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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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15 RALPH COLEMAN, et al.,

16 Plaintiffs,

17 v.

18 GAVIN NEWSOM, et al.,

19 Defendants.

Case No. 2:90-CV-00520-KJM-DB

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

Judge: Hon. Kimberly J. Mueller

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1 This report provides the parties' thirteenth COVID-19 Task Force joint update and  
2 covers issues discussed since the twelfth joint update filed on March 19, 2021.<sup>1</sup> This  
3 report covers the Forty-Ninth (March 30, 2021) COVID-19 Task Force meeting.  
4 Following that meeting, the Special Master modified the Task Force meeting schedule  
5 from biweekly to monthly. This report also covers various small workgroup meetings  
6 between representatives from Defendants and the Special Master's team. Unless otherwise  
7 indicated, the small workgroup meetings include members of Defendants' leadership and  
8 the Special Master's team, and not Plaintiffs. The Special Master typically holds weekly  
9 meetings with Plaintiffs to update them on the status of the workgroups.<sup>2</sup>

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

11 **A. CDCR Report On COVID-19 Cases, Testing, and Vaccines**

12 CDCR reports the following vaccination statistics as of April 9, 2021. Systemwide,  
13 approximately 64% of COVID-19 naïve patients have been vaccinated. At least first doses  
14 of vaccine have been offered to 96% of incarcerated patients, and the overall acceptance  
15 rate is 71%. Acceptance rates are higher for at-risk populations, with 90% acceptance  
16 among COVID-19 naïve people age 65 or greater, and 84% acceptance among COVID-19  
17 naïve people with a COVID-19 weighted risk score of 3 or greater. All clinical and  
18 custody staff working at institutions have been offered vaccination. Approximately 23,932  
19 or 44% of institution-based staff have received at least first doses through CDCR and  
20 27,464 or 42% of all staff have received at least first doses through CDCR. On April 16,  
21 2021, approximately 25,517 or 39% of all staff are fully vaccinated through CDCR. As of  
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23 <sup>1</sup> At the June 26, 2020 status, conference, the Court directed the parties to file a joint report  
24 with updates "on the work of the Task Force" by July 15, 2020 and "every two weeks  
25 thereafter." (ECF No. 6741.) The Court modified this schedule on August 26, 2020,  
26 directing the parties to file COVID-19 Task Force updates every other Friday by 12:00  
27 p.m., beginning on August 28, 2020. (ECF No. 6837.) On September 25, 2020, the Court  
28 extended the deadline to file the sixth joint update to October 2, 2020 at 12:00 p.m. and  
directed that further joint updates be filed every four weeks. (ECF No. 6886.)

<sup>2</sup> DSH and CDCR data has not been circulated to the Task Force since the last meeting on  
March 30, 2021. Defendants certify all data reported in this report is accurate as of April  
14, 2021 or the date otherwise listed.

1 April 12, 2021, approximately 72% of MHSDS staff have received at least first doses  
 2 through CDCR. CDCR is providing education to incarcerated people and staff and hopes  
 3 to increase acceptance rates. On March 30, 2021, CDCR updated its public-facing  
 4 COVID-19 tracking data to include a vaccination tracker showing data on patient and staff  
 5 vaccination, available at: <https://www.cdcr.ca.gov/covid19/population-status-tracking/>.

6 Consistent with public health guidelines, CDCR will continue to offer vaccination  
 7 to all incarcerated people, including previously-infected patients. CDCR reported that it is  
 8 taking various actions to further encourage vaccination among staff and patients, including  
 9 education, repeatedly and consistently offering vaccination to those who have declined.

10 The following table shows CDCR's report as of April 12, 2021 on the total number  
 11 of confirmed COVID-19 cases, currently active, resolved to date, currently hospitalized,  
 12 hospitalized to date, deaths to date, and the number and percentage of those cases who are  
 13 *Coleman* class members and their level of care.

COVID Result	Total Patients	MHSDS Patients Only	MHSDS patients as % of total
<b>Active</b>	12	5 (2 CCCMS, 2 EOP, 0 ICF, 1 ACUTE, 0 MHCb)	42%
<b>Resolved</b>	43,397	12,868 (10,653 CCCMS, 2,012 EOP, 107 ICF, 56 ACUTE, 40 MHCb)	30%
<b>TOTAL Active + Resolved</b>	43,409	12,873 (10,655 CCCMS, 2,014 EOP, 107 ICF, 57 ACUTE, 40 MHCb)	30%
<b>Current Hospitalized</b>	2	1 (1 CCCMS, 0 EOP, 0 ICF, 0 ACUTE, 0 MHCb)	50%
<b>Cumulative Hospitalized</b>	1,279	443 (358 CCCMS, 71 EOP, 12 ICF, 1 ACUTE, 1 MHCb)	35%
<b>Deaths</b>	220	87 (72 CCCMS, 13 EOP, 2 ICF, 0 ACUTE, 0 MHCb)	40%

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

7 According to CDCR, as of April 14, 2021, it had tested 122,144 unique incarcerated  
8 people and formerly incarcerated people. According to CDCR's publicly available  
9 Population COVID-19 Tracking dashboard reports, as of April 12, 2021, CDCR's rate of  
10 confirmed cases per 1,000 incarcerated people (517.2 per 1,000) is higher than the rates in  
11 California (93.7 per 1,000) and the United States (94.9 per 1,000).

12 As of April 12, 2021, CDCR has transitioned movement to be determined by the  
13 Movement Matrix rather than designating institutions as opened or closed to movement.  
14 As discussed below, Plaintiffs are currently reviewing the revised Movement Matrix.

15 **B. DSH Report Regarding COVID-19 Cases, Testing, and Vaccinations**

16 DSH reports that it continues to offer vaccination to all patients across its five  
17 hospitals and has made vaccination information publicly available at the following  
18 website: <https://www.dsh.ca.gov/COVID-19/Vaccination.html>. All DSH staff and  
19 patients are eligible. DSH's website reports, as of April 13, 2021, a cumulative total of  
20 8,659 vaccine doses have been administered to patients and 14,735 vaccines have been  
21 administered to staff, including first and second doses and individuals no longer housed in  
22 or employed by DSH. Although the website does not show data specific to the *Coleman*  
23 units, it shows among the active (current) populations housed or employed at DSH at least  
24 first doses have been administered to 75% of patients and 68% of staff at DSH-Atascadero;  
25 81% of patients and 56% of staff at DSH-Coalinga; and 73% of patients and 60% of staff  
26 at DSH-Patton.

27 As of April 13, 2021, DSH reports it has performed 65,864 tests on a cumulative  
28 total of 7,332 patients across all five hospitals. A total of 1,893 patients (including non-

1 *Coleman* patients) and 2,001 staff have tested positive to date, with a total of 6 patients and  
2 16 staff testing positive in the past 14 days across the five hospitals. A total of 57 patients  
3 have died to date, none of whom are *Coleman* class members.

4 DSH reports as of April 13, 2021, DSH-Atascadero has had a cumulative total of 19  
5 COVID-19 positive *Coleman* patients. One *Coleman* patient tested positive for COVID-19  
6 upon admission on April 12 and has since tested negative on April 14; he is asymptomatic  
7 and is currently housed in an isolation room. As of April 14, 2021, DSH-Atascadero has 2  
8 units on quarantine and no active isolation units.

9 DSH reports as of April 13, 2021, DSH-Coalinga has had no COVID-19 positive  
10 *Coleman* patients. No *Coleman* patients are currently symptomatic or positive for  
11 COVID-19. As of April 14, 2021, DSH-Coalinga has 4 units on quarantine, and one active  
12 isolation unit.

13 DSH reports as of April 13, 2021, DSH-Patton has had a cumulative total of 2  
14 COVID-19 positive *Coleman* patients. No *Coleman* patients are currently symptomatic or  
15 positive for COVID-19. DSH-Patton has 3 units on quarantine, and one active isolation  
16 unit.

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

18 DSH reported at the March 30, 2021 Task Force meeting that since DSH lifted its  
19 temporary suspension of admissions effective April 16, 2020, DSH has admitted a total of  
20 197 *Coleman* class members as of April 13, 2021, including 20 since the last Task Force  
21 update filed on March 19, 2021. As of March 26, 2021, DSH reports there were 138  
22 *Coleman* class members at DSH-Atascadero (with 118 available beds), 22 at DSH-  
23 Coalinga (with 28 available beds), and 12 at DSH-Patton (with 18 available beds).

24 As of April 13, 2021, DSH reports that it received a total of 16 new *Coleman*  
25 referrals from CDCR since the last Task Force update filed on March 19, 2021. As of  
26 April 13, 2021, Defendants report there are 14 patients awaiting admission to DSH-  
27 Atascadero, DSH-Coalinga, and DSH-Patton, with zero ICF patients awaiting admission  
28

1 for more than 30 days. Of the 14 patients awaiting admission to DSH-Atascadero, DSH-  
2 Coalinga, and DSH-Patton, none have been awaiting admission for more than 30 days.

3 **III. UPDATES ON THE CDCR AND DSH SMALL WORKGROUP ACTIVITIES**

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

6 **A. CDCR Workgroup**

7 The CDCR small workgroup discussed CDCR's provision of group treatment with  
8 social distancing, Nursing Led Therapeutic Groups pilot at seven institutions, and progress  
9 on transferring the backlog of class members held at desert institutions and out of non-EOP  
10 Hub segregation units.

11 **B. DSH Workgroup**

12 Defendants report that the DSH small workgroup continued to meet weekly to  
13 discuss individual and institutional level public health data for the purpose of ensuring safe  
14 transfers. Additionally, Defendants report that DSH and CDCR are continuing to  
15 collaboratively review patients on the CDCR PIP waitlist to identify patients who can be  
16 safely transferred to DSH. As of April 9, 2021, a total of 73 cases were reviewed, CDCR  
17 and DSH determined 32 were not appropriate for transfer to DSH and 41 were  
18 recommended for transfer. Of these 41 cases, 16 have already transferred to DSH, 12 have  
19 been referred to DSH including 5 scheduled for transport to DSH the week of April 12th, 3  
20 have been rescinded due to their LRH changing to Locked Dorms, and 10 are pending  
21 referral. Defendants will provide more information on the progress of that review at the  
22 next Task Force meeting.

23 **IV. UPDATES ON OTHER KEY TASK FORCE TOPICS**

24 **A. Deactivation of the Temporary Mental Health Units (TMHUs)**

25 CDCR determined that the COVID-19 TMHUs are no longer necessary to provide  
26 housing or care to patients pending transfer to MHCBS, Acute beds, or ICF beds. On  
27 March 26, 2021, CDCR sent an email to the field directing that CDCR will stop placing  
28 patients in TMHUs on April 2, 2021, patients referred to Acute care shall await transfer in

1 a crisis bed, and patients referred to Intermediate care shall either receive enhanced  
2 Treatment In Place in an outpatient program or be placed in a crisis bed pending transfer.  
3 During the March 30, 2021 Task Force call, CDCR also reported that it will consider all  
4 inpatient transfers to be clinically necessary, it has eliminated the MHCB waitlist and the  
5 MHCB transfer process is returning to pre-COVID-19 standards, and once it eliminates the  
6 current backlog of Intermediate and Acute inpatient transfers CDCR will also discontinue  
7 use of Treatment In Place in outpatient programs.

8 **B. Mental Health Milestone Credit Earning**

9 At the March 30, 2021 Task Force meeting, and in subsequent correspondence, the  
10 Parties discussed Plaintiffs’ inquiries about blocks of backdated entries being made in  
11 patients’ health care records for Mental Health Milestone Credits, which credits may  
12 reduce the actual length of class members’ prison terms. CDCR’s December 3, 2020  
13 memorandum entitled “Guidance for Mental Health Milestone Completion Credits During  
14 COVID-19” allowed all class members to continue to earn Mental Health Milestone  
15 credits during the COVID-19 pandemic, including receiving credits retroactively for in-  
16 cell activities completed prior to the issuance of the memorandum. Defendants explained  
17 that restrictive movement and staff shortages due to COVID-19 caused delays in assessing  
18 and entering some patients’ Milestone credits, and that block entries were being made to  
19 catch up on data-entry.

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