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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

DECLARATION OF JOSEPH BICK, M.D.

Date: April 16, 2020
Time: 2:00 P.M.

I, Joseph Bick, M.D., declare as follows:

1. I am currently the Director of Health Care Services for the California Department of Corrections and Rehabilitation (CDCR). In this capacity, I oversee the mental health and dental programs providing services to CDCR's inmate patients. Before holding this position, I served as the Chief Medical Executive at CDCR's California Medical Facility from 2010-2020, the facility's Chief Deputy for Clinical Services from 2007-2010, and the facility's Chief Medical Officer from 1994-2007. I submit this declaration in response to Defendants' Opposition to Plaintiffs' Emergency Motion Regarding Prevention and Management of COVID-19.

2. I received a Medical Doctorate from the University of Michigan Medical School in 1987, and am a board certified internist and infectious diseases specialist. I completed an

infectious diseases fellowship at St. Luke's Medical Center in Chicago, Illinois in 1993, and am a Fellow in the Infectious Diseases Society of America. In addition to my work at CDCR, I have served as a Visiting Associate Professor for Infectious Diseases at the University of Malaya Medical Centre, Kuala Lumpur, Malaysia from 2012-2013; an International Technical Expert on Prisons with the United Nations Office for Project Services, Myanmar from 2013-2014; an Infectious Diseases Consultant for Kajang Prison in Kajang, Malaysia from 2012-2016; and a Court-Appointed Medical Monitor in Leatherwood, et al. v. Campbell, et al., No. CV-02-BE-2812-W (W.D. Ala.), a class action concerning human immunodeficiency virus (HIV) infected prisoners in the Alabama Department of Corrections, from 2005-2007. I have contributed to various publications addressing infectious diseases in the correctional setting, and was the Assistant Editor of the "Infectious Diseases in Corrections Report" from 1997-2008, and have lectured on infectious diseases including Mycobacterium Tuberculosis, Hepatitis C, Methicillin Resistant Staphylococcus aureus, Coccidioidomycosis (Valley fever), and HIV.

3. Coronavirus disease 2019 (COVID-19) is a respiratory illness caused by a novel (new) coronavirus. COVID-19 was first identified in China in late 2019, and over the past few months it has rapidly spread to many other nations, including the United States. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic. (https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020, last retrieved March 28, 2020.) According to the Centers for Disease Control and Prevention (CDC), the virus that causes COVID-19 is spread by both respiratory and person-to-person contact. (https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html, last retrieved April 13, 2020.) This can include close contact (within about 6 feet) with an infected person when that person coughs or sneezes, producing respiratory droplets that are inhaled into the lungs by nearby persons. The virus can also spread from contact with surfaces or objects that have the virus on them. The virus appears to be spreading easily and sustainably among communities in some affected geographic areas, with persons not sure how or where they became infected. This is known as "community spread." (https://www.nih.gov/health-information/coronavirus, last retrieved April 13, 2020.)

4. CDCR and California Correctional Health Care Services (CCHCS) have taken a number of steps to implement the tactics recommended by public health authorities to mitigate the spread of COVID-19 among its inmate-patient population and staff, and in order to continue to provide necessary patient health care services to inmate-patients. I described many of those steps in my previous declaration filed on April 1, 2020. (ECF 3243-3.)

5. In addition to those previously-described important steps, on April 1, 2020, CDCR and CCHCS "launched an internal patient registry to assist institutions in monitoring patients with suspected or confirmed COVID-19. The COVID-19 Registry also tracks all individuals by risk. The registry is updated twice daily and draws from multiple data sources, including the electronic health record system, claims data, and the Strategic Offender Management System to compile risk factor data. This registry also includes release date information for each individual, in the event that individuals are to be considered for early release during the pandemic. This tool is not publically available as it contains personal health care information protected by medical privacy laws."

6. As with leaders and public health officials in the community, CDCR and CCHCS continue to study and analyze developing scientific and medical information in order to advance efforts to mitigate the spread of COVID-19 in CDCR's institutions and the community. Reflecting this effort, on April 10, 2020, the Receiver issued a memo entitled CCHCS Guidelines for Achieving and Maintaining Social Distancing in California Prisons (CCHCS's Guidelines). A true and correct copy of CCHCS's Guidelines are attached hereto as Exhibit A.

7. Pursuant to the CCHCS's Guidelines, the Receiver has directed that CCHCS and CDCR should limit movement of patients between institutions to that which is clinically essential. This step was taken with the understanding that Inter-institution moves risk carrying the virus from one institution to another. Attached as Exhibit B is an April 12, 2020 memorandum from the Receiver in which he clarifies that he "had not intended for [his] April 10, 2020 memorandum to affect any inter-institution transfers that to address either medical, mental health, or dental treatment needs that are not available at the sending institution, such as to provide a higher level of care or to reduce or prevent morbidity or mortality, or a safety or security issue that cannot be

managed by the sending institution."

8. The Center for Disease Control's "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," dated March 23, 2020 (https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html), recommends maintaining social distance of 6 feet between inmates while acknowledging that "Strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities." Within the CDCR, increased social distancing is already being achieved in both single- and double-celled units. In double cells, cell mates constitute one another's "social distancing cohort" for correctional purposes and are analogous to a family unit in the free world. With respect to housing in dorm settings, the Receiver has advocated for increased physical distancing by the creation of 8-person housing cohorts. Each cohort is to be separated from the others by a distance of at least six feet in all directions. I agree that patient transfer should be limited to either that which is essential to address significant mental health or medical emergencies, or movement of patients from dorms to single or double occupancy housing for improved physical distancing.

9. The Center for Disease Control's "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," dated March 23, 2020 is available at https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.

10. I have reviewed Plaintiffs' Emergency Motion Regarding Prevention and Management of COVID-19. (ECF 3266.) In their motion Plaintiffs argue that CDCR will be unable to transfer inmate-patients who are housed in rural and semi-rural prisons when or if they require transfer to hospitals for care. I agree that if a community is facing a large-scale increase in the number of active COVID-19 cases, hospital bed availability may be limited. To address situations such as these, CDCR and CCHCS have access to contracted and noncontracted hospitals around the State and can transport inmate-patients to those hospitals by various modes including by ambulance and, when necessary, air ambulance or helicopter. CDCR would employ all necessary means to ensure inmate-patient health.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 13, 2020 in Davis, California.

Joseph Bick

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Joseph Bick, M.D.
(Original signature retained by counsel)

Exhibit A

CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

MEMORANDUM

Date:	April 10, 2020
To:	Secretary Ralph DIaz
From:	J. Clark Kelso, Receiver
Subject:	CCHCS Guidelines for Achieving and Maintaining Social Distancing in California Prisons

In the face of the ongoing COVID-19 pandemic, California Correctional Health Care Services (CCHCS) will continue to be guided by the developing scientific and medical consensus regarding social distancing in correctional settings, as well as by the Receiver's authority under the Order Appointing Receiver and the applicable regulatory provisions of Title 15 of the California Code of Regulations. Accordingly, the Receiver has determined that CCHCS and California Department of Corrections and Rehabilitation (CDCR) should implement the following steps in their ongoing efforts to mitigate the risks associated with transmission of the COVID-19 coronavirus.

1. CDCR should not authorize or undertake any further movements of inmates between institutions to achieve necessary social distancing without the approval of Health Care Placement Oversight Program (HCPOP) in consultation with the CCHCS public health team. Inter-institution moves risk carrying the virus from one institution to another.

2. The Center for Disease Control's "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," dated March 23, 2020 (https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html), recommends maintaining social distance of 6 feet between inmates while acknowledging that "Strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. Not all strategies will be feasible in all facilities." Necessary social distancing is already being achieved in both single- and double-celled units. In double cells, cell mates constitute one another's "social distancing cohort" for correctional purposes and are analogous to a family unit in the free world. With respect to housing in dorm settings, the Receiver has determined that necessary social distancing can be achieved by creating 8-person housing cohorts. Each cohort is to be separated from the others by a distance of at least six feet in all directions.

3. Any movement of inmates out of the dorms to achieve necessary cohort social distancing must be coordinated with, and may not occur without the concurrence of,

HCPOP to ensure to the extent feasible that such movement does not cause, contribute to or exacerbate the potential spread of the disease.

4. CCHCS will continue to monitor developments closely and will modify these guidelines as necessary and appropriate.

Exhibit B

CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

MEMORANDUM

Date:	April 12, 2020
To:	Secretary Ralph Diaz
From:	J. Clark Kelso, Receiver
Subject:	CCHCS Guidelines for Achieving and Maintaining Social Distancing in California Prisons

This memorandum supplements my memorandum dated April 10, 2020 and clarifies my intention regarding the steps set forth in that memorandum.

I had not intended for my April 10, 2020 memorandum to affect any inter-institution transfers that are to address either medical, mental health, or dental treatment needs that are not available at the sending institution, such as to provide a higher level of care or to reduce or prevent morbidity or mortality, or a safety or security issue that cannot be managed by the sending institution.

If you have any uestions, please do not hesitate to contact me.