2021, the Director of CDCR's Division of Facility Planning,
22 Construction, and Management convened a ventilation workgroup with the Receiver's
23 Office, CCHCS, and CDCR's Division of Adult Institutions to create a collaborative
24 channel of communication on the topic of ventilation. Currently, the Director's staff is
25 examining ventilation systems in areas used for quarantine and isolation and creating
26 diagrams of the airflow in these areas. These diagrams will be provided to CCHCS and
27 CDCR's Division of Adult Institutions so that they may collaboratively evaluate the
28

1 airflow in these spaces and draw appropriate conclusions.

2 Separately, CDCR is undertaking a system-wide inspection and evaluation of
3 ventilation systems in CDCR's institutions, focusing on whether the airflow is working the
4 way it is supposed to. The inspection will be performed by CDCR Plant Operations
5 professionals and will include visual inspections of air handling units, ducts and grills, and
6 will measure air flow at multiple locations within the ventilation system. Inspections will
7 be done in accordance with best practices set forth by the Centers for Disease Control and
8 Prevention and the American Society of Heating, Refrigerating and Air-Conditioning
9 Engineers. CDCR expects to complete these inspections in May 2021. Their findings will
10 be used to identify and prioritize ventilation system repairs to identify any additional steps
11 that can be taken to minimize COVID-19 transmission using the design operation of
12 existing ventilation systems.

13 Plaintiffs accurately summarize part of the presentation AMEND gave on their
14 investigation of SATF's ventilation system. In addition to their recommendations to
15 decarcerate, evaluate SATF's ventilation system, and reduce COVID-19 test result
16 turnaround times, AMEND also recommended improving outbreak and emergency
17 planning and response efforts; developing communication plans that include medical staff,
18 custody staff, and residents; and promoting a culture that encourages learning,
19 participation in public health measures, and health and wellness. As reported in numerous
20 prior statements, CDCR has worked hand in hand with the Receiver's Office and CCHCS
21 to respond to the COVID-19 pandemic, and has made efforts to implement each of the
22 Receiver's COVID-19 safety protocols. CDCR implemented robust emergency response
23 plans by creating incident command posts at each institution, which served as
24 communication centers for COVID-19 mitigation and response efforts on a day to day
25 basis, were staffed by both custody and healthcare staff at each institution, and sometimes
26 solicited the aid of outside agencies. CDCR continues to find ways to promote the health
27 and wellness of its incarcerated population by making efforts to provide as much outdoor
28

1 time as is safely possible, implementing video visits, and providing education regarding
2 the benefits of following COVID-19 measures, among many other measures.

3 The AMEND team's conclusions regarding how COVID-19 *may* have been
4 transmitted in housing units at SATF were based on a number of hypothetical scenarios.
5 When asked if it is possible to measure the movement or presence of virus particles in a
6 ventilation system, the AMEND team responded that they are not aware of any methods
7 being used widely to date, but that it is usually done through gas tracer studies. They
8 added that there are methods to measure aerosolized particles the same size of a virus,
9 which could be used. These methods were not used as part of AMEND's investigation of
10 SATF's ventilation system. And notably, the investigation in December 2020 was done
11 during a nationwide surge in COVID-19 cases, which has since subsided.

12 CDCR appreciates the efforts of public health experts to assist with its COVID-19
13 response efforts. As described above and in previous statements, CDCR is committed to
14 keeping its residents safe. To that end, its work to evaluate and improve its ventilation
15 systems, where needed, is already underway. Defendants look forward to their continued
16 collaboration with the Receiver's Office, CCHCS, and public health experts to achieve the
17 shared goal of keeping CDCR's incarcerated and staff populations safe.

18 **VII. OIG REPORT REGARDING FACE COVERING AND PHYSICAL**
19 **DISTANCING MONITORING**

20 The parties received the Office of Inspector General's report on Face Covering and
21 Physical Distancing Follow-Up monitoring at about 12:30 p.m. on March 24, 2021. The
22 parties are in the process of reviewing this report. It is attached as Exhibit B at the OIG's
23 request.

1 DATED: March 24, 2021

HANSON BRIDGETT LLP

2
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9 DATED: March 24, 2021

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13 Supervising Deputy Attorney General
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17 Attorneys for Defendants

18 DATED: March 24, 2021

PRISON LAW OFFICE

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20 By: /s/ Steven Fama

21 STEVEN FAMA
22 ALISON HARDY
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24 SOPHIE HART
25 Attorneys for Plaintiffs

EXHIBIT A

California Department of Corrections and Rehabilitation
Division of Correctional Policy Research and Internal Oversight
Office of Research
March 18, 2021

Days Credit Earned by Credit Type and Month Earned
Between January 1, 2019 and December 31, 2019

Credit Type	Month Credit Earned													2019 Rate of
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	Credit Awarded per 1,000 Population
Educational Merit Credit (EMC)														
High School Diploma, GED or equivalent	16,830	27,630	27,450	36,360	67,500	52,560	43,380	61,740	52,380	58,140	52,380	54,180	550,530	4,379.2
Associate of Arts or Sciences Degree	1,440	1,080	1,080	720	37,080	5,040	3,960	9,180	1,080	720	540	34,560	96,480	767.4
Bachelor of Arts or Sciences Degree	720	0	360	0	1,260	0	180	900	0	0	0	900	4,320	34.4
Post Graduate Degree	0	0	0	180	360	0	0	0	0	0	0	540	1,080	8.6
Offender Mentor Certification Program	360	1,260	360	0	180	540	180	360	540	0	0	180	3,960	31.5
EMC Increase - HS, GED (One-Time)	0	0	0	0	805,140	0	0	0	0	0	0	0	805,140	6,404.4
Total	19,350	29,970	29,250	37,260	911,520	58,140	47,700	72,180	54,000	58,860	52,920	90,360	1,461,510	11,625.5
Milestone Completion Credit (MCC)														
Academic Program	17,325	20,335	23,100	15,848	236,537	104,503	70,749	78,099	13,384	15,526	16,093	303,401	914,900	7,277.5
GED	2,996	4,641	5,124	4,879	6,048	4,438	3,255	5,082	5,229	5,992	4,557	3,458	55,699	443.1
SUDT/CBT Program	27,524	27,986	33,565	25,312	25,592	29,904	34,272	33,138	24,269	33,733	26,866	19,635	341,796	2,718.8
CTE Program	22,540	26,222	34,230	23,933	33,068	25,795	25,046	33,432	26,887	32,648	23,331	27,111	334,243	2,658.7
MH Program	16,156	13,790	14,917	14,679	15,967	14,700	15,127	15,610	14,231	15,792	13,195	13,937	178,101	1,416.7
DJJ Program	77	28	161	28	280	308	77	84	427	112	35	784	2,401	19.1
LPU Program	0	28	0	0	7	0	0	28	28	14	28	49	182	1.4
Self-help Program	4,732	5,117	5,656	5,012	3,556	4,816	7,602	3,052	3,388	4,424	4,585	4,116	56,056	445.9
PIA Program	17,969	17,164	19,236	22,050	19,950	18,753	20,034	22,050	17,619	21,294	19,404	20,090	235,613	1,874.2
Community Reentry Program	4,564	3,255	4,004	3,143	4,718	3,598	3,780	4,284	3,619	4,907	3,836	7,931	51,639	410.8
Firefighter Program	4,984	5,264	4,284	4,340	4,921	3,388	4,088	5,775	4,095	5,292	4,326	3,514	54,271	431.7
Education Program - Other	7,238	11,151	11,515	13,615	33,495	18,074	20,468	23,352	10,150	10,024	9,569	50,659	219,310	1,744.5
Other	6,552	5,880	5,838	6,335	4,690	3,493	5,026	4,256	3,150	5,684	4,137	5,110	60,151	478.5
Total	132,657	140,861	161,630	139,174	388,829	231,770	209,524	228,242	126,476	155,442	129,962	459,795	2,504,362	19,920.8
Rehabilitative Achievement Credit (RAC)														
Total	20,293	20,048	23,632	24,024	79,590	37,340	39,610	41,850	43,870	54,190	39,880	38,580	462,907	3,682.2
Positive Programming Credit (PPC)														
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Total Awards	172,300	190,879	214,512	200,458	1,379,939	327,250	296,834	342,272	224,346	268,492	222,762	588,735	4,428,779	35,228.4

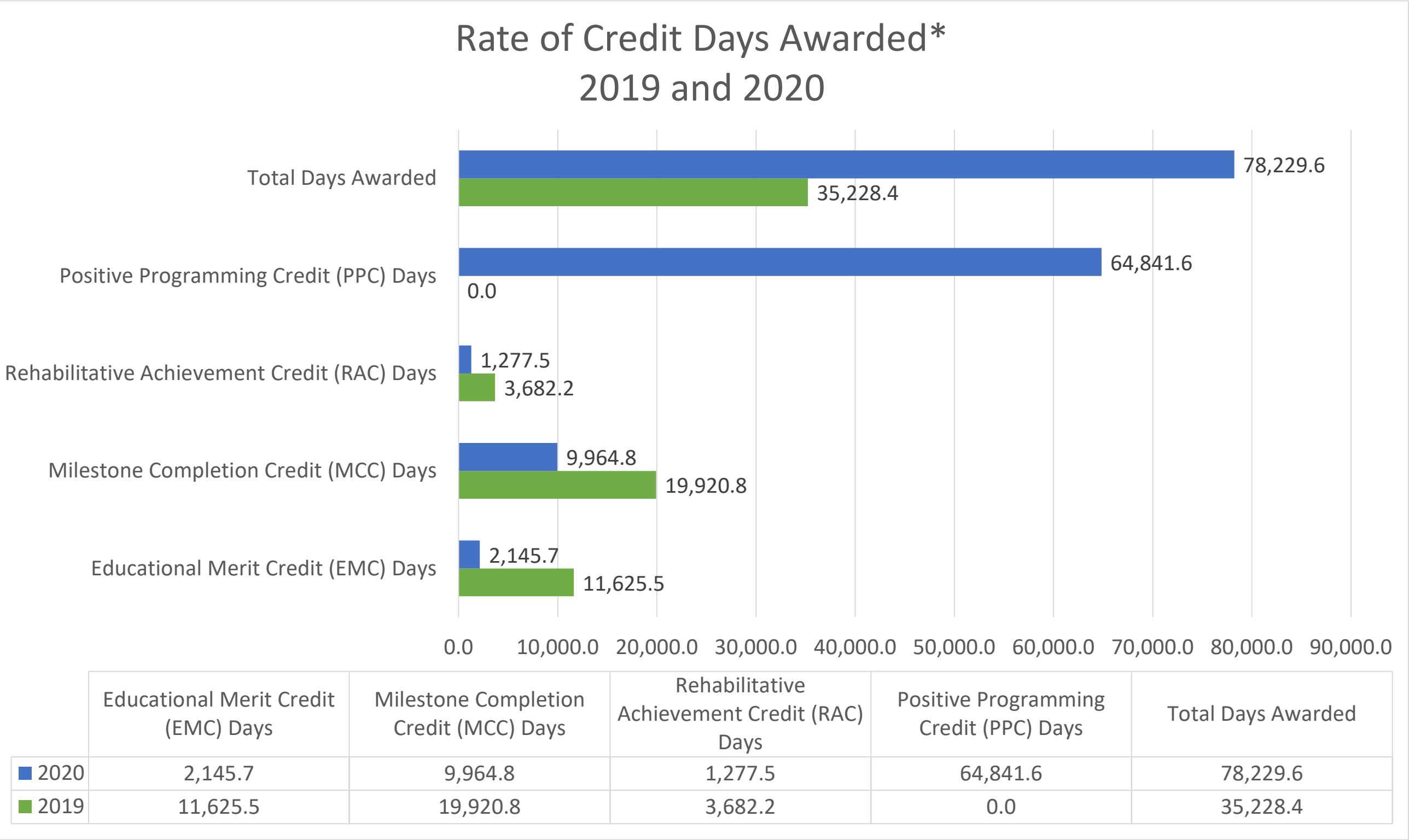
Calendar Year 2019 Average Daily Population

125,716

California Department of Corrections and Rehabilitation
Division of Correctional Policy Research and Internal Oversight
Office of Research
March 18, 2021

Days Credit Earned by Credit Type and Month Earned
Between January 1, 2020 and December 31, 2020

Credit Type	Month Credit Earned													2020 Rate of Credit Awarded per 1,000 Population
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Total	
Educational Merit Credit (EMC)														
High School Diploma, GED or equivalent	25,920	34,920	24,480	8,100	13,680	10,440	6,300	12,960	7,560	14,760	8,460	3,060	170,640	1,543.4
Associate of Arts or Sciences Degree	900	1,440	1,080	180	28,620	7,200	5,760	11,700	900	1,440	0	720	59,940	542.1
Bachelor of Arts or Sciences Degree	0	180	0	0	1,620	180	0	1,080	0	180	0	0	3,240	29.3
Post Graduate Degree	0	0	180	0	180	360	0	0	0	0	0	0	720	6.5
Offender Mentor Certification Program	0	0	0	0	0	0	0	0	540	0	0	720	1,260	11.4
Peer Literacy Mentor	0	0	0	0	0	0	0	360	810	180	0	90	1,440	13.0
Total	26,820	36,540	25,740	8,280	44,100	18,180	12,060	26,100	9,810	16,560	8,460	4,590	237,240	2,145.7
Milestone Completion Credit (MCC)														
Academic Program	30,821	33,782	15,512	2,562	200,655	64,890	49,385	54,971	3,836	6,552	8,589	17,661	489,216	4,424.7
GED	2,289	3,059	2,401	413	700	637	462	896	630	1,239	1,477	77	14,280	129.2
SUDT/CBT Program	2,667	574	560	0	511	420	0	7	0	0	0	0	4,739	42.9
CTE Program	19,768	18,942	19,208	5,516	5,642	2,863	1,897	2,947	2,037	3,122	1,673	721	84,336	762.8
MH Program	14,889	14,133	11,396	6,062	6,818	7,161	6,265	5,775	6,664	6,853	5,208	2,884	94,108	851.2
DJJ Program	77	0	280	0	105	315	21	42	231	28	0	210	1,309	11.8
LPU Program	21	35	14	0	42	21	7	21	7	0	0	0	168	1.5
Self-help Program	3,640	3,787	2,422	2,163	1,995	2,324	1,708	980	819	987	1,449	1,561	23,835	215.6
PIA Program	22,183	20,111	15,743	10,486	10,689	13,853	10,192	9,772	10,080	9,660	6,622	3,661	143,052	1,293.8
Community Reentry Program	4,382	3,948	3,528	3,395	6,461	3,059	1,477	1,057	1,281	1,022	1,981	1,344	32,935	297.9
Firefighter Program	6,377	3,913	4,620	4,585	3,423	3,192	2,695	2,149	1,638	4,340	2,499	2,744	42,175	381.5
Education Program - Other	5,516	13,734	8,848	2,695	40,964	27,279	14,455	14,931	3,493	6,405	4,235	3,094	145,649	1,317.3
Other	4,928	2,758	2,359	2,779	4,445	2,128	805	245	973	1,708	2,702	112	25,942	234.6
Total	117,558	118,776	86,891	40,656	282,450	128,142	89,369	93,793	31,689	41,916	36,435	34,069	1,101,744	9,964.8
Rehabilitative Achievement Credit (RAC)														
Total	40,260	42,360	27,720	5,560	4,730	3,810	2,090	1,970	3,160	4,000	3,440	2,150	141,250	1,277.5
Positive Programming Credit (PPC)														
Total	0	84	252	252	336	840	7,074,896	2,100	17,052	41,076	32,172	84	7,169,144	64,841.6
Total Awards	184,638	197,760	140,603	54,748	331,616	150,972	7,178,415	123,963	61,711	103,552	80,507	40,893	8,649,378	78,229.6
Calendar Year 2020 Average Daily Population													110,564	



*Calculated as total credit days awarded over the calendar year, divided by the average daily population for the year, multiplied by 1,000.

EXHIBIT B

Face Covering and Physical Distancing Follow-up Monitoring

Introduction

In October 2020, the Office of the Inspector General (the OIG) issued a public report regarding the California Department of Corrections and Rehabilitation's (the department) compliance with face covering and physical distancing requirements for staff and incarcerated persons. The report identified frequent noncompliance by both staff and incarcerated persons, lax enforcement efforts by departmental supervisors and managers, and questioned the prudence of loosening of face covering requirements in June 2020. In response to the report, United States District Court Judge Jon S. Tigar invited the OIG to conduct follow-up monitoring at the department's prisons to observe and report whether staff and incarcerated persons have come into compliance with the department's current requirements. Below are the results of our monitoring activities from February 7 through March 6, 2021. Unless further monitoring is requested, our next report, which will cover the period of March 7 through April 6, 2021, will be the final report related to our face covering and physical distancing follow-up monitoring activities.

Unannounced Monitoring Visits and Video Review

Our staff conducted unannounced visits at 17 prisons and two juvenile facilities. These visits focused on face covering and physical distancing compliance among staff and incarcerated persons. Our staff visited various locations throughout each prison visited. Additionally, where possible, we reviewed a sampling of video recordings from the prisons with usable footage. Although most staff, incarcerated persons, and youths adhered to the department's requirements, we still observed significant noncompliance at several prisons and juvenile facilities. Our most significant observations are detailed on the next page.

Based on our observations we assigned each prison two ratings, one for staff's compliance and one for the incarcerated population's compliance. This report also identifies if the facilities compliance with face covering policies improved or regressed from our observations in December 2020. The ratings are defined on the next page, at the end of the table.

Facility	Staff Face Covering Compliance		Incarcerated Population Face Covering Compliance	
	February 2021	Change from December 2020	February 2021	Change from December 2020
Avenal State Prison	Full Compliance	No change	Substantial Compliance	✓
California City Correctional Facility	Substantial Compliance	No change	Significant Non-Compliance	✓
California Correctional Center	Substantial Compliance	No change	Significant Non-Compliance	No change
California Health Care Facility	Partial Compliance	No change	Significant Non-Compliance	No Change
California Institution for Men	Full Compliance	⬆	Substantial Compliance	No change
California Medical Facility	Significant Non-Compliance	✓	Significant Non-Compliance	✓
California Men's Colony	Substantial Compliance	✓	Significant Non-Compliance	✓
California Rehabilitation Center	Substantial Compliance	✓	Partial Compliance	⬆
California State Prison, Sacramento	Substantial Compliance	No change	Significant Non-Compliance	✓
California Substance Abuse Treatment Facility and State Prison, Corcoran	Full Compliance	⬆	Significant Non-Compliance	No change
Calipatria State Prison	Partial Compliance	✓	Substantial Compliance	⬆

Facility	Staff Face Covering Compliance		Incarcerated Population Face Covering Compliance	
	February 2021	Change from December 2020	February 2021	Change from December 2020
Chuckawalla Valley State Prison	Full Compliance	No change	Full Compliance	^
Pelican Bay State Prison	Full Compliance	No change	Partial Compliance	^
Salinas Valley State Prison	Full Compliance	^	Significant Non-Compliance	No change
San Quentin State Prison	Full Compliance	^	Partial Compliance	v
Valley State Prison	Full Compliance	No change	Partial Compliance	v
Wasco State Prison	Full Compliance	^	Substantial Compliance	No change
N.A. Chaderjian Youth Correctional Facility	Partial Compliance	v	Significant Non-Compliance	No change
Ventura Youth Correctional Facility	Full Compliance	^	Significant Non-Compliance	v

Compliance Rating Definitions – Staff

Full Compliance	Zero non-compliant individuals observed without face coverings or improperly wearing face coverings.
Substantial Compliance	Typically, three or fewer non-compliant individuals observed without face coverings or improperly wearing face coverings.
Partial Compliance	Typically, 4 to 10 non-compliant individuals observed without face coverings or improperly wearing face coverings.
Significant Non-Compliance	Many non-compliant individuals (more than 10) observed without face coverings or improperly wearing face coverings.

Compliance Rating Definitions – Incarcerated Persons

Full Compliance	Zero non-compliant individuals observed without face coverings or improperly wearing face coverings.
Substantial Compliance	Typically, five or fewer non-compliant individuals observed without face coverings or improperly wearing face coverings.
Partial Compliance	Typically, 6 to 10 non-compliant individuals observed without face coverings or improperly wearing face coverings.
Significant Non-Compliance	More than 10 non-compliant individuals observed without face coverings or improperly wearing face coverings.

Additional factors that could influence a rating other than the number of non-compliant individuals:

- Total number of individuals in the location. For example, 2 non-compliant individuals in a location among 150 total people was viewed more favorably than 2 non-compliant individuals in a location among 3 total people.
- If staff was observed quickly correcting the incarcerated persons who were not properly wearing face coverings.
- Physical distancing among non-compliant individuals. For example, if we observed 3 separate individuals not properly wearing masks outside and far away from other people, that was viewed more favorably than 3 individuals not properly wearing masks in close proximity to each other.
- Number of locations visited. We instructed staff to visit at least 5 locations, but many visited more than 5. For example, if we visited 10 locations and saw 5 non-compliant individuals, that was viewed more favorably than visiting 5 locations and observing 5 non-compliant individuals.

Significant Observations

Below are our staff's most significant observations from our visits focusing on face covering and physical distancing compliance, as well as from our staff during our other routine monitoring activities:

- **California State Prison, Sacramento (March 2, 2021):** OIG staff attended a meeting at which several department staff did not follow physical distancing requirements.
- **Kern Valley State Prison (March 3-5, 2021):** During an inspection over several days, OIG staff observed several staff and incarcerated persons shaking hands with other individuals, and some individuals were seen hugging while their face coverings were not properly worn (face coverings were below the nose or

under the chin). OIG staff also observed an incarcerated person, who only wore a bandana, receive care in a clinic from a nurse and a physician. We also observed several officers in the breakroom of a clinic wearing face coverings below their nose or no face covering at all, and they were not practicing physical distancing. OIG staff observed this behavior multiple times during the above time period.

- **California State Prison, Solano (March 8, 2021):** OIG staff observed 7 of 15 incarcerated persons in the culinary area who were wearing their face covering below the nose or on their chin. Prison staff did not direct the incarcerated persons to fix their face coverings until they saw the OIG staff. Face covering compliance in the prison's culinary area was a problem we reported in our February 11, 2021, report to the court. The prison clearly has not taken the necessary action to enforce face covering compliance in the culinary area. (Note: Although this visit occurred after the reporting period for this report ended, we included the information in this report because of our repeated observations of noncompliance at California State Prison, Solano)

Review of Disciplinary Actions

Related to the department's face covering and physical distancing requirements, we requested and received copies of disciplinary actions taken by the department's prisons and youth facilities against staff, as well as corrective actions and rules violation reports issued by prisons to incarcerated persons for noncompliance that occurred from January 13 to February 23, 2021. The actions are summarized below by facility and type of action:

Prison	STAFF					INCARCERATED POPULATION	
	Verbal Counseling	Written Counseling	Letters of Instruction	Referrals for Investigation or Punitive Action	Punitive Actions	Corrective Counseling	Rules Violation Reports
Avenal State Prison	8	0	14	0	0	24	0
California City Correctional Facility	2	0	0	0	0	0	0
California Correctional Center	2	0	0	0	0	0	0
California Correctional Institution	7	0	1	0	0	23	26
California Health Care Facility	0	7	0	0	0	0	0
California Institution for Men	15	0	0	0	0	25	2
California Institution for Women	1	3	3	1	0	2	6
California Medical Facility	2	1	1	1	0	2	4
California Men's Colony	34	1	0	0	0	0	0
California Rehabilitation Center	7	0	0	1	0	0	1
California State Prison, Corcoran	37	1	7	3	0	0	0
California State Prison, Los Angeles County	6	0	0	0	0	0	1
California State Prison, Sacramento	3	0	5	0	0	0	1
California State Prison, Solano	22	0	0	0	0	0	0
California Substance Abuse Treatment Facility and State Prison, Corcoran	20	0	0	0	0	27	1
Calipatria State Prison	8	0	0	0	0	5	1
California State Prison, Centinela	1	0	0	0	0	4	3
Central California Women's Facility	2	3	2	0	0	0	0
Chuckawalla Valley State Prison	1	2	0	0	0	1	1
Correctional Training Facility	3	0	4	0	0	0	0
Deuel Vocational Institution	11	0	0	0	0	0	0
Folsom State Prison	6	1	0	0	0	0	0

Prison	STAFF					INCARCERATED POPULATION	
	Verbal Counseling	Written Counseling	Letters of Instruction	Referrals for Investigation or Punitive Action	Punitive Actions	Corrective Counseling	Rules Violation Reports
High Desert State Prison	7	0	14	0	0	0	0
Ironwood State Prison	4	0	1	0	0	0	0
Kern Valley State Prison	0	3	1	0	0	0	0
Mule Creek State Prison	4	1	3	0	0	0	0
North Kern State Prison	8	1	1	0	0	0	3
Pelican Bay State Prison	8	3	0	0	0	0	3
Pleasant Valley State Prison	7	1	0	0	0	1	0
Richard J. Donovan Correctional Facility	0	1	0	0	0	0	0
Salinas Valley State Prison	14	1	1	0	0	0	0
San Quentin State Prison	5	0	0	0	0	5	7
Sierra Conservation Center	8	2	1	0	0	41	2
Valley State Prison	1	0	0	0	0	0	0
Wasco State Prison	0	0	0	0	0	14	3
Totals	264	32	59	6	0	174	65
N.A. Chaderjian Youth Correctional Facility	0	0	0	0	0	227	25
O.H. Close Youth Correctional Facility	0	0	0	0	0	74	1
Pine Grove Youth Conservation Camp	0	0	0	0	0	2	0
Ventura Youth Correctional Facility	0	0	0	0	0	23	88
Totals	0	0	0	0	0	306	114

Significant Discipline Observations

Below are our staff's most significant observations from our review of the disciplinary documents provided by the department:

- **Substance Abuse Treatment Facility:** During a routine security check on February 8, 2021, an officer identified 18 inmates working in the central kitchen who were not properly wearing face coverings. All 18 inmates received written counseling chronos.
- **Avenal State Prison:** Between January 6, 2021, and January 17, 2021, 13 staff members used the van pool services without properly donning face coverings.

Repeated Violations

Based on our review of the disciplinary documents received from December 1, 2020, through February 23, 2021, the department reported 1,197 instances of staff noncompliance with face covering or physical distancing requirements. We noted 96 staff members had repeated violations of either face covering or physical distancing requirements, or both.

Based on the documentation provided by the department, we identified 96 staff members as having repeat violations. In our review of the documentation the department provided for those 96 staff members, we determined the department administered progressive discipline for repeated instances of noncompliance in a manner consistent with its policies and procedures. In a majority of cases, progressive discipline began with verbal counseling and then proceeded to written discipline in the form of an employee counseling record or letter of instruction for future violations. Some staff received multiple verbal warnings before written discipline

was used. However, depending on the specific circumstances and severity of the noncompliance, some prisons took immediate corrective action in the form of written discipline for a first instance of noncompliance.

For those instances in which the department provided information regarding the action taken against the 96 staff members who had repeated instances of noncompliance, we found the following:

- The department has issued a total of 45 written employee counseling records to staff members with multiple instances of noncompliance. Two staff members received two employee counseling records each and 41 staff members received one employee counseling record each.
- The department has issued a total of 44 letters of instruction to staff members with multiple instances of noncompliance.
- Twelve staff members were referred by the department to the department's Office of Internal Affairs for investigation for possible imposition of disciplinary action for staff misconduct following repeated noncompliance.

Self-Monitoring Documentation (Non-Compliance Tracking Logs)

On October 27, 2020, the department issued directives that regional health care executives and associate directors, or their designees, must conduct visits to observe compliance with face coverings and physical distancing within 30 days, and on a 120-day interval thereafter. In our January 13, 2021, report we analyzed the department's compliance with these directives through the initial 30-day deadline and noted that six facilities provided incorrect compliance monitoring checklists, while one failed to provide any documentation of compliance at all. Because the department is not required to report compliance with the directives until March 26, 2021, or 120 days from the initial 30-day deadline, we will report our analysis of the department's efforts in our final report.