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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. C94 2307 CW

**[REDACTED] EXHIBITS 31-63b TO
DECLARATION OF MICHAEL
FREEDMAN IN SUPPORT OF
MOTION TO STOP DEFENDANTS
FROM ASSAULTING, ABUSING AND
RETALIATING AGAINST PEOPLE
WITH DISABILITIES AT R.J.
DONOVAN CORRECTIONAL
FACILITY AND EXHIBITS 1-90**

Judge: Hon. Claudia Wilken
Date: May 19, 2020
Time: 2:00 p.m.
Crtrm.: TBD, Oakland

REDACTED

Case No. C94 2307 CW

Exhibit 31

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

3. I was housed at RJD from July 5, 2016 to present. During my time at RJD, I have only been housed in the C15 Unit.

5. I also have incontinence problems. I have struggled to control my bladder and bowels since a surgery following the accident in 1977. I use diapers and wipes due my incontinence problems.

7. I am a *Clark* class member. I am designated as DD2. I have a developmental disability. I have a very poor memory due to my developmental disability, which is worsened by my dementia. I need help remembering to shower and brush my teeth every day. I also need help reading and writing, and with filling out forms.

1 8. I have a number of serious medical conditions. I had surgery to remove a
2 tumor in my colon eleven years ago. I also have Hepatitis C, which has caused a cirrhosis
3 of my liver. I also take medications for my high blood pressure. I am classified as high
4 risk medical.

5 9. A few months ago, I saw Officer [REDACTED] and Officer [REDACTED] pepper-spray
6 another incarcerated person in my unit after he told them he was suicidal and asked to go
7 to a crisis bed. After he was sprayed, the officers just left the man in his cell, still yelling
8 for help and assistance.

9 10. Incidents like the one above happen frequently in my unit – so frequently
10 that it is hard for me to remember each incident. Approximately every week, someone in
11 my unit tells officers that they are suicidal and asks to go to a crisis bed, but officers often
12 pepper spray them or threaten to do so unless people stop asking for help. Seeing this
13 happen has made me feel like I cannot ask officers for help if I am feeling suicidal. When
14 I feel suicidal, I just wait in my cell and try to control my thoughts until I can talk to my
15 clinician. Sometimes, I have to wait for multiple days before I can talk to my clinician
16 about what I am going through.

17 11. Since I have been in the C15 Unit, I have seen multiple people commit
18 suicide in the unit. Many of these people loudly called for officers to help them before
19 they killed themselves, but were ignored. I feel that if officers responded to people who
20 need help then many of these deaths would not have occurred.

21 12. I have also seen officers retaliate against incarcerated people by throwing
22 away incarcerated peoples' property after they go to a mental health crisis bed. From what
23 I have seen, officers distribute their property to porters or other favored incarcerated
24 people in the unit. Three weeks ago at approximately 3:00 a.m., I heard another
25 incarcerated person in the cell [REDACTED] ask officers for help and tell them that he was suicidal.
26 He was then brought out of the unit. I then saw officers take his property – including items
27 he had bought at canteen, cosmetics, and clothes – and throw it out into the dayroom.
28 Later that morning, I saw multiple incarcerated people grab the property for themselves as

1 the officers watched. Hours later, when the suicidal person returned to the unit, all of the
2 property that the officers had thrown into the dayroom had been taken by other
3 incarcerated people.

4 13. In 2017, another prisoner, [REDACTED] [REDACTED] was murdered by his cellmate. He
5 was left in his cell for three or four days. After a day had passed, the whole unit could
6 smell his body rotting. Officers just left him there for days and ignored the smell. This
7 incident frightened me terribly. If something were to happen to me in my unit, I believe
8 that officers would just ignore me and let me rot in my cell.

9 14. I still see the officers that were involved in the staff misconduct I have
10 witnessed every day. Officers [REDACTED] and [REDACTED] still work in my unit and regularly
11 pepper-spray incarcerated people when they ask for help.

12 15. In my time at RJD, there have been many times that I needed help but didn't
13 ask for it because I was afraid of what would happen to me. At other institutions, officers
14 helped me with reading and writing letters and forms. I do not ask officers for help filling
15 out forms or writing letters at RJD, though, because I know that they will not help me and
16 may hurt me for even asking. When I do talk to officers, they just yell things like "Get in
17 Line!", "Hurry up!", and "Shut up and get to your cell!"

18 16. I often have incontinence accidents. After these accidents, I sometimes ask
19 officers for a shower so that I can clean myself off. They just tell me no. Because I know
20 what could happen to me if I push or ask again, I just go back to my cell and try to use my
21 sink to clean myself off. I also often need new sheets or clothes after accidents, but
22 officers refuse to give me these when I ask. Because officers refuse to help me and I am
23 scared to ask them because I know what they might do, I just wait until the next weekly
24 laundry exchange. Sometimes, I have to use my soiled sheets for multiple days because
25 officers will not help me. I would never file an 1824 or a 602 asking for more sheets or
26 showers after accidents because I know what officers might do to me if I did file one.

27 ///

28 ///

1 17. In my opinion, staff threaten and hurt people who ask for help because they
2 are lazy and do not want to have to do paperwork or have to assist anyone. I feel like
3 officers react the way that they do when incarcerated people ask for help to discourage
4 anyone from ever asking for help.

5 18. I have talked to my clinician frequently about these problems. My clinician
6 has told me that she knows about the problems with officers, but that she is also scared by
7 the officers and what they could do if she spoke out about them. I have told her about
8 numerous incidents in which officers have pepper-sprayed people in my unit after they
9 have asked for urgent mental health help. My clinician has just told me that she cannot
10 help me with these problems.

11 19. I have been in CDCR prisons for about 25 years of my life. I've been
12 housed in a number of different CDCR prisons, including San Quentin, Pelican Bay State
13 Prison, Folsom State Prison, CSP – Sacramento, Deuel Vocational Institution, Correctional
14 Training Facility, RJD, CSP – Corcoran, and CSP – Los Angeles County. RJD is the
15 worst prison at which I have ever been incarcerated. I was incarcerated at CSP – Corcoran
16 and Pelican Bay State Prison in the mid-1990s when conditions were awful and when
17 officers set up fights between prisoners regularly so that they could bet on the outcomes. I
18 was in the Pelican Bay State Prison before the *Madrid* litigation and served time in the
19 SHU at that time. RJD is worse than any of those prisons at their worst.

20 20. I believe the reason there is so much staff misconduct at RJD is because
21 supervisors do not do anything to control bad officers, but simply turn a blind eye to the
22 misconduct that occurs.

23 I declare under penalty of perjury under the laws of the United States of America
24 that the foregoing is true and correct, and that this declaration is executed at
25 San Diego California this 8 day of January 2020.

Exhibit 32

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 14. I am 32 years old.

3. I have been housed at RJD since March 2019.

4. During my time at RJD, I was housed in C-15, then in B-6, and the rest of the time I have been in C-14.

5. I am a *Coleman* class member. I am at the EOP level of care. I have schizophrenia and paranoia. I have been receiving mental health treatment since I was sixteen in the California Youth Authority. I also have depression. I am depressed a lot in prison. I also have anger problems. I am working on my anger and I am doing cognitive behavioral therapy with my clinician.

6. I was a victim of staff misconduct at RJD.

7. In August 2019, I was feeling suicidal because my mom was in the hospital after a heart attack. I asked Officer [REDACTED] if I could talk to my clinician. While I was talking to Officer [REDACTED] Officer [REDACTED] who was standing there, said to me, "You are crying too much. You need to shut up and do what everyone is doing in the dayroom." That made me feel even worse.

8. Then Officer [REDACTED] started searching my cell. He said he was searching my cell because my cell-mate did something wrong. I got upset and stated that I was going to report him. Officer [REDACTED] then took me down to the ground forcefully. He kned me in the back, right where I had been shot previously, causing extreme pain in my back. He forced my head against the concrete floor. I didn't feel like I had done anything wrong, I was just trying to get help for my mental health and then all of these problems started.

1 9. During another incident, on October of 2019, I went to medical because I
2 have nerve damage and it is difficult to sleep. There, I got into an altercation with staff
3 because I was frustrated that I could not get pain medication. After I was hand cuffed, I
4 told staff, including Officer [REDACTED] who was escorting me, that I was feeling suicidal and I
5 wanted to talk to my clinician. I was feeling very upset about the way staff treated me and
6 I was fed up. I wanted to end my life. Instead of taking me to my clinician, the officers
7 put me back in my cell in C-14. When I got to my cell Officer [REDACTED] said to me, "Go
8 ahead and cut yourself." The other officer who was with him said, "We will give you a
9 razor." This made me so upset and angry. I was looking around my cell but couldn't find
10 something to cut myself.

11 10. Two weeks later Sergeant [REDACTED] came and asked me, "What's this about
12 you saying that [REDACTED] told you to cut your wrists?" I told Sergeant [REDACTED] that Officer
13 [REDACTED] did say that. Next Sergeant [REDACTED] had me sign a piece of paper saying that I do not
14 have a problem with Officer [REDACTED] I signed the paper because I was very stressed out
15 about it and he said that if I did not sign it they would move me. I was very worried I
16 would lose my property. I felt pressured so I signed it.

17 11. I feel like staff acted like my problems were some kind of joke. I have hurt
18 myself including swallowing razors and toothbrushes and cutting on my arms and stomach
19 at least 20 times. I have serious mental health issues and I have tried to kill myself. So,
20 for me, asking for help when I feel like hurting myself is no joke but it's like staff don't
21 care.

22 12. Both Officer [REDACTED] and Officer [REDACTED] still work in my housing unit, C-14. It
23 makes me feel very uncomfortable. I feel like they are supposed to be protecting us but
24 they just make me feel worse.

25 13. This summer, in June, July, or August of 2019, I was standing in the [REDACTED]
26 dayroom of C-14 and I saw [REDACTED] throw a prisoner named Mr. [REDACTED] to the
27 ground and knee him in the back. [REDACTED] Then an alarm [REDACTED]
28

1 sounded. Mr. [REDACTED] was already in handcuffs and was already on the ground when I
 2 saw seven or eight other officers come rushing in to the building. The other officers were
 3 kneeling him in the back and I could see that they were forcing his head on to the ground
 4 with their fists. They were really roughing him up. This went on for a few minutes before
 5 they picked him up and dragged him out of the unit.

6 14. Multiple times I have seen staff turn their back when prisoners are attacking
 7 each other and the officers just stand by. The officers say things like, "Stop horse playing.
 8 Stop playing around." This is a level four prison yard. Prisoners attacking one another is
 9 serious and is a matter of life and death, not horseplay. Staff members have to know that.

10 15. On January 13, 2020, at approximately 7:00 p.m., I was in my cell, C14-[REDACTED],
 11 sitting on my bunk when I heard an incarcerated person yelling that he was suicidal. I then
 12 heard *Officer* [REDACTED] tell the tower officer, Officer [REDACTED] to open that person's cell. A few
 13 moments later, I heard *officer* [REDACTED] tell the suicidal person to cuff [REDACTED]
 14 up. I next heard the incarcerated person state that, because he uses a cane, he could not be
 15 cuffed behind his back. At this point, I got up from my bunk and walked to the front of my
 16 cell. I then saw that the incarcerated person was Mr. [REDACTED] and I saw Mr.
 17 [REDACTED] arguing with three officers on the dayroom floor. From what I heard, he was
 18 telling the officers that he could not be cuffed behind his back due to his disability, and [REDACTED]
 19 they were insisting that he be cuffed behind his back.

20 16. As I watched from my cell-front, I saw *Officer* [REDACTED] suddenly slam Mr. [REDACTED]
 21 [REDACTED] to the ground and repeatedly punch and kick him in the head and body as he lay
 22 on the ground. He was not resisting and appeared defenseless on the ground while they
 23 beat him. As they beat him, Officer [REDACTED] sounded the alarm and multiple officers
 24 streamed into the C14 Unit to respond. I saw one of the responding officers run into the
 25 unit and immediately kick Mr. [REDACTED] in the chest.

26 17. The officers continued to beat Mr. [REDACTED] for what felt like ten to fifteen
 27 minutes. As they beat him, I yelled out for them to stop and that Mr. [REDACTED] was no
 28

1 threat. Several other incarcerated people were yelling as well. Eventually, they stopped
2 beating him, cuffed him up, and brought him out of the unit. I have not seen him since.

3 18. Watching the officers beat Mr. [REDACTED] made me angry and frightened. If
4 officers can beat Mr. [REDACTED] like that, they could do the same to me. After seeing
5 officers beat Mr. [REDACTED], I know that I cannot ask them for help if I am feeling suicidal
6 or really depressed. I was already afraid of talking to staff because of what they have said
7 to me and because of what I have witnessed staff do to others in the past. Now, after the
8 incident with Mr. [REDACTED], even if I'm having thoughts of hurting myself, I'll wait to talk
9 to my clinician – even if I have to wait for hours or days to do so. I believe that asking for
10 help from officers would just set me up to get hurt.

11 19. Not all officers here are bad. But there are certain officers at RJD that are
12 engaged in bad behavior and no one stops them.

13 I declare under penalty of perjury under the laws of the United States of America
14 that the foregoing is true and correct, and that this declaration is executed at
15 SAN DIEGO, California this 30 day of January, 2020.

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

Exhibit 33

DECLARATION OF

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C, in Building 15. I am 59 years old.

3. I have been housed at RJD multiple times over the last few years. I was housed at RJD from October 2017 through November 2017. I then went out to a mental health facility, and returned to RJD in December 2018. I have been housed at RJD since December 2018.

4. During my time at RJD, I was first housed in Building C14 from October 2017 through November 2017. When I returned to RJD in December 2018 I returned to C 14. On May 3, 2019, I transferred to administrative segregation, Facility B, Building 6. When I was released from administrative segregation in July 2019, I was housed on Facility C, Building 15.

5. I am an *Armstrong* class member. I am designated as DPO. This means I have a mobility disability and that I use a wheelchair for longer distances. As accommodations for my disabilities, I am housed on the ground floor and in a lower bunk, and I have a wheelchair and a cane to ambulate. I also have a wheeled walker.

6. I am a *Coleman* class member. I am at the EOP level of care. I have severe depression following the loss of my mother of 2010.

7. I have a number of serious medical conditions. I am an insulin dependent diabetic. I have arthritis, neuropathy, degenerative bone disease, and glaucoma. I am classified as high risk medical.

8. I was a victim of staff misconduct at RJD.

1 9. On November 8, 2017, I returned to RJD from an outside hospital where I
2 had been treated for an injured foot. When I returned to RJD I found out that my cell had
3 been given to someone else while I was gone and I was expected to live in a new cell with
4 a notorious drug addict. I felt unsafe being housed with this person. When I requested a
5 different housing assignment, Officer [REDACTED] cuffed me and placed me in a cage in the
6 gym. Officer [REDACTED] came to see me in the gym and attempted get me to agree to be
7 housed with the drug addict. I refused, and he left the gym.

8 10. A few minutes later, Officers [REDACTED] [REDACTED] [REDACTED] and [REDACTED]
9 entered the gym. They forced me out of the cage, on to the floor, and then unloaded
10 multiple cans of pepper spray directly to my face. I became temporarily blind and started
11 choking. Then, the officers started kicking, punching, and stomping my head, face, neck,
12 body, and legs. At one point one of the staff members asked me which foot of mine was
13 previously injured. I told them my right foot. Someone then started kicking my right foot.

14 11. I suffered a broken foot, a broken finger, cuts, bruises swelling, internal
15 bleeding in my stomach, and a broken tooth as a result of the attack. I also suffered
16 anxiety and nightmares following the incident.

17 12. I received a false rules violation report ("RVR") write up for this incident. I
18 was charged with assault on staff. I never assaulted staff.

19 13. I filed a 602 two weeks after the incident claiming staff misconduct and
20 challenging the RVR as a false charge.

21 14. I was found guilty of the RVR and lost 90 days of credit from my sentence.

22 15. I served my segregation sentence and, when I returned from administrative
23 segregation, staff in my housing unit continued to take my privileges away from me
24 including yard time, phone, canteen, and day room. The loss of privileges was not part of
25 my sentence, which had been served. I believe the additional loss of privileges was done
26 by staff in retaliation for my filing a staff complaint about the assault.

1 16. On August 30, 2018, I filed a lawsuit about this incident. Since that time I
2 believe staff have taken action against me in retaliation for filing the lawsuit.

3 17. For example, I have observed that Officers [REDACTED] and Officers [REDACTED] are
4 friendly at work. I believe that Officer [REDACTED] found out that I filed a lawsuit naming
5 Officer [REDACTED]. Around February 2019, Officer [REDACTED] began threatening to put a cellmate
6 in to my cell who would beat me up. He has made this threat multiple times. As a result
7 of these repeated threats, I became very worried and anxious for my safety. I had trouble
8 sleeping and I was constantly on the lookout for my cell door to open because I was afraid
9 that other incarcerated people would come in to beat me up.

10 18. In May 2019, Officer [REDACTED] and Officer [REDACTED] came to my cell and told me I
11 was being investigated for sexual battery on another inmate. I was confused because I had
12 not done what they had accused me of. I did not even have a cellmate at the time and I
13 rarely left my cell. So, these charges were shocking to me. They sent me to the hospital to
14 have rape kit tests performed. At the hospital they stripped me down, took all of my
15 clothes, including undergarments that are hard to get in prison and that I never received
16 back and have not been able to get since. It was a very traumatic experience for me,
17 especially because I didn't do it. The tests apparently came back negative and I was never
18 charged for the incident. I believe the whole thing was done in retaliation for me filing the
19 lawsuit.

20 19. I have also witnessed staff engage in misconduct against other people at
21 RJD.

22 20. In 2018, I witnessed officers spraying two prisoners with pepper spray as a
23 result of a fight that happened in the dining hall during dinner. I saw a third prisoner, who
24 was a bystander, asked to be allowed to get out of the way because he was in the stream of
25 the pepper spray and he said he couldn't breathe. The bystander was an elderly white man
26 from my building, C 14, cell [REDACTED], who I knew to be a participant in the EOP mental health
27 program. I did not know this prisoner's name. Next, I saw Officer [REDACTED] say to him, "I
28

1 don't give a damn, shut up!" Officer [REDACTED] then grabbed the elderly man from a sitting
2 position and slammed him on the ground. Officer [REDACTED] took this prisoner's face and
3 forced it in to the pool of OC spray on the ground. Then, I saw about five or six officers
4 rush over and jump on the prisoner and start kicking and beating him. I do not know the
5 other officers; I only know Officer [REDACTED]. The beating lasted about 3-4 minutes before a
6 female sergeant came in and told them to stop. I don't know the name of the sergeant.
7 When the officers picked the prisoner up off the ground, he was covered in blood. I saw
8 blood streaming down the front of his head. The way staff picked him up and lifted his
9 head up for everyone to see, it felt like they were showing him off as an example of what
10 will happen to you if you mess with officers. It made me feel very upset and angry
11 because these were the very officers that were supposed to be protecting us.

12 21. Officer [REDACTED] is still working at RJD but I heard he was transferred to
13 Facility A.

14 22. Also, around December 2018, when I was waiting outside the medical
15 treatment area, I saw staff escort a transgender prisoner named "[REDACTED]" into the gym. I
16 saw them enter the gym and then I heard her start yelling out, "That's enough, that's
17 enough. Alright. Please stop!" I know it was her because she lived in my building and I
18 recognized her voice. I could tell she was being beaten by the way she was yelling and
19 crying out for staff to stop it. When I returned to the housing unit I saw a big pool of blood
20 on the floor near my cell. Everyone in the unit was saying that it was [REDACTED]'s blood.

21 23. In my time at RJD, there have been a few times that I needed help but didn't
22 ask for it because I was afraid of what would happen to me. I am intimidated by the
23 officers because of what I have witnessed and experienced. For example, about three or
24 four times I needed help with a wheelchair pusher and staff refused to call someone to help
25 me. I end up just wheeling myself because I did not want risk getting into an altercation
26 with staff.

1 24. I have seen staff target people with disabilities because they know they can't
2 fight back. The incidents I have witnessed and experienced all involve people with
3 disabilities. I think staff are bullying us because we can't defend ourselves.

4 25. I have been in CDCR prisons for about 30 years of my life. I've been
5 housed in a number of different CDCR prisons. The staff misconduct at RJD is unlike
6 anything I have ever seen before. For example, I had never seen an officer strike a
7 prisoner with a fist or kick a prisoner until I got to RJD.

8 I declare under penalty of perjury under the laws of the United States of America
9 that the foregoing is true and correct, and that this declaration is executed at

10 SAN DIEGO, California this 6 day of January, 2020.

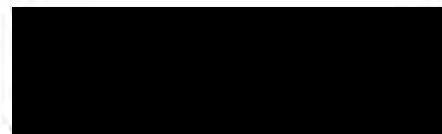
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Exhibit 33a

Filed Under Seal

Exhibit 34

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 5. I am 26 years old.

3. I have been housed at RJD from March 27, 2019 to the present. During my time at RJD, I have been housed in the A5 Unit and the B10 Unit.

4. I am a transgender woman. My pronouns are she/her/hers. I am currently on a waiting list for hormone therapy. My birth name is [REDACTED].

5. I am a *Coleman* class member. I am at the CCCMS level of care. I am diagnosed with schizophrenia. I take multiple medications for my schizophrenia, including Risperdal and Vistaril. In the past when I was not on medications, I have heard voices and felt paranoid. I often feel very depressed. At those times, I lay in bed all day and have no appetite. The medications I take make me feel better and stable.

6. I have a number of serious medical conditions. I am HIV positive. I take Genvoya for my HIV. I have a lot of stomach problems and internal bleeding as a result of my HIV. I also have a seizure disorder, for which I take Keppra. I am classified as high risk medical.

7. I was a victim of staff misconduct at RJD. On June 19, 2019, at approximately 10:00 a.m., I was in my cell in the B10 Unit when Officer [REDACTED] and two other officers came up to my cell front. Officer [REDACTED] told me that they were doing a cell search and told me to strip out. I took off my clothes, but I told him I would not remove my underwear because I am transgender and I did not want to get naked in front of a male officer. I asked him if I could be searched by a female officer instead. Officer [REDACTED] only laughed at me, and called me a "gay boy," a "homosexual," and a "tranny." He told me to

1 cuff up, so I did so and he brought me to the A-Section shower. He locked me in the
2 shower for around an hour and waited until everyone else left the building. *so that the officers could conduct
A the cell searches.*

3 8. Approximately an hour later, Officer [REDACTED] came back with five to ten other
4 officers and told me to take off the rest of my clothes. Although I did not want to do so, I
5 pulled my underwear to my ankles because I was scared of what would happen to me if I
6 refused. He then told me to "squat and cough." After I did so, he told me to do so again,
7 so again I squatted and coughed. Officer Hubert then told me "get on the floor" and
8 pushed me hard into the ground. He then started punching me hard with his fists in the
9 back of my neck, knocking my head repeatedly into the ground, as the other officers
10 watched and held me on the ground. As he did so, he choked me with his other hand and
11 mocked me, saying "Are you okay? Are you okay?" He continued to punch and choke me
12 for approximately two minutes on the floor of the shower. I was spitting up blood because
13 my gums had hit the concrete hard and crunched into my teeth. Once he stopped choking
14 me I started gasping for air because I had not been able to breath. My head was throbbing
15 because I had been slammed into the ground.

16 9. Officer [REDACTED] then pushed his shoulder into my legs and then he handcuffed
17 me. As I lay in the water and my own blood on the concrete in the shower, I tried to pull
18 my underwear back up because I was still naked in front of the officers. Officer [REDACTED]
19 pulled my underwear back down and then stuck his finger in my anus. I screamed "What
20 are you doing?!?" but he did not respond. I felt so degraded and stunned by what was
21 happening to me that I could not process it.

22 10. Officer [REDACTED] and the other officers then picked me up and put me on a
23 gurney. I was then taken to the TTA building. At the TTA, the nurses asked the officers
24 what had happened to me, and one of the officers told them that "She fell in the shower." I
25 interjected, "No, they hit me." I then told the nurses that an officer had punched me in the
26 head and in my neck. The officer escorting me then told me "If you say that to the
27 administration, they're going to put you in the hole." I said "fine, I'll speak to them when
28 I see a lawyer." I was then evaluated by nursing staff, who wrote down that I had [REDACTED]

1 abrasions and bruises to my arms and head. They put a bandage on my head and then
2 discharged me.

3 11. After I left the TTA, I was taken to be searched yet again. Officers took me
4 to another building and forced me to go through a metal detector. Nothing was ever found
5 on me as a result of any of these searches, because I had no contraband on me.

6 12. After leaving the building with the metal detector, I was taken to the
7 *program office on Facility B* where I was interviewed by two sergeants at approximately
8 2:00 p.m. This interview was video recorded and lasted approximately fifteen minutes.

9 The sergeants used the video camera to record my injuries to my head, but not to my arms.
10 I told the sergeants what had happened to me. The officers told me that if I felt my life
11 was threatened, I would have to be sent to administrative segregation. Because I really
12 struggle with depression when I am in segregation, I told the officers that I was fine and
13 was returned to my housing unit.

14 13. In the days after the incident, I stayed in my cell because I felt very sensitive
15 to light and I had a bad headache. I felt dull, slow, and out of it. It is my belief that I
16 suffered a concussion from the incident.

17 14. A few weeks later, I filed a 602 staff complaint about what Officer [REDACTED]
18 had done to me. I alleged that he used excessive and unnecessary force on me and had
19 forced me to strip in front of him. In August 2019, I was interviewed by a lieutenant as a
20 result of my 602. The lieutenant told me that there would be investigation into the incident
21 that would last a month or two. This interview was videotaped. The lieutenant asked me
22 to describe what had happened to me. After I did so, he ended the interview. The
23 interview lasted approximately half an hour. I still have yet to receive a final response to
24 my 602, even though the incident happened more than six months ago.

25 15. I have also witnessed staff engage in misconduct against other people at
26 RJD. On November 19, 2019, I was in the chow hall in line for food during breakfast at
27 approximately 6:45 a.m. I heard an officer tell another incarcerated person, Ms. [REDACTED]
28 [REDACTED], who was behind me in line, to tuck her shirt in. Ms. [REDACTED] is transgender

Ms. [REDACTED] is a good friend of mine

1 and also suffers from some mental health problems. Ms. [REDACTED] told the officers that
2 she did not want to tuck in her shirt. I turned around and saw one of the officers forcibly
3 pull up Ms. [REDACTED]'s pants, and then all three officers *threw* her to the floor. I watched
4 as one of the officers straddled her and cuffed her up. Ms. [REDACTED] was then taken out of
5 the chow hall. I have not seen Ms. [REDACTED] since.

6 16. I still see the officers that were involved in the staff misconduct against Ms.
7 [REDACTED] every day. They all still work on the yard in my unit. I try to avoid these
8 officers as much as I can, because I do not want them to assault me as they attacked her. I
9 stay in my cell on my bed most days so that I don't have to interact with any of the
10 officers.

11 17. To the best of my knowledge, Officer [REDACTED] still works on B-Yard and
12 interacts with incarcerated people who have disabilities every day.

13 18. In my opinion, staff target people with disabilities and people who are
14 transgender with staff misconduct. From my observations, all most officers want is to get
15 paid and go home. If officers have to help people with disabilities or mental illness, then
16 they have to work harder. In my experience, officers will do whatever they can –
17 including beating incarcerated people – to force us not to ask for help.

18 19. The assault on me, the staff misconduct I've witnessed, and the general
19 attitude of staff toward people who need help have made my mental health worse. They
20 make me feel depressed and cripple me mentally. I spent the two weeks after Officer
21 [REDACTED] attacked me in my bed because I couldn't get myself out of bed. I had frequent
22 nightmares about what had happened to me, in which I saw Officer [REDACTED] repeatedly
23 hitting and choking me again and again. When I saw officers beat up Ms. [REDACTED], I felt
24 like I would be their next target and that I would get beaten up again.

25 20. I believe the reason there is so much staff misconduct at RJD is because
26 officers think they can get away with abusing weak and defenseless incarcerated people
27 and that nothing will happen to them as a result. That Officer [REDACTED] and the officers who
28 beat up Ms. [REDACTED] all still work at RJD [REDACTED] is very scary to me. [REDACTED]

1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct, and that this declaration is executed at
3 San Diego, California this 7th day of January 2020.

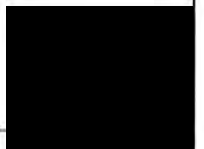


Exhibit 34a

Filed Under Seal

Exhibit 35

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 3. I am 59 years old.

3. I have been housed at RJD from the beginning of February 16, 2019 to the present. During my time at RJD, I have been housed in the B8 Unit and the A3 Unit.

4. I am an *Armstrong* class member. I am designated as DPO and DNH. As accommodations for my disabilities, I am housed on the ground floor and in a lower bunk, and I use a wheelchair and a cane to ambulate. In 2009, while working as a spotter for a crane operator, I was crushed by a falling load and suffered a serious spinal injury. I had three surgeries on my left knee and multiple surgeries on my back. I was told by the doctor that I was permanently disabled and he told me to use a walker or wheelchair to ambulate. While I can walk short distances, I struggle to walk more than fifty yards without feeling pain. Some days are worse than others, and I really need help to get around. I was also born with poor hearing in both ears. I have used hearing aids my whole life. I need people to speak loudly and clearly in order to understand what they are saying.

5. I also have serious incontinence problems. Since my work-related injury in 2009, I have accidents where I cannot control my bowels or bladder. These happen two to three times a day. I am accommodated with wipes, diapers, extra showers, and fresh laundry after these accidents.

6. I am a *Coleman* class member. I am at the CCCMS level of care. I am diagnosed with adjustment disorder with depressed mood. I struggle with depression, insomnia, and anxiety.

///

///

1 7. I have a number of serious medical conditions. I am HIV positive, which I
2 take numerous medications for. I also have GERD and have been diagnosed with
3 numerous internal hemorrhoids, which cause internal bleeding. I used to have Hepatitis C,
4 which was treated in CDCR. I have cirrhosis of my liver due to my Hepatitis C. I am
5 classified as high risk medical.

6 8. I was a victim of staff misconduct at RJD. On February 19, 2019, at
7 approximately 6:30 a.m., Officer [REDACTED] refused to call a wheelchair pusher to help me get
8 to chow, claiming that he saw me walking behind my wheelchair. When I asked him, he
9 said "Get out of here. I'm not calling you a wheelchair pusher. I see you walking behind
10 your wheelchair." Because I could not get any help, I had to push myself all the way from
11 the B8 Building to the chow hall.

12 9. Later that day, at approximately 11:30 a.m., Officer [REDACTED] refused to let me
13 shower after I had an incontinence incident. After breakfast, I had a bowel movement and
14 had a dirty diaper on, so I needed a shower to clean myself off. I asked him if I could have
15 an ADA shower. He told me that I would have to shower with my tier when we came out
16 for dayroom. I had to wait till that evening to get a shower.

17 10. On February 21, 2019, at approximately 6:00 a.m., while waiting for an
18 ADA worker to push me to breakfast, Officer [REDACTED] yelled at me in a crowded building
19 "Put your fucking vest on you piece of shit. Get the fuck out of here, you don't need a
20 wheelchair." I asked him why he was swearing at me, and he told me again that he had
21 seen me walking and that I didn't need any help.

22 11. After these incidents happened, I filed 1824s about my interactions with
23 Officer [REDACTED] Months later, a lieutenant came to talk to me about what had happened.
24 The lieutenant told me to sign that the 1824 was resolved. The lieutenant did not say he
25 was going to do anything about what had happened with Officer [REDACTED] When he asked
26 me if I needed anything else, I told the lieutenant that I was okay, because I was afraid that
27 I would be retaliated against by Officer [REDACTED] if I continued to complain about what had
28

1 happened. I knew that Officer [REDACTED] could make my life far worse if I continued to speak
2 out about him.

3 12. In my time at RJD, there have been many times that I needed help but didn't
4 ask for it because I was afraid of what would happen to me. I no longer file 1824s or 602s,
5 because I feel that any request for assistance that I file may be shared with those who have
6 no right to the information and therefore could lead to repercussions from staff and
7 incarcerated people.

8 13. I wish that I could file an 1824 requesting single-cell status due to my
9 mobility impairment, incontinence problems, and HIV, all of which can lead to conflict
10 with cellmates. I have not filed an 1824 about this issue, however, because I do not have
11 any confidence that it would be granted.

12 14. It is my opinion that a lot of the staff misconduct at RJD is because of drugs
13 and cell phones that staff and incarcerated people bring into RJD and sell. The sheer
14 quantity of drugs and cell phones on the yard at RJD is incredible.

15 15. I have been in CDCR and federal prisons for about 25 years of my life. I
16 have been housed in a number of different CDCR prisons, including CMC, COR, RJD,
17 LAC, and CMF. The staff misconduct and drug trafficking at RJD is far worse than any
18 other place that I have ever been.

19 16. I believe the reason there is so much staff misconduct at RJD is because both
20 staff and incarcerated people know that they can traffic drugs and no one will stop them.

21 I declare under penalty of perjury under the laws of the United States of America
22 that the foregoing is true and correct, and that this declaration is executed at

23 San Diego, California this 7th day of January 2020.
24
25
26
27
28

Exhibit 35a

REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE

RAP Meeting Date: 2/28/2019

Date IAC Received 1824: 2/22/2019

1824 Log Number: RJ [REDACTED]

Inmate's Name: [REDACTED] M.

CDCR #: [REDACTED]

Housing: RJD [REDACTED]

RAP Staff Present: J. [REDACTED] ADA Coordinator; Dr. [REDACTED] Chief Physician & Surgeon; [REDACTED] Custody Appeals Representative; [REDACTED] Health Care Grievance Representative; Dr. [REDACTED] Psychologist; [REDACTED] Teacher

Summary of Inmate's 1824 Request: You request a formal investigation, an ADA worker to push you to breakfast, and Officer [REDACTED] to be suspended for seven days without pay, be assigned to foot patrol of the perimeter and have him attend training.

Interim Accommodation:

☒ No interim accommodation required: No foreseen serious or irreparable harm while processing this request.

FINAL RESPONSE:**RAP is able to render a final decision on the following:**

Response: Your claim has been elevated for further inquiry pursuant to Armstrong accountability protocols. Be advised, all staff personnel matters are confidential in nature. Details of any inquiry will not be shared with staff, members of the public, or offender appellants. Although you have the right to submit an 1824 reasonable accommodation request, a request for administrative action regarding staff, assignment change, loss of pay or the placement of documentation in a staff member's personnel file is beyond the scope of the RAP process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint. Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.

If you have an unforeseen accident that requires you to shower, HU staff may provide additional showers to inmates who require one; therefore, advise HU staff if you require an additional shower. HU staff is expected to assess and facilitate your request consistent with security protocols.

You are also reminded of the Americans with Disabilities Act (ADA) Inmate Assistance Program; ADA workers are available to assist with reasonable accommodations and assist with access to programs, services and activities. The Richard J Donovan Correctional Facility is committed to providing accommodations or modifications for inmates to reasonably assist with activities of daily living, access to programs and recreational activities. When you require an ADA Worker simply ask staff to summon an ADA Worker for you or approach an ADA Worker; ADA workers are identified with a vest marked, "ADA Worker" printed on the back during their assigned work hours.

Direction if dissatisfied with this RAP decision: Submit an appeal (CDCR 602, Inmate/Parolee Appeal, or CDCR 602 HC, Health Care Grievance, if disagreeing with a medical diagnosis/treatment decision). Be sure to attach this response and your CDCR 1824 as supporting documents. Refer to California Code of Regulations (CCR), Title 15, Section 3084 for further guidance.

[REDACTED] AW
ADA Coordinator/Designee

Date sent to inmate: MAR 19 2019

STATE OF CALIFORNIA
REASONABLE ACCOMMODATION REQUEST
 CDCR 1824 (Rev. 09/17)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 1

INSTITUTION (Staff use only) RDCF	LOG NUMBER (Staff Use Only) 100-B-	DATE RECEIVED BY STAFF: Received FEB 22 2019 RJDCF Appeals
*****TALK TO STAFF IF YOU HAVE AN EMERGENCY***** DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC		
ASSIGNMENT Unassigned		HOUSING

INSTRUCTIONS:

- You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.
- You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service or activity. You may also use this form to submit an allegation of disability-based discrimination.
- Submit this form to the Custody Appeals Office.
- The 1824 process is intended for an individual's accommodation request. Each individual's request requires a case-by-case review.
- The CDCR 1824 is a request process, not an appeal process. All CDCR 1824 requests will receive a response.
- If you have received an 1824 decision that you disagree with, you may submit an appeal (CDCR 602, or CDCR 602-HC if you are disagreeing with a medical diagnosis/treatment decision).

WHAT CAN'T YOU DO / WHAT IS THE PROBLEM?
 On 2/19/19 while waiting for a ADA Worker to push me to breakfast, Peace Officer (P.O.) [redacted] told me, he had seen me walk with my wheel chair and that I would have to push myself. At the exact same time, Inmate [redacted] was allowed to have a ADA worker push him to chow. Both of us pushed our wheel chairs from our cell doors to building exit.

WHY CAN'T YOU DO IT?
 P.O. [redacted] refuses to allow me to use a wheel chair pusher.
 P.O. [redacted] communicates with me in a very derogatory and abusive, indecent, obscene, Profane and Improper language to cause hurt, harm and danger.
 P.O. [redacted] targets me because I am African American.

WHAT DO YOU NEED?
 The Hiring Authority to conduct a formal investigation of the continues violation of title 15-3391, 3271 by Peace Officer (P.O.) [redacted] using the color of law enforcement to harass, and deny me handicap services because I am a decendent of former slaves. Without intervention by this committee, P.O. [redacted] will continue to use my disability to be verbally abusive, obscene, indecent, and disrespectful why am I the only inmate P.O. [redacted] attacks every morning. I am in constant Pain in my lower back and left Knee. (Use the back of this form if more space is needed)

DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY? Yes ☒ No ☐ Not Sure ☐

List and attach documents, if available:
 Medical records speak for them selves

I understand that staff have a right to refuse to cooperate with this request to be disapproved.

Assistance in completing this form: [redacted]

2/21/19
DATE SIGNED

Last Name
First Name
Signature

EX35a02

Both of us are DPO. The only difference is I am African American.

P.O. [REDACTED] used his power as a peace officer to force me to push myself to chow in severe pain in my lower back and left knee.

P.O. [REDACTED] under the Color of law enforcement denied me an ADA Shower on 2/19/19. I've explained to P.O. [REDACTED] that I am incontinent. P.O. [REDACTED] refused to allow me an ADA Shower

but allowed Inmate [REDACTED] housed at [REDACTED] to shower.

P.O. [REDACTED] force me to endure days with fecal matter on my skin and clothes, cell floor.

On 2/21/19 while waiting for a ADA worker to push me to breakfast,

P.O. [REDACTED] under the color of law Enforcement. Yelled at me in a crowded building. PUT YOUR FUCKING VEST ON. YOU PIECE

OF SHIT. GET THE FUCK OUT OF HERE, YOU DONT NEED A WHEEL CHAIR.

Later on that day ~~wh~~ I asked P.O. [REDACTED] why he is so abusive towards me? Why the use of profanity to make his point?

P.O. [REDACTED] told me he has seen me push my wheelchair.

The metrics P.O. [REDACTED] uses to meter out retribut
Out side the "scope" of Department Operations Manual. P.O. [REDACTED] used indecent, abusive, Profane, and improper language specifically on 2/21/19 at breakfast chow release. P.O. [REDACTED] was discourteous and unprofessional Using indecent, abusive, profane, and improper language to Manage my movement during chow release (a crowded location). A violation of title 15-3391, 3271.

P.O. [REDACTED] uses abusive, indecent, Profane and improper language to establish and maintain control of an handicap patient. P.O. [REDACTED] lacks the communication skills to represent one of the finest law enforcement agencies in the State of California. P.O. [REDACTED] management style is Mid-evil. He sees every problem as a Nail requiring him to use his hammer. I wish instead this could have been an opportunity for me to demonstrate my ability to comply with the rules and regulations of CDCR. I have only known P.O. [REDACTED] for 3 or 4 days (subtracting days off). I have never disrespected a peace officer. I have never used indecent, abusive, profane, and improper language to communicate with a peace officer.

I am requesting an inv [REDACTED] of P.O. [REDACTED] for violating Title 15-3391 and 3271. I Believe P.O. [REDACTED] is going to retaliate against me for reporting a violation of Title 15-3391, 3271. I am a prisoner that wants to program and stay out the way. Is there something in my C-File that would cause P.O. [REDACTED] to side step the Department Operations Manual and attack me? What can I do to turn this around for the better? I request a copy of this complaint be included in my C-file and P.O. [REDACTED] personel file. I request the Chief Deputy Warden/The Hiring Authority to conduct a formal investigation of P.O. [REDACTED] harrassing me, using cruel and unusual Punishment to manage me a handicap patient. I request P.O. [REDACTED] be suspended for seven days without pay and required to complete In-service Training on Communication skills and Prisoners Constitutional Rights. P.O. [REDACTED] is to be assigned to a Foot detail to patrol the inner and outer perimeter of the fence.

Exhibit 36

I, _____, declare:

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility D in Building 20. I am 65 years old.

4. I am an *Armstrong* class member. I am designated as DPM. Thirty-five years ago, I was in a car accident and sustained serious injuries to my lower back. As a result, my back and my right leg go numb, which often causes me to fall over. I also have bad ankles that give out on me. Due to my mobility problems, I need a walker to get around. I also cannot go upstairs, so I have a lower bunk and lower stair chrono.

6. I have a number of serious medical conditions. I have asthma, which I control using an inhaler, and high blood pressure, for which I take hypertensive medications. I am classified as high risk medical.

[3476408.1]

1 Officers [REDACTED] and [REDACTED] In response to my complaint, Officer [REDACTED] threatened me,
2 saying "We know where you live, we are going to get you." Officer [REDACTED] then came
3 up and began yelling at me, asking me loudly "Well, are you going to file a complaint?
4 The Lieutenant wants this dropped." Because his threat was clear, I told him I would not
5 file an appeal about what had happened to me.

6 8. Approximately a year later, Officer [REDACTED] was assigned as the control
7 tower officer in my building. On April 19, 2018, as I was leaving my cell for yard in the
8 morning, she closed my cell door on me, smashing me hard into the cell door. Because of
9 my previous experiences with Officer [REDACTED] I did not try to talk to her about this
10 incident. Five days later, it happened again. On April 24, 2018, Officer [REDACTED] twice
11 closed the cell door on me, knocking me down against the wall with my walker. Each
12 time, I saw Officer [REDACTED] looking directly at me, smiling and moving the door back and
13 forth to prevent me getting into my cell. After this happened, I filed a 602 staff
14 misconduct complaint against Officer [REDACTED] I received a response from CDCR staff
15 approximately a month later. In their response, I was informed that Officer [REDACTED]
16 not violated CDCR's policies but that she would be directed to give me more time to enter
17 and exit my cell.

18 9. I have also had my cell door repeatedly shut on me by other officers. On
19 September 29, 2019, at approximately 7:00 a.m., I was returning from breakfast and
20 entered the D20 Unit to return to my cell. Officer [REDACTED] was working as the control tower
21 officer that day. As I approached the front of my cell, Officer [REDACTED] opened my cell door
22 so that I could enter my cell. I began to slowly enter my cell with my walker. As I was
23 mid-way through the door, Officer [REDACTED] began to close the cell door. The cell door
24 caught my right hand hard between the door frame and my cart handle, pinning it to the
25 side of the door. I screamed in pain and one of the floor officers yelled at Officer [REDACTED] to
26 open my cell door. I then went into my cell and wrote an 1824 reasonable accommodation
27 request about what had happened to me. On the form, I wrote that I needed more time to
28 get into and out of my cell.

1 10. The next day, Officer [REDACTED] who I understand is Officer [REDACTED] cousin,
2 was working on the floor of D20 on Third Watch. He approached me and aggressively
3 said "Heard you're going to sue my cousin?" I told him that she had closed the door on
4 my hand. Because I was frightened by Officer [REDACTED] threat, I told him I would
5 withdraw my 1824 request. When I was interviewed by the lieutenant as a result of my
6 1824 on October 10, 2019, I told him I was withdrawing my complaint.

7 11. On December 3, 2019 at approximately 9:00 a.m., I was let out of my cell for
8 morning day room and yard. As the cell door opened, my nondisabled cellmate jumped
9 off of his bunk and ran out of the cell. I slowly got up out of my bed and walked over to
10 my walker. I unfolded my walker and wheeled out of the cell. As I was midway through
11 the cell door, the tower officer, Officer [REDACTED] began to close my cell door. As I turned to
12 get out of the way, the door pinned me in the chest. I flailed and tried to push the door
13 back, and managed to free myself from the door. Due to being trapped by the door, I badly
14 hurt one of my ribs.

15 12. Because of my experiences after filing complaints against other officers at
16 RJD, I did not write a complaint against Officer [REDACTED] or try to talk to him about this
17 incident. Staffs' reaction to my complaints in the past have taught me that nothing good
18 will come of reporting misconduct by staff.

19 13. I have also witnessed staff engage in misconduct against other people at
20 RJD. In the spring of 2019, I witnessed Officer [REDACTED] close the door on another
21 incarcerated person, Mr. [REDACTED], as he was trying to exit his cell. Mr. [REDACTED] is
22 elderly and uses a walker to help himself get around. That day, Mr. [REDACTED] left his cell
23 after Officer [REDACTED] opened it to let him out, and then went back into his cell to grab
24 another item from his property. As he was returning into his cell, Officer [REDACTED] closed his
25 cell door, catching him on the shoulder and spinning him to the ground. I rushed over to
26 Mr. [REDACTED] and caught him just before he hit the ground. I then told Officer [REDACTED] "You
27 have to give us more time." He replied "He needs to be a little faster! I gave him plenty of
28 time!" I told him "He is old and slow, he needs more time." Over the next ensuing weeks,

1 I saw that Officer [REDACTED] continued to shut the door on Mr. [REDACTED] and did not give him any
2 extra time to get into or out of his cell. These experiences with Officer [REDACTED] have made
3 me realize that he will not accommodate me or other incarcerated people with disabilities
4 no matter how many times we ask or how reasonable our requests are.

5 14. I still see the officers that were involved in the staff misconduct against me
6 and other incarcerated people every day, even after they were accused of staff misconduct.
7 For example, I still see Officer [REDACTED] nearly every day. Officer [REDACTED] still works in
8 my housing unit. On December 9, 2019, as I was preparing to go speak with Plaintiffs'
9 Counsel in the *Armstrong* case, Officer [REDACTED] came up to me and said to me threateningly
10 "The ADA [*Armstrong*] Attorneys are here today. Have you been called to talk to them?
11 Some snitch is complaining about not getting their ducats."

12 15. In my time at RJD, there have been a few times that I needed help but didn't
13 ask for it because I was afraid of what would happen to me. In order to ask for help, I have
14 to file an 1824 or 602. The experiences where officers have threatened me after filing
15 1824s and 602s have made me much less likely to file a grievance for something I need.

16 16. I would never ask Officer [REDACTED] or Officer [REDACTED] for help if I needed it.
17 Often, I may need an extra shower or extra linens after an incontinence accident. Often,
18 officers deny requests for these accommodations. Rather than ask them again, I just sit in
19 my soiled clothes because I know that pushing staff for accommodations could lead to
20 retaliation against me. Most of the time, I do not ask staff for any accommodation after
21 incontinence accidents, because I know what the answer will be.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 17. I believe the reason there is so much staff misconduct at RJD is because
2 many officers simply do not care about the needs of elderly or disabled incarcerated
3 people. They refuse to provide accommodations for those who need it. From my
4 perspective, officers at RJD simply want to collect a paycheck and do as little work as
5 possible.

6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct, and that this declaration is executed at

8 Sgt. Diggins, California this 07 day of January 2020.

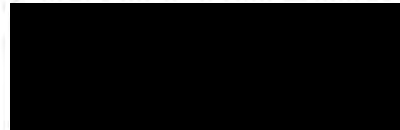

9
10  _____


Exhibit 36a

REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE


RAP Meeting Date: 10/3/2019





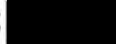



Date IAC Received 1824: 9/30/2019

1824 Log Number: RJD-D-19-

Inmate's Name: 

CDCR #: 

Housing: RJD 

RAP Staff Present:  ADA Coordinator; Dr.  Chief Physician & Surgeon  Custody Appeals Representative;
 Health Care Compliance Analyst;  Health Care Grievance Representative; Dr.  Psychologist; 
 Education

Summary of Inmate's 1824 Request: You claim the control booth officer does not give you enough time enter and exit the cell. You claim the control booth officer shut the door and pinned your hand between the walker handle and door frame.

Interim Accommodation:

☒ No interim accommodation required: No foreseen serious or irreparable harm while processing this request.

FINAL RESPONSE:

RAP is able to render a final decision on the following:

Response: You claim the control booth officer shut the door and pinned your hand between the walker handle and door frame. Your claim of the control booth officer not giving you enough time to enter and exit your cell has been elevated for further inquiry pursuant to Armstrong accountability protocols. Be advised, all staff personnel matters are confidential in nature. Details of any inquiry will not be shared with staff, members of the public, or offender appellants.

Direction if dissatisfied with this RAP decision: If you are dissatisfied with this decision, submit an appeal CDCR 602, Inmate/Parolee Appeal (green form). Be sure to attach this response and your CDCR 1824 as supporting documents. Refer to California Code of Regulations (CCR) Title 15, Section 3087 for further guidance.

 AW

ADA Coordinator/Designee

Date sent to inmate:

OCT 28 2019

INSTITUTION (Staff use only) <u>180</u>	LOG NUMBER (Staff Use Only) <u>18-RJD-D-19-</u> [REDACTED]	DATE RECEIVED BY STAFF: Received SEP 30 2019 RJDCF Appeals
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*****TALK TO STAFF IF YOU HAVE AN EMERGENCY*****

DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC

INMATE'S NAME (Print) [REDACTED]	CDCR NUMBER [REDACTED]	ASSIGNMENT Yoga Project	HOUSING [REDACTED]
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INSTRUCTIONS:

- You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.
- You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service or activity. You may also use this form to submit an allegation of disability-based discrimination.
- Submit this form to the Custody Appeals Office.
- The 1824 process is intended for an individual's accommodation request. Each individual's request requires a case-by-case review.
- The CDCR 1824 is a request process, not an appeal process. All CDCR 1824 requests will receive a response.
- If you have received an 1824 decision that you disagree with, you may submit an appeal (CDCR 602, or CDCR 602-HC if you are disagreeing with a medical diagnosis/treatment decision).

WHAT CAN'T YOU DO / WHAT IS THE PROBLEM?
On September 29, 2019 at 6:59 AM upon returning from breakfast, I walked to my cell door and it opened. As I entered, pushing my walker, CO [REDACTED] shut the door before I was clear, pinning my hand between the walker handle and the door frame. I yelled out that I was caught in the door, that my hand was pinned and the floor saw what was happening and signaled to open my door.

WHY CAN'T YOU DO IT?
I am mobility impaired. I use a walker. Sometimes I am a little slow moving.
I am 65 years old.

WHAT DO YOU NEED?
This is the third time I have requested more time to enter and exit my cell.
This is the third time I have been pinned in the door. I am old and slow.
Why can we not get sufficient time to enter and exit without being injured.
Penal Code Section 368 Elder Abuse applies in this case. I am a litigator.
If I need to I will take this to court. We disabled inmates and the elderly need more time to enter and exit our cells. I the door is closing before the walker can clear the frame, that is not enough. (Use the back of this form if more space is needed)

DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY? Yes ☒ No ☐ Not Sure ☐

List and attach documents, if available:
Chronos are on file.

I understand that [REDACTED] and my failure to cooperate may cause this request to be disapproved.

[REDACTED] September 29, 2019
INMATE'S SIGNATURE DATE SIGNED

Assistance in completing this form was provided by:

Last Name	First Name	Signature
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Exhibit 37

DECLARATION OF

I, _____, declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility C in Building 11, cell [REDACTED]. I am 45 years old.

3. I have been at RJD since August 8, 2018.

4. During my time at RJD, I was housed in C-14 until April 2019. I have been housed in C-11 since April 2019.

5. I am an *Armstrong* class member. I am DPM which means I have a mobility disability.

6. I am a *Coleman* class member. I am at the CCCMS level of care. I am bipolar, have PTSD, and have been diagnosed as antisocial. I take medication because I hear voices in my head and for my depression.

7. I have experienced staff misconduct at RJD.

8. On November 2, 2019, during evening chow, I got up to dump my dinner tray in the trash. Officer [REDACTED] out of the blue, yelled at me to "Sit the fuck down!" Then he snatched my I.D. card and asked if I was "retarded" or "stupid." I asked him for his name so that I could report his disrespectful behavior. He refused to provide his name and he refused to give my I.D. back. I asked again and then he told me to step outside of the building. He put me up against the wall and then started to search me in a forceful manner that I felt like was an attempt to intimidate me. He told me to look right while he searched my left side and vice versa. Then, he squeezed both of my nipples in a sexual manner and leaned up against me and whispered in my ear, "Next time, do what the fuck you are told to do." That night, I was unable to get my mental health medication because he would not give me back my I.D.

1 9. On November 3, 2019, I filed a 602 staff misconduct complaint about this
2 incident.

3 10. A few days later, I was called over the program office and asked to sign a
4 sexual misconduct form. This was supposed to be a private process, and Sergeant [REDACTED]
5 stated that it was private. However, Sergeants [REDACTED] [REDACTED] and one other sergeant were
6 also there. They were all staring at me in an intimidating manner. I felt very unsafe and
7 uncomfortable.

8 11. On November 10, 2019, Officer [REDACTED] came in to my housing unit, C-
9 11. I didn't realize he had come in to the unit. He is not assigned to C-11 and does not
10 usually work in my housing unit. I was sitting in my cell when I noticed a light flashing
11 into my cell. I went to my cell door to see what was going on. I saw Officer [REDACTED]
12 sitting in the officers' office shining his flashlight into my cell. He was staring at me and
13 smiling. I felt that he was threatening me. I was scared of what he was planning to do to
14 me.

15 12. The next day, November 11, 2019, Officer [REDACTED] came in to my unit
16 again, this time during release for a meal. He again smiled at me and this time he blew me
17 a kiss.

18 13. On November 22, 2019, I was interviewed on video. Sergeant [REDACTED]
19 Sergeant [REDACTED] and one other sergeant were there during the interview. I started to talk
20 about what happened, but they were glaring at me during the interview so I was
21 intimidated and I stopped short of telling everything that happened.

22 14. On November 28, 2019, Officer [REDACTED] worked overtime in my unit. I
23 thought it was strange that this officer was all of a sudden working in my building.

24 15. Then, on December 1, 2019, I was told that I had to transfer to C-13, the
25 building where Officer [REDACTED] regularly works. I fought the transfer, and ultimately I
26 did not have to move, but I felt like the whole thing was a threat that was done in response
27 to me filing a complaint against Officer [REDACTED]
28

1 16. These incidents have been very hard on me. I tried to speak with Lieutenant
2 [REDACTED] but he told me that he doesn't believe anything a convict says, he only believes
3 his staff. It is hard because it feels like there is no one here to help me. After what has
4 happened to me, I do not trust the officers. If the officers engage in misconduct and you
5 report it, it seems like it turns out even worse for you.

6 17. I have seen multiple fights where five or six prisoners beat up another
7 prisoner and staff do nothing to stop it. At most staff might say something like, "Stop
8 playing" but these are major prison fights which are a matter of life and death, especially
9 for older prisoners, and no one does anything to stop it.

10 18. In 2018 I witnessed multiple incidents where incarcerated people approached
11 [REDACTED] Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED], and told them they were getting ready
12 to attack other incarcerated people. I saw those officers, who are now all sergeants, look
13 the other way and let fights happen. I have also seen staff laugh when prisoners get
14 attacked.

15 19. I have even seen staff encourage people to hurt themselves. When I was in
16 C-14, one of the housing units for people with severe mental illness, I witnessed Officer
17 [REDACTED] say to a prisoner that was acting in distress and saying he felt like hurting himself,
18 "Go ahead! I don't believe you, you're all talk until I see you do it. Prove it. Then I will
19 believe you."

20 ///

21 ///

22 ///

23 ///

24 ///

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28

1 20. I do not feel safe here. It is causing me stress and anxiety and makes my
2 mental health issues even worse. Between what happened to me and what I have seen
3 happen to other incarcerated people here, I worry a lot about my future and whether I will
4 be able to survive at RJD.

5 I declare under penalty of perjury under the laws of the United States of America
6 that the foregoing is true and correct, and that this declaration is executed at

7 San Diego, California this 8 day of January, 2020.

8 
9

Exhibit 37a

Filed Under Seal

Exhibit 38

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at California State Prison – Los Angeles County ("LAC") on Facility D in Building 3.

3. I was housed at RJD from around April 2017 until April 3, 2019. During my time at RJD, I was housed in the C12 Unit, the ASU Building, and the B9 Unit.

4. I am an *Armstrong* class member. I am designated as DNH and DNM. I have a mobility impairment because my right leg is an inch shorter than my left. I also have ~~sensorial-neural~~ hearing loss in my left ear and no function in my right ear at all. My hearing in my left ear is approximately 40% of normal. I had ~~the same~~ ^{similar} disabilities, limitations, and accommodations during the time that I was at RJD, except to say I was DNH.

5. I am a *Coleman* class member. I am at the EOP level of care. I was ~~not~~ ^{not} at the EOP level of care during the time that I was housed at RJD. I am diagnosed with major depressive disorder and have struggled with depression for my entire adult life. I often deal with suicidal thoughts and recurring traumatic memories from before my time in prison. I have attempted suicide multiple times in my life due to my severe depression. I currently take Celexa, an anti-depressant, to help with my mood. I also participate in EOP mental health treatment groups, which help me stay stable and deal with my depression.

6. I was a victim of staff misconduct at RJD. In August 2018, members of the Plaintiffs' team for the *Armstrong* case and members of CDCR's Office of Audits and Court Compliance ("OACC") interviewed me at RJD. It is my understanding that the interview took place as part of an *Armstrong* audit of RJD conducted jointly by Plaintiffs' counsel and OACC staff. During the interview, I told the interviewers that I had witnessed

Initials: [REDACTED]

Officer [REDACTED] and several other officers assault prisoners with disabilities at RJD. I gave the interviewers names and other identifying information about these incidents.

7. A ^{month} ~~month~~ after my interview, on September 18, 2018, I was taken to the ISU building to speak with ISU Lieutenant . Lieutenant asked me "Are you ?" I replied "Yes." He asked me if I had a staff complaint to share. I said "No," . I did not want to talk to RJD ISU staff about my concerns out of fears of retaliation. Lieutenant then asked me if I had been interviewed during the audit ^{above - referenced} . I told him that I had. He then asked me, again, whether I had any general complaints against staff at RJD, ^{(This would include} any complaint against Officer in particular). I told him that I had not made any formal complaints against any officers at RJD, (including against Officer). I was then returned to my housing unit.

8. Approximately a month later, on October 14, 2018, I was stabbed multiple times by other prisoners on C-Yard. At the time, I was out on the yard seeking to quell or to otherwise resolve the situation with inmates [REDACTED] housed in my unit. I tried to de-escalate the situation, [REDACTED] through the uses of logic, reasoning and persuasive tones. Nevertheless, [REDACTED] near my lung, [REDACTED] I was stabbed multiple times. I was stabbed in the back [REDACTED] in my right eye, [REDACTED] through my back into my liver, in my chest, and on my right arm. I defended myself until then officers responded and threw pepper spray grenades to take control of the situation.

9. I was then taken in an ambulance to the Correctional Treatment Center ("CTC"), where the on-call doctor took one look at me and sent me out to the hospital. I stayed in the hospital twelve days, three in the Intensive Care Unit and another nine days in the Critical Care Unit. While in the hospital, I was placed on intensive monitoring and received stitches for my wounds. I also received a battery of tests, including X-Rays and an MRI.

10. I was discharged ~~back~~ from the hospital to RJD on October 27, 2018. I was sent back to C12 for a day before being sent to the ASU in the ~~the~~ ^{B-7} Unit. After a day or two, I received my initial classification committee (ICC) hearing. While I was waiting to

Initials: [REDACTED]

1 go to ICC, one of the prisoners who stabbed me, ^(unnamed) [REDACTED] told me "It's nothing
 2 personal, bro. This was just business." He then told me that he had been paid to stab me.
 3 A week later, I was being taken to the medical building behind the B7 Unit when I saw ^{this} [REDACTED]
 4 ^{prisoner} [REDACTED] in the yard cages. I asked him "Who [paid you to stab me]?" and signaled that I
 5 was asking who had paid to stab me. He responded "[Officer] [REDACTED]" and then made a
 6 phone gesture, which I took to mean that he had been paid with a cell phone.

7 11. I later received a write-up for "Participation in a Riot," for which I was
 8 found not guilty in early December 2018. I was transferred out of the ASU to the B9 Unit
 9 on December 22, 2018.

10 12. After I arrived in the B9 Unit, Officer [REDACTED] started harassing me. I knew
 11 Officer [REDACTED] he had worked ^{with} ~~along with~~ Officer [REDACTED] on C-Yard. Officer
 12 [REDACTED] began to search my cell approximately twice a week. During these cell searches, he
 13 would toss my belongings around and destroy some of my property. After some of these
 14 searches, I would find my legal paperwork torn up and scattered on the floor. It would
 15 take me hours to clean up my cell after these searches. From my observations, officers
 16 searched my cell more than all or nearly all other prisoners in the building.

17 13. It is my belief and understanding that I was stabbed by ^{that inmate} [REDACTED] and the
 18 other prisoners at the direction of staff, specifically Officer [REDACTED]. The stabbing
 19 lead to severe medical problems that I still experience to this day. I struggle with
 20 constipation and incontinence problems as a result of the ^{internal} ~~stomach~~ damage I sustained from
 21 the stabbing. I also still deal with headaches and poor vision in my right eye because I was
 22 stabbed in the eye.

23 14. I still have nightmares of the assault. During these nightmares, I see people
 24 approaching to attack me while I stand helplessly waiting for them to come. I often then
 25 wake up sweating with my heart racing. The stress from the incident ^{and additional factors} ~~along with~~ [REDACTED]
 26 causes me to cry spontaneously. I also regularly experience other difficult emotions from
 27 the trauma I experienced at RJD. Many times, leading me to suicidal ideology, or
 28 other thoughts of bringing harm to myself.

Initials: [REDACTED]

1 15. I have also witnessed staff engage in misconduct against other people at
 2 RJD, including multiple assaults against prisoners with disabilities. I witnessed Officer
 3 [REDACTED] jump on another prisoner, Mr. [REDACTED], in the C12 Unit in June 2018.
 4 That day, I witnessed Officer [REDACTED] throw Mr. [REDACTED] to the ground simply because he
 5 was walking to his cell and did not respond after Officer [REDACTED] called his name. Mr.
 6 [REDACTED] was then reportedly taken to the gym and from there taken to his housing unit.

7 16. Another time in either June or July 2018, I witnessed Officer [REDACTED]
 8 grab an elderly prisoner in a wheelchair by the neck and slam him to the ground in the C12
 9 Unit. Officer [REDACTED] and other officers punched the prisoner repeatedly in the face
 10 and then kneed him in the back of the neck. From what I could tell, Officer [REDACTED]
 11 assaulted this other prisoner because he had not returned to his cell after Officer [REDACTED]
 12 [REDACTED] initial command. After this assault, the prisoner was dragged to his cell.

13 17. A third time, I witnessed Officer [REDACTED] place an African-American
 14 prisoner in a chokehold and slam him to the ground. Officer [REDACTED] then cuffed the
 15 prisoner up and punched him repeatedly in the face. While this was occurring, I witnessed
 16 Officer [REDACTED] run through the sally port to the C12 Unit and kick the prisoner twice in
 17 the face. After the guards finished punching and kicking this prisoner, he was dragged out
 18 of the building.

19 18. I also remember a fourth assault on a prisoner in a wheelchair in April or
 20 May 2017. That day, I witnessed multiple officers, including Officer [REDACTED], flip this
 21 prisoner out of his wheelchair and then assault him repeatedly while he lay defenseless on
 22 the ground. After the assault, the prisoner's face was covered in blood and he was
 23 struggling to walk. I watched as officers ^{relocated} ~~dragged~~ him to the ^{"C" facility gymnasium.} ~~ASB building.~~

24 19. These incidents occurred almost entirely against prisoners with physical or / and
 25 mental disabilities. It is my opinion that officers at RJD appear to target vulnerable
 26 prisoners who cannot defend themselves. Almost all the incidents I witnessed were against
 27 prisoners who were elderly, disabled, or who had mental health issues, and continued
 28 after these prisoners were secured into handcuffs (behind their backs).

Initials: [REDACTED]

1 20. These incidents made me worried for my own safety at RJD. They
2 frightened me and made me panicked that the same thing would happen to me.

3 21. In my time at RJD, there were many times that I needed help but did not ask
4 for it because I was afraid of what would happen to me. I often missed my mental health
5 groups because I did not want to interact with officers and risk my own personal safety. I
6 also skipped medical appointments because I had the same concerns. I also felt like I
7 could not talk to Plaintiffs' counsel or the ISU about the problems at RJD because it would
8 lead to retaliation that would endanger my safety.

9 22. I have been in CDCR prisons for about thirty-two years of my life. I have
10 been housed in a number of different CDCR prisons, including California State Prison –
11 Sacramento, Pelican Bay State Prison, High Desert State Prison, LAC, Calipatria State
12 Prison, and RJD. In my experience, the staff misconduct at RJD is comparable – if not
13 worse – than what I observed at Pelican Bay State Prison in the early-1990s, before the
14 *Madrid* case. In my opinion, the misconduct at RJD is particularly bad because there are
15 so many staff involved in the incidents and because the administrators at RJD turned a
16 blind eye to officers' misconduct.

17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct, and that this declaration is executed at Lancaster,
19 California this 14 day of December, 2019.

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Initials: 

Exhibit 38a

Filed Under Seal

Exhibit 38b



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Penny Godbold
Email: pgodbold@rbgg.com

January 8, 2019

VIA ELECTRONIC MAIL ONLY

**HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY**

**SUBJECT TO
PROTECTIVE ORDERS**

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Brown*; Staff Misconduct Against Class Member at R.J.
Donovan Correctional Facility in Retaliation for Participation in Joint Audit
Our File No. 0581-03

Dear Russa and Ursula:

I wrote to you on October 23, 2018, regarding a DPH class member, Mr. [REDACTED]
[REDACTED]¹. Mr. [REDACTED] reported that he was escorted to the ISU complex on
September 19, 2018, and questioned about allegations of staff misconduct that were
reportedly made during the joint audit at RJD on August 27 and 28, 2018. Specifically,
allegations were made against Officer [REDACTED] by multiple class members during
that audit. That Mr. [REDACTED] was identified for interview by ISU staff was especially
concerning because he is someone who specifically stated he would not be willing to be
singled out for interview or cooperate with any CDCR investigation, due to fear of
retaliation from staff. Further, Plaintiffs' counsel specifically requested that staff at RJD,
including ISU staff, not be involved with any staff misconduct investigations resulting
from reports made during the joint audit.

In response, CDCR informally assured me that, if class members were interviewed
by ISU staff regarding staff misconduct, it was not in response to allegations arising from
the joint audit because our request for an outside investigation was taken very seriously.

¹ Mr. [REDACTED] identity was not revealed in the October 23, 2018, email because he wished to continue to
remain anonymous at that time.

HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY

Russa Boyd
Ursula Stuter
January 8, 2019
Page 2

On December 10, 2018, Defendants provided a further update regarding the details of a comprehensive effort involving staff from outside of RJD who were charged with investigating allegations of staff misconduct in response to allegations made during the joint audit.

Unfortunately, I recently learned that Mr. [REDACTED] was attacked on October 14, 2018. He and his cellmate were stabbed multiple times by other incarcerated people on Facility C. He was critically injured and was taken to the critical care trauma unit at an outside hospital where he spent 12 days following the attack. Attached as **Exhibit A** are photos of Mr. [REDACTED] and his multiple stab wounds.

Mr. [REDACTED] is convinced that this attack occurred in response to his being called out by ISU staff on September 19, 2018, for a staff misconduct interview. After being in prison for decades and having an understanding of how things work at RJD, Mr. [REDACTED] views this attack as retaliation for his perceived involvement in a staff misconduct investigation. I attach these photos at the request of Mr. [REDACTED] to demonstrate the serious risk that participation in the joint audit process, or any CDCR investigation, may hold for class members. CDCR must recognize and respect the ongoing need to ensure the safety of those who come forward with information, as well as to protect the identity of those who do not.

Mr. [REDACTED] reported that the attack was deemed a racially motivated act of gang violence by CDCR. However, according to Mr. [REDACTED] multiple factors, including statements made to him following the attack by staff and other witnesses, undermine that explanation.

Mr. [REDACTED] alleges that his attack was orchestrated by Officer [REDACTED]. He reported that this officer has been involved in organizing attacks on other incarcerated people. For example, the attached Section 1983 complaint filed against Officer [REDACTED] in April of 2018 similarly alleges an attack that was “aided and encouraged” by this same officer. (See Complaint Under the Civil Rights Act U.S.C. § 1983 attached as **Exhibit B**.) Mr. [REDACTED] reported that the gang members involved in the attack on him are known to work for Officer [REDACTED] in exchange for phones and other privileges. In addition, Mr. [REDACTED] states that he was also approached afterwards by one of the attackers who indicated that it was not personal, but rather hired “business.” Further, Mr. [REDACTED] reported that he was attacked from behind, which is reportedly counter to protocol for any gang attack.

HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY

Russa Boyd
Ursula Stuter
January 8, 2019
Page 3

At this point, after having his worst fears realized, Mr. [REDACTED] is willing to come forward and cooperate in a CDCR investigation. However, he will only do so if the investigation is completed by investigators from outside of RJD. Plaintiffs' counsel requests that, through this outside investigation, all events surrounding the attack on Mr. [REDACTED] be considered—including events surrounding his identification for an ISU interview on September 19, 2018, and his allegation that the attack was the result of retaliation following the ISU interview. Mr. [REDACTED] cautioned that he should not be taken to ISU for any interview purposes, even if the interviewer is from outside of the institution, because any identification of him as participating in an investigation will place him at further risk of retaliation. He reported that he believes that confidential interviews could be conducted securely in the counselors office, with an outside phone line, which would not draw too much attention to him.

Plaintiffs acknowledge that Mr. [REDACTED] allegations are extremely serious. We ask that that every effort be taken to ensure his safety in this process, including having staff members from outside of RJD interview him periodically to determine whether he remains secure in his housing placement on Facility B and, if not, to discuss with him what steps could be taken to ensure his safety. Mr. [REDACTED] reported to us that he currently feels secure in his housing placement on Facility B. We ask that Mr. [REDACTED] remain in his current housing placement, and not be transferred to Ad-Seg, as a result of any outside investigation. He does not want any attention drawn to him in this process and believes he will not be safe in Ad-Seg.

Lastly, Mr. [REDACTED] reported that, when he returned to his cell on October 27, 2018, from medical treatment, much of his property was missing. He reported, consistent with statements from other class members contained in prior monitoring reports, that staff had left his property for other inmates to go through. (See April 2017 Monitoring Report at 4.) He reported that, according to witnesses, his property was packed up by other incarcerated people without staff supervision. Multiple items, including DME, were reportedly stolen. Mr. [REDACTED] reported that, what was left of his property, was inappropriately being held in a neighboring cell. He is reportedly still missing his property including the following DME:

- Dr. Comfort orthopedic boots and custom arch supports, worth \$542. His 7536 receipt is attached as **Exhibit C**.
- Miracle Ear Digital Hearing Aid, worth \$600. This was reportedly provided by friends/family outside of prison because the prison hearing aids do not work for him. As such, he does not have a 7536 form.

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Russa Boyd
Ursula Stuter
January 8, 2019
Page 4

- Glasses, worth \$65.
- Hearing Vest

Mr. [REDACTED] has filed a Form 602 and 1824 to resolve these problems. He reported that his 1824 response stated that, according to a staff interview, he stated his DME were in his property. He acknowledged that he believed this was true; however, when some of his property was returned, his DME were not included and he is still without the items listed above. His 602, RJD-B [REDACTED], remains pending. Please investigate the missing DME and ensure that Mr. [REDACTED] DME are replaced immediately.

We look forward to hearing your response.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:cg
Enclosures
cc: Ed Swanson
Sharon Garske
Prison Law Office

Exhibit 38c

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
 General Counsel
 P.O. Box 942883
 Sacramento, CA 94283-0001



July 17, 2019

VIA EMAIL ONLY

Penny Godbold
 Rosen, Bien, Galvan & Grunfeld
Pgodbold@rbgg.com

Confidential

Attorneys' Eyes Only

Re: *Armstrong v. Newsom*; Staff Misconduct Against Class Member at R.J. Donovan Correctional Facility in Retaliation for Participation in Joint Audit

Dear Ms. Godbold:

We write in response to your October 23, 2018, and January 8, 2019, correspondence regarding DPH class member [REDACTED] (REDACTED). Mr. [REDACTED] reported that he was targeted for an assault orchestrated by RJD staff because of his involvement in the August 2018 Joint Audit and because he was identified as a person to be interviewed by ISU as a result of the allegations of staff misconduct you raised following the Joint Audit. You report that Mr. [REDACTED] was attacked on October 14, 2018, and that he and his cellmate were stabbed multiple times by other inmates on Facility C. You report that Mr. [REDACTED] is convinced this attack occurred in retaliation because he was called by ISU for an interview on September 19, 2018, for a staff misconduct interview.

Your letter acknowledges that Mr. [REDACTED] reported the attack was deemed a racially motivated act of gang violence, but you assert that other information undermines that as the explanation. Mr. [REDACTED] alleges this attack was orchestrated by a specific officer and that the gang members involved in the attack on him “work” for this officer, that an attacker alleged the attack was “business” and that he was attacked from behind, which is counter to gang protocol.

As Defendants have previously reported to you, many inmates – not only class members – were queried by ISU and investigative staff from RJD and from outside prisons in the fall of 2018 in order to address allegations of staff misconduct on Facility C. Mr. [REDACTED] was part of a random sample of inmates selected to answer questions about a wide range of topics related to their incarceration at RJD, including staff misconduct.

Following the incident that occurred on Facility C on October 14, 2018, and well before you reported Mr. [REDACTED] account of what he claims to have transpired, a thorough inquiry was

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SUBJECT TO PROTECTIVE ORDERS

Ms. Penny Godbold
Page 2

completed.¹ Mr. [REDACTED] account has been discredited by all of the individuals who participated in the riot and were willing to be interviewed by the investigating officer.²

On October 14, 2018, a riot involving six inmates occurred on the west yard of Facility C. These six inmates were divided between two racial groups. The investigating officer interviewed four of seven possible witnesses, which included the six inmates involved in the riot.³ Mr. [REDACTED] refused to be interviewed. The four witnesses, who were comprised of two different racial groups, told similar stories. The riot was the result of an incident that occurred on October 12, 2018, during which an inmate of one racial group was stabbed by an inmate of another racial group because of a drug debt. This incident was logged by the institution and did, in fact, occur. The inmate who was stabbed on October 12 admitted to the investigator that he was a heroin user and was having trouble paying back his drug debt and that he was stabbed because of that debt. Thus, this inmate self-incriminated himself by admitting to purchasing narcotics and he also established the foundation for the subsequent riot.

The stabbing on October 12 resulted in tension between the two racial groups. On October 14, 2018, at least four of the inmates involved in the riot had exchanges and conversations with each other in attempts to clear up the tension, but tension was left unresolved. One of the inmates approached another (of the different racial group) on the yard claiming he wanted to resolve the tensions between the two groups. The other inmates involved in the riot were in the area, having known there might be a conversation or confrontation about the October 12 stabbing. The two inmates became argumentative and started fighting and the remainder of the inmates began attacking each other. All four inmates who gave statements, and who are of different racial groups, confirmed that the riot occurred directly as a result of the October 12 stabbing. During his investigative interview, one of the inmates admitted to stabbing Mr. [REDACTED] and told the investigator "They should have never messed with the (racial group)." This inmate self-incriminated himself in the assault on other inmates, a possible felony.

We also reviewed the RVRs associated with this incident and the staff accounts of the riot largely mirror what the inmate-participants reported.

While it is unfortunate that Mr. [REDACTED] was injured, the evidence is clear that Mr. [REDACTED] was stabbed because he involved himself in a dispute between ethnic groups related to a drug debt and a resulting stabbing. All inmates who submitted to an interview told similar stories that

¹ RJD conducted the fact finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact finding inquiries will comply with the new policy.

² Defendants decline to provide names or the specifics regarding the ethnic groups involved for reasons related to institutional safety and security.

³ The seventh witness was the inmate who was stabbed on October 12, 2018. He was in the hospital and not involved in the riot.

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Ms. Penny Godbold
Page 3

included the same nexus for the riot. One inmate admitted to stabbing Mr. [REDACTED] as a result of the dispute. It defies logic that rival ethnic groups, who all admitted involvement in the riot – and several of whom were interviewed in the hospital the day after the riot – would have time or reason to conspire to come up with a unified story in order to protect a correctional officer who allegedly orchestrated the attack as Mr. [REDACTED] has claimed. To the extent Mr. [REDACTED] claims one of his attackers told him the attack was “business,” it is just as likely that the “business” referred to the drug trade and the drug debt owed by one inmate. And Mr. [REDACTED] claim that being attacked from behind is counter to gang protocol is simply untrue. This was a riot and it is unreasonable to think that an inmate would stop an attack because it is contrary to “protocol.” Experienced CDCR staff also informs us that there is no typical protocol for gang related attacks and in many instances gang members attack from behind to outnumber their targets. In summary, Mr. [REDACTED] allegations are discredited by overwhelming evidence because the riot participants all shared stories depicting the same or similar series of events, all of which are unrelated to an officer-led conspiracy to assault Mr. [REDACTED]. Defendants consider this allegation closed.

Finally, your letter stated that, when Mr. [REDACTED] returned to his cell on October 27, 2018, after medical treatment, much of his property was missing. You report that staff had left his property for other inmates to go through. He reported that he was still missing the following DME:

- Dr. Comfort orthopedic boots and custom arch supports.
- Miracle Ear Digital Hearing Aid
- Glasses
- Hearing vest

Per chronic care follow-up note dated November 19, 2018, Mr. [REDACTED] had his left hearing aid during the appointment and stated he did not use the right hearing aid due to “100 % loss” of hearing in his right ear. He reported the rest of his DME was still missing. A chronic care follow-up note dated December 14, 2018 indicates that Mr. [REDACTED] reported his hearing aids, orthotics, hearing impaired vest, and glasses were missing. Two 7536s reflect that a hearing impaired vest and two pairs of reading glasses were issued that same day. In addition, Mr. [REDACTED] was also referred to audiology and orthotics. A nursing progress noted dated April 15, 2019 indicates Mr. [REDACTED] had his left hearing aid and shoes. As of today, Mr. [REDACTED] has all of his DME with the exception of his hearing aids (he reports he was ordered new hearing aids while he was housed at RJD). He transferred to LAC without his hearing aids. LAC attempted to have Mr. [REDACTED] seen twice by audiology to replace his hearing aid. On April 24, 2019, Mr. [REDACTED] stated he wanted to “wait for his old hearing aid to catch up with him.” On May 22, 2019, Mr. [REDACTED] was seen and indicated he was waiting for his hearing aid to be mailed to LAC and declined LAC’s offer to replace his hearing aids until he determined if RJD was mailing him hearing aids. LAC confirmed that RJD had not located hearing aids to mail Mr. [REDACTED] and so he was scheduled for follow-up to get hearing aids at LAC on June 26, 2019, but

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Ms. Penny Godbold
Page 4

he declined the hearing aids. Mr. [REDACTED] is scheduled to see audiology again on July 24, 2019, and he will again be offered a left side hearing aid.

Sincerely,

/s/ Russa Boyd

RUSSA BOYD
Attorney IV
Office of Legal Affairs

/s Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

cc: Co-counsel
Plaintiffs' Counsel
Sharon Garske, OAG

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Exhibit 39

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility B in Building 10. I am 65 years old.

3. I have been housed at RJD from August 22, 2018 to the present. During my time at RJD, I was housed on Facility A in Building 3 until around late August or early September 2019, when general population inmates were moved to Facility B. Since moving to Facility B, I have been housed in Building 10, other than several days when I was in the Administrative Segregation Unit ("ASU") in November 2019.

4. I am an *Armstrong* class member. I am designated as DPM, and I also have vision impairments. I have difficulty walking because of problems with my equilibrium, as well as arthritis and other issues with my back and legs. As accommodations for my disability, I am housed on the ground floor in a lower bunk, and I use a four-wheeled seated walker and a cane to get around. I also have a mobility vest because it is difficult for me to get down on the ground during alarms. Many years ago, I lost my left eye, and I use a left eye prosthesis. I have glaucoma in my right eye.

5. I am a *Coleman* class member at the CCCMS level of care. I have been diagnosed with depression, and am prescribed Vistaril to help me sleep.

6. I was a victim of staff misconduct at RJD. Around 8:30 or 9:00 a.m. on August 27, 2018, only a few days after I transferred to RJD, Officer [REDACTED] came to my cell in Building A3 to escort me to the medical trailer. As soon as he saw me, Officer [REDACTED] turned to the floor officer and said, "This man is a problem." I had never seen Officer [REDACTED] before and had no idea what he was talking about. Later that day, the entire building was taken to the chow hall and put on lockdown while staff searched our cells for contraband. While we were waiting there, Officer [REDACTED] came to the chow hall and called

1 my name. She told me I had a medical appointment and escorted me into the A Yard
2 plaza. When we walked past the sergeant's office, Officer [REDACTED] talked out with a
3 sergeant, I am not sure of the spelling of his name but I believe it was something like
4 Sergeant [REDACTED] Officer [REDACTED] pointed at me and told the Sergeant, "This man's a
5 problem, if it goes down, you're aware of it." I was very confused, and explained that I
6 had never seen Officer [REDACTED] before and did not want any trouble with him or anyone.

7 7. The Sergeant told me to go with Officer [REDACTED] and he escorted me to the
8 medical trailer. I sat outside until it was my turn to be seen, and then sat down on a chair
9 in the medical trailer, across from the nurse. Out of nowhere, Officer [REDACTED] pushed me
10 violently while I was seated, almost knocking me off the chair. He shoved me hard a
11 second time, hard enough that I would have been knocked onto the floor if my chair had
12 not been so close to a desk. Instead, my body slammed hard into the desk, but I did not
13 fall off the chair. Officer [REDACTED] pushed me so hard that the two nurses next to us had to
14 jump up out of the way. The nurses got up and walked to the other end of the medical
15 trailer, where they could still see and hear everything that was happening to me. Officer
16 [REDACTED] leaned his full body's weight on me, while I remained in the chair. It felt like he
17 was trying to get me to fight with him, but I did not respond, and just stayed seated.
18 Officer [REDACTED] then grabbed the right side of my beard and pulled so hard that he ripped out
19 some of my beard. It was so painful. Officer [REDACTED] quietly said to me, "say something,
20 say something," but I just said, "I'll pray for you." I have no idea why Officer [REDACTED]
21 attacked me, but I could tell he was trying to get a reaction to give him an excuse to hurt
22 me and then write me up.

23 8. Once the nurses saw that I was not going to react to Officer [REDACTED]'s attacks,
24 they came back and conducted the physical. When my appointment was finished, I told
25 Officer [REDACTED] that I was going to file a 602 on him. I filed the 602 the same day. I was
26 interviewed on camera as part of the investigation into my 602, which was converted into a
27 staff complaint.

1 9. On around September 27, 2018, after I was interviewed but before I received
2 a response to the 602, Officer [REDACTED] confronted me on the yard while I was returning to my
3 housing unit, Building A3, from the medical trailer. He pointed at me and told me, "Drop
4 the 602!" I did not look at him, and just continued walking.

5 10. On around October 3, 2018, I was coming back to my housing unit and, as I
6 was about to enter the sally port, I saw Officer [REDACTED] waiting there, even though he was
7 not one of the building officers for Building A3. Officer [REDACTED] gestured for me to come
8 into the sally port, even though prisoners are not supposed to enter the sally port if an
9 officer is in there, we are supposed to wait until officers clear the sally port before
10 entering. Given his earlier threats, I believed Officer [REDACTED] was trying to get me to violate
11 this rule so that he would have an excuse to write me up for a rules violation or hurt me. I
12 refused to go into the sally port while he was there, and I said, "you're trying to hurt me."
13 Officer [REDACTED] replied, "come on man, go on in." But I just waited outside until he walked
14 out of the sally port and was able to safely return to my building.

15 11. The next day, on around October 4, 2018, I was sitting in front of the
16 Facility A medical department, waiting to be called in for an appointment, when Officer
17 [REDACTED] walked by. While he was walking, he threatened me. Officer [REDACTED] said he was
18 going to knock my one eye out and make me blind.

19 12. My 602 against Officer [REDACTED] was converted to a staff complaint, which was
20 denied at the second level around June 2019. I appealed to the third level, which was also
21 denied around October 2019. I have filed a lawsuit against Officer [REDACTED] in the federal
22 court for the Southern District of California (Civil Case No. 19CV0511 LAB KSC).

23 13. Although Officer [REDACTED] did not threaten me again, I continued to see him
24 periodically on A Yard. It was frightening to see the officer who had attacked me for no
25 reason and who had threatened me for filing a 602 working on the same yard where I was
26 living, with the same authority over me as any other officer, even while he was under
27 investigation for staff misconduct against me. This sent the message to me that Officer
28 [REDACTED] and other officers could act with impunity and that no matter what they did to me or

1 other prisoners, they would not get into trouble. It was very upsetting that Officer [REDACTED]
2 was not even moved off the yard where he had attacked me while he was under
3 investigation for assaulting me.

4 14. I have continued to see Officer [REDACTED] even after moving to Facility B.
5 Around November 2019, I was walking to the chow hall, and I saw Officer [REDACTED] with a
6 group of officers walking towards Building B6, one of the ASU units on the yard. As the
7 officers were walking by, Officer [REDACTED] gestured at me to come over, indicating that he
8 wanted to talk to me, but I refused because I was afraid of what he might do to me. It was
9 concerning to me that Officer [REDACTED] is still working on the yard after attacking me for no
10 reason.

11 15. The officers at RJD appear to be very hostile towards people with disabilities
12 or those who have health issues. They often appear annoyed or frustrated when people
13 with disabilities are moving slower than the officers would like them to, and are quick to
14 get agitated and yell at prisoners who bother them with questions or who ask for help. The
15 only explanation I have for why Officer [REDACTED] attacked and threatened me is that he
16 decided I was going to be a problem for him because I get around using a walker and only
17 have one eye. I believe this because Officer [REDACTED] said that I was a problem to the floor
18 officer and the sergeant the first time he saw me, even though I had never seen him before
19 he attacked me, even though I had never seen him before, and I have seen the way the
20 officers at RJD act when people with disabilities or health issues need something and ask
21 for help. I learned from my experience reporting Officer [REDACTED]'s misconduct that there are
22 no consequences for the officers at RJD if they attack or threaten prisoners.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

Exhibit 40

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I am a class member in the above-entitled action. Except where stated to be on the basis of information and belief, I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") identification number is [REDACTED]. I am currently housed at the California Medical Facility in Vacaville, California. I am housed in the R-1 Unit, in a general population unit on the first floor.

3. I was housed at the Richard J. Donovan Correctional Facility ("RJD") from on or around January 28, 2017 to approximately October 4, 2018. During that time, I was housed on A-Yard in Building 5 for part of the time, and in A-Yard Building 4 for part of the time.

4. I am an *Armstrong* class member. I am designated as DPW, meaning that I am a full-time wheelchair user, and I require a wheelchair accessible cell. Both of my legs have been amputated above the knee. I have been prescribed a wheelchair, wheelchair-accessible housing on a lower tier, a back brace, crutches, prosthetic legs, and therapeutic shoes as accommodations for my disabilities. Although I have been prescribed prosthetic legs, I am still trying to learn to use them. I have a back injury, a shoulder blade injury, and my right wrist was injured in September 2016 when I was at CSP-Lancaster on B-Yard, and the officers there refused to loosen my handcuffs when I went to the hospital.

5. I am a *Coleman* class member. I am at the CCCMS level of care in the CDCR Mental Health Care Delivery System ("MHSDS"). I am not currently on any mental health medications.

6. I was a victim of staff misconduct when I was at RJD. My problems began on June 9, 2017, when tower staff in my housing unit, Building 5 on Facility A at RJD, refused to allow me to leave my cell and go to religious services. After this incident, I filed a CDCR Form 1824 complaint about the behavior and the fact that as a result of this

1 refusal, I missed religious services for that day. After I filed the 1824 request about the
2 denial of access to religious services, then several members of custody staff at RJD began
3 to retaliate against me because of my 1824 request, which I exhausted by pursuing it at the
4 second and third levels.

5 7. The retaliation took several forms. First, staff retaliated against me by
6 repeatedly closing my cell door on me and my wheelchair when I was going in and out of
7 my cell. This happened multiple times, on both second and third watch for several months
8 in 2017. "Second Watch" is the time period for one of the day shifts for custody staff in
9 the CDCR, and refers to the time period between 6:00 a.m. and 2:00 p.m. "Third Watch"
10 is the time period for the afternoon shift for custody staff in the CDCR, and it lasts from
11 2:00 p.m. to 10:00 p.m. In one instance, on or around August 14, 2017, I was stuck in my
12 wheelchair in the half-closed cell door for approximately 15 minutes. I was never
13 seriously injured during the door closings, but I was always concerned that I would be hurt
14 when this happened. I was worried because I had heard that a prisoner in Building 3 on A-
15 Yard at RJD had his hand severely injured when staff shut the cell door on him. I filed an
16 ADA grievance about the cell door closing on my wheelchair using the CDCR Form 1824
17 Reasonable Accommodation Request process around the time of these incidents.

18 8. Other retaliation during this period included refusal by Officers [REDACTED]
19 and [REDACTED] to let me out for dayroom on multiple occasions. Also, other officers, including
20 Officer [REDACTED] would routinely read my legal mail when delivering it to me. I filed
21 grievances about these issues.

22 9. Sergeant [REDACTED] sometimes met with me about my 1824 requests and 602s. I
23 noticed that he would re-write the 602 while interviewing me about it. When the appeal
24 was returned, it would be his version of events based on the interview with me, and not my
25 original account of what happened. His version of events would be different from what I
26 had initially written. I never asked for him to re-write my grievances.

27 ///

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1 10. The retaliation against me for filing ADA grievances took other forms. At
2 times, staff also interfered with ADA workers who were assigned to provide me with
3 assistance, including blocking them from coming to my cell to help clean my cell, or from
4 taking me places. At other times, staff refused to allow me to have access to the shower,
5 refused to allow me to go to yard, or refused to allow me access to the phones. In
6 particular, Officer [REDACTED] would frequently not allow me to use the phones or to
7 shower. At one time, Officer [REDACTED] refused to allow me to use the ADA rest room, as I
8 was leaving religious services. I believe these acts were all motivated by hostility to me
9 because I had filed ADA grievances.

10 11. After I was moved to Building 4 on Facility A at RJD, I experienced
11 increased harassment at some point after I had been there for a while. The harassment
12 came from Officer [REDACTED] I believe he was retaliating because he learned of my
13 complaints about RJD staff in Building 5. The reason I believe this is that he asked me
14 repeatedly about complaints I had filed against staff in Building 5. At the time, I filed a
15 complaint about his harassment of me. A few days after I filed the complaint about
16 Officer [REDACTED] Counselor [REDACTED] interviewed me. At the interview he told me they were
17 planning to send me to CSP-Lancaster. He never explained the reason for the sudden
18 transfer. When I went to the classification committee to be transferred, he was very
19 hostile. I believe the transfer was in retaliation for my complains about staff at RJD.

20 12. I complained about these incidents to Plaintiffs' counsel in *Armstrong*
21 around that time.

22 13. I have also witnessed staff engage in misconduct against other people at
23 RJD. In one instance on or around June of 2017, I observed multiple officers on the yard
24 of Facility A beating an EOP prisoner who was on the pavement near the dining room.
25 Sergeant [REDACTED] walked towards the incident, but failed to take any action to stop the severe
26 beating of the prisoner, who was on the ground and not resisting.

27 ///

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1 14. While I was housed in Buildings 4 and 5 on Facility A at RJD, I would often
2 hear about incidents of staff misconduct in the EOP buildings on the yard. At the time,
3 Buildings 1 and 2 housed EOP individuals.

4 15. To the best of my recollections, at the time I left RJD, in October of 2018, all
5 of the officers who retaliated against me were still working on A-Yard at RJD.

6 16. In my time at RJD, there were many times that I needed help but didn't ask
7 for it because I was afraid of what would happen to me.

8 17. I have been in CDCR prisons for about 17 years of my life. I've been
9 housed in a number of different CDCR prisons, including Wasco State Prison, Kern Valley
10 State Prison, North Kern State Prison, Corcoran, Calipatria, Ironwood, Chuckawalla
11 Valley State Prison, Pleasant Valley State Prison, Lancaster, and RJD. The staff
12 misconduct at RJD is the worst I have experienced or witnessed, followed closely by LAC.

13 I do so declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct, and that this declaration is executed at
15 Vacaville, California this 19 day of January, 2020.

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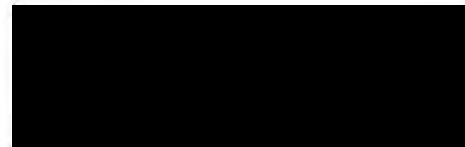
A large black rectangular redaction box covers the signature area. A horizontal line extends from the right side of the box.

Exhibit 40a

Allegation of Non-Compliance Inquiry Worksheet

*** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

ALLEGATION (to be included in Final Inquiry Memorandum)

Inmate/Parolee: [REDACTED] CDCR #: [REDACTED] Disability Class member: ☒ Armstrong (DPP) ☐ Clark (DDP)

Allegation of Non-Compliance: Inmate alleges sometimes staff close cell doors on wheelchair users.

Employee Identified Last/First:

(If unknown, the involved employee(s) shall be determined through supervisor/manager review and entered by the reviewing staff member)

DISCOVERY REVIEW (to be included in Final Inquiry Memorandum)

Date of Discovery: 11/15/2017 Source of Allegation/Reported By: AMT report dated 11/15/2017

Date Allegation Inquiry Initiated: 12/11/2017

Assigned To: [REDACTED] LT

Date Inquiry Due to ADA Coordinator: 1/11/18

INMATE INTERVIEW (to be included in Final Inquiry Memorandum)

*** All inquiries SHALL include an interview with the inmate/parolee who is the subject of the allegation – no exceptions ***

Staff Conducting Interview (print name and title): [REDACTED] LT.

Date of Interview: 12/19/2017

<p>1. Disability Code Requiring E/C:</p> <p><input type="checkbox"/> TABE ≤ 4 <input type="checkbox"/> LD <input type="checkbox"/> DPH</p> <p><input type="checkbox"/> DPV <input type="checkbox"/> DNH <input type="checkbox"/> DPS</p> <p><input type="checkbox"/> DDP <input type="checkbox"/> EOP</p> <p><input checked="" type="checkbox"/> N/A</p>	<p>2. Accommodation (Primary Method Required):</p> <p><input type="checkbox"/> Glasses <input type="checkbox"/> Hearing Aids <input type="checkbox"/> Loud/Clear Speech</p> <p><input type="checkbox"/> Speak Slowly <input type="checkbox"/> Written Notes <input type="checkbox"/> SLI <input type="checkbox"/> Reads Lips</p> <p><input checked="" type="checkbox"/> Other: Simple language 1,2 steps <input type="checkbox"/> N/A</p>	<p>3. Effective Communication (Check all that apply):</p> <p><input checked="" type="checkbox"/> Reiterated, in own words, what was explained. <input checked="" type="checkbox"/> Asked appropriate questions regarding the information provided.</p> <p><input checked="" type="checkbox"/> Provided appropriate, substantive responses to questions asked. <input type="checkbox"/> Did not appear to understand the communication.</p> <p><input type="checkbox"/> Other: Other. ADL Prompts Utilized</p>
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Summary of Interview: Inmate said staff sometimes close cell doors on wheelchair users. Inmate said he filed a complaint regarding another [REDACTED] having the cell door closed on him. The inmate did not disclose he later withdrew the appeal. [REDACTED] was interviewed and provided the cell door closed on his arm, he received medical attention and a 7219 was completed.

FINDINGS (to be included in Final Inquiry Memorandum)

[REDACTED] provided he submitted a complaint because the cell door was closed on [REDACTED] indicates he was injured, received medical attention and this was an isolated incident. No documentation could be located to support these allegations. There were no entries in the Housing Unit logs or Program Office logs. Additionally, medical records do not indicate [REDACTED] received any medical attention for injuries sustained by a cell door. Staff were interviewed and provided they take precaution when operating cell doors.

SUMMARY OF ADAC REVIEW

Inmate provided [REDACTED] sustained injury from cell door closing on his arm. [REDACTED] said this was an accident, he received injuries and was provided medical attention. Staff were interviewed and said they are always professional. There is no documentation to support these allegation.

DAC RECOMMENDATION

Allegation is not confirmed. Recommend no further action.

Print Name: [REDACTED]

Signature: [REDACTED]

Date: 1/23/2018

HIRING AUTHORITY REVIEW

Allegation: ☐ Confirmed ☒ Not Confirmed

Action Required: no Action

Signature: [REDACTED]

Date: 1/23/18

* Return to the ADAC upon completion.

Memorandum

Date: January 15, 2018

To: [REDACTED]
Associate Warden
Americans with Disabilities Act Coordinator

Subject: **INQUIRY OF ALLEGED NON-COMPLIANCE REGARDING THE DISABILITY PLACEMENT PROGRAM/DEVELOPMENTAL DISABILITY PROGRAM POLICY**

SUMMARIZED ALLEGED VIOLATION

On November 15, 2017, an allegation was reported and the source is identified as being reported to the Richard J. Donovan Correctional Facility (RJDCF) Americans with Disabilities Act (ADA) Office via the Armstrong Monitoring Tour Report dated November 14, 2017, of a DPP/DDP noncompliance concern. Specifically, [REDACTED] TABE Score 7.7, DDP Clear and inmate is a class member (DPP) utilizing a wheel chair for assistance and hearing aids. [REDACTED] provided plaintiff's attorneys on November 14, 2017, RJDCF information that staff closes the cell door on wheel chair users prior to entry into the cell.

INQUIRY SUMMARY

On December 18, 2017, [REDACTED] Correctional Lieutenant (Lt.) initiated the inquiry into this alleged American Disability Act violation by reviewing the Electronic Records Management System (ERMS) and the Strategic Offender Management System (SOMS). Additionally, [REDACTED] was interviewed by Lt. [REDACTED] on December 19, 2017. Effective Communication was determined by speaking slowly, loudly and a clear tone while using simple language. [REDACTED] stated that his problem was identified as staff members close the cell door on him prior to fully entering the cell while in the wheelchair. [REDACTED] further alleges that he has also filed an appeal on the issue. [REDACTED] advised me that this is not an isolated incident and some staff have retaliated against him regarding property cell searches. Specifically, Officer [REDACTED] and [REDACTED] conducted cell searches to retaliate against him. [REDACTED] also stated that he had filed an appeal on this issue and that Officer [REDACTED] purposely did not allow him out of the cell to attend a religious service. After review of the RJDCF Appeals Office, an appeal was filed along with a CDCR Form 1824 Reasonable Modification or Accommodation Request. [REDACTED] stated that staff closed a cell door on another class member, [REDACTED]. On November 17, 2017, [REDACTED] withdrew appeal RJD-A-1 [REDACTED] after being interviewed by Correctional Sergeant M. [REDACTED] concluding and closing that matter. However, on November 29, 2017, [REDACTED] reinitiated the appeal process and was interviewed by Sgt. [REDACTED] again on December 22, 2017. No new information or evidence was provided.

It should be noted that on Tuesday, December 19, 2017, [REDACTED] was also interviewed and stated that his problem was identified as a staff member (unidentified) accidentally closed the cell door on his arm while in the wheelchair. Staff saw him, heard him yell and responded to the cell door. He further stated that he was sent to medical, medically evaluated and released back to housing after a Medical Report of Injury and Unusual Occurrence (CDCR 7219) was completed.

Page 2

██████████ advised me that this was an isolated incident and some staff have accidents in closing doors and this type of issue of closing cell doors on inmates is not a big problem on Facility A. ██████████ had no further information to provide.

On Tuesday, December 19, 2017, Officer ██████████ was interviewed regarding ██████████. Officer ██████████ stated that he is professional during the course of his duties per departmental policy. He further states that no mean spirited conversation or unprofessional conduct took place between him and any inmates assigned to RJDCF Facility A.

FINDINGS

This allegation of Non-Compliance Inquiry did reveal that ██████████ filed an appeal (RJD-17-A-██████████) on staff and subsequently withdrew the aforementioned appeal. ██████████ alleged that Officer ██████████ made unprofessional comments to him and speaking to him in a mean spirited manner. ██████████ also does not have a staff complaint regarding Officer ██████████ alleged misconduct. ██████████ also had no witnesses or evidence for this allegation against Officer ██████████ or the Officers involved in the alleged retaliation allegation. In speaking to other inmate class members on Facility A, I was able to ascertain that they understand that human errors do occur on occasion. The Facility A Medical Clinic and the CTC Treatment Triage Area had no record of Inmate ██████████ being seen for any type of injuries to corroborate this alleged incident.

During my interview with ██████████ he appeared to be very negative during this interview displaying a genuine dislike for custody staff assigned to the Facility. Furthermore, ██████████ never mentioned that he withdrew his appeal during my interview. Also, after the appeal was withdrawn, on November 29, 2017, ██████████ reopened the appeal without cause. It appears that ██████████ is attempting to retaliate against staff in speaking to the Plaintiff's Attorneys regarding an issue that has previously been addressed with the RJDCF Appeals Office.

This matter has been concluded at this level of review and no further action is recommended.

If you should have any questions regarding this matter, do not hesitate to contact me at extension 6242.

██████████
Correctional Lieutenant
Richard J. Donovan Correctional Facility

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**REASONABLE MODIFICATION OR
ACCOMMODATION REQUEST**

CDCR 1824 (Rev. 10/06)

INSTITUTION/PAROLE REGION:

LOG NUMBER:

CATEGORY:

RJD A-17

RJD A-17

18. ADA

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

CDC NUMBER

ASSIGNMENT

HOURS/WATCH

HOUSING

A-5-

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you. If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

Two Leg Amputee

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

Self-Explanatory

DESCRIBE THE PROBLEM: On going retaliation as a gas weapon in the

(4) times this week Also neighbor [redacted] and rooming cell 221
All this stuff started from June 9, 2017 read Rap RJD-A- [redacted] because I complained
of [redacted] officer deliberately making me miss religious service then they had by way of Perry
on 5/15/17 L. PERRONEZ & M. BILLINGSLEY cell search my cell I wrote then they had another officer
Block my view so I couldn't see what they took what they took was legal information on laws 17
Also see Rap Log Number RJD-A-17- [redacted] same officer skip me in showers Log No. 17- [redacted]

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

I want officer [redacted] officers work in the tower both shift remove, relocated
and [redacted] & [redacted] . Why because they are retaliating for me
because I complained and wrote to the warden who wrote me back.

All of this is in violation of ADA-ARTI - retaliation laws of the ADA
and in violation of color of Authority law and the 8th amendment cruel to unusual
punishment

IN

DATE SIGNED

8/14/17

1 *

DRAFT**REASONABLE ACCOMMODATION PANEL (RAP) RESPONSE**

RAP Meeting Date: 8/10/2017

Date IAC Received 1824: 8/07/2017

1824 Log Number: RJD-A-17- [REDACTED]

Inmate's Name: [REDACTED]

CDCR #: [REDACTED]

Housing: RJD A [REDACTED]

RAP Staff Present: [REDACTED] ADA Coordinator; Dr. [REDACTED] Chief Physician & Surgeon; [REDACTED] Custody Appeals Representative; [REDACTED] Health Care Appeals Representative; [REDACTED] Health Care Compliance Analyst; Dr. [REDACTED] Sr. Psychologist; [REDACTED] Teacher

Summary of Inmate's 1824 Request: You claim staff is retaliating against you because you filed staff complaints against them. You want Correctional Officers [REDACTED] and [REDACTED] removed or relocated from their posts.

Interim Accommodation:

☒ No interim accommodation required: Staff determined no potential for injury or other serious harm while processing request.

FINAL RESPONSE:

RAP is able to render a final decision on the following:

Response: Be advised, this request raises no Americans with Disabilities Act (ADA) access or disability-based discrimination issue.

Every staff member employed by the California Department of Corrections and Rehabilitation has a responsibility to carry out their duties in a professional manner. However, staff complaints are handled via the appeals process. Submit a CDCR 602, Inmate/Parolee Appeal. If a CDCR 602 has already been submitted and you are not satisfied with the result(s), you can submit for next level of review. Keep in mind, appeals must be submitted consistent with California Code of Regulations, Title 15, Chapter 1, Article 8.

Direction if dissatisfied: If you disagree with this decision and want to file an appeal, submit a CDCR 602. Be sure to attach your CDCR 1824 and this response as supporting documents.

[REDACTED] AW

ADA Coordinator/Designee

[REDACTED]
Signature

Date sent to inmate: SEP 10 2017

9*

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
	RJD-A-17		11
FOR STAFF USE ONLY			

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

WRITE PRINT - TYPE CLEARLY in black or blue ink.
Assignment:

RETALIATION ON GOING BECAUSE I FILED COMPLAINTS
A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): using power as a
weapon tower officer DIAZ (4) TIMES THE WEEK OF 8/14/17 ALSO WAS ON
ON INMATE [REDACTED] AND [REDACTED]. I TALK TO RUSSELL, BURN LAW
FIRM. ALL THIS STUFF STARTED FROM JUNE 9, 2017 READ INMATE [REDACTED]

B. Action requested (If you need more space, use Section B of the CDCR 602-A): I want officer
[REDACTED] and officer work in the tower BOTH SHIFTS [REDACTED] removed,
relocated off the yard and [REDACTED] [REDACTED] why because
they are retaliating on me because I complain & write to the warden [REDACTED]

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory, CDC 128-G, Classification Chrono):

1824-(5) pages Log NO RJD-A-17-[REDACTED]

☐ No, I have not attached any supporting documents. Reason:

Inmate/Parolee Signature: [REDACTED]

Date Submitted: 9/20/17

☐ By placing my initials in this box, I waive my right to receive an interview.

Received
SIO RB - limit 1 issue
SEP 25 2017
per appeal, shawns
RJDCE Appeals
cell search, door ad
are separate issues
① pwy look
Received
SIO RB - last appeal
SEP 28 2017
Appeal in 9/28/17,
RJDCE Appeals
re-submit after
10/12/17, limit 1 issue
per appeal
*re-submitted
within time
limits

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section D.

☒ Rejected (See attached letter for instruction) Date: SEP 25 2017

☐ Cancelled (See attached letter) Date:

☒ Accepted at the First Level of Review

Assigned to:

Title:

Date Assigned: 11/30/17

Date Due: 11/30/17

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: 11/17/17

Interview Location: FACILITY A, PROGRAM OFFICE

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied

☒ Other: WITHDRAWN

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: M. P. [REDACTED]

Title: DOT

Signature: [REDACTED]

Date completed: 11/17/17

Reviewer: F.S. COGAN

Title: AWA

Signature: [REDACTED]

Date received by AC: NOV 21 2017

AC Use Only

Date mailed/delivered to appellant

NOV 21 2017

7*

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR 602-A (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY

Institution/Parole Region:

Log #:

Category:

RJD-A-

11

FOR STAFF USE ONLY

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Signature:

A. Continuation of CDCR 602, Section A only (Explain your issue): RJD-A-17- because I complain of [redacted] to tower officer morning shift Deliberately making me miss religious service then they had by way of proxy on 5/15/17 [redacted] to [redacted] cell search my cell. I watch then they had another officer (white) block my view so I couldn't see what they took. what they took was legal information on LAWSUITS also see RAP Log NO. RJD-A-17- officer [redacted] skipping me on showers for more than a month and is still doing it. Please see 602 Log NO. 17- [redacted]

Received

OCT 20 2017

RJDCE Appeals

S/O- [redacted]
Provide copy of
cell search
Receipt

Received

NOV 13 2017

RJDCE Appeals

Received

NOV 30 2017

RJDCE Appeals

Inmate/Parolee Signature: [redacted]

Date Submitted: 9/20/17

B. Continuation of CDCR 602, Section B only (Action requested): who wrote me back and the Rosen Blue Law Firm wrote me (2) letters and I spoke to them on the phone more than once. All of this is in violation of ADA-ANTI-RETALIATION LAWS of the ADA and in violation of color of Authority law and the 8th Amendment and 1st Amendment.

Inmate/Parolee Signature: [redacted]

Date Submitted: 9/20/17

8*

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
 CDCR 602 (REV. 03/12)

REHABILITATION

Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

E. Second Level - Staff Use OnlyStaff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ By-passed at Second Level of Review. Go to Section G.☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter)☐ Accepted at the Second Level of Review

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____

(Print Name)

Reviewer: _____ Title: _____ Signature: _____

(Print Name)

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant: ____/____/____

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter) Date: _____☐ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant: ____/____/____

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

WITHDRAWAL my appeal. All issues have been resolved after speaking with SGT. [REDACTED]. This is conditional. We agreed upon certain things. But they haven't been fulfilled as agreed upon. Therefore I'm reopening this appeal. (11/29/17)

Inmate/Parolee Signature: [REDACTED] Date: 11/17/17
 Print Staff Name: [REDACTED] Title: SGT Signature: [REDACTED] Date: 11/17/17

Exhibit 41

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at High Desert State Prison ("HDSP") in Building 1 on Facility B. I am 43 years old.

3. I was housed at Richard J. Donovan ("RJD") from November, 2018 to September, 2019.

4. During my time at RJD, I was housed in Building 12 on Facility C and the administrative segregation unit in Building 7 on Facility B.

5. I am an *Armstrong* class member. I am designated as DPM. As accommodations for my disability, I am housed on the ground floor in a lower bunk, and I use a cane and a walker to ambulate.

6. I have a number of serious medical conditions. I experience chronic shoulder pain due to a bullet that is lodged in my shoulder. I suffer from hyperlipidemia, Hepatitis C, diabetic neuropathy, and diabetes.

7. I was a victim of staff misconduct at RJD.

8. On Sunday, December 16, 2018, I requested access to an ADA shower from Officer [REDACTED]. At the time, I was housed in Building 12 on Facility C, and Officer [REDACTED] was a regular second watch floor officer in Building 12. I was requesting access to the ADA shower because I had just gotten off of work and this is the time that workers are able to shower. I specifically requested access to the ADA shower because that is the shower that I preferred to use, with grab bars and a bench, as a result of my disability. In response to my request, Officer [REDACTED] approached my cell door and told me to "shut the fuck up." Officer [REDACTED] stated that I would not be getting anything from him. Next he said "If you write me up, I'm going to have other inmates fuck you up." I had heard him say this before to other ADA folks in the building.

1 9. In the months that followed that interaction, Officer [REDACTED] frequently
2 taunted, harassed, and threatened me. The first instance of harassment occurred on
3 January 26, 2019. At the time, I was taking a shower in my housing unit, Building 12 on
4 Facility C. As I was showering, I noticed Officer [REDACTED] staring me down. Officer
5 [REDACTED] then took out his flashlight and started shining it on my genitals. He was
6 standing about 1-2 feet away from me and the door was closed between us. He did this for
7 a few minutes. I told Officer [REDACTED] that I felt uncomfortable and I returned to my
8 cell.

9 10. This incident made me feel threatened and humiliated. The next day, I filed
10 a staff complaint 602 against Officer [REDACTED]. Also, my wife and I both called the
11 PREA hotline the day after the incident. On January 29, 2019, I was interviewed by an
12 Investigative Services Unit ("ISU") Sergeant. This sergeant, whose name I cannot
13 remember, told me that he did not believe me because he knew Officer [REDACTED] and
14 did not think that Officer [REDACTED] would ever do such a thing. The sergeant also told
15 me that nothing was going to happen as a result of my complaint. The experience of
16 reporting Officer [REDACTED] made me feel as if nothing would be done about reported
17 staff misconduct.

18 11. The harassment, retaliation, and threats from staff increased after I reported
19 Officer [REDACTED]. Sometime around the end of February, I was approached by Officer
20 [REDACTED] who came to my cell front – cell [REDACTED] in Building 12 on Facility C at the time –
21 and told me, "You like writing us up? We're going to fuck your ass up. We're part of the
22 Green Wall." When he said he was part of the "Green Wall," I took that to mean the
23 notorious gang of prison guards in California who are known by incarcerated people to
24 operate under a "code of silence" protecting any wrongdoing of their fellow officers. After
25 Officer [REDACTED] verbally threatened me, he began to stare me down each time I would see
26 him on the prison yard.

27 ///

28 ///

1 12. A few days after that encounter with Officer [REDACTED] two incarcerated people
2 approached me and told me, "If you don't drop the 602 [against Officer [REDACTED]
3 we'll fuck you up." I believe that Officer [REDACTED] arranged for these two people to
4 threaten me to drop my staff complaint against him because I do not know any other
5 reason why they would have been concerned with my 602.

6 13. I also experienced similar threats and intimidation after filing a separate 602
7 against Officer [REDACTED] Sometime in mid-March, 2019, Officer [REDACTED] refused to release
8 me from my cell in order to get my diabetic medications. After I started complaining to
9 Officer [REDACTED] and telling him that I would file a 602 if he denied me access to my
10 medication, Officer [REDACTED] taunted me, telling me, "Write me up and make sure you spell
11 my name right." Both Officer [REDACTED] and Officer [REDACTED] denied me access to 602
12 forms. So I wrote a staff complaint about the incident on an 1824 form which is the ADA
13 request for accommodation form, and not the staff complaint form. My 1824 was denied
14 and stated that the officer had not violated policy. The response did not indicate whether
15 my complaint had been converted from an 1824 to a staff complaint. Next I filed a 602
16 staff misconduct complaint against Officer [REDACTED] in connection with this incident.

17 14. In the weeks that followed, I was threatened on a number of occasions. On
18 the first occasion, two incarcerated people who I did not know but who appeared to be
19 Hispanic approached me and told me that, if I didn't drop my complaint against Officer
20 [REDACTED] they would "beat the shit out of me." Similarly, at the end of March or the
21 beginning of April 2019, I was approached by a different incarcerated person, someone
22 who appeared to be white, while waiting in line to get my diabetic medication. This
23 person warned by stating that if I do not drop my complaint against Officer [REDACTED] "they
24 are going to fuck you up." I interpreted this comment as a threat that officers would
25 assault me, or have me assaulted by other incarcerated people, if I did not withdraw my
26 staff complaint. This incarcerated person further warned me not to "602 cops anymore." I
27 believe that Officer [REDACTED] asked these incarcerated people to threaten me because, as
28 with Officer [REDACTED] I know no reason for these prisoners to care about my 602s.

1 15. I did not drop the 602s. Ultimately, I was stabbed by other incarcerated
2 people on April 18, 2019. I was standing on the track of the Facility C yard, nearby the
3 Native American prayer ground. About three to five feet away from me, I observed a fight
4 break out on the track. Six white people, along with one Hispanic person, started attacking
5 another Hispanic prisoner. Fearing for my safety, I backed away from the scene, stepping
6 back a couple of feet but continuing to observe what was going on. Shortly after I took a
7 step back, I felt a sharp pain coming from the left side of my body, close to my lung. It
8 occurred to me that I had been stabbed from behind, so I turned around and saw three
9 different incarcerated people standing behind me. They did not say anything to me. An
10 alarm then sounded, and I was rushed by a number of custody staff, who handcuffed me
11 and conducted a clothed body search of my person as I lay bleeding on the ground.

12 16. I was then taken to the medical unit referred to as the Triage and Treatment
13 Area ("TTA") at RJD and examined by Doctor Martin, who then ordered my transport to
14 Sharp Memorial Hospital. At Sharp, I was admitted and treated with antibiotics and pain
15 medication. I stayed overnight for observation, and was returned to RJD on April 19,
16 2019.

17 17. I believe the attack on me was organized by staff in retaliation for the 602s I
18 filed because I was threatened multiple times prior to the attack. Specifically, Officer
19 [REDACTED] on numerous occasions, threatened to have me stabbed or assaulted by other
20 incarcerated people if I filed staff misconduct grievances against him. Thus, I believe that
21 Officer [REDACTED] was responsible. Also, on numerous occasions, I observed Officer
22 [REDACTED] provide prison privileges to my attackers such as access to extra day room
23 hours. Prior to the attack on me I witnessed Officer [REDACTED] allow my attackers to
24 enter people's vacant cells and seen them be allowed to take other people's property while
25 in there. I assumed that Officer [REDACTED] provided these additional privileges to these
26 prisoners in exchange for something such as conducting the threats and assaults on people,
27 like me, because I know of no other reason why these incarcerated people would have
28 attacked me.

1 18. I feel scared and paranoid that I will be attacked again, as a result of what
2 happened to me at RJD. I no longer feel comfortable approaching staff, I do not want to
3 have any negative interactions with them after what happened at RJD. Now I just keep to
4 myself and avoid going out where I will have to interact with staff. For example, I just
5 stay in my cell and make food for myself and do not go out to chow.

6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct, and that this declaration is executed at Susanville,
8 California this 30 day of January, 2020.

9
10  _____

Exhibit 41a

Filed Under Seal

Exhibit 41b



ROSEN BIEN
GALVAN & GRUNFELD LLP

101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 • F: (415) 433-7104
www.rbgg.com

Penny Godbold
Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND
CONFIDENTIAL
SUBJECT TO
PROTECTIVE ORDERS

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Advocacy Letter re DPM Class Member,
[REDACTED] [REDACTED] Experiencing Staff Misconduct at RJD
Our File No. 581-3

Dear All:

I write regarding reports of staff misconduct against *Armstrong* class member [REDACTED] [REDACTED] DPM. Mr. [REDACTED] reports that on Sunday, December 16, 2018, he requested access to an ADA shower from the 2nd Watch Floor Officer, Officer [REDACTED]. In response, he reports, Officer [REDACTED] came to his door and told him to, “shut the fuck up” and that he was not getting anything from him. He reports that then Officer [REDACTED] told him that, if he “602’d” him, he would have other inmates attack Mr. [REDACTED]. Mr. [REDACTED] reports that he is in great fear for his safety, his mental health has deteriorated, and he is having trouble sleeping, all as a result of the threats from Officer [REDACTED].

As you know, Officer [REDACTED] is the same officer alleged to have ordered inmates to attack an *Armstrong* class member as raised in our staff misconduct complaint of January 8, 2019. (See **Attachment A**.) Officer [REDACTED] is also the subject of an April 2018 incident where he was alleged to have “aided and encouraged” a similar attack by inmates against another prisoner. (See **Exhibit B** to the January 8, 2019, letter.) Lastly, Officer [REDACTED] was subject of multiple misconduct complaints made by *Armstrong* class members during the Joint Audit at RJD August 27-30, 2019.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 2

Officer [REDACTED] reportedly continues to harass and threaten Mr. [REDACTED]. Most recently, on January 26, 2019, Mr. [REDACTED] reports that while he was taking a shower, Officer [REDACTED] approached him and repeatedly flashed his flashlight at Mr. [REDACTED] private parts while staring him down in the shower. Mr. [REDACTED] reports that he felt threatened and humiliated by this event and he filed a staff complaint against Officer [REDACTED]. He reports that on January 29, 2019, he was interviewed by an ISU Sergeant who told him that he did not believe Mr. [REDACTED] that Officer [REDACTED] would not do such a thing, and that nothing was going to happen as a result of his complaint. Mr. [REDACTED] continues to fear for his safety.

It is clear Officer [REDACTED] continued presence at RJD poses serious problems for *Armstrong* class members. Plaintiffs' counsel is aware of multiple, consistent allegations against this same officer that have been well documented over the last six months. These allegations raise serious misconduct concerns that, according to Government Code Section 19572, would be grounds for adverse action against this employee based on unlawful discrimination against persons with disabilities and unlawful retaliation against those who report unlawful behavior. (See Departmental Operation Manual Section 33030.9.)

Yet, Plaintiffs' counsel continues to receive ongoing reports from class members regarding threats, assaults, denials of disability accommodations and acts of retaliation carried out by this officer. Class members report that Officer [REDACTED] was moved off of Facility C following the *Armstrong* Joint Audit. However, he is reportedly able to fill-in overtime positions on that yard and thus continues as a presence on the yard, especially on Sundays. Why is this officer still in a position to come in to contact with people in prison, especially those such as *Armstrong/Coleman/Clark* class members who must be able to rely on staff members for the provision of required disability accommodations? We ask that immediate action be taken to limit this officer's contact with all people in prison, especially *Armstrong/Coleman/Clark* class members, pending a thorough investigation of repeated reports of misconduct. Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations. Plaintiffs' counsel would like to discuss with you additional steps that should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

///

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 3

We look forward to your prompt response.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:hw
Enclosures

cc: Ed Swanson
Sharon Garske
Annakarina De La Torre-Fennell
Co-counsel

Exhibit 41c



101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Michael Freedman
Email: mfreedman@rbgg.com

October 23, 2019

VIA ELECTRONIC MAIL ONLY

<p>PRIVILEGED AND CONFIDENTIAL</p> <hr/> <p>SUBJECT TO PROTECTIVE ORDERS</p>
--

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Supplemental Advocacy Letter re DPM Class
Member, [REDACTED] [REDACTED] Experiencing Staff Misconduct at RJD
Our File No. 581-3

Dear Russa and Ursula:

I write regarding violent retaliation experienced by *Armstrong* class member [REDACTED] [REDACTED] DPM. Previously, we reported in an advocacy letter dated February 26, 2019, that Officer [REDACTED] threatened Mr. [REDACTED] in response to his request to use the ADA shower. *See* P. Godbold to R. Boyd, U. Stuter, Advocacy Letter re DPM Class Member [REDACTED] [REDACTED] Experiencing Staff Misconduct, Feb. 26, 2019 (“Initial Letter”). Specifically, Mr. [REDACTED] reported:

that on Sunday, December 16, 2018, he requested access to an ADA shower from the 2nd Watch Floor Officer, Officer [REDACTED]. In response, he reports, Officer [REDACTED] came to his door and told him to, “shut the fuck up” and that he was not getting anything from him. He reports that then Officer [REDACTED] told him that, if he “602’d” him, he would have other inmates attack Mr. [REDACTED].

Id. at 1.

Mr. [REDACTED] did submit a 602. And, as discussed below, Officer [REDACTED] after engaging in a campaign of harassment against Mr. [REDACTED] followed through on his threat to have other incarcerated people attack Mr. [REDACTED].

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 23, 2019
Page 2

Following the filing of the 602, Mr. [REDACTED] reports that he was threatened on a number of occasions by officers and incarcerated persons acting at the behest of officers to drop his 602 against Officer [REDACTED]. At the end of February, he reports that Officer [REDACTED] came to his cell (Cell [REDACTED] in Building [REDACTED] and told him through the door, "You like writing us up? We're going to fuck your ass up. We're part of the Green Wall." After that incident, Mr. [REDACTED] reported that, whenever he encountered Officer [REDACTED] Officer [REDACTED] would stare him down in a threatening manner. Later in February, two Hispanic incarcerated people confronted Mr. [REDACTED] telling him "if you don't drop the 602 [against Officer [REDACTED] we'll fuck you up."

Mr. [REDACTED] has also faced retaliation for filing a separate 602 against Officer [REDACTED] regarding a complaint that in mid-March Officer [REDACTED] failed to release Mr. [REDACTED] to receive his diabetic medications. As part of the incident, Officer [REDACTED] taunted Mr. [REDACTED] reportedly saying "write me and up and spell my name right." On two separate occasions following his submission of the 602 regarding Officer [REDACTED] incarcerated people threatened Mr. [REDACTED] to drop the 602. In the first instance, two Hispanic people told Mr. [REDACTED] that if he didn't drop the 602, they would "beat the shit out of him." At the end of March or the beginning of April, while Mr. [REDACTED] was waiting to get his medication, a white person told Mr. [REDACTED] to drop his 602 against [REDACTED] or they are "going to fuck you up." Mr. [REDACTED] was further warned by this person not to "602 cops anymore." Mr. [REDACTED] believes that all of these threats were made at the order of the staff members about whom he had submitted 602s. Mr. [REDACTED] belief makes sense; other incarcerated people would have no reason to threaten Mr. [REDACTED] to drop 602s against officers unless the incarcerated people had been asked to do so by the officers.

The retaliation related to the 602s he filed against Officer [REDACTED] and Officer [REDACTED] culminated in Mr. [REDACTED] being stabbed by other incarcerated people. On April 18, 2019, Mr. [REDACTED] was on the track of the yard nearby the Native American prayer ground. About three to five feet away from him, a fight broke out on the track involving six white and Hispanic people against one Hispanic prisoner. Mr. [REDACTED] backed away from the scene, but continued to observe the fight. Shortly thereafter, he felt a sharp pain coming from the left side of his body, close to his lung, and realized that he had just been stabbed from behind. He turned to see three incarcerated people standing behind him. Moments later, an alarm was sounded. Mr. [REDACTED] was handcuffed by yard staff and searched with his clothes on. At this point, he reports that he was bleeding profusely. According to his medical records, he was taken by ambulance to Sharp Memorial Hospital after being examined at RJD's CTC. Mr. [REDACTED] was admitted at Sharp and treated with antibiotics and pain medication. He stayed overnight for observation, and was returned to RJD on April 19, 2019. Mr. [REDACTED] received an RVR in connection with this incident.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
 Ursula Stuter
 October 23, 2019
 Page 3

Based on his experiences in CDCR, the multiple threats of violent retaliation he faced for filing 602s, and the closeness in time between the threats and the stabbing, Mr. [REDACTED] believes that this attack occurred in response to his filing grievances against both Officer [REDACTED] and Officer [REDACTED]. According to Mr. [REDACTED] the people who stabbed him previously had received special treatment from Officer [REDACTED] and other officers, including extra day room and access to other prisoners' cells. Mr. [REDACTED] describes them as "Green Wall" prisoners, and for that reason, believes that custody staff orchestrated the assault on him.

As you are aware, we have raised allegations of misconduct committed by Officer [REDACTED]—including allegations that he orchestrated attacks on class members by other incarcerated people—in four different advocacy letters sent on behalf of class members over the past year and a half. *See* Letter from P. Godbold to R. Boyd, U. Stuter, dated Apr. 18, 2019; Initial Letter; Letter from P. Godbold to R. Boyd, U. Stuter, Staff Misconduct Against Class Member at R.J. Donovan Correctional Facility in Retaliation for Participation in Joint Audit, Jan. 8, 2019; Letter from P. Godbold to R. Boyd and N. Weber, Reports of Abuse of Class Members at RJD, Mar. 2, 2018. Allegations involving staff misconduct committed by Officer [REDACTED] are also the subject of two active federal lawsuits in the Southern District of California. *See Hoyt v. CDCR et al.*, 3:19-cv-01553-L-AGS; *see also Moody et al., v. CDCR et al.*, 3:18-cv-01110-WQH-AGS. Similarly, we have raised concerns about violence committed by Officer [REDACTED] against *Armstrong* class members in at least one previous advocacy letter. *See* letter from P. Godbold to R. Boyd and N. Weber, Reports of Abuse of Class Members at RJD, Mar. 2, 2018. The continued presence of officers at RJD—like Officers [REDACTED] and [REDACTED]—that CDCR knows or has reason to know may have engaged in serious misconduct poses fundamental problems for *Armstrong* class members. Accordingly, we again request that, pending a thorough investigation of repeated reports of misconduct by these officers, immediate action be taken ensure that these officers have no contact with or control over incarcerated people, especially *Armstrong/Coleman/Clark* class members.

Mr. [REDACTED] situation also typifies the problem posed by the widespread staff misconduct at RJD. Under the ADA, class members are entitled to receive reasonable accommodations for their disabilities. To do so, they must often request accommodations from staff. By policy, many of these requests, including requests for showers, must be made to custody staff. If, however, class members expose themselves or see other class members exposed to violence or threats of violence by making such requests, class members will understandably be dissuaded from making requests. In this way, the widespread staff misconduct at RJD undermines class members' rights under the ADA

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 23, 2019
Page 4

and various court orders in *Armstrong*, including court orders mandating CDCR's creation of a reasonable accommodation request process.

Plaintiffs' counsel requests that the above allegations be investigated by investigators outside of RJD. Plaintiffs' counsel also requests that investigators determine whether the 115 issued to Mr. [REDACTED] was appropriate. RJD should take immediate action to stop these officers from continuing to engage in misconduct. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations.

Plaintiffs' counsel also requests that Defendants produce (1) all 602s filed by Mr. [REDACTED] in the last year along with the responses to those 602s and (2) all documents, including incident reports, RVRs, photographs, and videos, related to the incident in which Mr. [REDACTED] was stabbed on April 18, 2019.

We look forward to your prompt response.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ *Michael Freedman*

Michael Freedman

By: Senior Counsel

MLF:jrg

cc: Ed Swanson
Matt Espenshade
Sharon Garske
Kelly Mitchell
Landon Bravo
CDCR OLA Armstrong

Sharon Garske
Annakarina De La Torre-
Fennell
Damon McClain
Joanna Hood
Laurie Hoogland

RBGG Armstrong
Co-Counsel
Lois Welch
Steven Faris
Roy Wesley

Exhibit 41d

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
 General Counsel
 P.O. Box 942883
 Sacramento, CA 94283-0001



October 23, 2019

VIA EMAIL ONLY

Penny Godbold
 Rosen, Bien, Galvan & Grunfeld
Pgodbold@rbgg.com

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 ATTORNEYS' EYES
 ONLY – NO INMATE
 ACCESS

Re: *Armstrong v. Newsom*: Advocacy letter re DPM Class Member, [REDACTED]
 [REDACTED] Experiencing Staff Misconduct at RJD

Dear Ms. Godbold:

I write in response to your February 26, 2019 letter on behalf of Mr. [REDACTED] a DPM class member formerly housed at RJD. You report that on December 16, 2018, he requested access to an ADA shower from Officer [REDACTED] who told him to, “shut the fuck up” and that he wasn’t getting anything from him. Officer [REDACTED] then allegedly told Mr. [REDACTED] that he would have other inmates attack him if he “602’d” Officer [REDACTED]. You then report that Officer [REDACTED] allegedly continues to harass and threaten Mr. [REDACTED]. You report that, on January 26, 2019, Officer [REDACTED] approached Mr. [REDACTED] while he was taking a shower and repeatedly flashed his light at Mr. [REDACTED] private parts while staring him down in the shower. You report that Mr. [REDACTED] was interviewed on January 29, 2019 by an ISU Sergeant who stated he did not believe Mr. [REDACTED] that Officer [REDACTED] would not do such a thing, and that nothing was going to happen as a result of his complaint.

Your letter also cites to allegations made against Officer [REDACTED] by other inmates, including Mr. [REDACTED] [REDACTED] as support for your assertion that ongoing allegations against this officer indicate a pattern of discrimination and abuse that should subject Officer [REDACTED] to an adverse action. In the case of Mr. [REDACTED] Defendants responded to your letter and discredited his allegations against Officer [REDACTED] with clear evidence. (*See* letter from R. Boyd and U. Stuter to P. Godbold dated July 17, 2019).

On January 29, 2019, the Office of Internal Affairs contacted RJD’s ISU office to report that Mr. [REDACTED] had contacted the Administrative Officer of the Day Hotline to file a complaint against Officer [REDACTED] regarding the alleged January 26, 2019 incident included in your letter. Therefore, Defendants investigated the allegation a month before receiving your letter. On January 29, 2019, the assigned staff member interviewed Mr. [REDACTED] and there were several inconsistencies in his story when compared to what he reported to you. Mr. [REDACTED] reported to you that Officer [REDACTED] approached him while he was taking a shower and shined a flashlight at Mr. [REDACTED] private parts while staring him down in the shower. This allegation implies that Officer [REDACTED] was in close proximity to Mr. [REDACTED]. However, when interviewed by the staff member, Mr. [REDACTED] stated that

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Ms. Penny Godbold
Page 2

Officer [REDACTED] was standing by the staff or counselor's office, which is a distance from the shower. This statement contradicts what he told you about where Office [REDACTED] was located.

Mr. [REDACTED] reported to the staff member that he returned from work on January 26, 2019 and retrieved his shower bag and headed to the ADA-accessible shower. Mr. [REDACTED] reported that, as he walked to the shower, Officer [REDACTED] shined his flashlight at him and asked him "What the fuck are you doing? You're going to disrespect me like that?" Mr. [REDACTED] reported he entered the shower and Officer [REDACTED] continued to shine the light at him, aiming towards his genitals, and Mr. [REDACTED] felt uncomfortable so he gathered his belongings and exited the shower without showering. The staff member determined that the distance from where Mr. [REDACTED] reported Officer [REDACTED] was standing to the shower is a substantial distance to maintain a direct stream of light and aim it directly at one's genitals using a flashlight. The staff member also observed that the housing unit has metal plates, reportedly approved by PREA mandates, covering the mid-section of the shower door and so Mr. [REDACTED] genitals would not even be visible, especially from across the housing unit.

Mr. [REDACTED] also reported that he was concerned Officer [REDACTED] was trying to deny him his "ADA shower" but Mr. [REDACTED] does not have a disability that would require him to obtain extra showers. He has a mobility impairment, no known incontinence, and he had not visibly soiled himself so it is unclear why he believes he is entitled to "ADA showers."

Two officers assigned to the housing unit on the day in question were interviewed and neither recalled any such incident. Four potential inmate-witnesses were interviewed and none could corroborate your allegations. This allegation of sexual harassment is not confirmed

Mr. [REDACTED] allegations, including your letter and CDCR's inquiry reports, were forwarded to the Office of Internal Affairs but the case was rejected. RJD conducted follow-up in order to determine if there was additional information to support resubmission of the allegations to the Office of Internal Affairs. As part of that follow-up, Mr. [REDACTED] was interviewed again on July 30, 2019, so that CDCR could address all issues Mr. [REDACTED] wanted to report about Officer [REDACTED] because Mr. [REDACTED] has made several complaints through different mechanisms. During this interview, Mr. [REDACTED] recounted three alleged incidents involving Officer [REDACTED] but never brought up the December 16, 2018 incident and so Defendants decline to inquire further and chose to focus on the complaints Mr. [REDACTED] reported on July 30.

The assigned staff person inquired into the three allegations presented by Mr. [REDACTED] including a follow-up inquiry related to the January 26, 2019 shower incident. Additional staff and inmates were interviewed, including a former cellmate who reported that Mr. [REDACTED] routinely files false complaints against staff. In addition, log books and databases were reviewed, and none of the allegations could be substantiated by any evidence.

On April 19, 2019, Mr. [REDACTED] was moved to Administrative Segregation on Facility B with a SHU term after he was discovered to be in possession of an inmate-manufactured weapon. He admitted possessing the weapon during his RVR hearing and was found guilty of the charge. He has since transferred to DVI. Just today, we received a supplemental advocacy letter regarding

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Ms. Penny Godbold
Page 3

Mr. [REDACTED] and allegations of additional staff misconduct and retaliation at RJD, which we will respond to separately.

Sincerely,

/s/ Russa Boyd

RUSSA BOYD
Attorney IV
Office of Legal Affairs

cc: Co-Counsel
Ed Swanson, Court Expert
Sandra Alfaro
Kimberly Seibel
Jennifer Barretto
Kelly Mitchell

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Exhibit 41e

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State of California

Department of Corrections and Rehabilitation

Memorandum

Date February 4, 2019

To

R.J. Donovan Correctional Facility

Subject **ALLEGATIONS INQUIRY INTO PREA ALLEGATION, INMATE****SYNOPSIS:**

On Tuesday, January 29, 2019, the the Office of Internal Affairs (OIA) contacted the Richard J. Donovan Correctional Facility (RJDCF) Investigative Services Unit (ISU). OIA reported that inmate [REDACTED] Facility C Housing Unit 12 [REDACTED] contacted the Administrative Officer of The Day (AOD) Hotline. [REDACTED] reported that he would like to file a complaint against Correctional Officer [REDACTED] Second Watch in C-12.

On Tuesday, January 29, 2019, the RJDCF ISU conducted an interview with [REDACTED] regarding his allegation reported to the OIA AOD Hotline. [REDACTED] reported that he had been sexually harassed by Officer [REDACTED] as he tried to get his worker shower.

EFFECTIVE COMMUNICATION:

[REDACTED] has a Test of Adult Basic Education (TABE) score of 5.9; he is literate in reading, writing and speaks English. [REDACTED] is not currently a participant in the Mental Health Services Delivery System (MHSDS) at any level of care. A review of the Disability and Effective Communications System (DECS) noted that [REDACTED] has a Developmental Disability Program (DDP) code of Normal Cognitive Function (NCF). Additionally, basic English and requesting that he repeat back the subject matter of the interview in his own words as he understood was utilized to ensure effective communication was established.

INTERVIEW:

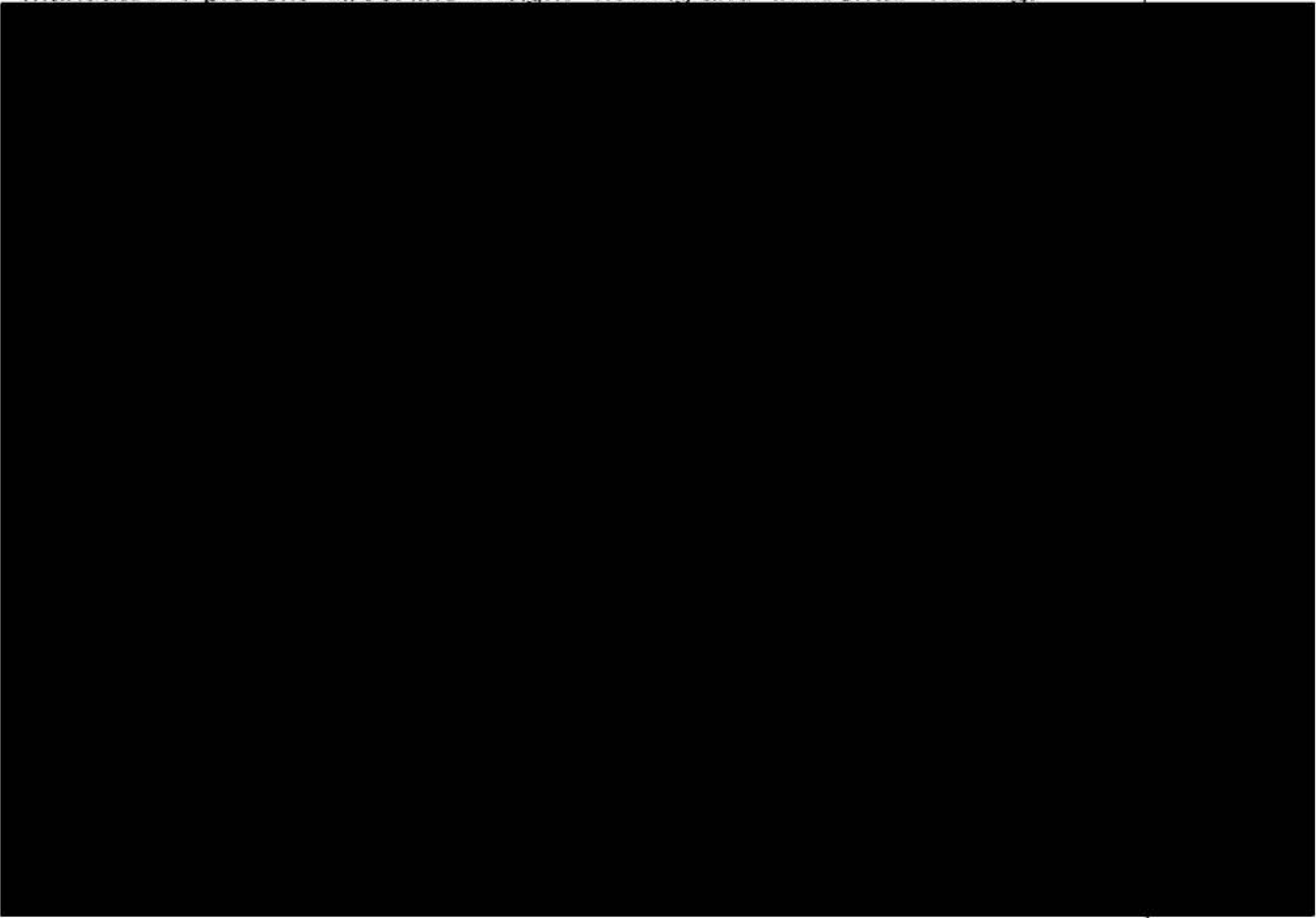
On Tuesday, January 29, 2019, I conducted an interview with [REDACTED] regarding his allegation of Sexual Harassment by Correctional Officer [REDACTED]. I asked [REDACTED] to give me a detailed account of the events that transpired on the day of said allegation. [REDACTED] stated that on January 26, 2019, he returned from his assigned work assignment as Facility C Culinary worker. Upon entering Housing Unit 12, he retrieved his shower bag and proceeded to the Americans with Disability Accessible shower located in the Lower A Section of the unit. As he walked toward the shower Officer [REDACTED] began to flash his flashlight at him. Officer [REDACTED] asked him "What the fuck are you doing? Your going to disrespect me like that?" [REDACTED] replied to Officer [REDACTED] that he was a culinary worker and also an ADA inmate. Officer [REDACTED] continued to shine his flashlight towards him while he was in the shower. [REDACTED] stated that Officer [REDACTED] was shining the light towards his genitals. Officer [REDACTED] actions made him feel uncomfortable so he gathered his shower items and exited the shower. [REDACTED] stated that he didn't

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ALLEGATIONS INQUIRY INTO PREA ALLEGATION, INMATE [REDACTED]

Page 2 of 4

shower because Officer [REDACTED] would not stop shining the light at his genitals. I asked [REDACTED] how he determined that Officer [REDACTED] was directing the light towards his genitals. [REDACTED] stated because he kept pointing it towards him. I asked [REDACTED] where Officer [REDACTED] was standing when he was pointing the light towards his genitals. [REDACTED] stated that Officer [REDACTED] began to strobe light him from the staff office he walked towards the shower. Then he came out of the shower and walked towards the shower. Again I asked [REDACTED] where was Officer [REDACTED] standing when he allegedly flashed the light towards his genitals. [REDACTED] stated, "He was by the counselor's office. I asked [REDACTED] if he believed Officer [REDACTED] directed the light from his flashlight towards his genital area for sexual pleasure. [REDACTED] stated, "Well I don't know what he was doing it for but it made me feel uncomfortable. Why else would he flash the light at me." I advised [REDACTED] that the distance where he reported Officer [REDACTED] was standing to the shower is a substantial distance to maintain a direct stream of light and aim it directly at a specific area such as his genitals. I explained to [REDACTED] that the shower's in the housing units have metal plates which have been approved by PREA mandates to prevent "direct line of sight" viewing and "incidental" viewing.



I asked [REDACTED] if it was common practice for all staff to utilize their flashlights to gain the attention of inmates or direct inmate movement. [REDACTED] stated, "Yes but why did he have to keep flashing the light at me when I was in the shower?" I asked [REDACTED] if Officer [REDACTED] made any statements or sexual innuendos while he flashed the light towards him. [REDACTED] stated, "He just kept telling me to get the fuck out of the shower, so I

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ALLEGATIONS INQUIRY INTO PREA ALLEGATION, INMATE [REDACTED]

Page 3 of 4

kept asking him if he was going to deny my ADA shower. I finally just got my stuff and went back to my cell without showering." I advised [REDACTED] that per policy the term "ADA Shower" is given to identify a circumstance in which an inmate has soiled himself and or has had an accident. This definition does not apply to his allegation. Furthermore, what he is infact attempting to obtain was a "Worker shower." I asked [REDACTED] if Officer [REDACTED] made any other comments. [REDACTED] stated, "No."

I asked [REDACTED] if he had anything else to add or if he had other circumstances regarding Officer [REDACTED] that would be pertinent to this investigation. [REDACTED] stated, "Officer [REDACTED] always tries to prevent me from showering. He doesn't want to give me my ADA shower. I think he also denied me my visit and turned my family away." I asked [REDACTED] if his PREA allegation against Officer [REDACTED] was because he feels that Officer [REDACTED] is targeting him and harassing him by denying him his ADA showers. [REDACTED] stated, "I mean he kept flashing me with the flashlight when I was in the shower. What am I supposed to think he is doing. My family and I are going to just keep going with my complaint for harassment." I asked [REDACTED] if he was rescinding his PREA allegation. [REDACTED] stated, "Yes Sir."

I asked [REDACTED] if he had any additional information pertaining to this investigation to which he responded, "No." With no further information provided by [REDACTED] [REDACTED] I completed the interview

CONCLUSION

Upon a review of all available documentation, Strategic Offender Management System (SOMS), Electronic Reporting Management System (ERMS) and the interview with [REDACTED] this investigator determined that [REDACTED] allegation did not meet PREA standard. Specifically, [REDACTED] [REDACTED] through questioning admitted to this investigator that he magnified Officer [REDACTED] actions of directing the light towards his genitals in order to mislead and substantiate his complaint of not being allowed to shower. It was this investigator assessment that [REDACTED] [REDACTED] was being misleading in his allegation with an ulterior motive of discrediting Officer [REDACTED]. It appears to this investigator that [REDACTED] continually attempts to circumvent the inmate "Worker Shower" process by blatantly attempting to shower without permission. [REDACTED] is less than truthful when reporting the actions of staff to mask his program violation.

[REDACTED] was informed that this case did not meet PREA criteria detailed in Department Operations Manual, Section 54040 and that if any information or case factors should arise, this case will be re-opened and if circumstances warrant, will be referred for further review.

The evidence demonstrates that Sexual Harassment did not occur. Prison Rape Elimination Act protocols were not initiated per CDCR policy. Therefore, this investigation is closed with no further action requested by the RJDCF ISU.

This memorandum is for ISU use only and will be retained in the ISU PREA folder.

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ALLEGATIONS INQUIRY INTO PREA ALLEGATION, [REDACTED]

Page 4 of 4



Correctional Sergeant
Investigative Services Unit
Richard J. Donovan Correctional Facility

APPROVED / DISAPPROVED



R.J. Donovan Correctional Facility

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Exhibit 42

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility A in Building 5. I am 55 years old.

3. I have been housed at RJD from 2016 to the present. During my time at RJD, I was first housed in Building 10 on Facility B. In September 2019, I was moved from Facility B to Facility A, Building 5.

4. I am an *Armstrong* class member. I am designated as DPW, which means I rely on a wheelchair, full-time. My left leg is amputated above the knee. As accommodations for my disabilities, I am housed in a wheelchair accessible cell on the ground floor, and I use a wheelchair to get around.

5. I am a *Coleman* class member. I am at the CCCMS level of care. I have been diagnosed with anxiety and depression. I take medications to treat my mental illness.

6. I was a victim of staff misconduct at RJD. On August 6, 2019 at about 6 a.m., while I was in Building 10, two transportation officers told me that I had an eye doctor appointment at a facility in La Mesa. The officers pushed me in my wheelchair from Building 10 to the gate that separates Facility B from the central area of the prison. Before the gate, the transportation officers put hand cuffs on me in front of my body. The officers then pushed me to and through the gate. One of the transportation officers—Officer 1—then started pushing me to where the van was located to take me to the appointment. After we had moved about five feet away from gate, Officer 1 pushed the front right wheel of my wheelchair into a large and visible hole in the pavement. The wheel got stuck, but the officer kept pushing hard. The wheelchair then tipped all the way

1 forward. I was launched out of my chair. I fell very hard on my right knee. My hands,
2 which were handcuffed, also hit the ground very hard when I tried to stop myself from
3 falling. Because I was handcuffed, I was unable to effectively stop my fall, so the top of
4 my head hit the pavement. The pain in my knee was very intense.

5 7. I believe that Officer 1 intentionally dumped me out of my wheelchair. The
6 hole in the pavement in which my wheelchair got stuck is so easy to see and so easy to
7 avoid that the only reason to push my wheelchair there would have been to make me fall.

8 8. The two officers picked me up from my armpits and put me back into my
9 wheelchair. At that point, I realized that my right knee was bleeding because my pants had
10 stuck to the area that had hit the ground. I pulled up my pant leg and saw that I had a very
11 large scrape, about six inches by three inches, on the side of my right leg near my knee.

12 9. The officers started pushing me in the direction of the van. I told them,
13 "Wait, wait, I'm bleeding. I want to go to the TTA." The TTA is the Triage and
14 Treatment Area, which is a central medical clinic for the prison. The officers looked at
15 each other, but did not say anything, and kept pushing me toward the van. I asked the
16 officers two or three more times to take me to the TTA, each time getting louder because I
17 was scared, upset, and bleeding. I also felt helpless because I needed medical attention,
18 but I could only get it if these two officers, who had hurt me, decided to take me. Finally
19 after about five minutes of me telling them that I needed medical attention, the officers
20 changed direction, without saying anything, and took me to the TTA.

21 10. At the TTA, a nurse bandaged my leg. I told the nurse what had happened to
22 me. I spent about 45 to 60 minutes in the TTA. The transportation officers were with me
23 the entire time.

24 11. Once medical staff were done bandaging me, the transportation officers took
25 me to the van and drove me to my appointment. When my appointment was over, they
26 drove me back to RJD. When I got back to RJD, the transportation officers took me to the
27 TTA to check me back in to the prison. Once that was done, Officer 1, the same officer
28

1 who dumped me out of my wheelchair, pushed me back to the gate ^{that} separates Facility B
2 from the central area of the prison. He pushed me through the gate and then went back out
3 the gate. Through the gate, I asked him for his name. He walked away without saying
4 anything. I had tried throughout the day to read his name on his uniform, but because of
5 my bad eyesight, I could not read it. I still do not know his name.

6 12. On August 17, 2019, with the assistance of another incarcerated person, I
7 filed a 602 staff complaint about the August 6, 2019 incident.

8 13. On October 2, 2019, I was interviewed in the program office on Facility A
9 about my staff complaint. There were three people other than me in the room: a sergeant,
10 a lieutenant, and Officer 1. I did not realize at first that Officer 1 was the third person
11 because he was wearing a hat very low on his head and was wearing a different type of
12 uniform than he was on August 6, 2019. The sergeant conducted the interview. I told him
13 everything that had happened, including how I had been pushed out of my wheelchair by
14 Officer 1 and how the officers refused to take me to the TTA despite me telling them that I
15 was bleeding. The interview lasted about 30 minutes. Officer 1 did not say anything
16 during the interview. At one point near the very end of the interview, the sergeant asked
17 me how he was supposed to know which officer dumped me from my wheelchair on
18 August 6, 2019. I told him to look at the transportation records. He then he pointed at
19 Officer 1, and said "Maybe that one is the one who took you?" It was only then that I
20 realized that the person sitting in the room with the hat on was the same person who had
21 hurt me. I told the sergeant that Officer 1 was the person who had dumped me out of my
22 wheelchair that day. The sergeant confirmed then that Officer 1 was the person involved
23 in my incident. I thought it was very strange that Officer 1 was allowed to be present for
24 the interview. When I realized it was him, it made me feel intimidated. It made no sense
25 to me that the person who I claimed had hurt me would be present for the interview about
26 my staff complaint.

1 14. After the interview was over, I pushed myself out of the interview room and
2 down a hallway to the doorway that exits onto the yard for Facility A. When I reached that
3 doorway, Officer 1 opened the door for me. I went through the doorway. After I had gone
4 about 10 feet, Officer 1 said to me, "I remember everything." His voice was very stern.
5 As soon as I heard his voice, I turned around and saw that he was pointing to his head
6 while he was talking. I did not say anything and left the area.

7 15. I interpreted Officer 1's statement as a threat that he would remember that I
8 had filed a complaint against him and that he would retaliate against me later. I am still
9 very worried that he will do something to hurt me or get me in trouble (like planting a
10 knife or drugs my cell). I have heard from many other incarcerated people that officers
11 retaliate against people who file staff complaints. The incident has also made my anxiety
12 worse.

13 16. On October 10, 2019, I received a response to my staff complaint. RJD
14 found that staff had not violated policy in any way.

15 17. I still have injuries and pain from when I was pushed out of my wheelchair.
16 My knee hurts all of the time, especially when I use my leg to hop around my cell or to
17 help move my wheelchair; my knee did not hurt like this before the incident. I have
18 headaches, which I never had before the incident. Both of my thumbs hurt all of the time
19 where the thumb meets the hand. I also have pain in my left shoulder that I never had
20 before the incident.

21 18. The incident has also made me feel like I cannot trust staff because they
22 ignored me when I asked to go to the TTA and because my staff complaint was denied.
23 Now I do my best to avoid interacting with staff. For example, when I run out of toilet
24 paper, I don't ask staff for more toilet paper because I'm worried about what will happen if
25 I do. Instead, I pay other incarcerated people for toilet paper using items from canteen. As
26 another example, if I'm unable to use the ADA accessible shower during dayroom because
27
28

1 there are too many people using it, I do not ask staff to let me shower later because I am
2 afraid of what they will do to me if I ask for something.

3 I declare under penalty of perjury under the laws of the United States of America
4 that the foregoing is true and correct, and that this declaration is executed at

5 San Diego, California this 07 day of January 2020.



Exhibit 42a

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Exhibit 43

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

3. I have been housed at RJD from October 2015 to the present. During my time at RJD, I have been housed in the following housing units: D18, C11, C12, and C13. I have also been housed in the B7 ASU Building while at RJD.

5. I have a number of serious medical conditions. I have a cirrhosis of my liver due to Hepatitis C, which I have been treated for in CDCR. Due to my liver cirrhosis, I am classified as high risk medical.

7. At approximately 11:30 a.m. on March 17, 2019, I was carrying the items I had purchased from canteen from the canteen to Building 12 during yard recall on C-Yard. In front of Building 12, I had a verbal confrontation with a group of other incarcerated people about some money that my cellmate owed them. As I was walking to my building, another incarcerated man whose identity I do not know came up to me and demanded

1 some money that my cellmate allegedly owed him. I told him that I did not know what he
2 was talking about. As we talked, a number of other incarcerated people who appeared to
3 be in the same group as him came up and stood behind him. In an attempt to diffuse the
4 situation and out of concern for my safety, I walked away from the group and entered
5 Building 12.

6 8. I then waited outside my cell () until the tower officer, Officer ()
7 opened my cell door. While I was waiting with my back to my cell door, I observed one of
8 the people from the group with whom I had argued approach the podium in the middle of
9 the dayroom and speak with Officers () () () who were the floor officers in
10 Building 12 at the time. During the conversation, the officers and the other incarcerated
11 person all looked over at me standing in front of my cell.

12 9. Officer () then opened my cell door. I entered my cell. While I was
13 putting down my belongings, Officer () closed the door to my cell completely.
14 After the cell door closed, three other incarcerated people came up to my cell door and
15 asked me for my cellmate's television. I told them through the door that the television was
16 mine and that they should talk to my cellmate about their problems with him. I then turned
17 around to put my canteen items away. After I had turned around, Officer ()
18 reopened the door to my cell. Hearing my door opening, I turned around just as two of the
19 incarcerated people entered my cell. One of the two people ran into my cell and punched
20 me in the face, knocking me to the ground. The second man then entered my cell and
21 started punching me repeatedly. As they assaulted me, the third person stood watch
22 outside of my cell.

23 10. The two attackers assaulted me for approximately two to four minutes,
24 kicking and punching me repeatedly. The attackers continued to beat me so badly that I
25 thought they were going to kill me. The assault ended when one of the attackers punched
26 me in the face so hard that I lost consciousness. When I regained consciousness, the
27 attackers had left my cell, taking my television, radio, and canteen items with them.

28

11. I believe for two reasons that the officers in my unit coordinated with my attackers to make the assault possible. First, Officer [REDACTED] was the only person who could have opened or closed my cell door. Once I was in my cell and he closed the door behind me, there was no reason for him to reopen my cell door. The attack could not have occurred without him opening the door. Second, none of the housing unit officers did anything to stop the attack once it had started. During the attack, I looked through the open cell door to the podium area, hoping that Officers [REDACTED] and [REDACTED] would intervene. Instead, I observed Officers [REDACTED] and [REDACTED] look over as I lay on the floor of my cell – and as the two incarcerated individuals repeatedly punched and kicked me – and then walk in the opposite direction to a part of the unit (the A Section) where they could not see my cell. None of the officers, including Officer [REDACTED] in the control tower, hit their alarms or made any attempt to stop the assault.

12. Shortly after the fight, my cellmate came back to our cell and Officer [REDACTED] closed the cell door. I told my cellmate what had happened to me and why I had been assaulted. I then started banging on the door of my cell to get the attention of staff so that I could obtain medical attention. My nose was bleeding badly and my head was throbbing due to the assault. Due to the injuries to my face, it hurt to talk or move. I thought that my jaw had been broken. Neither Officer [REDACTED] nor Officer [REDACTED] came over to the cell to speak to me.

13. For the next three hours, I tried to get the attention of officers so that I could receive medical treatment for my injuries. I repeatedly asked other incarcerated people to speak to Officers [REDACTED] and [REDACTED] to explain my need for attention. When these people went to talk to the officer at the podium, I observed the officers wave them away.

14. I was not let out of my cell that day until pill call at approximately 3:30 p.m., when I immediately left my building and went to speak to an officer on the yard about the attack and my injuries. This officer escorted me to the Facility C gym, where I was examined by medical staff. Nearly four hours had passed since the attack. Upon examining me, medical staff immediately transferred me to the Triage and Treatment Area

1 (TTA) at the prison. Once I got to the TTA, medical staff evaluated me and then
2 transferred me to Scripps Memorial Hospital in Encinitas, California. I stayed at the
3 hospital for four or five hours before returning to RJD. While at the hospital, I received an
4 MRI to check for internal cranial bleeding and X-Rays to check for broken bones. I was
5 also prescribed multiple medications for the severe pain caused by my injuries.

6 15. I suffered multiple fractures to my face and nose as a result of the attack. I
7 was told by my doctors that I needed surgery on my face to prevent my eye from falling
8 into the orbital fracture around my left eye. I later underwent two surgeries in April 2019
9 to repair the damage to my face. During one of these surgeries, I had a metal plate
10 installed below my right eye to stabilize some of the fractures. I now have no sensation in
11 the left side of my face. I also often get headaches and struggle with the cold because the
12 plate in my face has made my face more sensitive.

13 16. In the weeks following the assault, I regularly saw flashing lights and dealt
14 with blurry vision in my left eye. I also had severe headaches and was very sensitive to
15 light. During these first few weeks, I did not go outside and just laid in my cell in the dark
16 because of my sensitivity to light. It is my belief that I suffered a concussion from the
17 assault.

18 17. When I returned from the hospital, I told staff that I had safety concerns due
19 to the assault and was taken to the administrative segregation (ASU) building. I stayed in
20 the ASU building for around six weeks before I was sent to D-Yard, where I am still
21 housed today.

22 18. I filed a staff complaint (602) about this incident while I was in the ASU. In
23 the 602, I wrote that Officer [REDACTED] and [REDACTED] worked with the incarcerated
24 people to assault me. After I was transferred to D-Yard, I was interviewed by Ombudsman
25 Jacobs and [REDACTED] due to my appeal. The interview lasted approximately
26 fifteen minutes. I told them how Officers [REDACTED] and [REDACTED] opened my cell
27 door to allow the other incarcerated individuals to assault me, intentionally ignored me and
28

1 my assailants as I was attacked, and refused my requests for medical attention in the
2 following hours.

3 19. I received a formal response to my 602 approximately a month later. The
4 response denied my allegations and informed me that the officers had not violated any
5 CDCR policies that day. I immediately appealed the response to the next level. I received
6 a response to my appeal in November 2019, which sustained the lower level findings that
7 staff had not violated any policies.

8 20. The assault and, in particular, the way that the custody officers participated
9 in the assault has severely affected me. I no longer go to chow or church because I no
10 longer feel comfortable around officers and I am scared that I might get assaulted again. I
11 also only go to yard occasionally because I am scared that I could get into another
12 altercation. I mostly stay to myself in my cell so that I do not have to interact with officers
13 because of what happened to me.

14 21. I have also witnessed staff engage in misconduct against other people at
15 RJD. In 2016, I saw officers on C-Yard severely beat up another incarcerated man who
16 suffered from mental health problems after he attempted to get more Kool-Aid during
17 dinner. The incarcerated person was told by Officer [REDACTED] that he couldn't get any more
18 to drink. I then saw the other incarcerated individual dump his glass of Kool-Aid into the
19 trash can and leave the chow building. As he was walking out, I saw Officer [REDACTED] tell
20 him to step aside and stand against the wall. Officer [REDACTED] and other officers then
21 searched him and then, after he attempted to turn around while they were searching him,
22 suddenly tackled him to the ground and beat him severely. I watched as officers
23 repeatedly punched and kicked him on the ground. I then witnessed Officer [REDACTED]
24 deliberately step on the man's arm in order to break it. After the assault, the incarcerated
25 man was dragged away to the gym, bleeding and out of it, and I did not see him again for
26 another year. This all happened over a glass of Kool-Aid.

27 ///

28 ///

1 22. I still see the officers that were involved in the staff misconduct against me
2 and other incarcerated individuals, even after they were accused of staff misconduct. One
3 day in October 2019, I saw Officer [REDACTED] working in my building. He attempted to talk to
4 me, but I had no interest in even seeing him and stayed as far away from him as possible.
5 To the best of my knowledge, Officers [REDACTED] [REDACTED] [REDACTED] and [REDACTED] still work on
6 C-Yard and still regularly interact with incarcerated people. Around a year after Officer
7 [REDACTED] beat up the incarcerated man with mental health problems in 2016, he was promoted
8 to Sergeant. To the best of my knowledge, he is still a Sergeant and still works on C-Yard
9 to this day.

10 23. In my time at RJD, there have been a few times that I have needed help but
11 didn't ask for it because I was afraid of what would happen to me if I talked to officers. I
12 try to stay away from officers as much as possible and not ask them for anything. I do not
13 even ask officers for toilet paper because I have lost all faith that officers have my best
14 interest at heart. When I need something, I ask another incarcerated individual to ask an
15 officer for me.

16 24. In my opinion, staff target people with mental health problems or physical
17 disabilities with staff misconduct. I believe they target people with disabilities because
18 they cannot defend themselves and have no protection from other prisoners.

19 25. I have been in CDCR prisons for about 30 years of my life. I have been to
20 many tough, dangerous prison yards where officers engage in staff misconduct against
21 incarcerated people. I have been housed in a number of different CDCR prisons, including
22 RJD, CMC, CSP – Corcoran, Folsom State Prison, CSP – Los Angeles County, and CSP –
23 Solano. The staff misconduct at RJD is the worst that I have ever experienced.

24 ///

25 ///

26 ///

27 ///

28 ///

1 26. In my opinion, the conditions at RJD are so awful because officers engage in
2 staff misconduct more often and with less fear of repercussions than at other prisons.
3 When I have seen officers beat up incarcerated people at RJD, they use more force and
4 inflict more serious injuries than at other prisons, without apparent fear of repercussion.

5 I declare under penalty of perjury under the laws of the United States of America
6 that the foregoing is true and correct, and that this declaration is executed at

7 San Diego, California this 07 day of January 2020.



Exhibit 43a

Filed Under Seal

Exhibit 43b



50 Fremont Street, 19th Floor
San Francisco, California 94105-2235
T: (415) 433-6830 ▪ F: (415) 433-7104
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Thomas Nolan
Email: tnolan@rbgg.com

July 17, 2019

VIA ELECTRONIC MAIL ONLY

<p>PRIVILEGED AND CONFIDENTIAL</p> <hr/> <p>SUBJECT TO PROTECTIVE ORDERS</p>
--

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Advocacy Letter re: Regarding DPM Class
Member, [REDACTED] Regarding Staff Misconduct at RJD
Our File No. 581-3

Dear All:

I write regarding [REDACTED] a 47 year-old *Armstrong* class member at RJD who reports that RJD staff members conspired with incarcerated people to assault [REDACTED] is classified as DPM.

At approximately 11:30 a.m. on March 17, 2019, [REDACTED] reports that he was carrying his canteen order from the canteen to Building 12 during yard recall. In front of Building 12, [REDACTED] had a verbal confrontation with a group of other incarcerated people. In an attempt to diffuse the situation, [REDACTED] walked away from the group and entered Building 12.

[REDACTED] then waited outside his cell [REDACTED] until Officer [REDACTED] the tower officer, opened the cell door. [REDACTED], who was waiting with his back to his cell door, observed one of the people from the group with whom he had argued approach the podium and speak with Officers [REDACTED] and [REDACTED]. During the conversation, the officers and the incarcerated person all looked over at [REDACTED] standing in front of his cell.

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Russa Boyd
July 17, 2019
Page 2

Once Officer [REDACTED] opened the cell door, [REDACTED] entered his cell. While [REDACTED] was putting down his belongings, Officer [REDACTED] closed the door to the cell completely. A few seconds later, Officer [REDACTED] reopened the cell door. Hearing his door opening, [REDACTED] turned around. Three incarcerated people from the group with which [REDACTED] had earlier argued stood directly in front of the door. Two of the people entered the cell and assaulted [REDACTED]. The third person stood watch outside of the cell.

The two attackers assaulted [REDACTED] for approximately two to four minutes, kicking and punching him repeatedly. The attackers beat [REDACTED] so badly that [REDACTED] believed they were going to kill him. The fight ended when one of the attackers punched [REDACTED] in the face so hard that [REDACTED] lost consciousness. When [REDACTED] regained consciousness about five to ten seconds later, the attackers had left the cell, taking [REDACTED] television and radio with them.

During the attack, [REDACTED] looked through his cell door over to the podium area, hoping that Officers [REDACTED] and [REDACTED] would intervene. Instead, [REDACTED] observed Officers [REDACTED] and [REDACTED] walk from the podium around the counselor's office to the part of the A Section of Building 12 where there are benches for people to sit while watching television and where there is no direct line of sight to [REDACTED] cell.

Shortly after the fight, [REDACTED] cell mate came back to the cell and Officer [REDACTED] closed the cell door. [REDACTED] started banging on the door of his cell to get the attention of staff so that he could obtain medical attention and request to transfer to a different cell. Neither Officer [REDACTED] nor Officer [REDACTED] came over to the cell to speak to [REDACTED]. [REDACTED] attempted to have two to three other incarcerated people speak to Officers [REDACTED] and [REDACTED] to explain [REDACTED] need for attention; [REDACTED] observed the officers wave each of these people away.

Dejected at his inability to obtain assistance, [REDACTED] waited until pill call at approximately 3:30 p.m., when he was released from his cell and building and was able to speak to an officer on the yard about the attack and his injuries. This officer escorted [REDACTED] to the Facility C gym, where he was first examined by medical staff, nearly *four* hours after the attack. Medical staff transferred [REDACTED] to the TTA. Medical staff at the TTA then transferred [REDACTED] to Scripps Memorial Hospital in Encinitas, California.

[REDACTED] suffered multiple fractures to his face and nose as a result of the attack. He has required two surgeries in order to repair the damage, including having a plate installed in early-April 2019 to stabilize some of the fractures. Notwithstanding the

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Russa Boyd
July 17, 2019
Page 3

surgical interventions, [REDACTED] still has no sensation in the left side of his face. Plaintiffs' counsel has confirmed these injuries in [REDACTED] medical file.

[REDACTED] filed a 602 about this incident. He reports that he has been interviewed by Ombudsman Jacobs and an unknown Lieutenant.

Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people (including [REDACTED] attackers), non-custody staff members, or others who may have witnessed the assault and/or its aftermath. In addition, all evidence, including interview notes from the Lieutenant and Ombudsman Jacobs, as well as photographic evidence documenting [REDACTED] injuries, should be obtained and preserved immediately for review. Plaintiffs' counsel request that staff do not engage in retaliation, including against [REDACTED] and any other witnesses, in response to these allegations.

In addition, we request that, pending a thorough investigation, immediate action be taken to place Officers [REDACTED] [REDACTED] and [REDACTED] on administrative time off. If the officers return to work, the officers should not be permitted to occupy any positions in which they have contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members.

Plaintiffs' counsel also requests that Defendants produce (1) [REDACTED] 602 regarding this incident, along with any responses; (2) any photographs or videos of [REDACTED] injuries taken by medical or custody staff; (3) any video or audio of interviews with [REDACTED] regarding this incident; (4) interview notes, memoranda, or any such

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PRIVILEGED AND CONFIDENTIAL

Russa Boyd
July 17, 2019
Page 4

documents produced by the interviewing Lieutenant and Ombudsman Jacobs; and (5) a copy of [REDACTED] C-File.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman
By: Senior Counsel

MLF:jrg

cc:

Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hvartin

Damon McClain
Jerome Hessick
Tyler Heath
Roy Wesley
CDCR OLA Armstrong

Elise Thorn
Office of the Inspector General
Laurie Hoogland
Kristin Moose
PLO Armstrong

Exhibit 43c

OFFICE OF LEGAL AFFAIRS

Jennifer Neill

General Counsel

P.O. Box 942883

Sacramento, CA 94283-0001



November 19, 2019

VIA EMAIL ONLY

Michael Freedman

Rosen, Bien, Galvan & Grunfeld

MFreedman@rbgg.com

RE: *ARMSTRONG V. NEWSOM*: ADVOCACY LETTER RE: [REDACTED]

Dear Mr. Freedman:

I write in response to your July 17, 2019 letter regarding *Armstrong* class member [REDACTED] [REDACTED] [REDACTED] [REDACTED] reported to you that he was assaulted on or about March 17, 2019 while housed at Richard J. Donovan Correctional Facility (RJD). [REDACTED] [REDACTED] alleged that custody staff opened his cell door to three inmates who then assaulted him in his cell.

Prior to the receipt of your letter, a thorough inquiry into the allegations of staff misconduct was completed¹. The inquiry included interviews with multiple staff and with inmates, a review of all available documentation and the Strategic Offender Management System.

The allegations you raised in your letter were largely covered by an appeal [REDACTED] submitted on March 28, 2019. [REDACTED] was interviewed on June 12, 2019, in relation to his allegations about staff misconduct. He stated that the inmates who attacked him most likely did not live in the building. He was unable to provide their names or the names of any inmate witnesses but was able to identify staff. The staff he was able to identify were interviewed. One officer stated that had he observed any inmates in the building during that time who were out of bounds, he would have alerted floor staff and ordered the out of bounds inmate(s) out of the Housing Unit. The officer did note that he believed [REDACTED] was alone at the time of the alleged incident.

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

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SUBJECT TO PROTECTIVE ORDERS

Mr. Freedman
Page 2

Another officer stated during his interview that there were no incidents on that date that corresponded with the allegations. That specific officer also notes that he was not approached by any inmate expressing concerns for his safety on that date. A third officer was interviewed and stated there were no inmates in the Housing Unit who should not have been there on the date of the alleged incident. All deny the allegations of conspiring with inmates to assault [REDACTED]

There is, however, a documented concern, dated March 20, 2019, that [REDACTED] owed money to some other inmates which he was unable to pay and which caused him to fear for his safety on Facility C. It is also noted that [REDACTED] was placed in the Administrative Segregation Unit upon return from his March hospital visit. [REDACTED] was released to D-Yard on May 2, 2019, precisely in consideration of this safety concern.

California Department of Correction and Rehabilitation (CDCR) confidentially interviewed three inmates who were housed near [REDACTED]' cell during the time period surrounding the alleged incident. The inmates interviewed were all familiar with [REDACTED] and none had observed any activity that confirmed the allegations of [REDACTED].

Additionally, [REDACTED] reported to you that his television and radio were taken by other inmates from his cell when he was assaulted. Property inventory was done on March 17, 2019 when [REDACTED] was transported to the hospital. A television set and CD player were noted as part of the inventory in his cell at that time.

After conducting interviews of staff and of inmates living in close proximity to [REDACTED] CDCR denies that staff conspired with inmates to assault [REDACTED]

Documents that are available to [REDACTED] such as the 602 filed by him related to these events and portions of the C-file, can be released to him directly, or to you, with an appropriate signed authorization that identifies you as counsel of record for these non-class action allegations. It is CDCR's position that the allegations you raised in your letter are not within the scope of the *Armstrong* case and, therefore, you are not entitled to them as class counsel.

//

//

//

Mr. Freedman
Page 3

After a review of the available records and testimony, the allegations made by [REDACTED] were not supported by the evidence. CDCR considers the staff misconduct allegation inquiry closed.
Sincerely,

/s/ Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

Cc: Russa Boyd, Attorney IV
Tamiya Davis, Attorney III

Exhibit 43d

CONFIDENTIAL SUPPLEMENT TO APPEAL

"APPEAL INQUIRY"

DO NOT COPY OR DISTRIBUTE EXCEPT PURSUANT TO CCR Title 15, Section 3084.9(i) (3) (B) 1.

Date: June 17, 2019

Appeal Log Number: RJD-D-1 [REDACTED]

Inmate/Parolee Name: [REDACTED]

CDC Number: [REDACTED]

Assigned Reviewer: Name and Title [REDACTED] Correctional Lieutenant

Date and place of interview: June 14, 2019, on Facility D (Lieutenant's Office).

Accused Staff Member(s):

[REDACTED] Correctional Officer

[REDACTED] Correctional Officer

[REDACTED] Correctional Officer

Synopsis of Allegation: [REDACTED] submitted an Inmate/Parolee Appeal (CDCR 602) dated March 28, 2019, alleging Correctional Officers [REDACTED] and [REDACTED] failed to act while he was being assaulted.

Witnesses: [REDACTED] stated that he does not have witnesses. However, this interviewer utilized the Housing Unit roster and cross-referenced SOMS and identified Inmates' housed in the neighboring cell(s).

A review of the TABE Score List revealed he has a score of 10.9, which is above the required minimum level of 4.0. The Disability and Effective Communication System revealed that [REDACTED] is not a participant in the Mental Health Services Delivery System at any level of care. [REDACTED] does not require any adaptive support accommodations.

Effective communication was established by reading the appeal documents to him in plain simple English. He was able to reiterate in his own words what was explained to him and was able to provide appropriate responses to questions asked as well as ask appropriate questions. Effective communication was established.

Findings: The CDCR 602 dated March 28, 2019; Log #RJD-D-1 [REDACTED] the Strategic Offender Management System, TeleStaff, 128 Dated Sunday March 17, 2019, Administrative Segregation Unit Placement Notice, Bed Assignments and all related documents have been reviewed for this inquiry:

Interview of Inmate [REDACTED]

On June 12, 2019, I conducted an interview with [REDACTED] in the Facility D Lieutenants'. During the interview [REDACTED] reiterated the allegation he documented on his appeal. During the interview, I questioned [REDACTED] regarding his allegations. I asked [REDACTED] to summarize the events that transpired that day along with the following questions;

██████████
Appeal Log # RJD-██████████

Page 2

On this day I was attacked by (3) three maybe (4) four black inmates in my cell they took my canteen. I noticed that my cell door opened up and they rushed in I tried to fight back but there was too many. The (3) three Officers just watched I could've died you know this is bullshit.

Q.) Where were the Officers at when the assault took place?

A.) I really don't know, but I later looked out my cell and could see them watching.

Q.) What makes you think that ██████████ allowed the Inmates to go into your cell?

A.) Cops like him are scandalous.

After the inmates were done hitting me and taking my entire canteen my door was closed and I tried to get out the cell. But the cops wouldn't let me out. I was all beat up and banging on my cell door but I couldn't get out. I was able to get out once I went to go get my meds and I rolled up later.

Q.) So why do you think the Officers let those Inmates in to do that?

A.) I don't know why but they probably get along with them.

Q.) Do you know any of the Inmates that beat you up?

A.) No I don't I don't even think they lived in my building.

Q.) Do you know if anyone witnessed the assault maybe a neighbor or someone?

A.) No I don't think anyone did.

Q.) what about your cell mate at the time?

A.) Nah he wasn't there.

Q.) Do you have anything further to add?

A.) No

I concluded the interview with ██████████

Interview of Inmate Name (██████████)

On June 17, 2019, I conducted a confidential interview with Inmate ██████████ in the Facility C Program Office. The interviewer identified Inmate ██████████ as being assigned to a ██████████ during which time the alleged occurred on March 17, 2019. During the interview, I informed Inmate ██████████ he was solely identified by the Interviewer as a potential witness to one of the allegations made by ██████████. During the interview, I questioned Inmate ██████████ regarding the allegation made by ██████████. I asked Inmate ██████████ the following questions:

Q.) How long have you been in your current cell?

A.) For quite some time now.

Q.) Do you know who ██████████ is that was housed in ██████████

A.) Yes a little bit.

Q.) On the alleged date did you witness any staff member open the door to his cell and allow inmates to go in and attack him?

A.) What? No, I have been down for a while and I have never seen anything like that.

Q.) Do you recall your whereabouts the day of the alleged incident?

A.) No not really but I usually am in my cell.

██████████
Appeal Log # RJD-D-██████████

Page 3

Q.) Do you have anything else to add?

A.) No

With nothing further to add I concluded the interview with Inmate ██████████

Interview of Inmate ██████████

On June 17, 2019, I conducted a confidential interview with ██████████ in the Facility C Program Office. The interviewer identified ██████████ as being assigned to a ██████████ during which time the alleged occurred on ██████████. During the interview, I informed ██████████ he was solely identified by the Interviewer as a potential witness to one of the allegations made by ██████████. During the interview, I questioned ██████████ regarding the allegation made by ██████████. I asked Inmate ██████████ the following questions:

Q.) How long have you been in your current cell?

A.) Too long I have been down for 33 years

Q.) Do you know who ██████████ is that was housed in ██████████

A.) Yes and no I mean I didn't really talk to him he was a burnout.

Q.) On the alleged date did you witness any staff member open the door to his cell and allow inmates to go in and attack him?

A.) Hell no, nothing like that ever happens and like I said I been down for 33 years, these little punks just lie on everything now.

Q.) Do you recall your whereabouts the day of the alleged incident?

A.) Hmmmm probably in my cell

Q.) Do you have anything else to add?

A.) No

With nothing further to add I concluded the interview with ██████████

Interview of Inmate Name ██████████

On June 17, 2019, I conducted a confidential interview with ██████████ in the Facility C Program Office. The interviewer identified ██████████ as being assigned to a cell ██████████ during which time the alleged occurred on March 17, 2019. During the interview, I informed ██████████ he was solely identified by the Interviewer as a potential witness to one of the allegations made by ██████████. During the interview, I questioned ██████████ regarding the allegation made by ██████████. I asked ██████████ the following questions:

Q.) How long have you been in your current cell?

A.) A little while

Q.) Do you know who ██████████ is that was housed in ██████████

A.) Not really but I kinda remember him.

Q.) On the alleged date did you witness any staff member open the door to his cell and allow inmates to go in and attack him?

A.) Nope.

Q.) Do you recall your whereabouts the day of the alleged incident?

A.) Probably my cell.

Q.) Do you have anything else to add?

A.) No

Appeal Log # RJD-[REDACTED]

Page 4

With nothing further to add I concluded the interview with [REDACTED]

Interview of Correctional [REDACTED]

On June 17, 2019, I conducted an interview with Officer [REDACTED]. During the interview, I provided Officer [REDACTED] a photograph of [REDACTED]. Officer [REDACTED] did not know who [REDACTED] was and did not recall anything the appellant described transpiring on March 17, 2019. I read the allegation made by [REDACTED] to [REDACTED]. I asked [REDACTED] questions in regards to the allegations made by [REDACTED]. I asked [REDACTED] the following questions:

Q.) Do you recall your assignment that day?

A.) Yes I was and I am a regular in the Control Booth.

Q.) Do you feel that you have a good idea of the general population assigned to your Housing Unit?

A.) Yes I been in the building for quiet sometime, I have a general idea of Inmates assigned to the Housing Unit.

Q.) Are you familiar with the opening a securing of Inmate doors in the Housing Unit?

A.) Yes I believe so.

Q.) What would be a reason for you to open and secure cell doors routinely?

A.) Well there are a number of reasons mass cell movement enter and exiting the assigned cells.

Q.) Would there ever be a reason for you to open the cell door upon an Inmates' request.

A.) No unless the Inmate lived in the Cell and possibly forgot something like his ID and he needed to go back for it.

Q.) If an Inmate was in the building that you noticed was out of bounds what are some of the steps you would take?

A.) First I would alert my floor staff to the out of bounds Inmate along with announcing on the PA system for the out of bounds inmate to vacate the Housing Unit.

Q.) On this day in question did you ever see Inmates attack [REDACTED] in his cell?

A.) No, I did not and if I witnessed any acts I would have acted according to policy.

I do believe that this Inmate was alone at the time of the alleged and I do recall a lot of Inmates complaining when he would have a cell mate as this inmate was a big dope addict and often Inmate's requested to be moved out of the cell where they could program.

I concluded the interview with [REDACTED]

Interview of Correctional Officer [REDACTED]

On June 14, 2019, I conducted an interview with Officer [REDACTED]. During the interview, I provided Officer [REDACTED] a photograph of [REDACTED]. Officer [REDACTED] did not know who [REDACTED] was and did not recall anything the appellant described transpiring on March 17, 2019. I read the allegation made by [REDACTED] to Officer [REDACTED]. I asked Officer [REDACTED] questions in regards to the allegations made by [REDACTED]. I asked Officer [REDACTED] the following questions:

██████████
Appeal Log # RJD-D-1 ██████████

Page 5

Q.) On March 17, 2019 you were working in Housing Unit 12.

A.) Yes I was assigned there.

Q.) Did you recall anything taking place with ██████████

A.) No nothing at all.

Q.) Is it possible that an Inmate from another building could've went in to the Housing Unit without you knowing?

A.) Possible but I doubt it the control booth Officer was a regular and he seemed to know the building pretty good.

Q.) If you were to have had an inmate approach you who expressed concerns for his safety are you familiar with the policy?

A.) Yes and I would have taken the necessary steps to get him interviewed by the Sergeant and his concerns looked at, but nothing like that occurred on that day at all.

I concluded the interview with Officer ██████████

Interview of Correctional ██████████

On June 17, 2019, I conducted an interview with Officer ██████████. During the interview, I provided Officer ██████████ a photograph of ██████████. Officer ██████████ stated that ██████████ did not look familiar and he did not recall anything the appellant described transpiring on March 17, 2019. I read the allegation made by ██████████ to Officer ██████████. I asked Officer ██████████ questions in regards to the allegations made by ██████████. I asked Officer ██████████ the following questions:

Q.) Do you recall working the Housing Unit that day?

A.) Yes.

Q.) During your shift did you ever see a fight or an attack of any kind as mentioned in the appeal?

A.) No. nothing like that at all.

Q.) Do you recall any inmates that may have not been housed in the Unit coming in any exiting at any point of your shift?

A.) No I do not.

Q.) If an Inmate would have been noticed in your building to be out of bounds what are some of the steps that would have taken place?

A.) I would have interviewed the inmate as to his reasoning and conduct a clothed or unclothed search for staff safety and document his activity on a 128 or RVR.

Q.) What are the procedures for an Inmate who is alleging safety concerns?

A.) Ensure the Inmate is safe and notify the sergeant while taking a statement from the inmate to understand his concerns and based on the escorting the inmate to the program office for supervisor interviews.

I concluded the interview with Officer ██████████

Conclusion:

This interviewer has reviewed all documents and interviewed pertinent witnesses relating to this incident and has deemed the allegation of unnecessary and excessive force to be unfounded. ██████████ provided no additional information during the interview to corroborate or substantiate his claim in this allegation. During the allegation inquiry process, the Reviewer interviewed Inmate witness along with staff

Appeal Log # RJD-D-1

Page 6

witnesses. Interviews with inmate witnesses which were identified through SOMS as having been housed within the vicinity of [REDACTED]. The witnesses were asked a series of questions followed by a background of their whereabouts the day of the alleged incident. This information was analyzed to draw a conclusion regarding the allegations. This was used to develop explanations of what transpired that day. A review of the Bed Assignment roster of [REDACTED] noted he was housed in [REDACTED] on 5/27/2018 until 3/17/2019, when on this particular day was placed in Administrative Segregation Unit, after staff received information from [REDACTED] about his self-expressed safety concerns.

The overall accuracy of the account was taken into consideration and this interviewer noted the following. That a documented Non-confidential Chrono dated March 20, 2019 authored by Correctional Sergeant [REDACTED] indicated that [REDACTED] borrowed some appliances from some black guys and was unable to pay them a monetary value of what he reports is \$4.00 dollars. Based on this [REDACTED] feels he is now targeted for an assault and fears for his safety on Facility C. However, [REDACTED] did provide a name in the Non-Confidential Chrono as [REDACTED] who at the time was housed in Facility C, Housing Unit [REDACTED] (Current Housing) and considers him an enemy.

A collection of the facts to determine whether injustices exist and direct actions are warranted in this alleged incident is unfound. No additional information was discovered during the interviews to substantiate his claim in this allegation. All witnesses interviewed refuted what [REDACTED] alleged. The interviewer concludes that there is on merit to the complaint filed by [REDACTED]. All reports relevant to [REDACTED] were consistent with him having been involved in activity that he admitted to which ultimately lead to his self-expressed safety concerns. [REDACTED] has failed to provide any supporting evidence to his allegation in this staff complaint. It is my recommendation no further inquiry is deemed warranted. Additionally, there is no preponderance of evidence to support this finding. Therefore, it is my recommendation no disciplinary action be taken against [REDACTED] due to lack of preponderance of evidence to the false allegations against correctional staff.

Name

[REDACTED]

Sig

[REDACTED]

4/17/19
Date

Name

P. COVELLO
Hiring Authority

Sig

[REDACTED]

6/24/19
Date

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : June 14, 2019

To : [REDACTED]
CDCR# [REDACTED]
Richard J Donovan Correctional Facility

Subject: **STAFF COMPLAINT RESPONSE - APPEAL # RJD-D-19 [REDACTED] SECOND LEVEL RESPONSE**

APPEAL ISSUE: It is your claim Correctional Officer [REDACTED] Correctional Officer [REDACTED] and Correctional Officer [REDACTED] were in violation of negligence and failure to act. All issues, unrelated to the allegation of staff misconduct must be appealed separately and will not be addressed in this response. You do not exhaust administrative remedies on any unrelated issue not covered in this response or concerning any staff member not identified by you in this complaint. If you are unable to name all involved staff you may request assistance in establishing their identity.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal is:

➤ Being processed as an Appeal Inquiry.

You were interviewed on June 12, 2019 by Correctional Lieutenant [REDACTED] in the Facility D Lieutenant's Office. During the interview, you reiterated the information you documented on your appeal and stated that you had nothing further to add.

A Confidential Inquiry has been conducted. The following information was reviewed or previously reviewed as a result of your allegations of staff misconduct:

1. Appeal Log # RJD-D-19 [REDACTED]
2. Bed Assignments
3. Administrative Segregation Unit Placement
4. Non-Confidential Chrono

EFFECTIVE COMMUNICATION:

A review of education records and the Disability and Effective Communication System (DECS) revealed you have a Test of Adult Basic Education (TABE) level of 10.9, and do not require any special accommodation to achieve effective communication. You are currently not a participant in the Mental Health Services Delivery System (MHSDS) at any level of care. Effective communication during the interview was achieved by using simple language, speaking slowly, clearly and loudly, reading the contents of the

Page 2

appeal to you, allowing you ample time to process the information, and sufficient time to respond to questions. You clearly articulated your understanding by restating the information being discussed in your own words, asking and answering questions appropriately, and engaging in proper conversation. You further stated that you did not need any assistance with establishing effective communication.

Your appeal is PARTIALLY GRANTED in that:

- The Appeal inquiry is complete/ has been reviewed and all issues were adequately addressed.

The following witnesses were questioned: Correctional Officers [REDACTED] and [REDACTED]. The following information was reviewed as a result of your allegations of staff misconduct: CDCR 802, Inmate Appeal Form dated March 28, 2019, Log #RJD-D-19[REDACTED]

Staff **did not** ☒ violate CDCR policy with respect to one or more of the issues appealed.

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.

- As such, the details of any inquiry will not be shared with staff, members of the public, or offender appellants.
- Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint.
- Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process.

If you wish to appeal the decision and/or exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.

Print: [REDACTED]
Interview: [REDACTED]

Date: June 14, 2019

Print: [REDACTED]
Reviewing Authority

Sign: [REDACTED]

Date: 6/24/19

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

LAB USE ONLY

Inmate/Parolee Region

Log #

Category

R0D-D-19

For staff use only

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Assignment:

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Officer [redacted] Employee Conduct

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): *on 3-17-19 at*

*approx. 11:25 am I was returning from my Sunday
Courtroom when I was confronted by 3 Black
Inmates they were asking me to give them 4000.*

B. Action requested (If you need more space, use Section B of the CDCR 602-A): *that these 3
be held accountable for their actions and that my stuff be
returned along with my T.V., radio, 2000 of contents, and that
those 3 be punished to the fullest extent of the law.*

Supporting Documents: Refer to CCR 3084.3.

☐ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory, CDC 128-G, Classification Chrono):

☒ No, I have not attached any supporting documents. Reason: *I'm still waiting for my
medical paperwork, I'm also having surgery on the
left side of my face, because of this issue.*

Inmate/Parolee Signature

Date Submitted: *3-25-19*☐ By placing my initials in this box, I waive my right to receive an interview.

MAY 20 2019

SIC Failure to Act
AM 5/20/19

STAFF USE

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☒ Bypassed at the First Level of Review. Go to Section E.☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter) Date: _____☐ Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)Reviewer: _____ Title: _____ Signature: _____
(Print Name)

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant: ____/____/____

STATE OF CALIFORNIA
 INMATE/PAROLEE APPEAL
 CDCR 602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94263-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☐ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant: ____/____/____

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____

Date: _____

Print Staff Name: _____

Title: _____

Signature: _____

Date: _____

STATE OF CALIFORNIA
 INMATE/PAROLEE APPEAL FORM ATTACHMENT
 CDCR 602-A (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAE USE ONLY

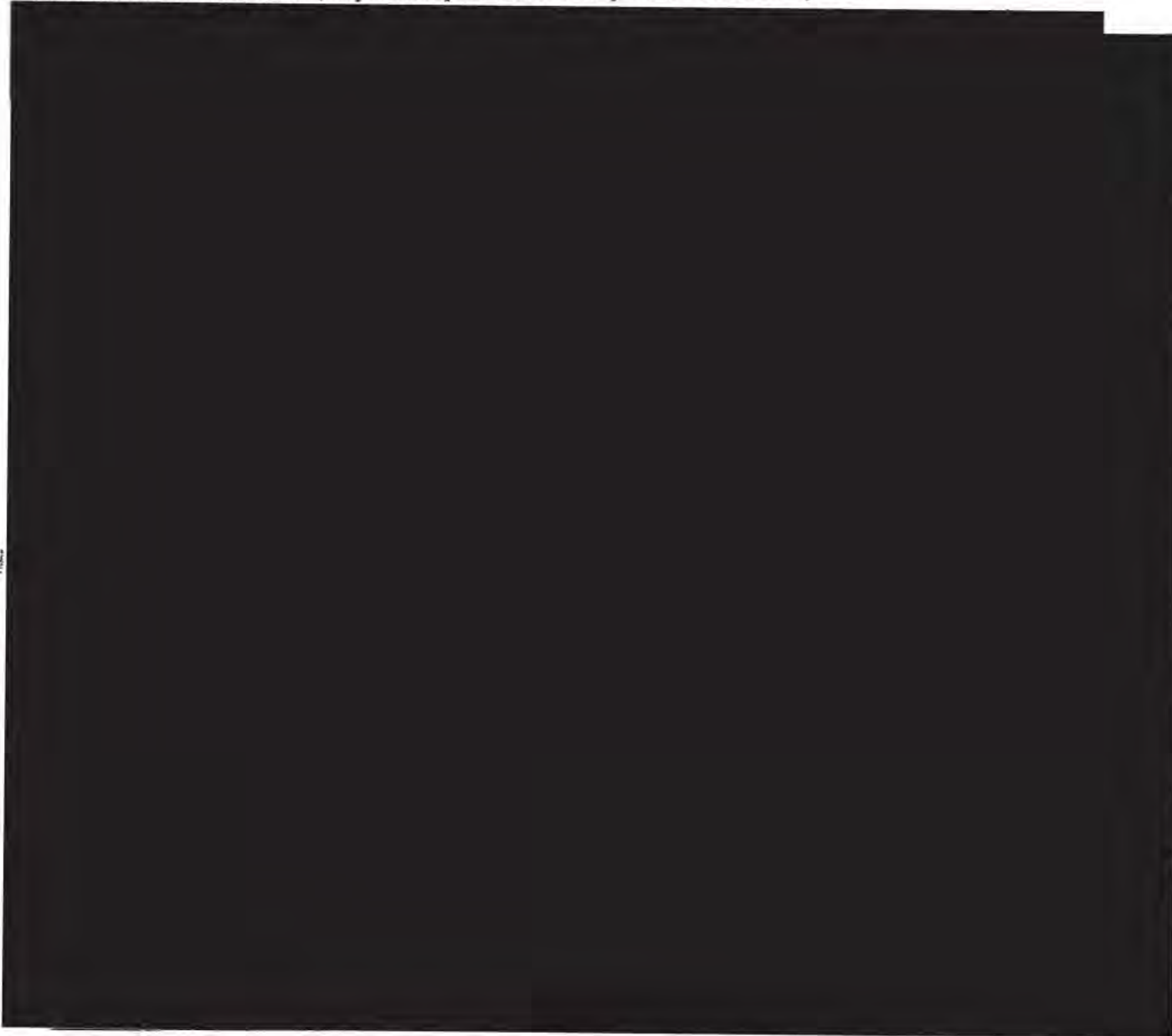
Institution/Parole Region:

Log #:

Category:

FOR STAFF USE ONLY

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.



Inmate/Parolee

Date Submitted:

3.28.19

Inmate/Parolee Signature: _____ Date Submitted: _____

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature: _____ Date Submitted: _____

Exhibit 44

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at California Health Care Facility ("CHCF"). I am 38 years old.

3. I was housed at RJD from September 2019 to December 29, 2019, when I transferred to the California Institution for Men ("CIM") to receive inpatient mental health treatment in a mental health crisis bed. I was then transferred from CIM to CHCF on January 31, 2020 to receive treatment in the Psychiatric Inpatient Program.

4. During my time at RJD, I was housed on Facility C, Building 14 for about three weeks. I was then housed in Building 6 on Facility B, which is Administrative Segregation, from October 8, 2019 until I transferred to CIM on December 29, 2019.

5. I am a *Coleman* class member. I am at the Acute level of care. I have been diagnosed with severe depression. I get very sad. I am not currently suicidal but I think about suicide every day. I feel miserable inside and have no hope.

6. I have a number of serious medical conditions. I am classified as high-risk medical. I have diabetes, Hepatitis C, and high blood pressure.

7. I was a victim of staff misconduct at RJD. On October 4, 2019, at about 10 a.m., I was taken to the Facility C gym after I had an altercation with housing unit staff, including Officer [REDACTED] in Building 14. I was put in one of the holding cages. A sergeant, whose name I do not know, came up to the holding cage and started asking me questions about the altercation. Ultimately, we got into a verbal confrontation. At the end of the conversation, the sergeant said to me, "I'm going to see how loyal my staff is." He then walked away. I interpreted his statement as a threat that officers on the yard would make my life difficult and harass me as a result of this altercation.

1 8. Four days later, on October 8, 2019, at approximately 11:30 a.m., I was let
2 out of my cell to get my diabetic shot. There was a sergeant and some officers in the
3 building who handcuffed me. They told me I was going to the administrative segregation
4 unit ("ASU") because someone provided information that I was going to stab Officer
5 [REDACTED] I went to classification committee on around October 14, 2019. The committee
6 decided to continue to hold me in segregation pending completion of the investigation into
7 the allegations against me.

8 9. On November 8, 2019, I went to committee again. This time, the committee
9 indicated that the investigation was complete and that I would not be issued an RVR. The
10 only change in my situation was that the committee indicated that I would have a staff
11 separation order from Officer [REDACTED] and that I now had three confidential enemies on
12 Facility C. The committee decided to hold me in segregation until I could be transferred to
13 another institution.

14 10. On December 4, 2019, I returned to RJD after being at an outside hospital to
15 treat a broken finger on my right hand. When I got back to RJD, I was taken to the Triage
16 and Treatment Area ("TTA") in the central part of the prison. There, Officer [REDACTED]
17 placed one loop of a flex cuff, which is basically a strong zip tie with two loops that can be
18 tightened to use as handcuffs, on my right wrist. He placed one loop of metal handcuffs on
19 my left wrist. He then connected the flex cuff and the metal handcuff by linking the open
20 cuff on the flex cuff and the open cuff on the metal handcuffs. Together, the flex tie and
21 the handcuff functioned like two handcuffs linked together. I was cuffed in front of my
22 body. I was then transported in a van from the TTA to behind Building 6. I got out of the
23 van and was escorted into a holding cage in Building 6.

24 11. At about 9 p.m., Officer [REDACTED] escorted me from the holding cage to cell
25 114. I went into the cell. I stuck both of my hands through the food port, which is a small
26 opening in the door, for Officer [REDACTED] to remove the handcuffs from my wrists. He
27 unlocked the metal handcuff from my left wrist and from the loop of the flex cuff. At that
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1 point, I had my right wrist in one loop of the flex cuff, the other loop of the flex cuff was
2 empty, and my left wrist was unrestrained. Officer [REDACTED] then put my left wrist into the
3 open loop of the flex cuff and tightened it hard. At that point, both of my wrists were
4 restrained in the flex cuff. I asked Officer [REDACTED], "Are you going to take these off?"
5 Then, while he slammed the food port closed, he said, "You know how to take them off."
6 He then walked away. I thought he was joking and that he was going to get some scissors
7 to cut off the flex cuffs. But he never came back to my cell.

8 12. For most of the next hour, I stood in front of my cell window, waiting for
9 someone to come back to remove the handcuffs. No one came. I could not take the cuffs
10 off myself. At about 10 p.m., there was a shift change in the building. At about the same
11 time, I went to sleep as I was exhausted from a long day getting medical treatment for my
12 hand. The cuffs were still on my wrists.

13 13. At some point in the middle of the night, I woke up because my blood sugar
14 had dropped. I self-tested myself and saw that my blood sugar was 38. The normal range
15 is 70-120, so 38 is really low. I was shaking, sweating, and confused. I banged on my
16 door to get the attention of an officer. An officer came over. I held up my glucose
17 monitor to show him how low my blood sugar was. When I did that, my wrists were right
18 in front of the window, such that he could have seen the cuffs still on my wrists. The
19 officer walked away. He returned and gave me some crackers through the food port. He
20 closed the port and walked away. He did not say anything about the cuffs or do anything
21 to remove them.

22 14. When I woke up the next morning, I boarded up the window of my cell to
23 get staff attention so that I could talk to a sergeant. Sergeant [REDACTED] came to my cell. I
24 showed him the cuffs and asked to have a video-taped interview. He then took me to the
25 sergeant's office in Building 6. At about 6:40 a.m., a lieutenant came and interviewed me
26 on video about having the cuffs kept on all night. Sergeant [REDACTED] finally cut the cuffs off
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1 of me at about 7 a.m., after we finished the interview. I was forced to live with the cuffs
2 on for approximately 10 hours.

3 15. During the night, the flex cuff plastic dug into my right forearm and cut off
4 circulation to my broken finger. It caused me a lot of pain and made it very difficult to
5 sleep. Even once the cuffs were removed, I experienced numbness and tingling in my arm
6 for at least a few hours.

7 16. On December 11, 2019, Officer [REDACTED] came to my cell at around 4 or 4:30
8 p.m. to do afternoon diabetic check. He handcuffed me through the food port and took me
9 out of the cell. He then said to me, "They interviewed me. I'm a fucking marine vet, I've
10 been wounded. You're not getting money out of this. They're gonna believe anything I
11 tell them." He said this in a very aggressive and threatening tone of voice. In presumed
12 that he was talking about an interview related to Officer [REDACTED] leaving the cuffs on me
13 overnight.

14 17. Given what I experienced at RJD, I was terrified that staff at the prison
15 would try to do other things to me, like set me up for a serious crime, assault me, or
16 destroy my property. At RJD, it felt like staff could do whatever they wanted and get
17 away with it. I was especially concerned about what would happen if I got sent back to
18 Facility C. In the ASU at RJD, there are cameras, so I was relatively confident that staff
19 would not assault me. There are no cameras in the Facility C housing units. As a result, I
20 worried what staff would do to me if I went back there.

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1 18. I've been in CDCR prisons for the last 13 years. I've been on almost every
2 Level 4 yard in CDCR. I was in the Corcoran Secure Housing Unit for five years. I've
3 been at a number of Level IV 180 yards at High Desert State Prison, Salinas Valley State
4 Prison, CSP – Sacramento, all of which are very high security facilities. Even though I
5 was only at RJD for a few months, the officers at RJD were the worst I have experienced
6 at any prison. They treated prisoners like dirt. They verbally abused prisoners. And as
7 demonstrated by my experiences, they acted like they can get away with anything.

8 I declare under penalty of perjury under the laws of the United States of America
9 that the foregoing is true and correct, and that this declaration is executed at Stockton,
10 California this 6 day of February 2020.


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Exhibit 44a

RECORD OF DAILY ACTIVITY													INSTRUCTIONS						
CELL SEARCH	CELL INSPECTION	SHOWER	SUPPLIES ISSUED	LINEN EXCHANGE	CLOTHING EXCHANGE	MEDICAL/PSYCHIATRIC CONTACT	ADMINISTRATIVE CONTACT	VISIT	LEGAL LIBRARY	MEAL	TRASH DISPOSAL	CELL MAINTENANCE/REPAIR	COUNT	TIME OUT TO YARD	TIME IN FROM YARD	COMMENTS	DATE	STAFF NAME/TITLE	STAFF INITIALS
													3			1w	12-4		
															2100	Return from hospital	12/4 12/4		

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE SEGREGATION RECORD

CDC 114-A (Rev. 10/99)

CDC NUMBER

CELL SEARCH	CELL INSPECTION	SHOWER	SUPPLIES ISSUED	LINEN EXCHANGE	CLOTHING EXCHANGE	MEDICAL/PSYCHIATRIC CONTACT	ADMINISTRATIVE CONTACT	VISIT	LEGAL LIBRARY	MEAL	TRASH DISPOSAL	CELL MAINTENANCE/REPAIR	COUNT	TIME OUT TO YARD	TIME IN FROM YARD	COMMENTS	DATE	STAFF NAME TITLE	STAFF INITIALS
													3			1/W	12/5/2019		
																2/W	12/5/19		
																0640 REMOVED FROM	12-5-19		
																CELL DUE TO FLEX OFF	12-5-19		
																CDCR 7219 COMPLETED	12-5-19		
																VIDEO INTERVIEW	12-5-19		
																CONDUCTED	12-5-19		
																0805 RETURNED TO	12-5-19		
																CELL, CELL SEARCH	12-5-19		
																CONDUCTED BY 90	12-5-19		
																	12-5-19		
																1020	12-5-19		
																REFUSES TO SIGN	12-5-19		
																ISH WAITING CHAINS	12-5-19		
																DUE TO NOT RECEIVING	12-5-19		
																PREN MEDIATION	12-5-19		
																FOR HIS HAND	12-5-19		
																1025	12-5-19		
																AND GIVES UP WAIT	12-5-19		
																CHAINS	12-5-19		
																3W	12/5		

Exhibit 45

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") on Facility B in Building 9. I am 57 years old.

3. I have been housed at RJD from September 2016 to the present. During my time at RJD, I was housed on Facility A in Building 4 until September 2019, when the general population inmates were moved from Facility A to Facility B.

4. I am an *Armstrong* class member and I am also classified as high risk medical. I am designated as DPM and DNH. As accommodations for my mobility disability, I am housed on the ground floor in a lower bunk, and I use a walker and cane to get around. I have a mobility vest because it is hard for me to get down on the ground during an alarm. I also use hearing aids.

5. I was a victim of staff misconduct at RJD. On September 1, 2019, at around 12:00 pm, Officer [REDACTED] came to my cell in Building A4 and told me that I had to take a mandatory random drug test. I asked to speak with a sergeant because I had been tested twice before in the last three months, so I did not understand why I needed to be tested again. Officer [REDACTED] refused and told me, "I ain't got time for this shit." He asked if I was refusing to take the test, but I told him that I was not, and that I just wanted to talk to a sergeant to find out why I had to take another urinalysis ("UA") test. I reluctantly agreed to take the test.

6. When I left my cell, Officer [REDACTED] told me to face the door. When I did, he cuffed my arms behind my back tightly. I told Officer [REDACTED] that I needed waist chains so that I could use my walker or cane for support, but he ignored me. Officer [REDACTED] replied, "You're an asshole, a real asshole. You're the cause of a lot of stuff

1 around here.” I understood Officer [REDACTED] to be referring to the many successful
2 grievances that I have filed about medical and ADA issues and staff misconduct.

3 7. Officer [REDACTED] led me across the dayroom to the toilet in the B-Section of
4 the housing unit for the UA test. I asked if we could do the test in a more sanitary area,
5 because the dayroom toilet was filthy, but he refused. I then yelled up to Officer [REDACTED]
6 the tower officer, and asked him to call the sergeant, and he nodded his head that he would.
7 I asked Officer [REDACTED] if he could at least loosen the handcuffs, but he just smiled at me.
8 I called out again to Officer [REDACTED] to ask if he had called the sergeant yet, and he
9 nodded again.

10 8. Suddenly, Officer [REDACTED] called me an “asshole,” grabbed me by the back
11 of my left arm, and threw me to the ground. I fell hard on my hip because I was still
12 handcuffed so I could not break my fall with arms. My back was hurting so much, and my
13 head almost hit the staircase. I was luckily able to turn my head as I fell and just avoided
14 smashing my head on the stairs. The assault happened right in the middle of the dayroom
15 in public view, so many other incarcerated people and staff saw what Officer [REDACTED] did
16 to me.

17 9. After I was thrown to the floor, I stayed on the ground handcuffed for about
18 ten minutes. I was not able to get up on my own because of the pain, and I called for
19 medical attention. Two other officers in the housing unit came over. I do not know their
20 names because they were not regulars in our building. One of these officers (“Officer A”)
21 spoke with Officer [REDACTED] in Spanish. I could not understand what he was saying, but it
22 appeared from reading his body language that Officer A was upset with Officer [REDACTED]
23 and did not approve of what he had done to me. Officer [REDACTED] and Officer A helped me
24 up, and I was left standing handcuffed in the dayroom with my arms behind my back while
25 Officer [REDACTED] called for help on his radio. Another officer I did not recognize
26 (“Officer B”) came into our building from the yard. Officer [REDACTED] and Officer B
27 escorted me to the toilet in B-Section of Building A4.
28

1 10. At the urinal, Officer ██████ asked me if I had anything in my pants, and I
2 told him I did not. Without warning, Officer B pulled my pants and underwear down to
3 my knees, so that I was naked from the waist down. Officer B held a cup up to my penis,
4 expecting me to urinate into the cup even though I could not aim the flow, since my hands
5 were still handcuffed behind my back. I tried to urinate in the cup but the officer moved
6 the cup away from my penis, and I urinated all over my pants and my legs. I felt violated
7 and humiliated. I have been tested in the past but I have never been cuffed during a UA
8 test, and I have never had my pants forcefully pulled down by an officer without my
9 consent.

10 11. After the drug test, Officer ██████ escorted me back to my cell. At my cell
11 front, I told Officer ██████ that my back and side hurt and asked him to contact medical
12 and a sergeant for me, but Officer ██████ refused. He told me the sergeant was busy, and
13 that I could see medical later. Officer ██████ then finally removed the handcuffs. I was
14 not seen by medical until two days later, on September 3, 2019. When I was seen by
15 medical, I told them about what Officer ██████ had done to me, but they did not seem to
16 want to hear about the assault.

17 12. I believe that Officer ██████ singled me out because of my reputation for
18 causing trouble among staff, because I have been successful in winning appeals involving
19 ADA and medical issues. I believe this because of what he said to me about me being a
20 cause of a lot of the trouble in the housing unit right before he threw me to the ground.

21 13. Later that day, around dinner time, I reported to Sergeant ██████ that Officer
22 ██████ had thrown me to the ground and that the UA test was done in a humiliating way,
23 but Sergeant ██████ just defended Officer ██████ I was so upset about the staff
24 misconduct against me that I went on a hunger strike that night, which lasted 25 days.

25 14. On around September 4 or 5, 2019, Sergeant ██████ interviewed me on
26 video about Officer ██████ staff misconduct. Rather than trying to find out what
27 happened, Sergeant ██████ disputed my account, even though many people in housing
28 unit witnessed Officer ██████ assaulting me. He insisted that I must have been ██████

1 “resisting” Officer [REDACTED] orders. This is not true. I am worried that Sergeant [REDACTED]
2 may have deleted parts of the video when I accused him of being part of the problems at
3 RJD for condoning what Officer [REDACTED] and Officer B did to me. I saw Sergeant [REDACTED]
4 push a button on the video camcorder every time I would begin talking about the way he
5 contributes to the culture at RJD that allows officers to attack prisoners without
6 consequences.

7 15. On the same day of the interview, on around September 4 or 5, 2019, I filed
8 a 602 against Officer [REDACTED] for staff misconduct, and an 1824 reporting that I was forced
9 by Officer [REDACTED] to walk while handcuffed behind my back without my walker or cane,
10 and was pushed onto the ground by him. On September 8, 2019, I was told my 602 was
11 being processed as a staff complaint.

12 16. On September 9, 2019, a day after my 602 against Officer [REDACTED] was
13 processed, I was given an RVR based on the September 1, 2019 incident for delaying an
14 officer in the performance of his duties. Because of the 8-day delay in issuing the RVR,
15 and the fact that it was issued only a day after my 602 staff complaint was processed, I
16 believe that this false RVR was retaliation for me reporting the staff misconduct and
17 disability discrimination against me by Officer [REDACTED] and Officer B.

18 17. On October 1, 2019, I was found guilty of the RVR. At the hearing, the
19 hearing officer, a Lieutenant whose name I do not know, refused my request to interview
20 witnesses or to review the defenses that I prepared. The hearing officer told me, “I believe
21 my officer, and I’m going to find you guilty. If you don’t like it, 602 it.” He made it very
22 clear that he had no interest in finding out what had happened, and that it did not matter
23 how many witnesses saw what Officer [REDACTED] did to me. He had already decided that I
24 was guilty because Officer [REDACTED] said so.

25 18. I took the hearing officer’s advice and filed a 602 challenging the RVR, Log
26 No. RJD-B-19-[REDACTED]. On November 29, 2019, I was interviewed by a female Lieutenant
27 for my 602, [REDACTED] a female third watch Lieutenant
28 assigned to Facility A—and she told me right away that my 602 was granted and that the

1 RVR against me was dismissed. She did not explain why, and I have not actually received
2 the written response yet saying that the 602 was granted. The response was due on
3 December 5, 2019. I had already served 30 days locked down in my cell, so even though
4 my RVR was dismissed on appeal, I had already been punished.

5 19. So far as I know, there have been no consequences for Officer [REDACTED] or for
6 Officer B for their staff misconduct against me. I continued to see them both working on
7 Facility A, even after I filed the 602 reporting what they had done to me. One of the times
8 I saw Officer [REDACTED] shortly after he filed the RVR against me, he told me, "we always
9 get the last laugh." Both Officer [REDACTED] and Officer B were still working on Facility A
10 right up until I was moved to Facility B. So far as I know, they are still working there.

11 20. I have also witnessed RJD staff engage in misconduct against other people. I
12 observed officers assault an inmate named [REDACTED], CDCR number [REDACTED], in
13 building B9 about a week after the general population inmates transferred to Facility B
14 from Facility A in September 2019. In the morning, around 9:00 am, I was sitting in cell
15 [REDACTED] on the lower tier of A-Section of the housing unit. From my cell, I can see directly
16 into Mr. [REDACTED]'s cell, cell [REDACTED] on the upper tier of C-Section, which is right across the
17 dayroom from me. I could hear a commotion in the building, and I looked up and saw
18 three officers standing in front of cell [REDACTED]. I recognized that two of the officers were
19 regular building officers for B9 and one was a yard officer for B Yard, but I do not know
20 their names.

21 21. I saw the cell door open and one inmate got off the bottom bunk, exited the
22 cell, and went downstairs. From what I could see, the officers looked like they instructed
23 him to go downstairs. The officers appeared to be aggressively talking at Mr. [REDACTED], who
24 was standing and talking with them. After only a few words, all three officers rushed in
25 and knocked Mr. [REDACTED] to the floor. It happened so fast. The officers were on top of him
26 and they were throwing blows at him. The officers soon cuffed his hands high up behind
27 his back, above his head. The officers then escorted Mr. [REDACTED] out of the building. I have
28 not seen him since.

1 22. It did not appear like Mr. [REDACTED] had said or done anything that would explain
2 why he was attacked by the three officers. I did not see him resist or try to fight back at all
3 during the attack. I do not understand why the officers did not call a sergeant and instead
4 just rushed the cell and beat Mr. [REDACTED].

5 23. The staff at RJD appear to be focused on asserting their authority over us,
6 rather than following policy and answering requests for help from people who need it.
7 They get frustrated and angry if you ask for help, so people who ask for help more often
8 are the ones who they take out their aggression on. They also hate people who "litigate"
9 by filing 602s or other grievances, so they retaliate, as they did to me, if they see you as a
10 troublemaker for making too many requests or raising issues about help people need. The
11 officers often automatically say no when you ask for something, and just tell you to "file a
12 602 on it." To me, they appear confident that if a 602 is filed against them, they will be
13 protected by other staff to make sure there are not consequences.

14 24. I have also seen how the officers at RJD disregard people with disabilities in
15 smaller ways. For example, officers frequently walk down the path of travel that is for
16 wheelchairs, forcing people who use wheelchairs or walkers to move off the path and onto
17 the rougher dirt where it more difficult to get around without tripping and falling.

18 ///

19 ///

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1 25. I have been in CDCR prisons for about 22 years of my life. I have been
2 housed in a number of different prisons, including High Desert, Mule Creek, Vacaville,
3 Salinas Valley, California Men's Colony, and Corcoran. The staff misconduct at RJD is
4 by far the worst of any prison I have been in. The staff here shows a complete disregard
5 for incarcerated people, and it appears that the higher-ups are protecting the officers and
6 are not interested in holding staff accountable for misconduct.

7 I declare under penalty of perjury under the laws of the United States of America
8 that the foregoing is true and correct, and that this declaration is executed at

9 RJD/in San Diego, California this 7 day of January 2020.



Exhibit 45a

Filed Under Seal

Exhibit 45b



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October 29, 2019

VIA ELECTRONIC MAIL ONLY

PRIVILEGED AND CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
russa.boyd@cdcr.ca.gov
ursula.stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Advocacy for [REDACTED], DPM, DNH
Regarding Staff Misconduct at RJD
Our File No. 0581-03

Dear Russa and Ursula:

I write regarding [REDACTED] an *Armstrong* class member who reports that he was assaulted by officers at RJD in retaliation for filing disability- and health care-related grievances. In addition to the assault, he also reports allegations of serious staff misconduct regarding a failure to accommodate his disability during escort and an improper urinalysis examination which he believes are both connected to his reporting misconduct. [REDACTED] is designated as DPM and DNH, is prescribed a cane and walker to assist him with walking, and uses hearing aids as his primary method of communication.

I. Summary of September 1, 2019 Incident

[REDACTED] reports that, around 12:00 p.m. on September 1, 2019, Officer [REDACTED] came to his cell—cell [REDACTED] in Building 4 on Facility A—and instructed him through the closed door that he was required to take a random urinalysis (“UA”) test. [REDACTED] stated that he requested to speak with a Sergeant to ask why he was being tested, as he had been tested two other times in the three months prior. Officer [REDACTED] reportedly denied [REDACTED] request and told him “I don’t have time for this shit.” [REDACTED] reports that he reluctantly agreed to take the test.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 29, 2019
Page 2

Next [REDACTED] reports that he was tightly cuffed behind his back, making it impossible for him to use either his cane or walker to ambulate. [REDACTED] reportedly told Officer [REDACTED] that he needed waist-chains so that he could use his walker or cane to ambulate. Officer [REDACTED] reportedly ignored [REDACTED] request, instead stating “you know, you’re an asshole, you’re a real asshole. You’re the cause of a lot of stuff around here.” [REDACTED] believes that Officer [REDACTED] was referring to the fact that [REDACTED] had filed a number of successful grievances concerning medical issues and staff misconduct.

Officer [REDACTED] then reportedly led [REDACTED] across the dayroom floor toward the toilet in the B-Section of the building where the UA would be collected. Without a walker or cane, [REDACTED] reports that he struggled to keep his balance. [REDACTED] next requested to have the test conducted in an area that is more sanitary than the dayroom toilet, which [REDACTED] reports was filthy. Officer [REDACTED] denied the request, stating that he had tested other people in the same location.

[REDACTED] states that he then yelled to Officer [REDACTED] who was the tower officer at the time, and asked him to call the sergeant on duty. Officer [REDACTED] shook his head up and down, indicating that he would do so. Then, [REDACTED] turned back to Officer [REDACTED] and reportedly asked him to loosen the cuffs, as he was starting to lose feeling in his hands. Officer [REDACTED] just smiled at him. [REDACTED] states that he then asked Officer [REDACTED] whether he had called the sergeant, and Officer [REDACTED] again nodded his head. After that interaction, Officer [REDACTED] reportedly called [REDACTED] an “asshole” and grabbed [REDACTED] first by the back side of his left arm and then reportedly threw [REDACTED] to the ground.

[REDACTED] reports that he fell hard on his hip because was still handcuffed behind his back and therefore unable to catch himself. He also states that the impact of the fall caused injury to his back as well. [REDACTED] reports that his head nearly hit a nearby staircase. The assault occurred in public view of the housing unit and was reportedly witnessed by other incarcerated people. As far as [REDACTED] is aware, Officer [REDACTED] did not write an incident or use of force report about the event. Officer [REDACTED] also did not sound an alarm.

After being thrown to the floor, [REDACTED] reports that he spent a number of minutes on the ground, still handcuffed, unable to get up on his own because of the pain. Two other officers in the housing unit came over to [REDACTED] after he had been thrown to the ground. One of the officers (“Officer 1”) spoke with Officer [REDACTED] in Spanish; though [REDACTED] who does not understand Spanish, could not understand what was said,

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
 Ursula Stuter
 October 29, 2019
 Page 3

he reports that he did not believe that Officer 1 was supportive of Officer [REDACTED] actions. Officer 1 then attempted to help [REDACTED] up, but [REDACTED] injuries made it difficult for him to be moved. Ultimately, Officer 1 and Officer [REDACTED] reportedly lifted [REDACTED] to his feet.

[REDACTED] states that he was forced to stand in handcuffs without the assistance of his cane, walker, or any other support for a number of minutes, while Officer [REDACTED] used his radio to summon assistance. Ultimately, an officer ("Officer 2") arrived from outside of the building. Officer [REDACTED] appeared to turn over the responsibilities for the UA test to Officer 2. Officer 2 reportedly escorted [REDACTED] along with Officer [REDACTED] to the toilet in the B-Section of the building.

At the urinal, Officer [REDACTED] asked [REDACTED] "do you have anything in your pants?" [REDACTED] said no. Officer 2 then pulled [REDACTED] pants and underwear down to his knees, exposing his genitals. Officer 2 then reportedly held a cup up to [REDACTED] penis. Even though he was handcuffed behind his back, [REDACTED] attempted to urinate in the cup held by Officer 2. Because he was unable to hold his penis, he reportedly urinated on his pants and legs. [REDACTED] reports that he felt violated and humiliated by the manner in which the test was conducted. [REDACTED] reports that when he has been tested on other occasions, he has: (1) never been cuffed, (2) never had his pants forcefully pulled down by custody staff, and (3) never been subjected to UA in a public environment.

After the UA collection was complete, Officer [REDACTED] reportedly escorted [REDACTED] back to his cell. At his cell front, [REDACTED] reported to Officer [REDACTED] that his side and back hurt and requested that Officer [REDACTED] contact medical staff and a sergeant. Officer [REDACTED] refused, telling him, "the sergeant is busy, and you can see medical later." Officer [REDACTED] then reportedly un-cuffed him, and left him in cell. [REDACTED] states that he was not seen by medical staff until two days later. As reflected in his medical records, he reported the incident to medical staff on September 3, 2019: "[REDACTED] has states [sic] that he was involved in altercation with custody and was put down on the ground and has complaint of pain over his left lower extremity with numbness from bottom of his left foot to the mid-thigh area" See **Exhibit A**.

[REDACTED] believes Officer [REDACTED] singled him out for mistreatment and threw him to the ground because he has a reputation of "causing trouble" among staff. [REDACTED] reports that he has won a number of appeals, some of which involve *Armstrong* and *Plata* issues. For example, after [REDACTED] cell was searched and his heart medication thrown away by custody staff, he suffered from a serious cardiac event

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 29, 2019
Page 4

and had to be transferred to an outside hospital; his 602 with respect to that incident was granted. Also, because Officer [REDACTED] reportedly replied to [REDACTED] request for waist chains by failing to provide the accommodation and stating that he was a real “asshole” and was the cause of a lot of trouble in the unit, he took that denial of accommodation to be in retaliation for filing disability and health care grievances.

II. Aftermath of the Incident

On that same day at around dinner time, [REDACTED] reported to Sergeant [REDACTED] that Officer [REDACTED] threw him to the ground and that the UA test had been administered in a manner that that was irregular and humiliating. Sergeant [REDACTED] reportedly defended Officer [REDACTED] behavior.

Four days later, on or around September 5, 2019, Sergeant [REDACTED] conducted a video interview with [REDACTED]. During the interview, Sergeant [REDACTED] reportedly disputed [REDACTED] account of the events and insisted that [REDACTED] was “resisting” Officer [REDACTED] orders. [REDACTED] reports that he is concerned that that Sergeant [REDACTED] deleted parts of the video when [REDACTED] accused Sergeant [REDACTED] of being part of the problems at RJD. For example, [REDACTED] reports that he saw Sergeant [REDACTED] press a button on the video camcorder every time [REDACTED] began accusing him of also contributing to the culture of staff misconduct at RJD.

On that same day, [REDACTED] also filed a staff misconduct 602 against Officer [REDACTED] and an 1824 reporting that he was forced by staff to walk without his assistive devices. He received notice that his 602 had been processed as a staff complaint on September 8, 2019.

II. [REDACTED] Receives and Is Found Guilty of an RVR

On September 9, 2019, only after [REDACTED] reported the alleged misconduct, did he receive an RVR related to the September 1, 2019 incident for delaying an officer in the performance of his duties. Given that the RVR was issued immediately after his 602 and 1824 were received and that staff waited eight days to process the RVR, [REDACTED] believes that this RVR was issued in retaliation for [REDACTED] filing a 602 and an 1824 complaining about Officer [REDACTED] and the UA test.

¹ [REDACTED] is uncertain of how to spell this sergeant’s last name.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 29, 2019
Page 5

Starting on September 1, 2019, [REDACTED] went on a hunger to strike to protest the staff misconduct perpetrated against him by Officer [REDACTED]. *See Exhibit B.* The hunger strike lasted 25 days.

On October 1, 2019, [REDACTED] was found guilty of the RVR. At his hearing, the hearing officer, an unknown Lieutenant, reportedly refused [REDACTED] request to interview witnesses and refused to review any of the defenses prepared by [REDACTED]. This lieutenant also reportedly stated to [REDACTED] that: "I believe my officer, and I'm going to find you guilty. If you don't like it, 602 it." The behavior of the hearing officer is similar to other allegations raised by Plaintiffs' counsel, in which hearing officers appear to have prejudged the outcome of RVRs. *See* Letter from P. Godbold to N. Weber dated October 4, 2019, Advocacy Letter regarding EOP Class Member [REDACTED] [REDACTED] Regarding Staff Misconduct at RJD.

In response, [REDACTED] filed a 602 challenging his RVR to which he has not yet received a response.

III. Conclusions and Request for Investigation

The alleged violence against [REDACTED] is concerning for a number of reasons and is consistent with prior allegations raised by Plaintiffs' counsel. First, [REDACTED] believes that Officer [REDACTED] assaulted him in retaliation for [REDACTED] utilization of the grievance processes at RJD. Many other individuals have raised similar allegations. *See* Letter from P. Godbold to R. Boyd, U. Stuter, dated February 26, 2019, Advocacy Letter re DNH Class Member [REDACTED] Experiencing Staff Misconduct at RJD; Letter from P. Godbold to N. Weber, dated October 10, 2019, Advocacy Letter re EOP Class Member [REDACTED] Regarding Staff Misconduct at RJD; Letter from M. Freedman to R. Boyd, U. Stuter, dated October 23, 2019, Supplemental Advocacy Letter re DPM Class Member [REDACTED] Experiencing Staff Misconduct at RJD; Letter from P. Godbold to R. Boyd, U. Stuter, dated January 8, 2019, Staff Misconduct Against Class Member at R.J. Donovan Correctional Facility in Retaliation for Participation in Joint Audit.

Second, Officer [REDACTED] by cuffing [REDACTED] behind his back, did not accommodate [REDACTED] disability. Given [REDACTED] use of a cane or a walker, Officer [REDACTED] should have used waist chains in accordance with policy. *See Armstrong Remedial Plan* § IV.I.7 ("Mechanical restraints shall be applied to ensure effective application while reasonably accommodating the inmate's disability."). Officer [REDACTED] also was required to accommodate [REDACTED] disabilities during the UA test itself. *See*

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 29, 2019
Page 6

Dep't Operations Manual § 52010.18. Officer [REDACTED] also appears to have administered the UA test in a manner inconsistent with Plaintiffs' counsel's understanding of CDCR policy for conducting such tests.² The combination of factors here—the alleged assault itself, the demeaning failure to accommodate his disabilities, the humiliating treatment during the inappropriate UA test, and Officer [REDACTED] statements to [REDACTED] insinuating that he was being mistreated because his grievances had "caused trouble"—creates an inference that [REDACTED] was being retaliated against for filing such grievances.

Further, [REDACTED] received what he believes to be a retaliatory RVR for filing a complaint against Officer [REDACTED]

We request that Defendants conduct a comprehensive investigation of the events described above. We further request to be provided with the results of any investigation, including a review of any information that was relied on in making any decision. If an investigation is ongoing, please let us know. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident that might be willing to participate in an investigation including any custody staff members present, incarcerated people, non-custody staff members, or others that may have been in the unit at the time.

Plaintiffs' counsel also requests that Defendants produce: (1) a copy of [REDACTED] full C-file; (2) all 602s, 602-HCs, and 1824s filed by [REDACTED] since January 1, 2018 and RJD's responses (including the 602s and 1824s filed regarding the events described above); (3) any photographs or videos of [REDACTED] injuries taken by medical or custody staff, including any 7219 forms; (4) any audio, video, or notes of interviews with [REDACTED] regarding this incident; and (5) any memorandum drafted by medical or mental health care staff, regarding the incidents alleged above.

² For example, Department Operation Manual § 52010.18 clearly contemplates that an male incarcerated person providing a UA sample will be able to hold his penis and the collection cup. *See id.* ("After filling the sample bottle, the inmate will be instructed to secure the bottle, rinse the outside of the bottle with cold tap water, and then hand the secured sample bottle to the collecting staff member.").

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
October 29, 2019
Page 7

Plaintiffs' counsel also request that staff do not engage in retaliation in response to these allegations.

In addition, we request that immediate action be taken to place Officer [REDACTED] on administrative time off pending this investigation. If he returns to work, he should not be permitted to occupy any positions in which he has contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman

By: Senior Counsel

MLF:JRG:cg

Enclosures: Exhibits A-B

cc: Ed Swanson

Matt Espenshade

Sharon Garske

Kelly Mitchell

Landon Bravo

CDCR OLA *Armstrong*

Sharon Garske

Annakarina

De La Torre-Fennell

Damon McClain

Joanna Hood

Laurie Hoogland

RBGG *Armstrong*

Co-Counsel

Lois Welch

Steven Faris

Roy Wesley

Exhibit 45c

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : November 25, 2019

To : Mike Freedman
Rosen Bien Galvan & Grunfeld LLP

Subject: ADVOCACY LETTER, [REDACTED] RJDCF

This letter is in response to the advocacy letter dated October 29, 2019, written on behalf of [REDACTED]. The advocacy letter indicated [REDACTED] reportedly was assaulted by officers at RJDCF in retaliation for filing disability and healthcare-related grievances. In addition to the assault, he also reports allegations of serious staff misconduct regarding a failure to accommodate his disability during escort and an improper urinalysis examination, which he believes are both connected to his reporting of misconduct.

On November 22, 2019, I interviewed [REDACTED] in housing unit B9, regarding the allegations made in the Advocacy letter and circumstances surrounding the September 1, 2019, incident which resulted in the alleged misconduct.

[REDACTED] is a participant in the Disability Placement Program with disability codes of DPM and DNH with required durable medical equipment (DME) of Hearing aids, Cane, mobility impairment vest, and walker. [REDACTED] if he was wearing his hearing aids and if he could hear me clearly. [REDACTED] stated he was not wearing his hearing aids although he has possession of them because he feels like the moldings are too big for him. [REDACTED] then reiterated that he could hear me and understand me clearly based on our close proximity and private setting. I asked [REDACTED] if he needed me to accommodate him in any way to go on with the interview, he stated he was ok and wished to proceed.

[REDACTED] stated that on the September 1, 2019, he tried to get Officer [REDACTED] to collect the urine sample in his assigned cell and attempted to explain the protocol and procedures for urine collection to Officer [REDACTED] but he would not listen. [REDACTED] stated he thought he Officer [REDACTED] was very unprofessional. [REDACTED] stated that when the second officer came to help him it was the second officer who pulled his pants down in order to collect the urine sample. [REDACTED] indicates, "There is no way in the world" he would agree to have them pull his pants down like that. [REDACTED] says that when the urine sample was collected he urinated all over his boxers and leg because his hands were cuffed behind his back and he had no way of stopping the stream.

█████ stated he was aware of an allegation video interview conducted based on his allegation surrounding excessive or unnecessary force on September 2, 2019. ██████ stated Sergeant ██████ conducted the video interview but he kept on pushing a button on the camera when he was telling him he did not want to participate because he was part of the problem. I asked ██████ if he had anything further to add surrounding the September 1, 2019, incident and allegations made thereafter, to which he stated it was all there. He stated he has an attorney involved so he is confident they are going to do their part in the investigation too. I then asked how he was doing on Facility B and how he was being treated, to which he responded by saying "pretty good, it's easy."

A review of available documents indicates ██████ was issued a Rules Violation Report (RVR) for Willfully resisting a Peace Officer in the performance of duty on, September 1, 2019, documenting the circumstances surrounding the incident from which the allegations stem. The RVR clearly documents Correctional Officer D. ██████ version of events. A qualified Senior Hearing Officer (SHO) adjudicated the RVR, found Inmate ██████ Guilty of the offense, and assessed sanctions consistent with a division D offense. On October 04, 2019, the Chief Disciplinary Officer elected to dismiss the RVR based on the UA collection process not being followed by Officer ██████

On September 2, 2019, Sergeant ██████ completed an allegation video and inquiry into the allegation made by ██████. Sergeant ██████ attempted to interview ██████ however, he refused and simply ██████ part of the problem. Sergeant ██████ also interviewed Correctional Officer D. ██████ who reiterated the circumstances as documented on the RVR dated September 1, 2019. Sergeant ██████ interviewed Correctional ██████ as part of the inquiry, ██████ only corroborates the statements made by ██████ as documented by Officer ██████ in the RVR in which ██████ stated he was going to fall to the ground and claim Officer ██████ pushed him.

On September 4, 2019, ██████ filed a CDCR 1824 Reasonable Accommodation Request form where he states his disagreement with his need to provide urine samples for urinalysis with the frequency which he had been tested and makes allegation that he was pushed to the ground for asking to speak to the sergeant regarding the mandatory urinalysis. The Reasonable Accommodation Panel reviewed the case and determine the request would be handled pursuant to the Armstrong accountability protocol.

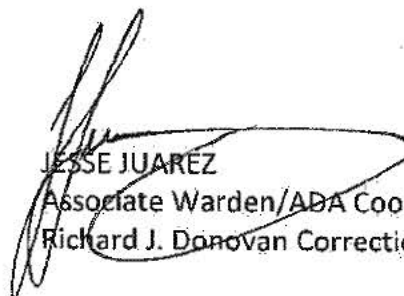
On September 24, 2019, the Non Compliance Allegation inquiry was completed pursuant to the Armstrong accountability protocol by Correctional Sergeant ██████. Sergeant ██████ indicates ██████ refused to speak to him regarding the allegations stating he wanted someone outside of Facility A assigned the investigation and that he would just let the appeals he filed be processed. Sergeant ██████ notes the application of the restraints was not consistent with a reasonable accommodation based on ██████ disability, however notes it was done for the safety of staff based on ██████ disruptive behavior at the time. In addition, ██████ notes staff assisted ██████ while walking to the benches located in the dayroom. The case was not confirmed and closed in the Allegation

Log Tracking System (ALTS) on October 28, 2019. Although your letter points to the ARP § IV.I.7 ("Mechanical restraints shall be applied to ensure effective application while reasonably accommodating the inmate's disability.") in this case Officer [REDACTED] describes the reasoning for the application of restraints as fearing for his safety, other staff and inmates, therefore this was not a routine application of restraints giving the staff the ability to check [REDACTED] accommodation needs.

The RJDCF finds the allegation made in your letter and those made by [REDACTED] very serious. As noted above the issues and allegations made by [REDACTED] have been addressed separately in compliance with established policy and have been unable to find merit at this point. It is notable that On September 1, 2019, when Officer [REDACTED] documented the misbehavior by [REDACTED] in the RVR, [REDACTED] made the statements indicating he would make the allegations as noted in the CDCR 602 Inmate Appeal, CDCR 1824 Reasonable Accommodation Request and in your letter. The fact that [REDACTED] made good with his threat of making allegations does not make the allegations true. Your letter states the RVR was issued in retaliation for filing a complaint against Officer [REDACTED] however the RVR was written and submitted by Officer [REDACTED] on the same date, just hours after the encounter with [REDACTED]

The RJDCF stands firmly on established policy and procedures and works towards providing an excellent service to the State of California including the Armstrong class. We strive to promote a culture of service without blemish and in cases where staff are discovered to be in violation of policy, those staff are disciplined in accordance with State Personnel Board rules. In closing, I assure you the Warden stands committed to continued review of allegations, the evidence in the allegations and will deal with staff misbehavior swiftly.

I hope that the preceding information addresses your concerns.



JESSE JUAREZ
Associate Warden/ADA Coordinator
Richard J. Donovan Correctional Facility

Attachments:

RVR DTD 09/01/2019

CDCR 3013/3014 Inmate Interview for Allegation Worksheet and Report of Findings

CDCR 1824 DTD 09/04/2019 and RAP Response

ALTS 10814 Allegation of non-compliance

Appeal Log#RJD-[REDACTED] (PENDING RESPONSE)

Exhibit 46

DECLARATION OF [REDACTED]

I, [REDACTED], declare: [REDACTED]

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at RJD on Facility D in Building 20. I am 79 years old.

3. I have been housed at RJD for seven or eight years. During my time at RJD, I have been housed in the D20 unit with the exception of a few nights.

4. I am an *Armstrong* class member. I am designated as DPM. I have diabetic neuropathy, which causes swelling, numbness, and weakness in my legs. I also have a rod in my back from a surgery years ago, and have had multiple surgeries on my knees and neck to correct ligament and bone problems. I use a walker to ambulate and have lower tier and lower bunk chronos. I also have my own cell so that I am not victimized by other incarcerated people.

5. I am a *Coleman* class member. I am at the CCCMS level of care. I used to cut myself when I was stressed and suffering from depression. I still struggle with depression today. I spend a great deal of my time meditating in order to help me cope, keep calm, and manage my depression.

6. I have a number of serious medical conditions. I have diabetes, which has caused my peripheral neuropathy, and for which I take insulin. I also have cirrhosis of my liver due to Hepatitis C, which I have been treated for while in CDCR. I am classified as high risk medical.

7. I have witnessed staff engage in misconduct against other people at RJD. In September 2019, I saw another elderly incarcerated person with a mobility impairment ask an officer in my unit for toilet paper, soap, and for a mop so that he could clean up his cell and use the bathroom. The officer told him "You get that once a week" and refused to

1 help him further. The incarcerated man told him "I need it now, I need to go to the
 2 bathroom." The officer replied "Well, use your fingers. And don't be asking me for shit."
 3 The ^{elderly man} then walked away and, while walking, said loudly "Damn, you lazy bastards."

4 8. After the incarcerated man said this, I saw the officers look at each other.
 5 After he had entered his cell, ^{in the B Section of the building} they signaled to the tower officer to keep his cell door open
 6 and then quickly went into his cell. I then heard them assault him, slamming him into his
 7 locker and bed and punching him repeatedly. ^{He} cried out for help,
 8 yelling loudly "Ow! Ow! Stop! I'm sorry, I'm sorry!" The assault lasted for around two
 9 minutes. The officers then left his cell, laughing, and told the tower officer to close his cell
 10 door. ^{For the entire incident, I was sitting in my walker in the dayroom. I had a full view of the officers going}

11 9. After this happened, I got up and walked by his cell to see if he was alright.
 12 I asked him "Are you okay?" He had clearly been beaten up and was shaken by what had
 13 happened, but told me that he was okay. Two weeks later, he was transferred to another
 14 unit.

15 10. I still see the officers that were involved in this incident every day. They still
 16 work in my building. I try to stay as far away from these officers as possible. If they
 17 could assault a person just for asking for toilet paper, I know that they could do the same to
 18 me. Whenever they question me, I just say "Yes, Sir" and walk away so that I do not risk
 19 my own safety. ^I

20 11. Since that incident, there have been many times that have needed help but
 21 didn't ask for it because I was afraid of what officers would do to me. Because I am
 22 elderly and have mobility problems, I cannot clean my own cell. Under CDCR policy,
 23 incarcerated people employed as ADA workers are supposed to help people like me with
 24 cell cleaning. When I have asked ADA workers to help me clean my cell, though, they
 25 have demanded money in payment, even though they are paid by CDCR as part of their
 26 job. I have not told officers in my unit about my problems with ADA workers, though,
 27 because I am worried about what could happen to me if I reported this issue.

28 ^{*into the cell and a partial view of what happened inside the cell.}

14. I have been in CDCR prisons for about 27 years of my life. I have been housed in a number of different CDCR prisons, including RJD, Folsom State Prison, CSP – Sacramento, Correctional Training Facility, California Men's Colony, and Salinas Valley State Prison. RJD is the worst prison in which I have been incarcerated.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at

San Diego, California this 7th day of January 2020.

Exhibit 47

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at California State Prison – Sacramento ("SAC") on Facility A in Building 4. I am 43 years old.

3. I was housed at RJD from mid-March, 2019 to August, 2019. I was then transferred to California State Prison – Los Angeles County ("LAC") and then, in December, 2019, I was transferred to California State Prison Sacramento ("SAC").

4. During my time at RJD, I was housed in the following locations: Building 13 on Facility C, and Building 6 on Facility B.

5. I am an *Armstrong* class member. I am designated as DNM and DNH. My mobility disability stems from a bullet that is lodged in my spine from my time serving in the U.S. military in Iraq. As accommodations for my disability, I am housed on a lower tier and in a bottom bunk, and I have a limited stairs restriction. I use a cane to get around, and have a mobility impaired vest. I use hearing aids as well, and wear a hearing impaired mobility vest. When I was housed at RJD, I was designated as DPO and DNH which means I used a wheelchair intermittently to travel longer distances.

6. I am a *Coleman* class member. I am at the EOP level of care. I have PTSD related to my military service, depression, bipolar disorder, schizophrenia, and schizoaffective disorder. To manage my mental health symptoms, I take a number of psychotropic medications, including Abilify, Haldol, Remeron, and Effexor. I also attend mental health groups twice per day, and speak with a clinician once every two weeks.

7. I have a number of serious medical conditions. I have cirrhosis of the liver, Hepatitis C, COPD, a seizure disorder related to a head injury that I sustained in Iraq in

1 1994. I am classified as high risk medical, and I am in the chronic care program, meaning
2 that my medical issues are monitored closely by medical staff.

3 8. I was a victim of staff misconduct at RJD. On or around April 23, 2019,
4 Officer [REDACTED] a housing unit officer in Building 13 on Facility C, told me that I was
5 going to be moved to Building 12. I told Officer [REDACTED] that I did not want to move
6 because I had recently been transferred to RJD and I already had a good relationship with
7 my cellmate. I also stated that I had safety concerns in Building 12. I knew a few people
8 in that building that I had conflicts with in the past and I did not want to move in to the
9 building with them. By the time I returned from dinner, I came back to the housing unit to
10 find my property had already been bagged up on the tier, meaning that I was going to be
11 moved.

12 9. I then approached Sergeant [REDACTED] ask her about the move. She told
13 me that she already approved the move. I told her that I had serious safety concerns
14 involving people in Building 12. I told her that I felt comfortable in my current housing,
15 with my current cellmate, and that if I was moved to Building 12 I feared there would be
16 trouble. I refused to pick up my property and put it on the cart to move. I instead offered
17 to cuff up twice, which means that I was refusing what staff were asking me to do, but I
18 was cooperative and not causing trouble. But staff declined to cuff me up. At this point, I
19 was sitting in my wheelchair, surrounded by eight the officers and Sergeant [REDACTED]
20 Next think I know, an officer pepper-sprayed me directly in the face. I immediately
21 collapsed to the ground, and then, while I lay on the ground, Officer [REDACTED] punched me in
22 the face. The officers surrounding me then joined in, stomping on my chest and kicking
23 me over and over again in the face and in my ribs. I recall in particular that Officer [REDACTED]
24 kicked me multiple times after I was restrained and on the ground. I don't remember how
25 long the beating lasted, but it was at least a few minutes.

26 10. After the beating ended, I was made to stand up – without my wheelchair or
27 my hearing aids – and officers dragged me to the Facility C gym and put me in a holding
28

1 cage. The gym was about 200 yards away from the housing unit. While being dragged to
2 the gym, I asked multiple times for my wheelchair, and Sergeant [REDACTED] told me to,
3 "shut the fuck up, rat." Before they dragged me to the holding cage, officers placed a spit
4 mask on my face. I believe that they did this to conceal the fact that I was bleeding badly
5 from my face.

6 11. Upon arrival in the gym, I was placed in a holding cage, and left there for
7 about 35 minutes. At no point were my eyes or sinuses cleared out after being pepper-
8 sprayed. After about 35 minutes had elapsed, Sergeant [REDACTED] returned, and I told her
9 that I was having trouble breathing, and that my ribs hurt. I have COPD which already
10 makes it difficult to breath but, as a result of the pepper spray and my hurting ribs, I felt
11 like I couldn't catch a breath. Staff took me out of the holding cage and I apparently
12 blacked out. I woke up in the Treatment and Triage Area ("TTA"), where my wounds
13 were documented. I told medical staff that I had been assaulted by officers.

14 12. Medical staff then sent me to Scripps-Mercy Hospital, where I was admitted
15 and stayed for four days. After conducting a CT scan, doctors there diagnosed me with
16 three broken ribs on my left side. Doctors at Scripps-Mercy also stitched up a deep
17 laceration on my lip. I was also diagnosed with an acute closed head injury, facial
18 contusions, abrasions, and hematoma, and blunt abdominal trauma.

19 13. When I was returned to RJD on April 27, 2019, I was placed in the
20 administrative segregation unit in Building 6 without any of my DME, including my leg
21 braces, my seizure helmet, my gloves, my wheelchair cushion, and most importantly, my
22 wheelchair. I was housed in Building 6 without a wheelchair for about three or four days,
23 during which time I was completely immobile. Eventually, I was issued a loaner
24 wheelchair which was much too big for me. I was forced to use that wheelchair for four
25 months, until I transferred to a different prison.

26 14. A couple days after the incident, three sergeants at RJD interviewed me
27 about what happened. They did not ask me many questions, or say much about the
28

1 incident. They took photos of my injuries and they video recorded my interview. The
2 interview was conducted in the sergeant's office in Ad Seg and it only lasted about 10-15
3 minutes. Based on how short the interview was, I did not believe that these sergeants took
4 my allegations of staff misconduct at RJD seriously. One of the sergeants conducting the
5 interview asked me if the injuries could have been the result of an alleged battery on staff.
6 But, that did not make sense to me because I had already explained that the attack on me
7 took place before the alleged battery on staff which supposedly occurred after staff
8 transferred me to the gym. I took this to mean that either he did not believe me or he was
9 trying to find a way to cover up the attack.

10 15. A few days after the incident, I was issued a Rules Violation Report
11 ("RVR") for battery on a peace officer because I allegedly spit on one of the officers while
12 held in the cage in the gym. That never happened. That allegation is also not possible
13 because I was wearing a spit mask during the entire time I was in the gym. I was put in a
14 spit-mask immediately before being escorted to the gym, and the spit mask only came off
15 when I was transferred to the hospital. The RVR also claimed that I walked up to staff in
16 the housing unit and threatened them prior to them using force on me. But that also did
17 not occur. I believe there should be other witnesses in the housing unit that can confirm
18 that I did not do that. I was only in the housing unit for about a month when this occurred
19 so, I do not know the names of other incarcerated people in that unit.

20 16. After I was attacked, I quit talking to the officers. I felt like if it happened
21 once it could happen again and the officers made me feel like incarcerated people are
22 always in the wrong. For example, when my hearing aid batteries died while I was in Ad
23 Seg, I just went without them because I did not feel comfortable asking staff for help. I did
24 not know what would happen if I did ask for new batteries, but I did not want to find out. I
25 went without hearing aid batteries for two months until I transferred to CSP-Lancaster.
26 During that time that I did not have hearing aids I was unable to hear and unable to
27 communicate with others.

1 17. I believe I was targeted by staff because of my disability. I believe that
2 because I was in a wheelchair, I was singled out as an easy target by staff. I do not think
3 staff would have done that to me if I was not a wheelchair user. That's why I gave my
4 wheelchair back to staff about a month ago – I do not want to be identified as vulnerable
5 and in a wheelchair. My back hurts every day, and I still have the same medical problems
6 that are helped by a wheelchair, but I do not want to deal with being in a wheelchair and
7 being assaulted.

8 18. I have been in CDCR prisons for about 24 years of my life. I've been
9 housed in a number of different CDCR prisons, including multiple other high security
10 prisons. I believe the staff misconduct at RJD is worse because I witnessed staff talk to me
11 and other incarcerated people with total disrespect – especially transgender people and
12 people with mental health issues and disabilities. I believe this is causing conflict because
13 staff behavior is instigating incarcerated people at RJD.

14 I declare under penalty of perjury under the laws of the United States of America
15 that the foregoing is true and correct, and that this declaration is executed at

16 Folsom, California this 29 day of January, 2020.

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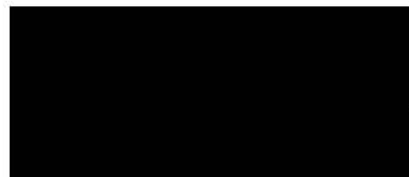


Exhibit 47a

Filed Under Seal

Exhibit 47b



**ROSEN BIEN
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Penny Godbold
Email: pgodbold@rbgg.com

May 24, 2019

VIA ELECTRONIC MAIL ONLY

**PRIVILEGED AND
CONFIDENTIAL**
**SUBJECT TO
PROTECTIVE ORDERS**

Russa Boyd
CDCR Office of Legal Affairs
P.O. Box 942883
Sacramento, CA 94283-0001
russa.boyd@cdcr.ca.gov

Re: *Coleman v. Newsom* and *Armstrong v. Newsom*
Our File Nos. 0489-03, 0581-03

Dear Russa:

I write regarding a recent staff misconduct incident at RJD involving *Armstrong* and *Coleman* class member, [REDACTED] DPO, DNH, CCCMS. [REDACTED] is no longer housed at RJD, he is at LAC, and thus agrees to come forward to speak about what occurred on that day.

On April 23, 2019, [REDACTED] reported that he was housed with a cellmate, Mr. [REDACTED] in C13 at RJD. On that day, another incarcerated person in his unit who was housed in C13-[REDACTED], was granted a lower bunk/lower tier chrono. Officer [REDACTED] who had reportedly told [REDACTED] in the past that his wheelchair created a traffic problem on first floor of the unit, told [REDACTED] that he planned to move him to C12 so that the incarcerated person with the new lower bunk/lower tier chrono could take [REDACTED] cell. [REDACTED] reportedly responded "we [him and his cellie] get along fine, I don't want to move." He then went to chow. When he got back, his property was bagged up on the tier.

[REDACTED] approached Sergeant A. [REDACTED] about the cell move and was told "I approved the move." [REDACTED] reportedly refused to move stating that he had only been at RJD for a month, had serious safety concerns, and felt comfortable with his current cellie. Next, the sergeant and eight other officers reportedly surrounded him; one pepper-

Russa Boyd
May 24, 2019
Page 2

sprayed him directly in the face. He reported that he immediately collapsed down on the ground, and was then punched in the face by Officer [REDACTED]. The officers then surrounded him, stomping on his chest and kicking him in the face and ribs after he was already on the ground. He recalled that Officer [REDACTED] kicked him multiple times after he was restrained and on the ground; he didn't recall any other individual officers during the incident.

Next, he reported, he was forced to stand up (without his wheelchair, which he had left in his cell, along with his hearing aids) and the officers placed a spit mask over his face, partially because he claims that his face was badly bleeding. He was then forcibly dragged to the gym and put in a holding cage. He stated that the gym was 200 yards away and that, while being dragged there, he repeatedly asked for his wheelchair, saying "I can't walk, I need my wheelchair", to which Sergeant [REDACTED] reportedly responded "shut the fuck up rat." Upon arriving in the gym, he was placed into a holding cage. According to incident reports, he then attempted to spit on an officer. This apparently occurred while he still had a spit mask on. He was left in the cage for 35 minutes, non-decontaminated. After that period, Sergeant [REDACTED] returned, and he told her that he was having trouble breathing and that his ribs hurt. He was taken to the TTA, where his wounds were documented and he informed staff that he had been assaulted by officers. He was then taken to Scripps-Mercy hospital, where he stayed for four days. He reported, and his health care records confirm, that he was diagnosed with three broken ribs (R 10-12). He also reports that lacerations on his lips were stitched.

Upon his return, [REDACTED] reports that he was placed into Ad Seg without any of his DME (leg braces, helmet for seizures, gloves, wheelchair cushion, or wheelchair). He states that he was in the ASU without a wheelchair for three or four days, completely immobile and unable to get around. He was taken to the TTA after falling and issued a loaner wheelchair, which he still has and which he reports is far too big for him. He states that he asked multiple officers for his wheelchair while in Ad Seg for days without it. He reportedly asked Lieutenant [REDACTED], who told him that they could not find it. He also filed an 1824 about his wheelchair the day he returned from the hospital, but never received an interview or a log number. He never received his leg braces or his gloves. Last week, on May 14, 2019, he was transferred to LAC and placed in the ASU.

[REDACTED] received a use of force interview from three sergeants at RJD, who reportedly did not ask or say much about the incident. A few days later, he was written up for battery on a peace officer, for the alleged spitting incident. He reports that this incident never occurred and it would have been an impossibility because he was wearing a spit mask at the time. He also stated that the incident report claims he walked up to staff on the tier with a balled fist, threatening them prior to the use of force. He also states that did not occur. He does not deny that he was refusing a cell move, however.

Russa Boyd
May 24, 2019
Page 3

██████████ allegation of being written up for threatening staff or battery on staff following the use of excessive force is consistent with allegations from multiple class members who report the same – that staff engage in force and then manufacture charges against the class member to cover their use of force. ██████████ reports that there were multiple witnesses to the incident, as it happened during the middle of the day.

Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. We request that the investigators determine whether the RVR issued for the incident described above was appropriate and that Defendants provide a copy of the RVR and mental health assessment, if any. We also request that the investigators determine whether the use of force discussed above complied with Defendants' policies developed in response to the *Coleman* Court's April 10, 2014 order and approved by the *Coleman* Court. See 4/10/14 Order, ECF No. 5131; Defs' 8/1/14 Policies ECF No. 5190; 8/11/14 Order Approving Policies, ECF No. 5196.

No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident that might be willing to participate in an investigation including incarcerated people, non-custody staff members or others that may have been in the unit at the time. In addition, all video footage from inside the unit and from the yard where ██████████ was reportedly dragged without his wheelchair, should be obtained and preserved immediately for review.

Plaintiffs' counsel request that staff do not engage in retaliation in response to these allegations.

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Russa Boyd
May 24, 2019
Page 4

Please report on the results of your investigation, including whether staff complied with applicable use of force and RVR policies.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/Penny Godbold

Penny Godbold
By: Of Counsel

PMG:aa

cc: Nicholas Weber
Melissa Bentz
Jerome Hessick
Dillon Hockerson
Sharon Garske
Jay Russell
Adriano Hrvatin
Elise Thorn

Tyler Heath
Toby Snyder
Ian Ellis
Coleman Special Master Team
CDCR OLA Armstrong
Ed Swanson
Roy Wesley
Office of the Inspector General
Prison Law Office

Exhibit 47c

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001



January 23, 2020

VIA EMAIL ONLY

Penny Godbold
Rosen Bien Galvan & Grunfeld LLP
pgodbold@rbgg.com

RE: *Armstrong v. Newsom* Advocacy Letter Regarding [REDACTED] DPO, DNH,
CCCMS at Richard J. Donovan Prison

Dear Ms. Godbold:

I write this letter in response to your Advocacy letter dated May 24, 2019 on behalf of Mr. [REDACTED] regarding alleged incidents occurring at Richard J. Donovan State Prison (RJD). Due to the nature of the issues raised in your May 24, 2019 letter, attorney Ursula Stuter will respond to some of your allegations and I will limit my response to the following allegations:

Upon his return, [REDACTED] reports that he was placed into Ad Seg without any of his DME (leg braces, helmet for seizures, gloves, wheelchair cushion, or wheelchair). He states that he was in the ASU without a wheelchair for three or four days, completely immobile and unable to get around. He was taken to the TTA after falling and issued a loaner wheelchair, which he still has and which he reports is far too big for him. He states that he asked multiple officers for his wheelchair while in Ad Seg for days without it. He reportedly asked Lieutenant [REDACTED] who told him that they could not find it. He also filed an 1824 about his wheelchair the day he returned from the hospital, but never received an interview or a log number. He never received his leg braces or his gloves. Last week, on May 14, 2019, he was transferred to LAC and placed in the ASU.

On July 12, 2019, an ADA Non Compliance inquiry was initiated in response to these allegations. [REDACTED] and relevant staff were interviewed as part of the inquiry. Defendants determined

CONFIDENTIAL

Penny Godbold

Page 2

that [REDACTED] was taken to Scripps-Mercy hospital on April 23, 2019, where he stayed for three days. Several staff were interviewed, including staff assigned to [REDACTED] unit and those two transported him to Scripps-Mercy. Unfortunately, none of the witnesses could recall whether [REDACTED] had his DME with him. [REDACTED] returned to RJD on April 25, 2019. The Facility C Program Sergeant interviewed [REDACTED] and reviewed DECS and SOMS for his required DME before [REDACTED] returned to ASU. The Sergeant noted that [REDACTED] did not have his wheelchair, staff searched for [REDACTED] wheelchair, but could not locate it. The Sergeant attempted to obtain a replacement wheelchair from the Medical Department but was unable to obtain one before [REDACTED] moved to ASU. When [REDACTED] was interviewed as part of the non-compliance inquiry on June 21, 2019, he stated that he received all of his DME except his wheelchair right away while he was in the ASU. However, he reported that it took a day or two for him to receive a wheelchair. Therefore, the allegation that [REDACTED] did not have a wheelchair for at least two days is confirmed.

If you have any questions, please contact me at [REDACTED]

Sincerely,

/s/ Alexander B. Powell

ALEXANDER B. POWELL
Attorney
Office of Legal Affairs

cc: Ed Swanson, Court Expert
Plaintiffs' Counsel
Defendants' Counsel

CONFIDENTIAL

Exhibit 47d

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001



February 3, 2020

VIA EMAIL ONLY

Penny Godbold
Rosen, Bien, Galvan & Grunfeld
Pgodbold@rbgg.com

RE: *COLEMAN V. NEWSOM and ARMSTRONG v. NEWSOM*: ADVOCACY LETTER
RE: [REDACTED]

Dear Ms. Godbold:

I write in response to your May 24, 2019 letter regarding *Armstrong* and *Coleman* class member [REDACTED] [REDACTED] [REDACTED] reported that he refused a cell move while housed at Richard J. Donovan Correctional Facility (RJD) on April 23, 2019 and this resulted in a use of force that [REDACTED] characterizes as excessive. During his refusal to move, [REDACTED] alleges he was approached by nine officers who surrounded him and sprayed him with Oleoresin Capsicum (OC) spray directly in the face. [REDACTED] reports he was kicked multiple times after he was restrained and lying on the ground.

[REDACTED] then reports to you that he was forced to stand up and denied the use of his wheelchair, which he had left in his cell, while being escorted to a holding cell. A spit mask was placed over his face during this interaction. [REDACTED] reports he was then placed into a holding cell at the gym where he was left for 35 minutes without being decontaminated from the OC spray. Upon reporting that his ribs hurt, [REDACTED] was taken for medical treatment and was further sent to an outside medical facility.

[REDACTED] reported that he was denied the use of his Durable Medical Equipment (DME) upon return to RJD from the outside medical facility. He also states he later received a Rules Violation Report, which you state in your letter contains "manufacture[d] charges against the class member to cover [staff] use of force."

CONFIDENTIAL: FOR ATTORNEYS' EYES ONLY
SUBJECT TO PROTECTIVE ORDERS

Ms. Godbold

Page 2

Prior to the receipt of your letter, an inquiry into the use of force on April 23, 2019, was completed¹. ██████ reported to the Hiring Authority (HA) on April 26, 2019, during an assessment that he had been subjected to excessive force. The HA took immediate steps to inquire into and review these allegations. Interviews were conducted with multiple inmates who were identified as being in the area at the time of the alleged incident. ██████ cellmate did report OC spray being deployed and that force was used to restrain and subdue ██████ who continued yelling during the interaction with staff. Three other inmates who were interviewed and who had been housed in the area did not corroborate the allegations of misconduct in their interviews. One of the inmates interviewed stated ██████ “got all crazy” and that he was threatening the officer who told him he needed to move cells. The same inmate independently corroborated that ██████ continued advancing in spite of the OC spray and that he appeared likely to swing at the officers. CDCR 837-C Crime/Incident Reports, medical reports, and a video recording of the time ██████ was in a holding cage in Facility C Gymnasium were reviewed.

The Institutional Executive Review Committee (IERC) at RJD reviewed incident documentation and referred the matter for Administrative Review on May 17, 2019. The referral was based on inconsistent medical reports of injuries to ██████

A review of the subsequent administrative review provided by the HA confirm that OC spray was deployed during the course of events and is corroborated as hitting ██████ in the face. However, multiple reports describe the OC spray as being deployed for a short burst from a distance of approximately four feet away from the subject. Per the reports, the OC spray was not effective in delaying or deterring ██████ from advancing towards the officers during the incident.

There was also a report that corroborated the use of non-conventional force where ██████ was struck in the face by a fist. ██████ reportedly continued to twist, yell, and spit profusely during his interaction with custody staff. At some point during this interaction, an officer of above average height and weight placed a knee on ██████ back to restrain him on the ground during his continued resistance. The reviewer states that, considering all the factors involved, the officer’s use of force was reasonable and that a subsequent injury in the torso area was likely. Rib fractures were reported in the medical reports as “Minimally Displaced Fractures” and medical staff noted these injuries are relatively minor in nature and not considered to be Serious Bodily Injury (SBI).

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department’s Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

Ms. Godbold

Page 3

██████████ was escorted to the Facility C gymnasium holding cell by two officers who held him by either arm. Further inquiry has been done regarding ██████████ wheelchair and DME and a written response was provided to you through the *Armstrong* established processes.

██████████ placement into a holding cell was observed by multiple staff. It is noted that ██████████ continued to actively resist, to yell profanities and threats, and to twist his upper torso in such a way as to provide maximum resistance. When being placed into the holding cell, ██████████ kicked the holding cell door where it reportedly hit an officer. He also proceeded to spit blood and saliva onto that same officer who required and received medical attention. This interaction was documented in a Rules Violation Report (RVR) for Battery on an Officer. The RVR was reviewed and was found to comply with policy.

██████████ allegations that nine officers surrounded him during the initial confrontation does not match the report of four officers using force and one officer deploying OC spray. All five of the responding officers required medical attention due to injuries sustained during the incident. ██████████ per your letter, stated that he did actively protest and refuse to move cells. During the course of this extended incident, non-custody staff observed ██████████ yelling threats and resisting staff.

It is also noted by the HA that ██████████ provided a urine sample while under treatment after the incident and his urine tests were positive for Opiates, Methamphetamine, and Oxycodone. ██████████ did not have a prescription for any of these substances at the time of the test.

After a review of the available records and testimony, the staff misconduct allegations made by ██████████ were not supported by the evidence. CDCR considers the staff misconduct allegation inquiry closed.

Sincerely,

/s/ Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

Exhibit 47e

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Memorandum

Date : May, 2019

To : Patrick Covello
Warden (A)
Richard J. Donovan

Subject: REQUEST FOR ADMINISTRATIVE REVIEW

2.	DATE OF EVENT	DATE OF DISCOVERY	EVENT LOCATION
	April 23, 2019	May 16, 2019	Facility C Housing Unit 13

3.	CIRCUMSTANCES
<p>During the Institutional Executive Review Committee's review of Incident Log# RJD-C13- [REDACTED] it was discovered that the injuries that [REDACTED] claims he sustained due to the Use of Force utilized in the incident are not consistent with the officers 837C's, the force reported and the CDCR 7219 submitted with the Incident Package.</p> <p>The CDCR 7219 done at 1907 hours, 26 minutes following the incident note an abrasion/scratch to the right upper back area, pain and bruise/discolored area to the lower left back area and OC exposure to the facial area. The CDCR 7219 done three days later on April 26, 2019, at 1430 hours due to Inmate [REDACTED] Allegation of unnecessary/excessive Use of Force note abrasion/scratch and bruised/discolored area to the forehead, bruised/discolored area to the back of head, scratch/abrasion to the lip area, bruised/discolored to the left ear area, bruised/discolored area and pain to the left side area. An additional CDCR 7219 was done on April 26, 2019, noting bruise/discolored area to both shins.</p>	

4.	CONCLUSION
<p>Upon review of the video-recorded interview due to allegations of excessive/unnecessary force, it was noticed that the inmate sustained injuries which do not appear to be consistent with the amount of force reported.</p> <p>Based on all the above, I am recommending an Administrative Review due to possible staff inefficiency and inexcusable neglect of duty.</p>	

5.	POLICY VIOLATIONS
(INCLUDE ANY APPLICABLE GOVERNMENT CODES, CCR SECTIONS, IF KNOWN)	
DOM 51020.17 Use of Force Reporting Requirements	

6.	ATTACHMENT(S)
(ATTACH POST ORDERS, POST ORDER ACKNOWLEDGEMENT FORM, TRAINING RECORD, AND ANY SUPPORTING DOCUMENTS)	
CDCR 837 Crime/Incident Report; CDCR 3013/3014 Allegation Review; video-recorded interview (DVD).	

REQUEST FOR ADMINISTRATIVE REVIEW
PAGE 2 OF 2

7.	SIGNATURE OF MANAGER COMPLETING REQUEST		TITLE	DATE
	PRINTED NAME:	SIGNATURE:		
<input type="checkbox"/> THIS BOX WILL BE CHECKED IF BOX 7 IS BEING BYPASSED DUE TO THE DIVISION HEAD BEING THE SUBMITTING MANAGER.				

8.	DIVISION HEAD REVIEW			
DIVISION HEAD SIGNATURE			DATE	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED
PRINTED NAME:			SIGNATURE:	
PRINTED NAME:			SIGNATURE:	

9.	CHIEF DEPUTY WARDEN REVIEW			
CHIEF DEPUTY WARDEN SIGNATURE			DATE	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED
PRINTED NAME:			SIGNATURE:	
J. Stewart				
PRINTED NAME:			SIGNATURE:	

10.	HIRING AUTHORITIES REVIEW			
REFER TO DIVISION HEAD		CHECK ONE:		
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> AW BUSINESS SERVICES <input type="checkbox"/> AW . ADA <input type="checkbox"/> AW . HCA <input type="checkbox"/> AW CENTRAL SERVICES <input type="checkbox"/> AW GP HOUSING <input type="checkbox"/> AW SPECIALIZED HOUSING		
ORDERED CORRECTIVE ACTION		CHECK ONE:		
		<input type="checkbox"/> ON THE JOB TRAINING <input type="checkbox"/> IN-SERVICE TRAINING <input type="checkbox"/> LETTER OF INSTRUCTION <input type="checkbox"/> EMPLOYEE COUNSELING CHRONO <input type="checkbox"/> NO FURTHER ACTION		
COMMENTS:				
REFER TO INVESTIGATIVE SERVICES UNIT		CHECK ONE:		
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> 989 ADVERSE ACTION <input type="checkbox"/> ADMINISTRATIVE INQUIRY		
COMMENTS:				
HIRING AUTHORITY'S APPROVAL				
HIRING AUTHORITY'S SIGNATURE			DATE	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED
(OR DESIGNEE)				
PRINTED NAME:			SIGNATURE:	
P. Covello, Warden (A)				

State of California

Department of Corrections and Rehabilitation

Memorandum

Date : May 17, 2019

To : P.Covello
Warden (A)
Richard J. Donovan Correctional Facility

Subject: **ADMINISTRATIVE REVIEW**

On Thursday, April 16, 2019, Warden Covello stopped the review of Incident Log Number RJD-C13- [REDACTED] at the Institutional Executive Review Committee. The incident is being referred for Administrative Review.

Should you have any questions or concerns please feel free to contact me at 619-661-6500 extension 7850.

STEPHANIE HARDEN
Use of Force Coordinator
Richard J. Donovan Correctional Facility

PATRICK COVELLO
Warden
Richard J. Donovan Correctional Facility

Inmate Interview for Allegation Worksheet

Per DOM 51020.17.3, a Custody Supervisor shall conduct a video recorded interview with the inmate when either of the following conditions exists:

- 1) The inmate has sustained Great Bodily Injury or Serious Bodily Injury that could have been caused by a staff use of force.
- 2) The inmate has made an allegation of unnecessary or excessive use of force.

The interview shall be conducted no later than 48 hours from discovery of the injury or allegation.

INTERVIEW FORMAT FOR ALLEGATION OF UNNECESSARY OR EXCESSIVE FORCE:

The interview and video recording shall be conducted by a Custody Supervisor who did not use or observe the force used and was not involved in the incident. If the incident is a DA referral, you should provide/remind the inmate of a Miranda Admonishment prior to the interview. The location of the interview shall be conducted in a location free of outside influence, noise and distractions. The Custody Supervisor shall not interfere with the inmate's ability to be interviewed. It is the responsibility of the Custody Supervisor to prepare and submit a report (CDCR 3014) to the Manager. This report shall address all reports reviewed and information gathered in relationship to the interview subject. Further, it is the responsibility of the Custody Supervisor to summarize the interview statements and the results of the fact-finding. The CDCR 3014 shall include a conclusion and make a recommendation to the Manager as to further actions to be taken.

Prior to commencing the interview, the Custody Supervisor shall ensure that a CDCR 7219 has been completed. During the interview, the Custody Supervisor shall ensure all injury(s) are captured on the video recording. The view should be close enough to accurately account for the injuries noted on the CDCR 7219. If there are injuries in view that are not noted on the CDCR 7219, cease the video recording and have the inmate evaluated by medical again and obtain an updated CDCR 7219. Restart the videotaped interview with the new CDCR 7219 and review all the injuries.

At the onset of the recording, the Custody Supervisor will:

(Complete the items below)	
1. Introduce themselves and the camera operator.	Camera Operator: [REDACTED]
2. Give the date and time the interview commenced:	Date: 4/26/2019 Time: 1503/1514
3. Indicate to the inmate the reason for the video recorded interview:	Reason: ALLEGATIONS OF UNNECESSARY AND/OR EXCESSIVE USE OF FORCE
4. Ask inmate to give their full name and CDCR number:	Name: [REDACTED] CDCR#: [REDACTED]

The following questions will then be asked:

(Complete the items below)	
1. On this date: 4/23/2019 at approximately 1841 hours:	You were involved in an incident which occurred at the following location: HOUSING UNIT #13 DAYROOM
2. This incident has been assigned CDCR Incident Log number: RJD-C13-[REDACTED]	Battery on a Peace Officer Resulting in Use of Force
3. According to the documentation provided on the CDCR 7219, you sustained an injury that lead to this interview. Please describe the injury: :Um, I received um three (3) broken ribs...um laceration to my side, my head um...um to my forehead, to my lip. I received a stitch to my lip. Inside my lip it went all the way through, um behind my ears, behind my ears, both ears...and uh um I receive a bunch of kicks to my leg. AT THIS POINT, THE INTERVIEW WAS STOPPED AT APPROXIMATELY 1506 HOURS AS THE INJURIES ON HIS LEFT LEG WERE NOT NOTED ON THE 7219 CONDUCTED PRIOR TO THE VIDEO INTERVIEW. THE INTERVIEW WAS RESTARTED AT APPROXIMATELY 1514 HOURS WITH THE UPDATED 7219.	
An injury to my fore head, uh to my lip, inner and outer, uh I got a stich on my lip, um I got bruises on the back of my head behind my ear, that's the right ear, or the left ear, and that's the right ear, I got uh bruises on my right side where I was kicked. Uh I also have three (3) broken ribs on my left side and I was kicked repeatedly on my left leg.	

Custody Supervisor's Name (Printed Name and Signature)	Title	Date
[REDACTED]	[REDACTED]	04/26/2019

4. Do you have any other injuries? No.
5. In your own words, explain what happened and how you received your injuries. You need to be as *specific* as possible:
 Um I I was I came out uh right before um right before yard recall I came out to speak to an individual about a bag of chips when the officer that was in the dayroom uh tall black officer I can't remember his name cause my my heads zinging but it was a regular regular officer on the floor asked me what the fuck I was doing off of my cell door uh I told him that I was just trying to talk to this dude, an inmate that was located in I believe in uh [REDACTED] and uh next thing I know it uh, um my cellies called out of the cell and um he's telling the officers tellin my celly to find a different celly that they were going to be moving me because they needed accommodation, a space accommodation for other people I told em that I wasn't moving. When I came back from chow, or as I as I was coming back from chow, I spoke to the sergeant that was on the on the on the uh yard that day. I believe her name was [REDACTED] I'm pretty sure her name was [REDACTED] Little short lady. Um I told her her that that that uh I didn't want to move and I was doing just fine where I was she said she approved the move I said I wasn't moving. Um when I came back inside the building all my property was sitting on the floor inside of bags in uh front of my cell. Um I they wouldn't let me back I my cell so I just stood there and about 5 minutes later all the c/o's on the yard that were speaking to the sergeant surrounded me and they kept telling me they were going to fuck me up if uh I dint comply with their orders. I told them that I didn't have no weapons on me that I wasn't trying to get fucked up or nothing it's just I didn't want to move to 12 block because I felt I had uh uh enemies that I didn't get along with there. Um and the next thing I know it um uh the regular officer um big officer his name it starts with [REDACTED] I don't k now how to pronounce his name it's the Samoan guy. He's the regular in the building um you know he's he told me in the in the in a way that you know well if you got a problem with a mother fucker handle it. If not you need to pack your shit and lets go. And I told him that I wasn't moving and then I was sprayed in the face and the big officer punched me in my mouth and I went to the ground. I got knocked out and when I woke up I was being stomped repeatedly um I kept screaming quit beating on me uh quit beating on me and uh that's all I remember. Um they picked me up they they stopped for a second uh when the sergeant came in they stopped beating on me kicking on me punching me and um I had blood all over all over my face and everything and um um they put a spit mask on me and lead me to the gym and while I was in the gym they didn't decontaminate me and I have COPD so I was I was pleading for them to decontaminate me. They didn't decontaminate me. Um and finally when the Sergeant came in about a half hour later they decontaminated me and um I told them I was having chest pains and I couldn't breathe and so they called the um medical staff in and after medical staff talked to me for a minute, I lost consciousness for a second I believe or I did lose consciousness cause I don't remember too much after that and I remember waking up in the hospital uh I was told that I uh had suffered three (3) broken ribs on the left side and um multiple contusions and stuff and that and that was it. They asked me how it happened and I told them staff beat on me. And that was it. That's at no time did I assault any staff.
6. Can you identify staff witnesses?
 What do you mean staff witnesses? All the staff that were there were witnesses. I can't identify anyone. I was knocked out. The only staff that I know that were there at the time that I know that I can identify uh that that hit me was the officers that the regular officers that were on the floor. Big tall black officer and uh uh kind of short big Samoan officer started with the name of [REDACTED]
7. Can you identify inmate witnesses?
 Yes I can. My celly. Inmate [REDACTED] Um I'm sure just about everybody who were there saw what happened.
8. Have you filed an appeal on this issue? (Ask only if time has passed to allow the inmate to do so): No I just came back from the hospital last night. I don't have nothing to write with. Nothing..

[REDACTED] (Printed Name and Signature)	Title	Date
[REDACTED]	SGT.	04/26/2019

Report of Findings – Inmate Interview

INCIDENT SITE/LOCATION Facility C-Housing Unit #13 Dayroom		INCIDENT / APPEAL / FF LOG # INCIDENT LOG #RJD- /APPEAL LOG: N/A	
DESCRIPTION OF THE INCIDENT Battery on a Peace Officer Resulting in Use of Force		INCIDENT DATE 4/23/2019	
NAME AND TITLE OF INTERVIEWER Correctional Sergeant		NAME AND TITLE OF CAMERA OPERATOR Correctional Sergeant	
INMATE NAME AND CDCR#	DATE OF INTERVIEW 4/26/2019	NAME AND TITLE OF TRANSLATOR (IF UTILIZED) STAFF ASSISTANT: Correctional Sergeant	

The Report of Findings shall be conducted by custodial supervisors (sergeants or lieutenants) who did not use, or observe the force used, in the incident.

INMATE INTERVIEW		Yes	No	N/A
1. Did the inmate refuse to participate in the interview? If so, please provide the name and title of staff who asked the inmate to participate. Name: Title: Sergeant		<input type="radio"/>	<input checked="" type="radio"/>	
2. What is the reason for the interview? <input type="checkbox"/> Serious Bodily Injury <input type="checkbox"/> Great Bodily Injury <input checked="" type="checkbox"/> Allegation				
a. If there was an allegation, describe the allegation: Description: made allegations of excessive and/or unnecessary use of force regarding Incident Log #RJD-C13- during a Mental Health Assessment with J. Graupmann, Licensed Clinical Social Worker (LCSW).				
3. Summarize the statements made by the inmate during the interview: Summary: alleges he was sprayed and physically beaten by multiple correctional officers because he refused to move to a different cell.				

INMATE WITNESSES INTERVIEWED		Yes	No	N/A
1. Did the inmate being interviewed request inmate witnesses. If yes, fill in the information below: Inmate Name: Date Interviewed: 4/30/2019 Inmate Name: Date Interviewed: 5/2/2019 Inmate Name: Date Interviewed: 5/2/2019 Inmate Name: Date Interviewed: 5/2/2019		<input checked="" type="radio"/>	<input type="radio"/>	
2. Did any inmates refuse to participate in the interview? If so, please provide the name and title of staff who asked the inmate to participate: Staff Name: Title: Inmate Refused: Staff Name: Title: Inmate Refused: Staff Name: Title: Inmate Refused: Staff Name: Title: Inmate Refused:		<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Report of Findings – Inmate Interview

3. Summarize the statements made by the witnesses during the interview:

Summary: [REDACTED] identified one (1) witness during the video interview. The additional witnesses were not specifically identified by [REDACTED]

I informed Inmate [REDACTED] that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019 and he was named as a witness to excessive and/or unnecessary use of force. I asked Inmate [REDACTED] the following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.

Q1.) Do you recognize this inmate? (Inmate [REDACTED] was shown photo of Inmate [REDACTED])

A1.) Yes. My old cellmate, Inmate [REDACTED]

Q2.) Inmate [REDACTED] identified you as a witness to excessive and/or unnecessary use of force. Did you observe the incident?

A2.) Yes, I saw it go down.

Q3.) Where were you located when the incident took place?

A3.) I was in my cell.

Q4.) What did you observe?

A4.) [REDACTED] and Officer [REDACTED] got into it cause [REDACTED] didn't want to move out the building and him and Officer [REDACTED] packed his property and left it out the cell. They was yelling at each other when a bunch of staff came in and surrounded [REDACTED] Next thing I know, one of the officers sprayed him then they all jumped on him behind the podium, near where the middle area is by the dayroom toilet. He was yelling for them to stop, but they kept kicking and punching on him, sticks (batons) and everything. The Sergeant got there, but they had stopped already. Then they handcuffed him and escorted him out. That's all I saw.

Q5.) Can you identify staff that was present during the incident?

A5.) Only staff I remember for sure was [REDACTED] and [REDACTED] There was about 4 or 5 more that showed up though.

Q6.) Do you have anything to add?

A6.) That's all I saw.

With no further questions, I concluded the interview.

I informed Inmate [REDACTED] that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019. I asked Inmate [REDACTED] the following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.

Q1.) Do you recognize this inmate? (Inmate [REDACTED] was shown photo of Inmate [REDACTED])

A1.) Ya, he's a fucking piece of shit. Fuck him. I ain't speaking on his behalf for anything. He got what he deserved.

Q2.) Did you observe the incident he was involved in on April 23, 2019 at approximately 1841 hours during 3/w?

A2.) No, I was in my cell. I didn't see nothing.

With no further questions, I concluded the interview.

I informed Inmate [REDACTED] that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019. I asked Inmate [REDACTED] the following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.

Q1.) Do you recognize this inmate? (Inmate [REDACTED] was shown photo of Inmate [REDACTED])

A1.) Ya, that's [REDACTED] No one likes him.

Q2.) Did you observe the incident he was involved in with staff on April 23, 2019 at approximately 1841 hours during 3/w?

Report of Findings – Inmate Interview

A2.) I was in the cell with [REDACTED] I didn't see shit.

[REDACTED]
I informed Inmate [REDACTED] that I had some questions regarding the incident that took place in Housing Unit #13 on April 23, 2019. I asked Inmate [REDACTED] the following questions regarding his knowledge of the events that took place on April 23, 2019 at approximately 1841 hours.

Q1.) Do you recognize this inmate? (Inmate [REDACTED] was shown photo of Inmate [REDACTED])

A1.) Ya, [REDACTED] He's a real piece of shit. He went after them officers last week. He's a disrespectful asshole.

Q2.) Did you observe the incident he was involved in with staff on April 23, 2019 at approximately 1841 hours during 3/w?

A2.) I saw the whole thing. The officers were trying to get him to move and he rushed them. Yelling he was gonna assault staff and shit.

Q3.) Where were you located when the incident took place?

A3.) I was in the dayroom sitting on the benches.

Q4.) What did you observe?

A4.) The floor officers, I think [REDACTED] and [REDACTED] Officer [REDACTED] was there too. They told [REDACTED] he needed to move cells. [REDACTED] got all crazy and started yelling, talking shit to [REDACTED] [REDACTED] started threatening them then I just saw [REDACTED] take off towards the officers like he was going to swing on them. All of a sudden, I saw [REDACTED] spray him. [REDACTED] kept going at them then I saw the officers tackle [REDACTED] it looked like they was on the ground wrestling around for a minute until they cuffed him. I saw the Sergeant come in and then [REDACTED] got escorted out.

Q5.) Did you observe any staff members utilize their batons?

A5.) No.

Q6.) Can you identify staff that was present during the incident?

A6.) Toeie, [REDACTED] and [REDACTED] Sergeant [REDACTED] got there afterwards. Those are the only I remember.

Q7.) Did you observe any staff utilize unnecessary and/or excessive force?

A7.) Hell no, dude had that coming. He took off on staff.

Q8.) Do you have anything to add?

A8.) No.

With no further questions, I concluded the interview.

Report of Findings – Inmate Interview

REVIEW OF EVIDENCE AND CONCLUSION		Yes	No	N/A
1.	Was the injury consistent with the reported force? If no, explain in the Conclusion below.	<input checked="" type="radio"/>	<input type="radio"/>	
2.	Check the following items that were reviewed and considered: <input checked="" type="checkbox"/> Incident Video Recording <input checked="" type="checkbox"/> Staff Reports <input type="checkbox"/> Photograph(s) <input type="checkbox"/> Use of Force Videotape <input checked="" type="checkbox"/> CDCR 7219 <input type="checkbox"/> CDCR 602 <input checked="" type="checkbox"/> Other (Describe Below)			
3.	<p>Summarize the source of injury, other items reviewed and considered and any other circumstances regarding the allegation.</p> <p>Conclusion: According to the Medical Report of Injury/Unusual Occurrence (7219) conducted on [REDACTED] subsequent to the incident on April 23, 2019 at approximately 1907 hours, Medical Staff noted the following injuries: Abrasion/Scratch to right side of upper back; Bruise/Discolored area, Pain to left rib area; OC Exposure to eyes. Inmate [REDACTED] made the following statement: "...I don't want to move to building 12. I have enemies there. I got sprayed, I cannot breathe. I have COPD! I got kicked..."</p> <p>According to the 7219 conducted on Inmate [REDACTED] prior to the Video Allegation Interview on April 26, 2019 at approximately 1430 hours, Medical Staff noted the following injuries to Inmate [REDACTED]: Abrasion/Scratch to top of forehead; Bruise/Discolored area to forehead, and behind both ears; Abrasion/Scratch to left cheek; Bruise/Discolored area, Pain to left rib area. [REDACTED] made the following statement: "...Staff attacked me..."</p> <p>An additional 7219 was conducted on Inmate [REDACTED] due to visible injuries to his left leg not being noted on the 7219 conducted prior to the video interview. An additional 7219 was conducted on Inmate [REDACTED]. According to the 7219 conducted on Inmate [REDACTED] between Video Allegation Interviews on April 26, 2019, Medical Staff added the following injury notations: Bruise/Discolored area to left shin. It should be noted that although Bruise/Discolored areas are noted behind both ears of [REDACTED] on the 7219, there did not appear to be any visual injuries according to a review of the video recorded interview.</p> <p>[REDACTED] was transported to an outside hospital for a higher level of care subsequent to the incident. According to the medical report provided by J. McCann, Registered Nurse (RN), [REDACTED] sustained Minimal Displaced Fractures to left ribs 11, 12, and 13. RN McCann noted these injuries are relatively minor in nature, which is not considered Serious Bodily Injury (SBI). Additionally, Dr. G. Messler noted the lip injury sustained by [REDACTED] was an old injury, which had already completely healed. There was no record of sutures or [REDACTED] suffering a puncture to his lip, as he alleged during the video interview.</p> <p>According to a review of Video Surveillance in the Facility C Gymnasium on April 23, 2019 at approximately 1841 hours [REDACTED] is escorted into the Gymnasium and placed in a holding cell by Officers A. [REDACTED] and Z. [REDACTED]. Once placed in the holding cell and as one of the officers attempts to secure the door, Inmate [REDACTED] makes a sudden movement towards the holding cell door. The holding cell door suddenly burst open, striking one of the officers in the video. Officer Z. [REDACTED] reported in his 837-C: Crime Incident Report, that he was struck by the holding cell door due to Inmate [REDACTED] kicking the holding cell door as he attempted to secure it. As the officers were attempting to secure the holding cell door, Inmate [REDACTED] leans towards the holding cell door. The officers standing at the door of the holding cell make step back and continued to do so until the holding cell door was secure. Officer A. [REDACTED] reported in his 837-C: Crime/Incident Report, that Inmate [REDACTED] spit blood and saliva on the right side of his face. Office Technician (OT) Charlotte Owens, who was facilitating a Life Care and Hospice Program in the gym at the time Inmate [REDACTED] was escorted to the holding cell. According to her 837-C: Crime/Incident Report, OT Owens heard [REDACTED] make a sound like he was getting ready to spit, but was unable to see if the inmate spit at the officer. OT Owens did observe an Officer maneuver to move away from the holding cell while the inmate was yelling, "I got you!" and continued to kick at the holding cell and yell the entire time.</p> <p>A review of Officer F. [REDACTED] 837-C: Crime/Incident Report confirms Officer [REDACTED] simultaneously deploy one (1) continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approximately four (4) feet away from Inmate [REDACTED] lunged toward [REDACTED] and his position. The Inmate was struck in the facial area which rendered negative results as Inmate [REDACTED] continued to yell, and approach the Officers with his fists raised. Due the Officer receiving some backslash from the (OC), and the Inmates continued advancement towards staff the Officer could not determine if chemical agents were effective. Once the Officer regained his visibility he observed Officers [REDACTED] struggling with Inmate [REDACTED] on the ground, as the Inmate was twisting his body and pushing his body off the ground. Staff continued to give verbal commands to the Inmate to stop resisting with negative results. The Officer then observed Officer [REDACTED] and [REDACTED] use their hands to move Inmate [REDACTED] arms behind his back, as [REDACTED] continued to resist staff by attempting to pull his arms from them. Officer [REDACTED] then placed Inmate [REDACTED] in handcuffs, however while the Officer was attempting to place the Inmate in handcuffs, the Inmate was moving erratically on the ground, that is when the Officer felt a sharp pain to his left pinkie finger. Due to the Officers sole</p>			

Report of Findings – Inmate Interview

attention remaining on Inmate [REDACTED] he could not determine how Officers [REDACTED] and [REDACTED] placed [REDACTED] hands behind his back. Responding Staff then arrived in the unit and took custody of [REDACTED].

A review of Officer F. [REDACTED] 837-C: Crime/Incident Report confirms Officer F. [REDACTED] (Facility C H/U #13 FLR #1), entered Housing Unit #13 after the evening meal and observed Inmate [REDACTED] standing by a wheelchair attempting to dislodge the handles at the back of the wheelchair. As Officer [REDACTED] approached Officer [REDACTED] the Officer heard Inmate [REDACTED] yell, "What the fuck are you going to do about it?" Officer [REDACTED] further observed that Inmate [REDACTED] had his hands tightly clenched, while Officer [REDACTED] was speaking with the Inmate. The Inmate repeatedly refused all orders to return to his cell and yelled, "Fuck that! I'm not fucking moving anywhere! I'll do whatever I have to do!" The Officer then attempted to calm the Inmate down, as the Inmate turned towards the Officer and stated, "I'm going to punch you in the face! What the fuck are you gonna do about it?", and suddenly lunged at the Officer with clenched hands. The Officer then took a step back to create a safe distance from the Inmate, as he observed Officer [REDACTED] deploy one (1) continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approximately four (4) feet from [REDACTED] which rendered negative results as the Inmate continued moving towards the Officers. As the Inmate continued to move towards the Officers location, and fearing for his personal safety and the safety of the other Officers in the area utilized non-conventional force, by punching Inmate [REDACTED] with his right fist to the left side of the Inmate's face, while immediately feeling a sharp pain to his right hand.

A review of Officer L. [REDACTED] 837-G: Crime/Incident Report confirms Officer [REDACTED] gave the Inmate a direct order to get down he observed Officer [REDACTED] simultaneously deploy one (1) continuous, two (2) second burst of his State issued MK-9 (OC) Pepper Spray from approximately four (4) feet away from Inmate [REDACTED] as he moved towards the Officers position. The Inmate was struck in the facial area which rendered negative results as Inmate [REDACTED] continued to yell, and approach the Officers with his fists raised. In fear for their personal safety as a result of [REDACTED] actions and threats to physically harm staff, [REDACTED] observed Officer [REDACTED] utilize non-conventional force by swinging his right fist towards Inmate [REDACTED] face, which struck [REDACTED] on the left side of the face, as [REDACTED] simultaneously reached out with his left hand, and grasped Inmate [REDACTED] right shoulder, as he placed his right hand on Inmate [REDACTED] upper back, and utilized his forward momentum in addition to utilizing his physical strength to pull Inmate [REDACTED] down in order to force him to the ground. Officer [REDACTED] then fell to the ground with Inmate [REDACTED] as he continued to resist by jerking his body while attempting to stand up. Officer [REDACTED] then ordered Inmate [REDACTED] to stop resisting and to submit to handcuffs with negative results as the Inmate continued resisting. In order to overcome resistance, effect custody, and gain compliance with a lawful order Officer [REDACTED] then utilized physical force by placing both hands on Inmate [REDACTED] upper back, as Officer [REDACTED] placed his left knee on Inmate [REDACTED] lower back in order to maintain the Inmate on the ground, and to restrain his movements, which rendered negative results as the Inmate continued yelling and resisting while on the ground. Officer [REDACTED] again utilized physical force by utilizing both of his hands to move Inmate [REDACTED] right arm behind his back, and to hold [REDACTED] arm in place behind his back.

A review of Officers A. [REDACTED] and Z. [REDACTED] 837-C: Crime/Incident Reports confirms they proceeded to escort Inmate [REDACTED] to the Facility C Gymnasium. Officer [REDACTED] was on the Inmate's right side. As the two Officers crossed through the center gate towards the West Yard, Inmate [REDACTED] began yelling, and tensing up his body, and attempted to jerk his upper body sideways in an effort to break the Officers hold on the Inmate. The Officers then ordered the Inmate to stop resisting, and to continue walking as both Officers tightened their hold of Inmate [REDACTED] left and right forearm in an effort to overcome his resistance, and restrict his movement so that the escort could be completed. The Inmate continued yelling, "Fuck you, motherfuckers! I'm going to fuck you up, motherfuckers! All of you!" as he attempted to twist his upper body to break the Officers hold. The Inmate continued to yell obscenities at the Officers during the course of the escort, while they both maintained a tight hold of Inmate [REDACTED] left and right forearm to prevent the threat of injury to both Officers.

A review of Officer [REDACTED] 837-C: Crime/Incident Report confirms Officer [REDACTED] observed Inmate [REDACTED] arguing with Officer [REDACTED] who was attempting to monitor Inmates returning from the evening meal. As additional staff arrived in the unit she saw Inmate [REDACTED] standing by cell [REDACTED] and heard the Inmate yell at Officer [REDACTED] "I'm going to punch you in the face! What are you going to do about it?" The Inmate then clenched his fists and moved erratically towards Officer [REDACTED] and another Officer, whom she could not identify, as she was not familiar with whom he was. She then observed the unidentified Officer utilize his State-issued (OC) MK-9 Pepper Spray from approximately four (4) feet away from Inmate [REDACTED] which struck Inmate [REDACTED] in the facial area, which rendered negative results as Inmate [REDACTED] continued to approach staff with clenched fists. She then utilized the Public Address System (PA) in the control booth to order all Inmates to get down, which they all then complied. Responding staff then entered the Housing Unit and took custody of [REDACTED] and escorted him out of the building.

A review of Correctional Sergeant A. [REDACTED] 837-C: Crime/Incident Report confirms she heard a radio transmission of, "Code One, Housing Unit #13, Inmate Resisting Staff," and immediately responded to Housing Unit #13. Once arrived in the unit the Sergeant observed that Officer [REDACTED] face was visibly reddened and his vision impaired by

Report of Findings – Inmate Interview

apparent exposure to chemical agents. The Sergeant then entered the building and observed numerous Officers in the B Section dayroom providing coverage on Inmate [REDACTED] who was on the ground in handcuffs. The Sergeant observed Inmate [REDACTED] as being disruptive and disrespectful, and yelled, "Fuck all of you! I'm going to fuck you all up!" The Inmate also had a significant amount of spittle coming from his mouth as he continued yelling. As Sergeant [REDACTED] attempted to get the Inmate to calm down, [REDACTED] continued to yell and spittle continued to project from his mouth. As a precautionary measure to avoid any staff in the area from being exposed to Inmate [REDACTED] bodily fluids, she directed Officer A. [REDACTED] to place a spit hood mask on Inmate [REDACTED] as she monitored the Inmate. She then instructed Officers [REDACTED] and [REDACTED] to escort [REDACTED] to the Facility C Gymnasium to secure him in a Holding Cell. As the Sergeant observed the escort of Inmate [REDACTED] through the sally port, she saw Inmate [REDACTED] turned his face toward a female officer walking behind the escort and yell, "I'm going to fuck you up, you fucking fat cunt!" She then instructed Officer [REDACTED] to stop the escort immediately, and admonished Inmate [REDACTED] concerning his disruptive and disrespectful behavior. The Sergeant then instructed Officer Z. [REDACTED] to assist Officer [REDACTED] with escorting Inmate [REDACTED] to the Facility C Gym.

A review of Officer T. [REDACTED] 837-C: Crime/Incident Report confirms he was a witness to this incident when he overheard a radio transmission announcing a Code #1, and observed the alarm for Housing Unit #13 activated. He then ordered all inmates on the yard to get down over the Public Address System (PA). All inmates complied with Officer [REDACTED] order to get down. He then observed Officer A. [REDACTED] and an Officer he could not identify escorting Inmate [REDACTED] to the Facility C Gymnasium. The escorting Officers and the Inmate then entered the Facility C Gymnasium.

A review of the Lieutenant [REDACTED] CDCR 3010: Incident Commander's Review/Critique Use of Force Incidents confirmed staff's actions prior to, during, and following the use of force were in compliance with the Use of Force policy, procedure, and training.

It should be noted that five (5) of the correctional officers (Officers L. [REDACTED] F. [REDACTED] F. [REDACTED] A. [REDACTED] and Z. [REDACTED]) involved in the incident required additional medical treatment due to the injuries sustained during the incident. All five (5) officers were treated for their injuries and released on their own recognizance at Sharp Hospital Chula Vista. All injuries sustained by the officers were caused by Inmate [REDACTED].

ALLEGATIONS		Yes	No	N/A
1.	Check the following to indicate what items are attached with this review as it relates to the allegation: <input checked="" type="checkbox"/> Injury Video Recording <input checked="" type="checkbox"/> CDCR 7219 <input type="checkbox"/> Photograph(s) of Injury(s) <input type="checkbox"/> CDCR 602 <input checked="" type="checkbox"/> Other (Describe Below)			<input checked="" type="checkbox"/>
2.	Provide any other information not previously documented in this review regarding the allegation. <i>Comments:</i> All documents listed above were reviewed and/or submitted to provide clarity to this issue (Other: Video Surveillance April 23, 2019, Facility C Gymnasium; Incident Packet).			

RECOMMENDATIONS	
1.	Check the following to indicate the Custody Supervisor's recommended actions: <input checked="" type="checkbox"/> No Further Action Recommended <input type="checkbox"/> Further Action Recommended <i>Comments:</i>
Custody Supervisor's Name (Printed Name and Signature)	Date
This investigator reviewed all relevant information that was presented. This investigator was not able to establish any truths to Inmate [REDACTED] claims of excessive and/or unnecessary force. A review of incident log #RJD-C13- [REDACTED] confirmed custody staff utilized multiple force options to subdue an enraged Inmate [REDACTED] which included Non-Conventional, Physical, and Chemical Agents. The officers who utilized force during the incident were clear and descriptive	5/6/2019

Report of Findings - Inmate Interview

within their 837-C's, justifying the need for the force used. The injuries sustained by Inmate [REDACTED] were consistent with the reported use of force and synopsis of events during the incident. Although Inmate [REDACTED], statement was similar to the allegations Inmate [REDACTED] provided, an additional witness, Inmate [REDACTED] completely refuted the allegations, stating he observed Inmate [REDACTED] go after the officers with malicious intent and did not observe any officers utilize unnecessary and/or excessive use of force. It should be noted Inmate [REDACTED] as an extensive disciplinary history regarding his behavior towards custody staff, which include a previous charge for Battery on a Peace Officer.

Based on a review of all facts and circumstances obtained during this allegation review, I recommend no further action regarding this matter.

DATE: 05/06/2019

2.

Recommended actions:

☒ No Further Action Recommended☐ Further Action Recommended

Comments: Inmate witnesses describe Inmate [REDACTED] posing an imminent threat to staff

Manager's Name (Printed Name and Signature)

Date

5/10/19

3. Check the following to indicate the Associate Warden's recommended actions:

☒ No Further Action Recommended☐ Further Action Recommended

Comments:

Associate Warden's Name (Printed Name and Signature)

Date

F. Almonte

5/10/19

Exhibit 48

1 **DECLARATION OF** [REDACTED]

2 I, [REDACTED], declare:

3 1. I have personal knowledge of the matters set forth herein, and if called as a
4 witness, I could and would competently so testify.

5 2. My California Department of Corrections and Rehabilitation ("CDCR")
6 number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility
7 ("RJD") on Facility E in Building 23. I am 58 years old.

8 3. I have been housed at RJD from September 2018 to the present. Before then,
9 I was housed at California Medical Facility.

10 4. During my time at RJD, I was first housed in Building 1 on Facility A from
11 September 2018 to late April or early May 2019. Around that time, I was transferred to
12 Building 23 on Facility E at RJD, where I am currently housed.

13 5. I am an *Armstrong* class member. I am designated as DPW. I use a
14 wheelchair full-time, and I am unable to lift myself out of my wheelchair. I am housed in
15 a wheelchair accessible cell on the first tier. I cannot lift more than a few pounds, and I am
16 unable to work due to my disability. I experience incontinence related to my disability,
17 which I manage with diapers.

18 6. I am a *Coleman* class member. I am at the EOP level of care. I am
19 diagnosed with depression and schizophrenia, and I sometimes experience visual and
20 auditory hallucinations. To manage my mental health symptoms, I go to recreational
21 groups, a group called cognitive thinking that helps me plan out my actions better and
22 control my thoughts, and I see my mental health clinician once every two weeks. I also
23 take psychiatric medications to manage my mental health. My mental health has
24 deteriorated since I arrived at RJD.

25 7. I have a number of serious medical conditions. I have neuropathy,
26 cardiovascular disease, cardio myopathy, asthma, blood pressure issues, diabetes type II,
27 and cirrhosis of the liver, and I am classified as high risk medical. I am also on chronic
28

1 care, meaning that I need to be seen frequently by medical staff to monitor my ongoing
2 health issues.

3 8. I have witnessed staff engage in misconduct against other people at RJD on
4 numerous occasions and on different facilities of the prison.

5 9. When I was housed in Building 1 on Facility A, on or around November 5,
6 2018, I was coming back to the housing unit from my EOP group in the mental health
7 building on Facility A. I was at the door of the sally-port of my housing unit, and I was
8 waiting for the floor officers to open up the sally-port. The sally-port refers to the
9 entrance/exit sections of the housing units, which are all mechanically operated by the
10 officers assigned to the housing unit. There were about ten people from my EOP group
11 standing with me outside of the housing unit, and we were all trying to get in the building.

12 10. As we waited to be let into the building, someone who I did not know came
13 from the yard, approached the door, and started kicking it. It appeared to me at the time
14 that this person was in the middle of a mental health crisis. He was moving his mouth in
15 strange ways, he was clenching his hands and teeth, and he was screaming, "let me in!" at
16 the control tower as he kicked at the door. I had seen this person around the yard from
17 time to time, and this was the first time that I ever saw him behaving in this way. Based on
18 my observations of his behavior, as well as my own experience with mental illness, it
19 seemed to me that he was undergoing a crisis related to his mental health.

20 11. The tower officer responded, screaming down at the man, "I'll let you in
21 later." A few moments later, I observed three officers start walking in the direction of the
22 entrance of Building 1 from the yard. I did not know the names of these officers. The
23 crowd then dispersed to stay out of the way, and I became worried that something bad was
24 going to happen.

25 12. As the yard officers were within a few feet of the sally-port of Building 1,
26 the tower officer opened the door of the sally-port and activated the alarm. The officers
27 then rushed the man, and the largest officer of the group charged at him and tackled him.
28 The largest officer was very stocky and around 5' 11" tall. Both the officer, and the person

1 he was tackling, landed in the sally-port. As the largest officer sat on the man, pinning him
2 down, the two other officers entered the sally-port and piled on the man.

3 13. One of the two other officers then grabbed the man and cuffed him behind
4 his back as he lay face down on his stomach. The largest officer then stood up and took a
5 step back from the man. This officer started kicking and stomping him. I saw the largest
6 officers kick him in the face and in the ribs about six or seven times with extreme force,
7 winding back his leg on each kick. The whole time, the officer was screaming at him,
8 calling him names, and saying things like, "You're a bitch, yeah, you motherfucker." After
9 the largest officer began kicking the man in the face, the two other officers stepped back
10 from the man and backed off. I observed the looks on their faces, and it seemed to me that
11 they were shocked about what was happening. Eventually, two or three other officers from
12 the yard arrived and physically restrained the largest officer, pulling him away from the
13 man to prevent him from continuing to assault him. The whole incident lasted about forty
14 five seconds.

15 14. After the fight was broken up, the largest officer forcefully grabbed the man
16 under the arms, picked him up, and then dragged him, with the aid of another officer, to
17 the mental health building. The man was still cuffed behind his back. The largest officer
18 was holding on so tightly to the man's arms as he escorted him that it looked like he was
19 trying to hurt him even more. I did not observe what happened after the man was dragged
20 to the mental health building. The man came back to the yard about four or five days later.
21 When he returned, I observed bruises all over his face, and it looked like he had suffered
22 injuries. I do not know whether CDCR investigated this incident.

23 15. Observing this issue made me feel very scared of staff. After I witnessed
24 this incident, I expressed to my mental health clinician that I felt vulnerable after seeing
25 staff assault people with mental illness. Even though only one staff member was
26 responsible for the assault, the rest of the officers allowed him to do so without intervening
27 until it was too late. Up until the point that I was transferred to Facility E in late April or
28 early May 2019, I often saw the officers that were involved in the staff misconduct against

1 the EOP person on Facility A. All the officers – including the largest one who kicked the
2 man in the face repeatedly – were still working their posts up until the point I was
3 transferred to Facility E. Every time I came out for meals or groups, I would see the
4 largest officer working on the yard, meaning that I saw him nearly every day. I do not
5 know what happened to them after I was transferred to Facility E around late April or early
6 May 2019.

7 16. I have also witnessed staff misconduct on Facility E involving Officer
8 [REDACTED] Officer [REDACTED] is one of the housing unit floor officers in Building 23 on
9 Facility E, where I am currently housed. On a number of occasions, I have witnessed
10 Officer [REDACTED] instruct incarcerated people who work for him to assault other people who
11 are causing trouble for Officer [REDACTED] Sometime in June or July 2019, there was an
12 incident in which a person on drugs was acting out of line in Section A of the housing unit.
13 This person was running around the housing unit with his pants down, screaming,
14 slamming on people's cell doors, and kicking down trashcans. Based on his behavior, I
15 believe that this person was under the influence of drugs at the time. While this man was
16 causing trouble, I observed Officer [REDACTED] walk over to talk to a porter who works for
17 him in the housing unit. This porter is named [REDACTED], and he is known to be a member of
18 the "Hoover Crips" gang. I heard Officer [REDACTED] tell [REDACTED] that he should, "Shut him
19 [referring to the disruptive person] down, and stop him." Moments later, I saw [REDACTED] and
20 another incarcerated person walk over to the disruptive person, grab him, and drag him to
21 his cell. They entered the person's cell with him. I then witnessed [REDACTED] and the other
22 person assault the person who was on drugs, punching and kicking him until he stopped
23 screaming. Officer [REDACTED] was in the housing unit the whole time this happened, and I
24 did not see him intervene at any point.

25 17. Sometime in October or November 2019, I observed a porter named [REDACTED]
26 [REDACTED] (also known as "[REDACTED]") and another person arguing in Section B of the housing
27 unit. [REDACTED] also works as a porter in Building 23, and his supervisor is Officer [REDACTED] I
28 heard [REDACTED] tell the man to, "Clean the fucking shower." As they continued to argue, they

1 started yelling, and the other person then retreated to his cell. At the time, Officer [REDACTED]
2 was in the control booth of the housing unit. It appeared to me that the argument between
3 [REDACTED] and the other person caught Officer [REDACTED] attention because I saw Officer
4 [REDACTED] turn to Section B of the housing unit and stare at them arguing. After the other
5 person went back to his cell, I heard Officer [REDACTED] still turned towards [REDACTED], yell out to
6 [REDACTED], "fuck him up!" I then observed Officer [REDACTED] turn away to face Section A. [REDACTED]
7 then ran into the person's cell, assaulted him for around thirty seconds, and then left the
8 cell. The housing unit was full at the time, and many other people witnessed the incident.
9 At no point did Officer [REDACTED] activate his alarm or close the cell doors of the housing
10 unit. I believe that Officer [REDACTED] turned to face Section A because he wanted to allow
11 [REDACTED] to assault the person without seeing it.

12 18. Witnessing these incidents makes me believe that staff on Facility E allow
13 certain people to get away with assaulting other people, and some staff even encourage and
14 organize it when the person being assaulted is causing trouble in the eyes of staff.

15 19. I believe that Officer [REDACTED] compensates people who carry out assaults in
16 the form of extra privileges and leeway when it comes to rules violations. For example, I
17 have seen Officer [REDACTED] order an extra tray of food for both [REDACTED] and [REDACTED] when he is
18 assigned to the dining hall. I have not seen Officer [REDACTED] do that for any other people
19 who are housed in his unit.

20 20. On or around December 1, 2019, I was in the dayroom when Officer [REDACTED]
21 walked in. I observed that the dayroom smelled like cigarette smoke. Smoking cigarettes
22 is against institutional rules. After Officer [REDACTED] came into the dayroom, I observed him
23 walk into [REDACTED]'s cell and tell him, "Man, I wish I had some of that." I believe that he was
24 referring to cigarettes or tobacco. Officer [REDACTED] then advised [REDACTED], "to spray in here to
25 get the odor out," and then he left. [REDACTED] then sprayed something in his cell, and brought
26 one of the dayroom fans into his cell. I interpreted this interaction as Officer [REDACTED]
27 letting [REDACTED] off the hook for violating the rules by smoking in the housing unit. At no
28 point did Officer [REDACTED] indicate that he would discipline [REDACTED] for breaking the rules.

1 Based on my observations, I believe that Officer [REDACTED] pays his porters to assault people
2 [REDACTED] in the form of privileges and turning a blind eye to rules violations.

3 21. Officer [REDACTED] still works in my housing unit. I see him five days a week,
4 and I have to interact with him on a daily basis. I have heard from other incarcerated
5 people that he is under investigation for orchestrating or encouraging violence against
6 incarcerated people. [REDACTED], the porter that works for him, has personally told me that
7 Officer [REDACTED] is being investigated for staff misconduct, but that he doesn't worry about
8 being caught because he believes that Officer [REDACTED] will use his power to protect the
9 people who work for him. When I first arrived on Facility E, many people warned me that
10 he has been under investigation for staff misconduct. I do not understand why he has been
11 under investigation for so long and nothing has been done about him.

12 22. Sometimes, my disability is so bad that I have to ask other people to help me
13 do things, like helping make my bed or going to the toilet. I often ask for accommodations
14 for my disability – like someone to help me clean my cell, or asking for extra toilet paper
15 for my incontinence – and my housing unit officers, Officer [REDACTED] and Officer [REDACTED]
16 frequently deny me those accommodations. Because they do not give me extra toilet
17 paper, I have to use old sheets to clean up my incontinence-related accidents, which causes
18 my cell to smell over time. This has led to a lot of conflict with my dorm-mates. With my
19 housing unit officer, I cannot advocate for myself or press them when they deny me what I
20 need because I'm scared that if I cause trouble, Officer [REDACTED] will tell his porters to hurt
21 me. Because I have witnessed Officer [REDACTED] organizing assaults on people, I try not to
22 talk to Officer [REDACTED] After witnessing these incidents, I have decided to keep to myself,
23 go to my groups, and not speak out in order to avoid getting hurt.

24 23. Staff at RJD do not seem to care about the struggles of people with
25 disabilities. For example, a few months ago, I approached Officer [REDACTED] to talk to him
26 about an issue with a part on my wheelchair. Officer [REDACTED] told me, "yeah, I'll take care
27 of it." After three weeks had elapsed, my wheelchair still needed repairs. Now that I have
28

1 witnessed Officer [REDACTED] orchestrating assaults on people, I am not comfortable asking
2 him for an update on whether my wheelchair is going to be repaired.

3 24. I have not filed a 602 about any of my experiences with staff misconduct
4 because I am afraid of retaliation. When I was housed on Facility A, I had hoped that the
5 other staff members involved in the incident I witnessed would report the misconduct of
6 the largest officer. I had hoped that they would report it so I wouldn't have to put myself
7 at risk by reporting it. I felt that they might have reported it because, based on the looks on
8 their faces, it seemed to me that they disagreed with his conduct. Since the largest officer
9 did not appear to be disciplined or taken off the yard, I assume that the other officers
10 involved never reported the incident.

11 25. I cannot report the misconduct of Officer [REDACTED] because I have to live in
12 his housing unit. If I reported this incident, I believe that something would happen to me
13 because that is how things go at RJD. I want to talk to a sergeant about these issues, but
14 I'm worried that it will get back to Officer [REDACTED] and he will have me assaulted for
15 reporting his misconduct.

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1 26. I have been in CDCR prisons for about 40 years of my life on various
2 commitment offenses. I have been housed in a number of different CDCR prisons,
3 including California Medical Facility, Wasco State Prison, San Quentin, old Folsom, and
4 Pelican Bay. The staff misconduct at RJD is worse than every institution I have been at
5 except for Pelican Bay when it first opened. Staff are angrier and more aggressive on
6 Facility E than at other institutions. Staff here are very aggressive and confrontational,
7 almost like they are trying to start fights with people who are incarcerated. Staff
8 misconduct at RJD also seems to happen in public places, which is unlike the other prisons
9 in which I have been incarcerated.

10 I declare under penalty of perjury under the laws of the United States of America
11 that the foregoing is true and correct, and that this declaration is executed at

12 SAN DIEGO, California this 26 day of January, 2020.



Exhibit 49

1 **DECLARATION OF** [REDACTED]

2 I, [REDACTED], declare:

3 1. I have personal knowledge of the matters set forth herein, and if called as a
4 witness, I could and would competently so testify.

5 2. My California Department of Corrections and Rehabilitation ("CDCR")
6 number is [REDACTED]. I am currently housed at California Medical Facility ("CMF") in the
7 M1 Unit. I am 55 years old.

8 3. I was housed at RJD from mid-February 2019 to mid-June 2019. I was then
9 transferred to CMF, where I have been housed since.

10 4. During my time at RJD, I was supposed to be housed in Building 2 on
11 Facility A, but I never made it there because I was assaulted by staff at RJD on the day I
12 arrived at the prison. Instead, I was housed in the Correctional Treatment Center ("CTC")
13 as well as the administrative segregation unit in Building 6 on Facility B.

14 5. I am an *Armstrong* class member. I am designated as DPM. I use a cane and
15 walker to get around. As accommodations for my disability, I am housed on the lower tier
16 and in a lower bunk. I cannot walk up any stairs. I have trouble walking due to spinal and
17 back problems. During the time I was housed at RJD, I had the same disability-based
18 limitations and accommodations that I have now.

19 6. I am a *Coleman* class member. I am at the EOP level of care. I am
20 diagnosed with major depression, and I experience auditory and visual hallucinations on a
21 near-daily basis. To manage my mental health symptoms, I take Zoloft. I speak with a
22 mental health clinician about once every two weeks. During my time at RJD, my mental
23 health symptoms were as bad, if not worse, than they are now.

24 7. I have a number of serious medical conditions. I suffer from COPD,
25 hypertension, asthma, osteoarthritis of the spine, GERD, cirrhosis of the liver, and benign
26 prostatic hyperplasia. I take medication that helps me manage my prostate issues as well
27 as medication to regulate my blood pressure. I also experience incontinence related to my
28

1 bladder condition. I am classified as high risk medical, and I am a chronic care patient,
2 meaning that my medical conditions are closely monitored by staff.

3 8. I was a victim of staff misconduct at RJD. On February 14, 2019, I was
4 transported from High Desert State Prison to RJD. I arrived at RJD's Receiving and
5 Release ("R&R") at around 9 p.m. to 10 p.m.. I was exhausted from the very long trip,
6 which included stops at Deuel Vocational Institution ("DVI") and CSP – Corcoran
7 ("COR"). The transport from COR to RJD took about ten hours, and for the entirety of the
8 ride, we were not allowed to urinate. Due to those factors, I was feeling very anxious and
9 mentally unwell. The processing in R&R took about an hour or two. Once that was done,
10 an officer took me and another incarcerated person to the Treatment and Triage Area
11 ("TTA") for a health screening.

12 9. We were placed in a holding cell, and told to wait for medical clearance
13 before being released to our housing units. Sometime around 2:00 a.m. on February 15,
14 2019, I told TTA staff that I wanted to see a mental health clinician because I was feeling
15 depressed and anxious. In response, one of the officers told me that I would have to wait
16 until 8:00 a.m. I continued asking to see a clinician because I was really feeling badly.
17 One of the custody officers stationed in the TTA appeared to be frustrated at my requests
18 and she left the TTA. A few minutes later, she returned with Sergeants [REDACTED] [REDACTED]
19 and [REDACTED]. The sergeants took me out of the holding cell, and escorted me out of the
20 TTA. I asked them where they were taking me, and Sergeant [REDACTED] said that they were
21 escorting me to a clinician. Sergeant [REDACTED] then cuffed me, and escorted me out of the
22 building with my walker.

23 10. They escorted me out of the TTA to the central area of the prison, which is
24 referred to as the plaza, to an area near a semi-truck trailer. Because of the trailer, there
25 was limited visibility of the area from other parts of the plaza. Because of the isolated
26 setting, I became worried that the officers were going to do something bad to me. I started
27 turning around to walk back to the TTA. One of the sergeants then rushed me and threw
28 me to the ground. I fell backwards. The lower part of my back hit the ground hard.

1 Sergeant [REDACTED] or Sergeant [REDACTED] then said, "There's your fucking clinician, now kill
2 yourself." This made me very upset, and I got into an argument with the officers while I
3 lay on the ground.

4 11. While I was still on the ground, someone drove a golf cart that had a small
5 truck bed over to where I was. Sergeants [REDACTED] and [REDACTED] picked me up by
6 my clothes, carried me to the cart, and slammed my body on the bed of the cart. My neck
7 landed on a bar in the bed of the cart. The cart then drove to the front of Building 2 on
8 Facility A while two sergeants held me down in the bed of the cart.

9 12. A number of officers and sergeants then dragged me into the sally-port of
10 Building 2. The sally-port is a short hallway between the outside of the building and the
11 dayroom. In total, there were about eight officers present. Sergeant [REDACTED] and
12 [REDACTED] along with Officer [REDACTED], began jumping on me with their boots and kicking
13 me in my legs and torso. I was getting punched, kicked, stomped in all directions. At one
14 point, I heard the tower officer announce over the PA system, "Get that motherfucker!"
15 After that announcement, I feel that the officers became even more enthusiastic in their
16 assault on me. Officer [REDACTED] and Sergeant [REDACTED] then jumped on the side of my
17 body, and I heard and felt a pop in my ribs. I then told them that they broke my ribs.
18 Finally, Sergeant [REDACTED] intervened, telling them that he was about to press his alarm.

19 13. As soon as he said that, a lot of the staff left the sally-port. Only Sergeants
20 [REDACTED] and [REDACTED] along with Officer [REDACTED], stayed. After Sergeant
21 [REDACTED] activated his alarm, they dragged me by my clothing out of the housing unit. A
22 few moments later, an emergency transport vehicle ("ETV") arrived, and I was shoved into
23 the ETV. Sergeant [REDACTED] then threw my walker into the ETV, striking me in my torso
24 and chest. Finally, I was transported in the ETV to the TTA.

25 14. At the TTA, medical staff conducted an examination and documented some,
26 but not all, of my injuries on a 7219. After I showed a nurse more bruising and redness on
27 my arms and legs, she told me, "Oh, that's just because you are old." All the while, my
28

1 mental health was deteriorating as a result of this incident. I then told medical staff that I
2 needed to go to a crisis bed after what had happened.

3 15. Medical staff then transferred me to the administrative segregation unit
4 ("ASU") because they didn't have a crisis bed available. I was stripped naked and put into
5 a suicide-prevention smock ("safety smock"). When in the ASU, I finally was able to
6 speak with a clinician. I told her about the incident. I also showed her my bruises. She
7 then told me that she would report the incident to her supervisors. I stayed in the ASU
8 overnight, and was then transferred to a mental health crisis bed ("MHCB") the next
9 morning.

10 16. Once I arrived in an MHCB in the Correctional Treatment Center ("CTC"), I
11 was examined by a doctor. I showed her my injuries, and she then attempted to touch my
12 bruises. Without thinking, I pushed her arm away as a reflex because my body hurt to the
13 touch. An officer – Officer 1 – monitoring our interaction responded to this by grabbing
14 me by my throat and choking me for about 10 seconds. Then, Officer 1 and his partner –
15 Officer 2 – took me to the CTC holding cell. Once my handcuffs had been taken off by
16 Officer 1, Officer 2 got in my face and shoved his fingers into my Adam's apple.

17 17. After reporting this incident, Sergeant [REDACTED], who was the CTC sergeant at
18 the time, came to talk to me about what had happened. I told him about the first incident
19 involving Sergeants [REDACTED] [REDACTED] and [REDACTED]. He then told me that if I didn't report
20 the CTC officers for misconduct, he would help me out with filing a misconduct complaint
21 against the officers who assaulted me on Facility A. He told me that he knew those
22 sergeants well. He described them as "assholes." He then left, and when he returned, he
23 had the names of all the sergeants working that day. He even told me the names of
24 sergeants at RJD who were known to engage in misconduct. With the information he had
25 given me about the names of staff who had assaulted me, I filed a 602 staff misconduct
26 complaint a couple of days after the attack.

27 18. Around two days after my initial admission to the MHCB, Sergeant [REDACTED]
28 and a lieutenant interviewed me in a medical office in the CTC about my allegations of

1 staff misconduct. They videotaped the interview, and recorded my injuries, including
2 swelling and bruising on my arms and legs. The interview only lasted ten minutes. I feel
3 that they didn't care about investigating my allegations because the interview was so short.

4 19. Three days after being admitted to the MHCB, on February 17, 2019, I asked
5 medical staff to conduct another 7219 to properly document my injuries. This time, the
6 7219 documented bruising on both of my arms, and bruising and redness on my knee. The
7 7219 also included my statement that I had been assaulted by multiple sergeants outside of
8 the TTA building and in Building 2.

9 20. I was interviewed a second time by Sergeant [REDACTED] an ASU sergeant, a
10 Captain, and Lieutenant [REDACTED] on April 24, 2019 in Building 6. I told them what had
11 happened on February 14, 2019. I do not know why I was interviewed a second time
12 about my allegations of staff misconduct.

13 21. I received a response to my 602 on December 17, 2019. In the response,
14 RJD found that no staff members in my allegations had violated CDCR policy.

15 22. To this day, I still experience neck and back pain that make it harder for me
16 to sleep and get around. My knees were bad before this incident, but I think they were
17 made worse by the assault. My left knee – the one the sergeants jumped on – now has less
18 range of motion than it did before, and it commonly pops when I walk or bend and stoop.

19 23. I have also witnessed staff engage in misconduct against other people at RJD
20 on a number of occasions. In March or April, 2019, I witnessed ASU staff members rush
21 into the cell of someone with serious mental health issues, and drag the person out of his
22 cell a few minutes later. While they were in his cell, I heard the person screaming, and I
23 heard a lot of slamming, which I interpreted as the officers assaulting the person. I
24 observed the person return to Building 6 a couple of days later wearing a cast. I believe
25 that staff broke his arm.

26 24. For a two week period sometime in my time at RJD, I witnessed Officer
27 [REDACTED] torture another person in the ASU in Building 6 over the course of two weeks. For
28 nearly every day during this two-week period, at the start of Officer [REDACTED] shift, I

1 observed him escort the incarcerated person down from the second tier, bring him to a
2 holding cage, and then leave him there cuffed for the entire shift. I observed the person
3 urinate in his pants because he was cuffed the entire time. Often, I would see a puddle of
4 urine in the cage after the person had been returned to his cell on the next shift. I also
5 observed Officer [REDACTED] harass other people, including by locking people in the cage
6 without any apparent justification and calling people insulting names.

7 25. I have also heard about staff misconduct from incarcerated people who have
8 been victimized by staff at RJD. Ms. [REDACTED], for example, told me during
9 an EOP group about staff misconduct involving Officer [REDACTED]. She told me that she told
10 Officer [REDACTED] that she was feeling suicidal, and in response, he told her "go ahead and do
11 it." Ms. [REDACTED] also told me that she had heard from people that Officer [REDACTED] was
12 soliciting a hit on her life. She then showed me her arms, and I observed that she had
13 many stitches running up her arm. I also told Ms. [REDACTED] about what had happened to me,
14 and she conveyed that Sergeants [REDACTED] [REDACTED] and [REDACTED] had been demoted for
15 misconduct in the past, but somehow, were made sergeants again.

16 26. It is my understanding and belief that RJD has a culture of staff misconduct.
17 For example, free staff have told me that they are afraid of speaking out about custody
18 staff misconduct because custody staff have threatened them. Mr. [REDACTED], a free staff
19 member who works in the EOP, told me that he witnessed Investigative Services Unit
20 ("ISU") officers assault someone. When the ISU officers learned that Mr. [REDACTED]
21 witnessed the assault, Mr. [REDACTED] told me that they threatened his life. Mr. [REDACTED] also told
22 me that since he was threatened, he has not reported misconduct due to fear of retaliation.

23 27. In my time at RJD, there were a few times that I needed help but didn't ask
24 for it because I was afraid of what would happen to me. I was assaulted in the first place
25 by Sergeants [REDACTED] [REDACTED] and [REDACTED] because I had asked for a clinician. When I
26 was housed at RJD, I was scared to even go to TTA for medical attention because I was
27 afraid that I would run into the officers that had assaulted me. There were times that I did
28 not seek medical attention because I did not want to interact with the officers that assaulted

1 me. I would only seek medical attention if services were to be provided to me in my
2 housing unit.

3 28. In my opinion, staff target people who stand out from the general prison
4 population, including people with disabilities and people with mental health needs. I think
5 staff assault people who stand out because people with special needs cause staff to do extra
6 work. I think that causes staff to lash out at people who have a lot of needs. In my
7 opinion, people with disabilities and people with mental illnesses were assaulted much
8 more frequently than other populations of prisoners.

9 29. I have been in CDCR prisons for about 28 years of my life. I've been
10 housed in a number of different CDCR prisons, including San Quentin, CMF, Folsom
11 State Prison, CSP – Sacramento, CSP – Solano, Deuel Vocational Institute, CSP –
12 Corcoran, Pleasant Valley State Prison, RJD, CSP – Soledad, and Salinas Valley State
13 Prison. The staff misconduct at RJD is the worst I have experienced. At RJD, staff are
14 much more aggressive than at other prisons, almost like they're looking for trouble. Staff
15 at RJD also do their dirty business out in the open, rather than in private. Because of this,
16 it feels to me like staff at RJD do not fear facing any consequences for their conduct.

17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct, and that this declaration is executed at

19 2:03 PM, January, California this 24 day of January, 2020.

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Exhibit 49a

Filed Under Seal

Exhibit 50

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Salinas Valley State Prison in the Psychiatric Inpatient Housing Program ("PIP") for patients with serious mental illness in need of hospitalization.

3. I was housed at RJD for five years, from December 2013 until March 17, 2019.

4. During my time at RJD, I was housed in building C15 for most of the time. Over the five years I was there, I was transferred out of RJD for brief periods of time to receive mental health treatment in the Department of State Hospitals, but I always returned to C15. I was also housed in Ad Seg, but I'm not sure exactly how long I was there.

5. I am an *Armstrong* class member. I am designated as DPW which means I am in a wheelchair full-time and have been for about five years. I was shot in the back while imprisoned at Pelican Bay State Prison in 1992. I was semi-functional for a while but now have a collapsed spine, spinal stenosis, and I have had cancer in my backbone since 2017. I am incontinent and I am numb from the waist down on the right side of my body. I am considered "high risk medical" by CDCR and have emphysema and COPD. During the time period relevant to what I discuss below (2018 and 2019), I had the same disabilities and conditions.

6. I am also a *Coleman* class member. I am currently housed in the SVSP PIP for psychiatric hospitalization. While at RJD I was at the EOP level of care. I am diagnosed as bipolar and also have major depression which was brought on by living in prison. I also suffer from paranoid thinking. I was at the EOP level of care during the time period relevant to what I discuss below.

1 7. I was a victim of staff misconduct at RJD on May 7, 2018. That morning, an
2 ADA worker pushed me in my wheelchair to the chow hall for breakfast. He pushed me
3 through the line to get food and he picked up two meal trays – one for me and one for him.
4 This was how we always did it. He then pushed me to a table to eat but then he had to
5 continue working, pushing other wheelchair users, so he gave me his meal tray. Officers
6 [REDACTED] and [REDACTED] saw that I had two meal trays. They came over to me and Officer
7 [REDACTED] said, “What the fuck are you doing with two trays?” I told them that the ADA
8 worker gave me his tray. Officer [REDACTED] then grabbed the two food trays and threw them in
9 the trash. I didn’t have any breakfast. Bag lunches are handed out at the same time so I
10 figured, at least I still have food for lunch. The ADA worker said I could have his bag
11 lunch.

12 8. When chow was over I put the two bag lunches in my lap and my friend was
13 pushing me out of the chow hall. As I passed Officer [REDACTED] he demanded that I give him
14 the lunches. I didn’t want to give him the lunches because then I wouldn’t have any food
15 all day. So, I said no, you can’t take all of my food. Next, Officer [REDACTED] reached over and
16 forcefully grabbed the lunches from me. As he was grabbing the lunches, the open milk
17 container in one of the bags fell out and milk spilled on his boots. He started yelling,
18 “Look what you did you dirty motherfucker! You motherfucker!” He kept yelling at me
19 calling me “motherfucker.” I was so scared. There were five officers standing around him
20 staring at me. I felt totally helpless in my wheelchair.

21 9. Next, Officer [REDACTED] grabbed my left arm and the side of the wheelchair and
22 forcefully tipped the wheelchair over throwing me to the ground. I hit my head on the
23 concrete floor when I flew out of the chair. He tossed the chair with such force that it sent
24 me sliding a few feet across the floor. I felt what I thought was sweat dripping down my
25 forehead, but then I realized it was blood.

26 10. I just laid there on the floor helpless because I am paralyzed, so I couldn’t
27 stand up, and I couldn’t defend myself. Next, Officer [REDACTED] came over and he cuffed me
28

1 and sat on me. All of these officers were standing there and no one did anything to help
2 me.

3 11. I don't know how long I was laying there. Finally, Officer [REDACTED] came
4 over and said, "Get up motherfucker!" But I couldn't get up, I can't walk. He yelled at me
5 again to "Get up!" Finally, Officer [REDACTED] just yanked me up by my hair and the back of
6 my jacket collar, and put me in the wheelchair.

7 12. Officer [REDACTED] then pushed me to the gym in my wheelchair. I noticed that
8 my wheelchair had been damaged when Officer [REDACTED] threw it – the leg rest was broken
9 and the wheel was bent. The wheelchair was wobbling the whole way to the gym.

10 13. Once we arrived in the gym, I started to worry because I didn't see anyone
11 else around. I was alone with Officer [REDACTED] Next, Officer [REDACTED] grabbed my shirt
12 and pulled it over my head. I was still in my wheelchair and handcuffed. With the shirt
13 pulled over my head, I couldn't see anything. Officer [REDACTED] started punching very hard.
14 He punched me in my stomach and in my face multiple times and was yelling at me,
15 saying things like "you are lucky I'm not doing time with you, I'd beat you to death" and
16 "you are a piece of shit." He also called me a "faggot." At some point during the beating,
17 I fell out of my wheelchair.

18 14. Then, I recognized Officer [REDACTED] voice. I'm not sure where he came from
19 or when he came into the gym, because I still couldn't see anything with my shirt over my
20 head. But Officer [REDACTED] started beating me too and yelling at me in Spanish. I am sure it
21 was him because he was assigned to my housing unit, and I recognized his voice.

22 15. In that moment, I thought that Officers [REDACTED] and [REDACTED] were going to kill
23 me. I couldn't do anything to defend myself so I started yelling, "Go ahead and kill me. I
24 know you're going to kill me. Hurry up and kill me you motherfuckers!"

25 16. I am not sure how long the beating lasted for. At some point, it just stopped.
26 I don't know why. I could hear the officers panting and breathing heavily. I was surprised
27 that I was still alive.
28

1 17. Next they grabbed me off the ground and put me in a holding cage. I was
2 thrown on the floor in the cage, no wheelchair, unable to get up because of my disability.
3 Officer [REDACTED] yanked all my clothes off and said, "It would be so easy to turn you into a
4 bitch." I just laid there in pain and bleeding for hours. My face was cut and bleeding and
5 my chest, ribs and stomach were sore. I had pain, bruising, swelling and cuts on my face.
6 My ribs and torso were swollen, bruised and sore. I still experience pain that I believe is
7 directly related to this incident.

8 18. After about three and a half hours the medical staff finally came to see me.
9 The nurse asked me what happened. Officers [REDACTED] [REDACTED] were standing right
10 behind her the whole time. They were staring right at me and I felt intimidated. I told the
11 MTA nothing happened to me.

12 19. After the MTA left, Officer [REDACTED] threatened me stating that if I wrote up a
13 602 on them, they would assault me again.

14 20. Next, Officer [REDACTED] came and read me my rights for a rule violation that
15 I was being charged with. I was being charged with Battery on a Peace Officer for
16 allegedly throwing my lunch at Officer [REDACTED] He read me a statement that was supposed
17 to be my statement and it said something like, "[REDACTED] states that he had a bad day and
18 that he shouldn't have thrown his lunch." It was completely made up.

19 21. After that I was transferred to Ad Seg. I became even more depressed in Ad
20 Seg.

21 22. A few days after the incident, while I was still in the CTC, Warden Paramo
22 came to speak to me. When he saw the cuts, bruising, and swelling on my face he asked
23 me what happened. I explained the whole incident and he said that he would file a 602 on
24 my behalf and have my injuries recorded on video. I recall that three sergeants from
25 Facility C interviewed me on video. I have never seen the video.

26 23. I was found guilty of the rules violation that I did not commit. As
27 punishment, the hearing officer added 365 days to my sentence. I became distraught.
28

24. On May 14, 2019, I tried to kill myself. I used a sharp object to cut open my arm and to cut my neck. I wanted to die. I passed out from the injuries. I was sent to the acute care mental health treatment center in Stockton for treatment for two weeks. I still have deep scars on my neck and arms. After Stockton they sent me back to the hospital at RJD and then back to Ad Seg.

25. When I was finally released from Ad Seg they sent Officer [REDACTED] and Officer [REDACTED] to pick me up. Officer [REDACTED] said, "You look healthy. What's happening with the 602 you filed?" I felt intimidated. Then Officer [REDACTED] said, "You're lucky it was Officer [REDACTED] and not me because I would have stomped you out" which I took to mean that he would have killed me. I was very intimidated by both of the officers. I couldn't believe, after everything that had happened, that I was being sent back to the same yard and to the same building, where I would have to be in contact with the same officers who assaulted me and then covered up the assault.

26. I have also witnessed multiple incidents of staff misconduct, including with regard to my friend, [REDACTED] in November of 2018. ~~I think~~ it was ~~the~~ Friday ^{THE 9TH} before Thanksgiving. He was mentally ill and he had just returned to Building 15 after having been elsewhere while on suicide watch. Late one night or early in the morning he cut himself while in his cell. He was in cell [REDACTED]. He was yelling for help and said that he had cut himself. I don't think he wanted to kill himself because he was yelling for help. The officers in the unit just ignored him for a long time. Finally, after about 30 minutes, I saw the two officers—Officers [REDACTED] and [REDACTED]—pull him out of his cell. I could see that [REDACTED] was bleeding and he was in his boxers. I saw that Officers [REDACTED] and [REDACTED] were on top of him holding him down. The officers yelled at him, "You woke us up motherfucker! Stop resisting! Stop resisting!" I saw Officer [REDACTED]—who is about 6 foot 3 inches tall and probably about 200 pounds—start standing with both feet on top of [REDACTED] back while [REDACTED] was lying face down on the ground. Officer [REDACTED] hands were up on the wall, so his entire weight was on [REDACTED] back. [REDACTED] was yelling, "I can't

1 breathe! I can't breathe!" I saw that Officer [REDACTED] had his knee on [REDACTED] back holding
2 him down. Then [REDACTED] just stopped yelling and went still. It appeared to me that he had
3 died. [REDACTED] was a good friend.

4 27. I was interviewed by Investigative Services Unit ("ISU") staff a few days
5 later about [REDACTED] death. I told them that I saw the officers kill [REDACTED] by pinning him to
6 the ground and standing on him. As far as I am aware, nothing happened to the two
7 officers as a result of the investigation. Both officers still worked in the building after
8 [REDACTED] death.

9 28. From my observations during the time I was at RJD, staff assaults occurred
10 on an almost daily basis. I remember seeing a prisoner named [REDACTED] get assaulted on the
11 way to chow hall. I think this happened in April of 2018. I saw staff push him up against
12 the wall so hard they broke his jaw. You could see that his jaw had been very badly
13 damaged. I heard [REDACTED] report it to Sergeant [REDACTED]. I heard the Sergeant respond by
14 saying, "I guess that will teach you to keep your mouth shut," or something along those
15 lines. Then, I think it was the next day, I saw [REDACTED] get attacked by a group of prisoners.
16 Because of the short period of time between when [REDACTED] reported being assaulted by staff
17 and when he was attacked by other prisoners, I assumed the prisoners were working for the
18 officers and attacked [REDACTED] to send him a message about reporting staff misconduct. I
19 saw that type of thing happen frequently at RJD.

20 29. One day, I think it was in July 2018, I saw Officer [REDACTED] in the tower in
21 Building 15 shoot a prisoner we called "[REDACTED]" in the face with a block gun. This
22 happened after two other prisoners, [REDACTED] and [REDACTED] attacked [REDACTED]. The three of
23 them were all fighting when [REDACTED] got shot. The day before this happened, I saw [REDACTED]
24 talking to Officer [REDACTED]. I heard Officer [REDACTED] say to [REDACTED] something like, "just
25 stay out of the way so I don't hit you." I didn't think much of it at the time, but the next
26 day, when Officer [REDACTED] shot [REDACTED] in the face, it made me think Officer [REDACTED]
27 coordinated the attack with [REDACTED].

1 30. I have been in prison since 1983 and I was in juvenile detention before that.
2 I have never had any problems with officers. I've never been written up for assault on an
3 officer until RJD. RJD is the worst prison I've ever been to, and I have been to prisons all
4 over the state. I was even a tier tender on death row so I have seen a lot of different types
5 of lock ups. At RJD, it felt to me like the officers were looking for opportunities to assault
6 people. I observed that officers would lash out at us any time I or another prisoner did
7 something the slightest bit wrong. For example, one time I took too long in the shower – it
8 is hard to move quickly if you have a disability. Staff got on the intercom and said
9 something like, "I know you don't want me to announce to everyone in the unit why you
10 are in prison so you better get out of the shower right now." I interpreted what the officer
11 was saying as a threat to inform other incarcerated people of my commitment offense
12 unless I quickly got out of the shower.

13 31. I think the officers at RJD treated me so badly because they knew that, since
14 I was in a wheelchair and paralyzed, I couldn't do anything to stop them. During my time
15 at RJD, I generally observed that the officers did not assault or pick fights with people who
16 could fight back. I wear a bright green vest, like other people with disabilities, and am in a
17 wheelchair, so it's obvious that I am less able to protect myself.

18 32. I wasn't always in a wheelchair at RJD so I saw the difference between how
19 officers at RJD treated me before and after being in a wheelchair. The treatment was much
20 worse after I got the wheelchair. Once I started using the wheelchair, officers began
21 calling me "crippled." Once, when I was coming back from the yard, Officer [REDACTED]
22 said, "Oh, you must be a big pussy now that you're in a wheelchair. Aren't you?" I just
23 put my head down and said "yes." I didn't want to get in a fight.

24 33. I remember when I first started using a wheelchair, one staff member,
25 Officer [REDACTED] said to me, "Don't think that wheelchair is going to prevent us from
26 putting hands on you if we have to."

27 [REDACTED]

28 [REDACTED]

1 34. From my observation, the staff treat the prisoners with developmental
2 disabilities—they are often referred to as DDPs—the worst. In my experience, DDPs
3 often don't understand what the officers are saying and therefore sometimes don't comply
4 with orders right away. In my experience, sometimes officers have to tell a DDP prisoner
5 something two or three times before the DDP prisoner understands. When this happens,
6 I've observed some officers get frustrated and angry with the DDP prisoners.

7 35. At RJD, and especially after I was attacked by staff on May 7, 2018, I was
8 hesitant to ask for help or to file any grievances. I was afraid that if I asked for help, staff
9 would attack me again. Even when I did file grievances about really important things, like
10 getting repairs to my wheelchair so that I could get around RJD, I was afraid that I would
11 face retaliation.

12 I declare under penalty of perjury under the laws of the United States of America that
13 the foregoing is true and correct, and that this declaration is executed at Soledad, California
14 this 19 day of January, 2020.



Exhibit 50a

Filed Under Seal

Exhibit 50b

Allegation of Non-Compliance Inquiry Worksheet

*** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

ALLEGATION (to be included in Final Inquiry Memorandum)Inmate/Parolee: [REDACTED] CDCR # [REDACTED] Disability Class member: ☒ Armstrong (DPP) ☐ Clark (DDP)

Allegation of Non-Compliance: Inmate [REDACTED] alleges custody staff took his prescribed Durable Medical Equipment (DME) specifically, his wheelchair gloves and sit cushion.

Employee Identified (Last/First): Unknown Last 4 SSN: N/A Rank/Title: N/A

(If unknown, the involved employee(s) shall be determined through supervisor/manager review and entered by the reviewing staff member)

DISCOVERY REVIEW (to be included in Final Inquiry Memorandum)

Date of Discovery: 5/24/2018 Source of Allegation/Reported By: via 1824 Log # [REDACTED]

Date Allegation Inquiry Initiated: 5/25/2018

Assigned To: P. Logan AW

Date Inquiry Due to ADA Coordinator: 6/11/2018

INMATE INTERVIEW (to be included in Final Inquiry Memorandum)

*** All inquiries SHALL include an interview with the inmate/parolee who is the subject of the allegation – no exceptions ***

Staff Conducting Interview (print name and title): [REDACTED] Date of Interview: 6/21/2018

1. Disability Code Requiring E/C:

☐ TABE ≤ 4 ☐ LD ☐ DPH☐ DPV ☐ DNH ☐ DPS☐ DDP ☐ EOP☒ N/A 08.3

2. Accommodation (Primary Method Required):

☒ Glasses ☐ Hearing Aids ☐ Loud/Clear Speech☐ Speak Slowly ☐ Written Notes ☐ SLI ☐ Reads Lips☒ Other: Staff Assistance for EC, simple English

3. Effective Communication (Check all that apply):

☒ Reiterated, in own words, what was explained.☒ Asked appropriate questions regarding the information provided.☒ Provided appropriate, substantive responses to questions asked.☐ Did not appear to understand the communication.☐ Other: Other.

Summary of Interview: On June 21, 2018 Correctional [REDACTED] [REDACTED] conducted the interview of Inmate [REDACTED] in ASU and [REDACTED] had nothing to add.

FINDINGS (to be included in Final Inquiry Memorandum)

[REDACTED] did not identify staff or witnesses. A review of SOMS of Inmate [REDACTED] DDP Disabilities/Accommodation/DMEs Chrono's dating from June 2, 2010 to May 29, 2018, was conducted and the review revealed he had not received his cushion or gloves.

* Return this worksheet to the ADAC with ALL supporting documents attached. DO NOT take any employee corrective action prior to Hiring Authority Review.

SUMMARY OF ADAC REVIEW

List all prior confirmed allegations (include date, allegation, and action taken).

During the inquiry of the above mentioned allegations Inmate [REDACTED] failed to provide witnesses, suspects or evidence to prove that he was in possession of wheelchair gloves, which he alleges were taken by custody.

ADAC RECOMMENDATION

Not confirmed, no further action recommended.

Print Name: Jorge J. Santana

Signature: [REDACTED]

Date: 6/22/2018

HIRING AUTHORITY REVIEWAllegation: ☐ Confirmed ☒ Not ConfirmedAction Required: Ne ActionSignature: [Signature]Date: 6/22/18

* Return to the ADAC upon completion.

Memorandum

Date: ~~July 19, 2018~~
June 27,

To: J. SANTANA
Associate Warden
Americans with Disabilities Act Coordinator

Subject: INQUIRY OF ALLEGED NON-COMPLIANCE REGARDING THE DISABILITY
PLACEMENT PROGRAM/DEVELOPMENTAL DISABILITY PROGRAM POLICY

SUMMARIZED ALLEGED VIOLATION: On May ^{24th} 7, 2018, the American with Disabilities Act Office was advised via CDCR 1824 form (Log # 18-[REDACTED]), of a possible DPP/DDP noncompliance concern. Specifically, Inmate [REDACTED] alleges custody staff took his prescribed Durable Medical Equipment (DME) specifically, his wheelchair gloves and sit cushion.

INQUIRY SUMMARY: On Thursday June 21, 2018, I initiated the inquiry into this alleged ADA violation by reviewing the Electronic Records Management System (ERMS) and the Strategic Offender Management System (SOMS). The review revealed [REDACTED] is an Armstrong Class Member with the designated DPPV code of DPW, he is a participant in the Mental Health Services Delivery System (MHSDS) at the EOP Level of Care, he is NOT a DDP Class Member with the DDP code of NCF, and his TABE score is 8.3.

A review on SOMS of [REDACTED] DPP Disabilities/Accommodation/DMEs Chronos dating from June 2, 2010, to May 29, 2018, was conducted and the review revealed that he never received any sit cushion as DME; the following is the list of the DMEs which were noted in [REDACTED] Chronos; Canes; Non-invasive Airway Assistive Devices, C-Pap Machine, Eyeglass Frames, Other (Include in Comments) and wheelchair.

On June 21, 2018, V. [REDACTED] Correctional Lieutenant, conducted the interview of [REDACTED] inside of the B006 ASU Housing Unit. Due to his case factors, effective communication was achieved by assigning J. [REDACTED] Correctional Officer, as a Staff Assistant. Lt. [REDACTED] read to [REDACTED] the contents of his Reasonable Accommodation request (CDCR 1824) utilizing simple English, spoken slowly and clearly, repeating/rephrasing sentences, as needed, ensuring [REDACTED] understood. [REDACTED] was able to reiterate in his own words what had been explained to him and he was able to provide appropriate, substantive responses to questions asked, as well as being able to ask appropriate questions; consequently effective communication was achieved. At the completion of the interview, [REDACTED] stated that he had nothing more to add to his CDCR 1824 request.

FINDINGS: During the inquiry of the above mentioned allegations, [REDACTED] failed to provide witnesses or evidence to prove that he was in possession of wheelchair gloves, which he alleges were taken by custody staff. There was no violation discovered during this review of alleged non-compliance. If you should have any questions regarding this matter, do not hesitate to contact me at extension 7888.

[REDACTED]

EX50b02

Memorandum

Date : May 25, 2018

To : P. Logan
Associate Warden (A)
Central Services, B Facility and Records
Richard J. Donovan Correctional Facility

Subject: **ALLEGATION OF DISABILITY PLACEMENT PROGRAM (DPP) / DEVELOPMENTAL DISABILITY PROGRAM (DDP) POLICY NON-COMPLIANCE:** [REDACTED]

On May 24, 2018, Richard J. Donovan Correctional Facility (RJD) Americans with Disabilities Act (ADA) Office was advised via 1824 Log # 18-[REDACTED] of a possible DPP/DDP noncompliance concern. Specifically, [REDACTED] claiming that custody took his previously issued wheelchair gloves and sit cushion.

This alleged violation has been logged on the Armstrong/Clark Staff Accountability Log and requires an inquiry. A supervisor shall conduct the inquiry and prepare a memorandum, addressed to Jorge Santana, ADA Coordinator. **The memorandum must include:**

- **Summary of Alleged Violation** (as noted above in this memorandum)
 - Date and source of discovery
 - Effected inmate's name, CDCR number, DPP/DDP code
 - Name and title of staff member(s) included in allegation (if known)
- **Inquiry Summary**
 - Steps taken to complete a thorough inquiry into the allegation
 - List and copies of all source(s) of information used to reach conclusion
 - Date of **mandatory** interview with effected inmate, what methods were used to establish EC (if required) and whether or not EC was achieved.
- **Findings**
 - Results of inquiry and whether the allegations were confirmed or not confirmed
 - Specific information or evidence that supports the results of findings
 - Name and title of staff member(s) revealed to be involved in allegation
 - Name and title of staff member(s) revealed to be responsible in allegation (if confirmed)
 - Signature Block with name and title of supervisor conducting inquiry

Do not take any employee corrective action. Appropriate corrective action will be determined by the Hiring Authority.

Please return completed memorandum to my office by June 11, 2018. If you have any questions regarding this issue, contact me at 619-671-6500 Ext 7515.



JORGE SANTANA
Associate Warden- ADA Coordinator
Richard J. Donovan Correctional Facility

EX50b03

Santana, Jorge@CDCR

From: Armenta, Francisco@CDCR
Sent: Wednesday, June 06, 2018 10:32 AM
To: Lopez, Micaela@CDCR; Santana, Jorge@CDCR; Logan, Patrick@CDCR
Subject: Allegation of non compliance [REDACTED]

Santana,

As per our conversation, the non compliance assignment for [REDACTED] is being placed in AW's Logan box for reassignment.

Micaela, please change the TIK assignment on this inmate.

Francisco Armenta
Associate Warden
Health Care Access Unit
Richard J. Donovan Correctional Facility
California Department of Corrections and Rehabilitation
Office: (619) 661-6500 Ext. 8687, 7097

STATE OF CALIFORNIA
REASONABLE ACCOMMODATION REQUEST
 CDCR 1824 (Rev. 09/17)

Page 1 of 1

INSTITUTION (Staff use only) RJD	LOG NUMBER RJD-X-18	DATE RECEIVED BY STAFF: MAY 23 2018
<p>*****TALK TO STAFF IF YOU HAVE AN EM*****</p> <p>DO NOT use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDC 7362 or a CDCR 602-HC</p>		

INSTRUCTIONS:

- You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.
- You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service or activity. You may also use this form to submit an allegation of disability-based discrimination.
- Submit this form to the Custody Appeals Office.
- The 1824 process is intended for an individual's accommodation request. Each individual's request requires a case-by-case review.
- The CDCR 1824 is a request process, not an appeal process. All CDCR 1824 requests will receive a response.
- If you have received an 1824 decision that you disagree with, you may submit an appeal (CDCR 602, or CDCR 602-HC if you are disagreeing with a medical diagnosis/treatment decision).

WHAT CAN'T YOU DO / WHAT IS THE PROBLEM?

I CAN NOT UTILIZE MY WHEELCHAIR, NORMALLY NOR COMFORTABLY, ON MAY 7-2018, WHILE I WAS IN MY WHEELCHAIR, C/O [REDACTED] FLIPPED ME OVER FROM THE LEFT ARM SIDE OF MY WHEELCHAIR CAUSING THE LEFT LEG METAL SUPPORT, TO SNAP AND BEND, THE LEFT WHEEL IS ALSO BENT OUT OF ALINEMENT HARD TO GET ANYWHERE, GLOVES TAKEN!!

WHY CAN'T YOU DO IT?

I AM DISABLE PERMANENT WHEELCHAIR. D.P.W DEGENERATED BONE AND DISC DISEASE/ SPINAL STENOSIS/ CERVICAL SPINE NARROWING- HERNIATED DISC.

WHAT DO YOU NEED?

TO HAVE MY WHEELCHAIR REPLACED OR FIXED! AND C/O [REDACTED] BE CHARGED FOR HERE MENTIONED DAMAGE TO MY WHEELCHAIR, ALSO TO HAVE MY GLOVES FOR WHEELING THE CHAIR AND MY SIT CUSHION ALSO RETURNED OR GIVEN NEW ONES FOR CUSTODY TAKEN MY PREVIOUSLY ISSUED WHEELCHAIR GLOVES AND SIT CUSHION.. THANK YOU!!

(Use the back of this form if more space is needed)

DO YOU HAVE DOCUMENTS THAT DESCRIBE YOUR DISABILITY?

Yes ☒ No ☐ Not Sure ☐

List and attach documents, if available:

I AM IN ASU/ Mental Crisis bed.
 Go no Property Though All is DOCUMENTED.

I understand that

failure to cooperate may cause this request to be disapproved

MAY 22nd 2018.
 DATE SIGNED

Assistance in com

Last Name

First Name

Signature

EX50b05

NON-COMPLIANCE REVIEW COMMITTEE
WORKSHEETCALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION

Page 1 of 1

INQUIRY LOG # 18 [REDACTED]	INSTITUTION RJD	DATE OF REVIEW 10/16/18
INMATE NAME [REDACTED] CDCR # [REDACTED]		
DPP/DDP CODE(S) <input checked="" type="checkbox"/> ARMSTRONG <input checked="" type="checkbox"/> DPW <input type="checkbox"/> DPO <input type="checkbox"/> DPM <input type="checkbox"/> DLT <input type="checkbox"/> DPH <input type="checkbox"/> DPV <input type="checkbox"/> DPS <input type="checkbox"/> DNM <input type="checkbox"/> DNH <input type="checkbox"/> DNS <input type="checkbox"/> DKD <input type="checkbox"/> CLARK <input type="checkbox"/> DD1 <input type="checkbox"/> DD2 <input type="checkbox"/> DD3 <input type="checkbox"/> LD		
DATE OF DISCOVERY 5/24/18	DATE INQUIRY ASSIGNED 5/25/18	DATE INQUIRY COMPLETE 6/22/18
BRIEF DESCRIPTION OF ALLEGATION - [REDACTED] alleges custody staff confiscated his prescribed Durable Medical Equipment (DME) specifically, his wheelchair gloves and seat cushion.		

ALLEGATION/DISCOVERY REVIEW

- ☒ Yes ☐ No ☐ N/A – Was the inquiry initiated within 10 business days of discovery?
☒ Yes ☐ No ☐ N/A – Was the inquiry completed within 30 days of discovery?
☒ Yes ☐ No ☐ N/A – Final inquiry memorandum completed?
☒ Yes ☐ No ☐ N/A – Inquiry completed by supervisor/manager?

INMATE INTERVIEW

- ☒ Yes ☐ No ☐ N/A – Inmate interview conducted?
☒ Yes ☐ No ☐ N/A – Was EC required for the inmate interview?
☒ Yes ☐ No ☐ N/A – Was EC provided?

REVIEW OF FINDINGS

- ☒ Yes ☐ No ☐ N/A – Does Report of Findings accurately reflect the available evidence?

INQUIRY REVIEW

- ☒ Yes ☐ No – ADA Coordinator review and signed review?
☒ Yes ☐ No – ADAC recommendation supported by inquiry memorandum?
☒ Yes ☐ No – Hiring Authority signed review?

OTHER NOTABLE ITEMS

- ☐ Yes ☐ No ☒ N/A – Staff corrective action taken?

Reviewer's Notes:

An attempt to address the allegation made by [REDACTED] was made by staff but [REDACTED] failed to provide any kind of documentation, names of staff or inmate witnesses to support his allegations. Furthermore during the investigation it was discovered there was no documentation [REDACTED] was ever prescribed the DME's (wheelchair gloves and sit cushion).

Areas of concern:

N/A

EX50b07

DOJ00013330

Exhibit 50c

MHPC Consult Emergent Progress Note

TTA RN Bradley requested MH assistance around 2:00pm, as IP was in TTA refusing medical attention for an intentional cut on his wrist which may have hit an artery.

IP was lying on medical bed in handcuffs, with significant amount of blood on his jumpsuit. IP was holding his wrist with a piece of cloth. IP was fairly agitated but respectful. He stated, "I just want to go to sleep, I just want to die...I decided to take things into my own hands...My back hurts so bad...They stopped my pain meds and it just hurts so bad...I got beat up by officers on the yard, look at my bruises...Ask Ms. Chabolla, she knows me...she would tell me to breathe...I can't do it anymore. Please, just leave me alone...I just want to go to sleep." IP then warned writer to "step back" because "I'm gonna squirt" and he proceeded to intentionally squeeze his injured wrist in order to cause further blood loss.

EMS personnel arrived to TTA. Psychiatry ordered emergency psychotropic medication which was administered. Per nursing, shortly thereafter IP agreed to transport to outside hospital for treatment.

IP will require mental health assessment upon return from the hospital. He will be placed directly in CTC swing bed [REDACTED] for ongoing observation as opposed to placement in Alt Housing. This has been verified by MH chief and CTC nursing supervisor.

Completed Action List:

- * Perform by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT
- * Sign by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT
- * VERIFY by Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT

Result type: MHPC Consult Emergent Progress Note
Result date: May 15, 2018 14:49 PDT
Result status: Auth (Verified)
Result title: Emergent TTA contact
Performed by: Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT
Verified by: Bailis, Jessica Psychologist on May 15, 2018 15:01 PDT

Exhibit 51

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. I am transgender. Although I am incarcerated under the name [REDACTED], my preferred name is [REDACTED]. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Salinas Valley State Prison.

3. I was housed at Richard J. Donovan Correctional Facility ("RJD") for approximately seven months, from September 2018 until April 2019. I do not recall the exact dates.

4. During my time at RJD, I was housed in buildings C14 and C15.

5. I am an *Armstrong* class member. I am designated as "DPW, a full-time wheelchair users."

I have three fractured vertebrae in my spine, a herniated disc, and a cyst on my spinal cord. I have seizures and some of these injuries were the result of falling during a seizure. During the time I was at RJD, I had the same disabilities, limitations, and accommodations.

6. I am a *Coleman* class member. I am at the EOP level of care. I have serious depression and have had it almost my whole life. I experienced a great deal of trauma as a child including sexual abuse by my ^{stepdad} and then, when I reported the abuse, I witnessed my ^{uncle} murder my uncle in front of me. During the time I was at RJD, I suffered from the same mental health issues and was classified as EOP.

7. I was a victim of staff misconduct at RJD. On Monday, February 4, 2019 at around 2:00 p.m., I approached Officer [REDACTED] at the podium in C15 to inform him that I was being threatened by gang members on the yard. Officer [REDACTED] told me to wait to ask

1 for help "on Thursday when there's no regulars here." I interpreted this statement to mean
2 that he was not going to help me and that he did not take my safety concern seriously.

3 8. After he said that I went back to my cell, where I began to decompensate
4 because I was so worried about my safety.

5 9. A little later that day, I went back to Officer [REDACTED] and asked him to call
6 mental health because I felt like hurting myself and I needed help. Officer [REDACTED] refused
7 to help and responded, "I don't give a damn. Go handle your business."

8 10. I returned to my cell, hoping to hold it together until evening pill line when I
9 would be able to ask for help again but from a different staff member.

10 11. I tried to hold myself together, but I was very worried about my safety.
11 Finally, I used a razor blade and sliced my arm deeply from my hand to my inner elbow.

12 12. My wound required 31 stitches to repair the laceration. I have deep scars
13 and I usually wear sweatshirts to cover my arm so people don't ask me what happened.

14 13. After this incident, I was placed in the mental health crisis bed at RJD until
15 February 8, 2019. Upon my discharge, I was placed in C14, the building next door to my
16 prior housing unit.

17 14. I experienced ongoing harassment following this incident when I reported
18 Officer [REDACTED] for denying me help.

19 15. On February 12, 2019, I asked Officer [REDACTED] in C14 to sign a Form 22. The
20 purpose of the Form 22 was for Officer [REDACTED] to confirm, like a receipt, that I was
21 submitting a 602 form alleging staff misconduct. Officer [REDACTED] was occupied, however,
22 so Officer [REDACTED] who was standing next to Officer [REDACTED] said he would sign it. When
23 Officer [REDACTED] reviewed the Form 22, he learned that it was related to a staff misconduct
24 complaint against him. Officer [REDACTED] said, "so now you're going to write me up, huh?" I
25 told him that I have been on good terms with staff since I have been at RJD, that I'm not a
26 problem and that all he had to do was his job. If I ask him to call mental health staff for
27 me, that is all he had to do. Officer [REDACTED] responded by saying "Am I supposed to give a
28

1 fuck if you kill yourself? If you didn't already have a razor I would have given you one to
2 kill yourself. You didn't really want to hurt yourself."

3 16. On February 20, 2019, I asked a friend to request toilet paper for me from
4 Officer [REDACTED] because I was locked in the cell at the time. I am incontinent as a result of
5 my disability. Officer [REDACTED] refused to give my friend the toilet paper for me.

6 17. That same day, I was sitting in the dayroom when my cellmate approached
7 the podium. I overheard my cellmate tell Officer [REDACTED] that one of us needed to be
8 moved to a different cell, or my cellmate was going to hurt me. I overheard Officer [REDACTED]
9 say in response, "he [referring to me] has nothing coming after writing me up, he better
10 hope you don't hurt him."

11 18. One day later, my cellmate was moved to a different cell. It's my
12 understanding that my cellmate was moved only after a different staff member, a sergeant,
13 became aware of the situation.

14 19. On February 23, 2019, a good friend told me that Officer [REDACTED] tried to hire
15 him to attack me. He said "[REDACTED] is trying to pay some dudes to stab you up and get rid
16 of you."

17 20. At RJD it is common practice for staff to hire prisoners to attack other
18 prisoners. I had friends who did that kind of work for staff and they would brag to me
19 about how they got property from officers in exchange for attacking other people. They
20 told me that they would be paid to attack people who talked about reporting staff
21 misconduct, or who were arguing or being difficult with staff.

22 21. After learning Officer [REDACTED] was trying to pay other incarcerated people to
23 attack me, I requested to be transferred to a different yard. Staff denied my request. I did
24 not think I was going to be able to transfer any other way so, on February 26, 2019, I told
25 my clinician that I intended to harm Officer [REDACTED] This was a huge risk for me because I
26 am supposed to parole in 2021 and saying something extreme like this means I risked
27
28

1 being able to get out. I was so scared of Officer [REDACTED] that I didn't feel I had any other
2 choice.

3 22. After I made that report I was transferred to the ASU at RJD.

4 23. I witnessed multiple acts of staff misconduct at RJD, too many to recall them
5 all.

6 24. The one that sticks with me the most involved my friend, "[REDACTED]" [REDACTED]
7 [REDACTED] in November of 2018, who lived in the same housing unit as I did. [REDACTED] was
8 mentally ill. On the day in question, [REDACTED] had a number of cuts on his arms and legs from
9 cutting himself in his cell. I knew that he had cut himself because he was screaming from
10 his cell about how he had cut himself, yelling for help, and banging on his door. Staff
11 sounded an alarm, but it seemed to me that about 30-45 minutes passed between when the
12 alarm first sounded and when two officers finally pulled [REDACTED] out of his cell. Next, I saw
13 the officers slam him on the ground. He wasn't resisting at all. He was on his stomach
14 with his face to the ground. Then I saw one officer stand on his back with all of the
15 officer's weight while another officer had his knee in [REDACTED]'s back. The officers kept
16 yelling, "Stop resisting, stop resisting." [REDACTED] was yelling, "I can't breathe, I can't
17 breathe!" Then he just stopped saying anything; he was dead. I was so angry. He was a
18 friend of mine. He really looked out for me and helped me out.

19 25. I was interviewed by Investigative Services Unit ("ISU") about the incident
20 and I told them that I saw the officers kill [REDACTED]. As far as I am aware, the officers faced
21 almost no discipline for this incident. One officer was suspended for two weeks pending
22 an investigation and then came right back to work in the same unit.

23 26. I still have nightmares about seeing my friend die.

24 27. Around November of 2018,
25
26
27
28

CDCR transferred about 50 incarcerated people off the [REDACTED]

1 yard and also moved some officers off of Facility C into other positions at RJD.
2 Unfortunately, in my experience, the officers who replaced the transferred officers were
3 the same or worse when it came to staff misconduct. In addition, it is my understanding
4 that these “new” officers were simply officers who had been working at other places at
5 RJD. Also, some of the worst officers with respect to staff misconduct stayed right in
6 place on Facility C. While I was at RJD, I did not see a decrease in staff misconduct on
7 Facility C as a result of the interviews and changes. I still observed or heard about
8 multiple incidents occurring each week.

9 28. Plaintiffs’ attorneys in *Armstrong* wrote a letter on my behalf on June 28,
10 2019, asking for my incident to be investigated by staff who do not work at RJD. No one
11 from CDCR ever came to talk to me or interview me after that request for a further
12 investigation was made.

13 29. RJD Staff would often make demeaning comments and tease me about being
14 in a wheelchair. They would say things like “You better not piss us off, you could get your
15 ass whopped because you’re in a wheelchair and you can’t defend yourself.” Officer
16 [REDACTED] who worked in the tower position in my housing unit, would call me a “bitch” or a
17 “hoe” over the microphone. These statements made me feel humiliated.

18 30. At RJD, I often observed incarcerated people go “man down” to try to get
19 help from staff. Someone goes “man down” by getting down on the floor and saying “man
20 down!” When someone goes “man down” it is supposed to signal to staff that the person
21 has an urgent medical or mental health problem. At RJD, I observed many times when
22 someone went “man down” and staff ignored them and did not provide or call for any
23 assistance. Sometimes, I even observed medical staff refusing to provide help to people
24 who were “man down.”

25 31. Part of the reason I think people with disabilities are often targeted by staff is
26 because they need to ask for help from staff. From my time at RJD, it was clear to me that
27 staff were bothered by people with disabilities asking for help because it made their job
28

1 more difficult. For example, if you're in a wheelchair, like I am, you need help getting
2 around, including having someone push your wheelchair for you. On multiple occasions,
3 staff at RJD gave me trouble by not letting people push my wheelchair. As another
4 example, if someone is in mental health crisis, like I was, staff will stop you from
5 accessing care. In my experience, when staff get in the way of the help that people need, it
6 creates a bad cycle: first, staff deny help, then people with disabilities lash out because
7 they're not receiving the help they need, and then staff attack the prisoners because they
8 are being "difficult."

9 32. In my experience, people without any disabilities were able to avoid this
10 cycle because they did not have to rely as much on staff for help.

11 33. I have been in and out of CDCR since 2003. In my opinion, RJD, compared
12 to other prisons, is like the "wild west." The officers do whatever they want to do to
13 people and they get away with it. When I filed my 602 about how Officer [REDACTED] would
14 not help me, it was denied. CDCR found he didn't violate any policies. Basically CDCR
15 either did not believe me that he would not get me help and I tried to kill myself or they
16 just do not care.

17 34. I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct, and that this declaration is executed at
19 ^{San} Diego, California this 7 day of January, 2020.

Exhibit 51a

Filed Under Seal

Exhibit 51b



101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Michael Freedman
Email: MFreedman@rbgg.com

June 28, 2019

VIA ELECTRONIC MAIL ONLY

**SUBJECT TO
PROTECTIVE ORDERS**

Russa Boyd
CDCR Office of Legal Affairs
P.O. Box 942883
Sacramento, CA 94283-0001
rusa.boyd@cdcr.ca.gov

Re: *Armstrong v. Newsom; Coleman v. Newsom*: Advocacy Letter re: DPO,
EOP Class Member, [REDACTED] Regarding Staff
Misconduct at RJD
Our File Nos. 0581-03, 0489-03

Dear Russa:

I write regarding [REDACTED] a 41-year-old transgender *Armstrong* and *Coleman* class member currently at SVSP. Ms. [REDACTED] reports a series of serious staff misconduct incidents involving Officer [REDACTED] who regularly works in Buildings 14 and 15 on Facility C at RJD. Ms. [REDACTED] is DPO and currently in the SVSP PIP, although at the time of the incidents she was at the EOP level of care on Facility C at RJD. We request that CDCR investigate the allegations below. We also request that CDCR not return Ms. [REDACTED] to RJD once she is discharged from the SVSP PIP.

On Monday, February 4, 2019 at approximately 2:00 p.m., Ms. [REDACTED] approached Officer [REDACTED] at the podium in C15 to report safety concerns regarding gang members who were threatening her on the yard. Officer [REDACTED] told her to ask for help “on Thursday when there’s no regulars here.” Ms. [REDACTED] went back to her cell, where her mental health began to decompensate. Shortly thereafter, she exited her cell, approached Officer [REDACTED] and asked him to call mental health because she felt like hurting herself. Officer [REDACTED] responded: “I don’t give a damn. Go handle your business.” Ms. [REDACTED] returned to her cell, hoping she could maintain her composure until she had an opportunity to seek assistance from medical or mental health staff during evening pill

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

June 28, 2019

Page 2

call. Unfortunately, she continued to decompensate and made a serious suicide attempt. Ms. [REDACTED] used a razor blade to cut herself deeply from her hand to inner elbow. She required 31 stitches to repair the laceration. Her medical records indicate that the cut was sufficiently dangerous that she could have bled to death.

After this incident, Ms. [REDACTED] was placed in the mental health crisis bed at RJD until February 8, 2019. Upon her discharge, she was placed in C14.

On February 12, 2019, Ms. [REDACTED] approached Officer [REDACTED] in C14 to request that he sign a Form 22. On the Form 22, Ms. [REDACTED] requested that Officer [REDACTED] confirm that she was submitting a 602 alleging staff misconduct. Officer [REDACTED] was occupied, however, so Officer [REDACTED] who was standing near [REDACTED] and had not read and was not aware of the substance of the Form 22, offered to sign it. When Officer [REDACTED] reviewed the Form 22, he learned that it was related to a staff misconduct complaint. Officer [REDACTED] said to Ms. [REDACTED] "so now you're going to write me up, huh?" Ms. [REDACTED] replied "I've been on good terms since I've been here, I'm not a problem. All you had to do was do your job. I asked you to call mental health staff and that's all you had to do." [REDACTED] responded by saying "Am I supposed to give a fuck if you kill yourself? If you didn't already have a razor I would have given you one to kill yourself. You didn't really want to hurt yourself."

On February 20, 2019, another incarcerated person approached Officer [REDACTED] and to request toilet paper on Ms. [REDACTED] behalf (because Ms. [REDACTED] was locked in her cell at the time). Ms. [REDACTED] is currently in a wheelchair, and suffers from incontinence as a result of her disability. Officer [REDACTED] refused to give the other incarcerated person the toilet paper. The incarcerated person reported to Ms. [REDACTED] that Officer [REDACTED] said "I'm not giving him [Ms. [REDACTED] anything, he just wrote me up."

That same day, February 20, Ms. [REDACTED] was sitting in the dayroom when Ms. [REDACTED] cellmate approached the podium. Ms. [REDACTED] overheard her cell-mate state to Officer [REDACTED] that either he (the cellmate) or Ms. [REDACTED] needed to be moved to a different cell, or he would end up hurting Ms. [REDACTED]. Ms. [REDACTED] overheard [REDACTED] say to the cellmate, "he [Ms. [REDACTED] has nothing coming after writing me up, he better hope you don't hurt him." One day later, Ms. [REDACTED] cellmate was eventually moved to a different cell, once a sergeant became aware of the situation.

On February 23, 2019, [REDACTED] was told by another incarcerated person who Ms. [REDACTED] believes to be credible that [REDACTED] was attempting to recruit other incarcerated person or persons to attack Ms. [REDACTED]. The incarcerated person told Ms. [REDACTED] that "[REDACTED] is trying to pay some dudes to stab you up and get rid of you."

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
June 28, 2019
Page 3

Upon receiving that information, Ms. [REDACTED] attempted to address her concerns for her safety with staff. When her efforts were unsuccessful, Ms. [REDACTED] became so fearful for her safety that, on February 26, 2019, she reported to her clinician that she intended to harm Officer [REDACTED]. Thereafter, Ms. [REDACTED] was transferred to the ASU at RJD.

Ms. [REDACTED] was ultimately transferred to the SVSP PIP in early-May, where she has remained since. Once Ms. [REDACTED] is discharged from the PIP, Ms. [REDACTED] fears being returned to Building 14 and 15 on Facility C at RJD, where she would come into contact with and potentially be subject to retaliation by Officer [REDACTED].

Ms. [REDACTED] 602 staff complaint against Officer [REDACTED] regarding the February 4, 2019 incident (Log #RJD-C [REDACTED]), was recently denied at the second level of review and is currently at the third level of review. Ms. [REDACTED] also wrote a letter to the Office of Internal Affairs about this incident, to which she has still not received a response.

Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. The investigation should consider whether staff violated CDCR policies, including, but not limited to, Title 15, § 3317 ("Any CDCR employee who becomes aware of inmate suicidal ideation, threats, or attempt shall immediately notify a member of the health care staff."), and Section 12-10-12 of the *Coleman* Program Guide ("Any CDCR employee who becomes aware of inmate suicidal ideation, threats, or attempt shall immediately notify a member of the health care staff."). In addition, we request that, pending a thorough investigation, immediate action be taken to place Officer [REDACTED] on administrative time off. If he returns to work, he should not be permitted to occupy any positions in which he has contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members.

No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people, non-custody staff members, or others who may have witnessed any of the events discussed above. In addition, all evidence, including photographs and videos of Ms. [REDACTED] injuries and video footage of the incident itself (if available), should be obtained and preserved immediately for review. Plaintiffs' counsel request that staff do not engage in retaliation, including against Ms. [REDACTED] and any witnesses, in response to these allegations.

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

June 28, 2019

Page 4

Plaintiffs' counsel also requests that Defendants produce (1) Ms. [REDACTED] 602 grievance and any responses (Log #RJD-C-[REDACTED]); (2) any photographs or videos of Ms. [REDACTED] injuries taken by medical or custody staff; (3) any audio or video of interviews with Ms. [REDACTED] regarding this incident; and (4) any memorandum drafted by medical or mental health care staff, including, but not limited to, social worker Joshua Cohen, regarding the incidents drafted

Plaintiffs' counsel also requests that Ms. [REDACTED] not be returned to RJD once she is discharged from the SVSP PIP. The normal process for admissions to inpatient psychiatric programs, including the SVSP PIP, is called "psych and return" and automatically returns the patient to the sending institution without new committee hearings at the end of their period of treatment. *See Coleman Program Guides at 12-6-13* ("Inmates with be returned to the institution from which they came per the 'psych and return' policy"). However, the same policy includes an explicit exception for circumstances where the institution to which the prisoner would ordinarily be returned cannot "meet the level of care and security needs of the inmate-patient." We ask that the exception to this procedure be invoked for Ms. [REDACTED] on the grounds that her safety needs as a transgender, DPP, and EOP individual cannot be met at RJD while Officer [REDACTED] remains there. If you are unwilling to invoke the above-cited exception to the psych and return process for Ms. [REDACTED] please let us know in advance of her transfer so that we may take appropriate action to stop the transfer back to RJD. .

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman
By: Senior Counsel

MLF:aa

cc: Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hrvatin
CDCR OLA Armstrong

Jerome Hessick
Tyler Heath
Damon McClain
Roy Wesley
Melissa Bentz
Dillon Hockerson

Kristin Moose
Elise Thorn
Office of Inspector General
Coleman Special Master Team
Prison Law Office

Exhibit 51c

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001



January 9, 2020

Michael Freedman
Rosen Bien Galvan & Grunfeld, LLP
101 Mission Street, Sixth Floor
San Francisco, CA 94105-1738
Via e-mail: mfreedman@rbgg.com

Re: CDCR Response to Advocacy Letter re *Coleman* Class Member [REDACTED]

Dear Mr. Freedman:

The California Department of Corrections and Rehabilitation (CDCR) writes in response to the enclosed letter from Rosen Bien Galvan & Grunfeld, LLP, dated June 28, 2019, with concerns regarding Ms. [REDACTED] [REDACTED] is transgender, a *Coleman* class member who fluctuates between EOP and higher levels of care, and an *Armstrong* class member with a code of DPW. Because the allegations in the letter appear to initiate from an incident on February 4, 2019, when it is alleged that custody staff denied [REDACTED] request to speak with mental health staff, CDCR has processed this letter as a *Coleman* advocacy letter. CDCR asks that plaintiffs also treat the matter as a *Coleman* advocacy for purposes of billing and any future correspondence.

As a preliminary matter, plaintiffs requested that the allegations of staff misconduct be investigated by investigators outside of Richard J Donovan (RJD) Correctional Facility. Over the past several months, the Office of Legal Affairs has received multiple allegations of staff misconduct involving staff at RJD. For each of these allegations, the Office of Legal Affairs has worked with CDCR executive staff in determining how each allegation should be researched. The same considerations were used when assigning staff to research these allegations.

In the letter, plaintiffs' counsel describe an incident at RJD on February 4, 2019, involving Officer [REDACTED] and [REDACTED]. Plaintiffs write:

[A]t approximately 2:00 p.m., [REDACTED] approached Officer [REDACTED] at the podium in C15 to report safety concerns regarding gang members who were threatening her on the yard. Officer [REDACTED] told her to ask for help "on Thursday when there's no regulars here." [REDACTED] went back to her cell, where her mental health began to decompensate. Shortly thereafter, she exited her cell, approached Officer [REDACTED] and asked him to call mental health because she felt like hurting herself. Officer [REDACTED] responded: 'I don't give a damn. Go handle your business.' [REDACTED]

Mr. Freedman

Page 2

█████ returned to her cell, hoping she could maintain her composure until she had an opportunity to seek assistance from medical or mental health staff during evening pill call. Unfortunately, she continued to decompensate and made a serious suicide attempt. █████ used a razor blade to cut herself deeply from her hand to inner elbow. She required 31 stitches to repair the laceration. Her medical records indicate that the cut was sufficiently dangerous that she could have bled to death.

As noted in plaintiffs' letter, █████ submitted a staff complaint appeal dated February 11, 2019. As requested, a copy of the second and third-level appeals and responses are enclosed. The second-level appeal inquiry was conducted by Correctional Lieutenant █████ who also prepared a confidential supplement to the appeal, a copy of which CDCR is not at liberty to disclose. CDCR may disclose that, in addition to interviewing █████ and Officer █████ Lieutenant █████ interviewed two inmate witnesses and an officer witness. The inmate witnesses did not recall the incident in question. The officer witness reported that he recalled the date in question, and that █████ came back from group and went directly to her cell. The witness did not observe █████ speak to Officer █████ Officer █████ denied the allegations.

Additionally, CDCR disagrees with plaintiffs' characterization of █████ self-harming behavior as a "serious suicide attempt." As evidenced by the enclosed 128-C dated February 4, 2019, Mental Health clinical staff determined it was not a suicide attempt.

Following the February 4, 2019 incident, plaintiffs' letter describes an incident on February 12, 2019, in which Officer █████ is alleged to have made negative comments to █████ while she was asking another officer to confirm she was submitting a Form 22. Plaintiffs' letter also describes an incident on February 20, 2019, when Officer █████ was alleged to have refused to give an inmate toilet paper for █████ The letter describes another incident the same day when █████ allegedly overheard Officer █████ and █████ cellmate discuss the cellmate allegedly wanting to hurt █████ and Officer █████ allegedly making a comment "I better hope you don't hurt him." Finally, the letter describes an incident on February 23, 2019, when █████ was allegedly told by another inmate that Officer █████ was attempting to recruit inmates to attack █████

CDCR takes all allegations of staff misconduct seriously, and investigated each of the allegations raised in plaintiffs' letter by interviewing relevant staff and inmate witnesses who were likely to be at the housing unit at the time of the alleged incidents. None of the witnesses heard or observed anything that could corroborate these allegations. Therefore, CDCR cannot confirm that any of these allegations occurred. As you know, █████ ultimately made a threat of physical harm against Officer █████ on February 26, 2019, and she was removed from the housing unit.

In the letter, plaintiffs ask for "any photographs or videos of █████ injuries taken by medical or custody staff; (3) any audio or video of interviews with █████ regarding this incident; and (4) any memorandum drafted by medical or mental health care staff, including, but not limited

Mr. Freedman

Page 3

to, social worker Joshua Cohen, regarding the incidents drafted.” Defendants have confirmed there are no such photographs, videos, or recordings. There are three relevant memos drafted by Clinical Social Worker J. Cohen detailing the allegations of staff misconduct [REDACTED] reported to Mr. Cohen related to the alleged incidents in February 2019. Copies of the three memos are enclosed. There are, of course, medical records associated with this incident as well, but they have not been enclosed because plaintiffs already have access to the records through EHRS.

Finally, in the letter, plaintiffs ask that [REDACTED] not be returned to RJD once she is discharged from the SVSP PIP. At the time of plaintiffs’ letter, [REDACTED] was housed in the SVSP PIP. She was moved to an EOP bed at SVSP on July 18, 2019, and then went to a Correctional Treatment Center at CHCF on August 17, 2019. She remained at CHCF in outpatient housing and MHCB housing, and was returned to SVSP on October 30, 2019. Shortly afterwards, [REDACTED] was placed in Administrative Segregation Unit (ASU) for safety concerns as staff had received information that [REDACTED] was being targeted for possible assault by other inmates. At a classification committee meeting on November 27, 2019, it was determined that given her specific case factors and enemy concerns, [REDACTED] could only be referred to RJD for transfer. [REDACTED] was transferred to RJD on December 13, 2019.

Once [REDACTED] arrived at RJD, staff realized [REDACTED] had a history with Officer [REDACTED]. As a general rule, CDCR will not exclude an institution from the pool of institutions available for an inmate’s housing absent specific enemy concerns or a Staff Separation Alert (staff concerns). RJD has recently issued a Staff Separation Alert based on [REDACTED] February 2019 threat to harm Officer [REDACTED]. At a classification hearing on December 18, 2019, RJD described working on a potential transfer. For your reference, enclosed are copies of the November 27, 2019 and December 18, 2019 classification reviews.

CDCR is working to expeditiously move [REDACTED] from RJD. She is especially difficult to place given her specific case factors, including DPW status, mental health treatment needs, Level IV custody, and enemy and staff concerns. Defendants note that on December 20, 2019, [REDACTED] engaged in some self-harming behaviors, which appear to be related to frustrations over her current housing in ASU and her desire to transfer. Plaintiffs can review the records associated with this incident in EHRS.

CDCR is committed to finding an appropriate placement for [REDACTED] and recognizes the urgency of the situation. Defendants will provide an update when additional information is available.

Sincerely,

/s/ **Katie Riley**

KATIE RILEY
Attorney IV

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF LEGAL AFFAIRS

Jennifer Neill

General Counsel

P.O. Box 942883

Sacramento, CA 94283-0001



Enclosure(s):

Second and Third-Level Appeals and Responses, initiated 2/11/19

128-C dated 2/4/19

Three memos from J. Cohen, Clinical Social Worker

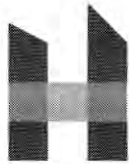
Classification Reviews dated 11/17/19 and 12/18/19

cc:

Coleman Special Master Team

Ed Swanson, *Armstrong* Court Expert

Coleman and *Armstrong*, Defendant's Co-Counsel



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

MEMORANDUM

Date : 02/11/2019

To : Dr. S. Bahro

From : J. Cohen, Clinical Social Worker

Subject : **ALLEGED STAFF MISCONDUCT**

On Monday, 02/11/2019, at approximately 1335 hours, while completing my duties as a primary clinician in FC Building #2, [REDACTED] alleged staff misconduct. [REDACTED] reported the following about C.O. [REDACTED] and C.O. [REDACTED]

“Last Monday, at about 2:20 or 2:30, I was in my cell and I sent an inmate to the podium to tell them I had a razor blade in my hand to cut myself. The inmate came back from the podium and told me ‘The cops said they don’t give a fuck and that you should handle your business.’

I had just went to them before that telling them I needed to roll up due to safety concerns and they told me ‘Fuck that! Wait till Thursday when there are no regulars on to pack up your shit.’ They contributed to me cutting myself.

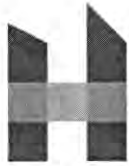
After I cut myself I asked someone to tell custody. The inmate saw how bad the cut was so they ran to the podium. [REDACTED] waited to recall the entire dayroom before he even came to my door.”

When asked if she knew the names of the C.O.’s the IP identified Officer’s [REDACTED] and [REDACTED]

After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

Respectfully,

J. Cohen, ASW
Clinical Social Worker
FC EOP



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

MEMORANDUM

Date 02/13/2019

:

Dr. S. Bahro

To :

J. Cohen, Clinical Social Worker

From :

ALLEGED STAFF MISCONDUCT

Subject :

On Wednesday, 02/13/2019, at approximately 1115 hours, while completing my duties as a primary clinician in FC Building # [REDACTED] [REDACTED] [REDACTED] alleged staff misconduct. [REDACTED] handed me a piece of paper on which she had had written the following:

“2-12-19 / P.M. Chow return – getting form 22 signed and was told by C/O [REDACTED] ‘I am supposed to fucking care if you kill yourself? If you hadn’t said you had a razor I would have given you one to use to help you kill yourself.’”

When asked for clarification about what the IP is reported she stated the following:

“I went to the podium last night to get my Form-22 signed by custody and that is what [REDACTED] said to me”

After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

Respectfully,

J. Cohen, ASW
Clinical Social Worker
FC EOP



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

MEMORANDUM

Date	:	02/26/2019
To	:	Dr. S. Bahro
From	:	J. Cohen, Clinical Social Worker
Subject	:	ALLEGED STAFF MISCONDUCT

On Wednesday, 02/26/2019, at approximately 1430 hours, while completing my duties as a primary clinician in FC Building #2, [REDACTED] alleged staff misconduct. [REDACTED] handed me a piece of paper on which she had written the following:

"2-12-19 Return PC Chow – Getting From 22 signed and was told by C/O [REDACTED] 'Am I supposed to give a fuck if you kill yourself? If you didn't already have a razor I would have given you one to kill yourself!!!'..."

...2-13-19 1530 hours (pm med pass) C/O [REDACTED] informs me in a somewhat / lightly threatening manner (posture / tone of voice / facial expression / but no direct verbal threat made) that he was made entirely aware of 602 paperwork filed by me as well as reports filed by Cohen, from Sgt. [REDACTED] and that aforementioned paperwork would never lead to and actions against himself (stated 'at least not ever at RJD')

2-20-19 P.M. Dayroom – Sent I/M to request partial roll of T.P. and C/O [REDACTED] stated 'no, I'm not giving him anything, He just wrote me up'

2-20-19 Same Dayroom – Had another I/M speak to C/O [REDACTED] and C/O [REDACTED] (Top tier dayroom, so I was locked in cell) regarding [sic] need for 'emergency cell move' to remove my cell-mate due to his making threatening comments about my being 'in a dangerous spot where bad shit could happen to me' (in the cell w/ him) C/O [REDACTED] again stated 'He (meaning myself) has nothing coming after booking me, he better hope [REDACTED] (my cell-mate) doesn't hurt him'...

...2-13-19 approx. 1445 hour – I/M housed in my block (14) approached me at the after-noon [sic] dayroom, (said I/M wished to stay un-named) and informed me C/O [REDACTED] was actively attempting to 'recruit' some-one [sic] to 'roll me off the yard' by force a few days earlier when he was here."

After the IP reported the allegation above I advised them of the process set forth for IPs to file a complaint (form 22/602).

Respectfully,

J. Cohen, ASW
Clinical Social Worker – FC EOP

Date Time Incident

2-12-19 Return to work - Getting Form 22 signed and was told by [REDACTED] "Am I supposed to give a fuck if you kill yourself? If you didn't already have a razor I would have given you one to kill yourself!!!"

2-13-19 1300 hours - explained entire situation to Sgt. [REDACTED] in EOP center / Sgt. stated would speak to C/O [REDACTED] and instruct him to "back off and stay away from me" Sgt. also gave word as man that there would be NO repercussions or retaliatory actions from custody for filing legal proceedings on C/O [REDACTED]

2-13-19 1530 hours (pm med pass) C/O [REDACTED] informs me in a somewhat / lightly threatening manner (posture / tone of voice / facial expression) but NO Direct Verbal threat made that he was made entirely aware of 602 paperwork filed by me as well as report filed by Cohen, from Sgt. [REDACTED] and that afore mentioned paperwork would never lead to any actions against himself (stated "At least not ever at RSD,")

over →

2-20-19 P.M. Dayroom - Sent I/M to request partial roll of T.O. and C/O [REDACTED] stated "NO, I'm not giving him anything, He just wrote me up"

2-20-19 Same Dayroom - Had another I/M speak to C/O [REDACTED] and C/O [REDACTED] (Top Tier dayroom, so I was locked in cell) regarding need for "Emergency Cell Move" to remove my cell-mate due to his making threatening comments about my being "in a dangerous spot where bad shit could happen to me" (in the cell w/ him) C/O [REDACTED] again stated "He (meaning myself) has nothing coming, after booking me, he better hope [REDACTED] (my cell-mate) doesn't hurt him" Consequently Sgt. [REDACTED] moved my cell-mate the next day (Fri. Feb. 21, 2019) w/o hesitation for my safety (I am currently in a wheel-chair for approx. the last year)

2-23-19 approx. 1445 hours - I/M housed in my block (14) approached me at after-noon dayroom, (said I/M wishes to stay un-named) and informed me C/O [REDACTED] was actively attempting to "recruit" someone to "roll me off the yard" by force a few days earlier when he was here.

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR-0602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY

Institution/Parole Region:

Log #:

Category:

LSD-C-19

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Assignment:

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

STAFF COMPLAINT

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A):

on 2/4/19 at approx. 1445 hours I notified C/O [REDACTED] that I felt like cutting myself and had a open razor blade.

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

To have this incident investigated as well as be compensated for mental and emotional distress as well as physical pain from the laceration.

Supporting Documents: Refer to CCR 3084.3.

☐ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

☒ No, I have not attached any supporting documents. Reason: *W/A*

Inmate/Parolee Signature: [REDACTED]

Submitted: 2-11-19

☐ By placing [REDACTED]

Receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☒ Bypassed at the First Level of Review. Go to Section E.☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____☐ Cancelled (See attached letter) Date: _____☐ Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)Reviewer: _____ Title: _____ Signature: _____
(Print Name)

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant ____ / ____ / ____

Received

FEB 13 2019

RJDCF Appeals

s/c
Fail to Act

STAFF USE ONLY

Incident occurred in C-15

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

INMATE/PAROLEE APPEAL

CDCR-0602 (REV. 03/12)

Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted : _____

Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

- ☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
- ☐ Cancelled (See attached letter) Date: _____
- ☐ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant ____ / ____ / ____

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____

Date: _____

Print Staff Name: _____

Title: _____

Signature: _____

Date: _____

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
 CDCR 602-A (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
		19.	
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

blue ink.

Assignment:

Received

FEB 13 2019

RJDCF Appeals

STAFF USE ONLY

Section A only (Explain your issue):

at which time he responded "I don't give a damn, handle your business". About 15 or 20 minutes later I lost control and ended up slicing my left forearm all the way from my wrist to my inner elbow exposing the tendon which required 30 sutures to close. I was subsequently placed in RJD MHC for 4 days for "Severe Self Injurious Behavior". Mental Health is constantly instructing inmates to inform custody when feeling like hurting ourselves, but when we laughed at by staff and told to go ahead and hurt ourselves it is a direct deliberate violation of the oath all Correctional Officers are required to make. On this date I notified my Primary Clinician / Mr. Cohen ACSW of the situation and he stated he would also file a report of "Staff Misconduct".

Inmate/Parolee Signature:

B. Continuation of CD

Inmate/Parolee Signature: _____

Date Submitted: _____

Exhibit 51d

CONFIDENTIAL SUPPLEMENT TO APPEAL

"APPEAL INQUIRY"

DO NOT COPY OR DISTRIBUTE EXCEPT PURSUANT TO CCR Title 15, Section 3084.9(i) (3) (B) 1.

Date: APR 23 2019

Appeal Log Number: RJD-C-19 [REDACTED]

Inmate/Parolee Name: [REDACTED]

CDC Number: [REDACTED]

Assigned Reviewer: Name and Title [REDACTED] Correctional Lieutenant

Date and place of interview: April 3, 2019, ASU Sergeant Office.

Accused Staff Member(s):

[REDACTED], Correctional Officer

Synopsis of Allegation: [REDACTED] submitted an Inmate/Parolee Appeal (CDCR 602) dated February 11, 2019, alleging Correctional Officer [REDACTED] failed to act when he was informed of [REDACTED] suicidal ideations. Specifically, [REDACTED] alleges Officer [REDACTED] was informed by [REDACTED] of thoughts of cutting on self.

Witnesses: [REDACTED] did not identify any inmate witnesses, but did identify Officer [REDACTED] as a staff witness.

A review of the TABE Score List revealed he has a score of 6.8, which is above the required minimum level of 4.0. The Disability and Effective Communication System revealed that [REDACTED] is a participant in the Mental Health Services Delivery System at the Enhanced Outpatient Program level of care. [REDACTED] does not require any adaptive support accommodation.

Effective communication was established by utilizing [REDACTED] primary and alternate methods of communication. The interviewer read the appeal documents to [REDACTED] in plain simple English, while facing Inmate [REDACTED] and speaking in a loud clear voice. Inmate [REDACTED] was able to reiterate what was explained and was able to provide appropriate responses to questions asked as well as ask appropriate questions. Effective communication was established.

Findings: The CDCR 602 dated February 11, 2019, Log #RJD-C-[REDACTED] and all related documents have been reviewed for this inquiry:

Interview of Inmate [REDACTED]

On April 3, 2019, I conducted an interview with [REDACTED] in the ASU Sergeants Office. During the interview, I questioned [REDACTED] regarding the allegation documented on the appeal. [REDACTED] reiterated what was documented in the appeal. I asked [REDACTED] the following questions;

Q.) Can you identify any inmates that may have witnessed this alleged incident?

A.) No.

Q.) Can you identify any staff that may have witnessed this alleged incident?

A.) Yes, the Control booth CO, Officer [REDACTED]

Q.) Did your cellmate witness this incident?

Appeal Log # RJD-C-

Page 2

A.) No. He was on the yard I think.

Q.) Do you have anything else to add regarding this allegation?

A.) No.

I concluded the interview with

Interview of

On April 3, 2019, I conducted a confidential interview with in the Facility C Program Office. The interviewer identified as being assigned to Housing Unit 15 during the incident and would have been on the dayroom at the time of the alleged incident. During the interview, I informed he was solely identified by the Interviewer as a potential witness to the allegations made by . During the interview, I questioned regarding the allegation made by I provided a photograph of Inmate vaguely recalled I asked Inmate the following questions:

Q.) Do you attend Dayroom activities?

A.) Sometimes.

Q.) Do you recall telling Officer he was feeling suicidal?

A.) I don't remember that.

Q.) Do you recall cutting on himself?

A.) No. I don't remember that happening.

Q.) Do you have anything else to add?

A.) No.

I concluded my interview with

Interview of

On April 3, 2019, I conducted a confidential interview with Inmate the Facility C Program Office. The interviewer identified Inmate as being assigned to Housing Unit 15 during the incident and would have been on the dayroom at the time of the alleged incident. During the interview, I informed Inmate he was solely identified by the interviewer as a potential witness to the allegations made by Inmate . During the interview, I questioned Inmate regarding the allegation made by Inmate I provided Inmate a photograph of Inmate Inmate recalled Inmate I asked Inmate the following questions:

Q.) Do you attend Dayroom activities?

A.) Yes.

Q.) Do you recall Inmate telling Officer he was feeling suicidal?

A.) Guys are always claiming suicidal in that block. is pretty under control. He carries himself well.

Q.) Do you recall Inmate cutting on himself?

A.) No. But I know that when these guys say that or do that always puts them in the shower and calls medical for them. I mean.

Q.) Do you have anything else to add?

A.) Inmate stated in part, When these guys say they are going to cut themselves what are they expecting the cops to do if they are just saying it. puts them in the shower until they talk to a doctor but I mean there isn't much he can do. They guys need to stop making things up. does a good job.

Page 3

I concluded my interview with Inmate [REDACTED].

Interview of Correctional Officer J. [REDACTED]

On April 11, 2019, I conducted an interview with Correctional Officer J. [REDACTED] in the Facility C Program Office. During the interview, I provided Officer [REDACTED] a photograph of Inmate [REDACTED]. Officer [REDACTED] recalled Inmate [REDACTED] from being housed in Housing Unit 15. During the interview, I asked Officer [REDACTED] questions in regards to the allegations made by Inmate [REDACTED]. I asked Officer [REDACTED] the following questions;

Q.) Do you recall the incident involving Inmate [REDACTED]

A.) Yes I do. My regular post is 2nd watch in the control booth so I was there for 2nd and 3rd watch.

Q.) Do you recall Inmate [REDACTED] telling Officer [REDACTED] he was feeling suicidal?

A.) No. He never talked to [REDACTED] that day. He came back from group and went straight to his cell. So he never talked to [REDACTED]

Q.) Have you seen negative interactions between Officer [REDACTED] and Inmate [REDACTED]

A.) No. I've never seen Officer [REDACTED] be unprofessional.

Q.) Do you have anything else to add?

A.) No.

I concluded the interview with Officer [REDACTED]

Interview of Correctional Officer [REDACTED]

On April 22, 2019, I conducted an interview with Correctional Officer [REDACTED] in the Inmate Appeals Office. During the interview, I provided Officer [REDACTED] a photograph of Inmate [REDACTED]. Officer [REDACTED] recalled Inmate [REDACTED] from being housed in Housing Unit 15. During the interview, I asked Officer [REDACTED] questions in regards to the allegations made by Inmate [REDACTED]. I asked Officer [REDACTED] the following questions;

Q.) Do you recall the incident involving [REDACTED]

A.) No. I just remember he cut himself and left on the ETV.

Q.) Did [REDACTED] inform you he was feeling suicidal?

A.) No.

Q.) Did you state to Inmate [REDACTED] you didn't give a damn and to handle his business?

A.) No.

Q.) How do you handle when an inmate claims suicidal ideations?

A.) I place them in handcuffs and put them in the shower. Then I let medical know.

Q.) Do you have anything else to add?

A.) Officer [REDACTED] stated in part, I don't know what his issue is with me. He went to the hole because he told a clinician or psychologist that he was going to stab me in the neck. I don't know why. That is why he is in the hole.

I concluded the interview with Officer [REDACTED]

Appeal Log # RJD-C-

Page 4

Conclusion:

This interviewer has reviewed all documents, interviewed pertinent witnesses relating to this allegation and has deemed the allegation of Officer [REDACTED] failing to act and staff misconduct to be unfounded. Inmate [REDACTED] provided no additional information during the interview to corroborate or substantiate his claim in this allegation. Inmate [REDACTED] provided the name Officer [REDACTED] he stated witnessed the allegation. However, during the interview with Officer [REDACTED] he refuted the allegation made by Inmate [REDACTED] by specifically stating "He never talked to [REDACTED] that day. He came back from group and went straight to his cell." Additionally, the reviewer interviewed additional inmates who would have been on the dayroom at the time of the alleged interaction between Inmate [REDACTED] and Officer [REDACTED]. Both inmates stated they did not witness this alleged interaction.

This interviewer concludes the complaint filed by Inmate [REDACTED] is false. Inmate [REDACTED] has failed to provide any corroborating evidence to support his allegation in this staff complaint. It is my recommendation no further inquiry is deemed warranted. Additionally, there is no preponderance of evidence to support this finding. Therefore, it is my recommendation no disciplinary action be taken against Inmate [REDACTED] due to lack of supporting evidence to substantiate the false allegations against Correctional Officer [REDACTED].

Name	[REDACTED]	Sign	[REDACTED]	Date	1/23/2019
Name	[REDACTED]	Sign	[REDACTED]	Date	4/24/19

Exhibit 52

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility, ("RJD") on Facility A in Building 3. I am 57 years old.

3. I have been housed at RJD since January 2019.

4. During my time at RJD, I have been housed on Facility B, in Building 9 and on Facility A, in Buildings 3 and 4. [REDACTED]

5. I am an *Armstrong* class member. I am designated as DPO and I use a wheelchair to ambulate.

6. I have a number of serious medical conditions. I have diabetes, heart problems, hypertension. I am classified as high risk medical.

7. I have witnessed staff engage in misconduct against other people at RJD.

8. In late November 2019, in the Facility A dining hall, I witnessed a transgender person who is known by the nickname of "[REDACTED]" get assaulted by officers. I am not certain, but I think her real last name may be [REDACTED]. An officer, whose name I do not know, told [REDACTED] to tuck her shirt in. She refused to do so. Then two officers grabbed her and forcefully threw her more than ten feet across the floor and to the ground. Then, the officers jumped on her. They were kneeling her and pulling her arms and roughing her up on the ground. The whole incident lasted for about five minutes. [REDACTED] was yelling out, "Help! Help!" I was about fifteen feet away from the incident in the dining hall and saw the whole thing. I heard that [REDACTED] is now in administrative segregation because she was charged with a rule violation for fighting with staff during this incident. But, I saw the whole thing and she was not fighting, she didn't do anything to the officers.

1 9. A few months ago I witnessed an elderly prisoner named Mr. [REDACTED] get
2 assaulted by staff in Facility B, in Building 9. Mr. [REDACTED] and I were both living in that
3 housing unit. I saw an officer in our unit tell Mr. [REDACTED] to return to his cell. Mr. [REDACTED]
4 replied, "fuck you." Next, I saw the officer, whose name starts with an "H" yell, "Do not
5 disrespect me, I do not disrespect you!" The officer then grabbed Mr. [REDACTED] and threw him
6 violently to the ground. The officer was very large, approximately 250 lbs and over six
7 feet tall. Mr. [REDACTED] is much smaller, is older, and appears frail. At the time this happened I
8 was in the dayroom, about 20 feet away from Mr. [REDACTED]. I saw him hit the ground really
9 hard. A second officer came over. The officers ordered Mr. [REDACTED] to get up. He replied
10 that he couldn't get up. The two officers lifted Mr. [REDACTED] up off the ground ^{and [REDACTED]} returned him to
11 his cell. [^]

12 10. On two occasions I saw my cellmate give food, like soups and candy bars, to
13 that same officer with the "H" last name who assaulted Mr. [REDACTED]. This struck me as really
14 strange, as it is not common for staff members in prison to interact like that with
15 incarcerated people. My cellmate said that the officer asked him for the food and, by the
16 way he said it as a matter of fact, it seemed like he could not say no to the officer. I am not
17 sure what was going on but my cellmate hid the food that he was giving the officer in a
18 ^{paper} and handed it to him discretely. The whole transaction was very strange and it made
19 me feel uncomfortable.

20 11. Approximately six months ago, I heard an officer in the waiting area of the
21 medical clinic on Facility B tell me and multiple other incarcerated people who were also
22 waiting that Mr. [REDACTED] was a child molester. Mr. [REDACTED] had just walked out of the clinic
23 when the officer made this comment. I do not know the name of the officer who said this.
24 It is known in prison that being labeled as a child molester creates a serious safety risk. I
25 interpreted this statement from the officer, telling prisoners that Mr. [REDACTED] was a child
26 molester, as an intentional attempt to place Mr. [REDACTED] in danger on Facility B.

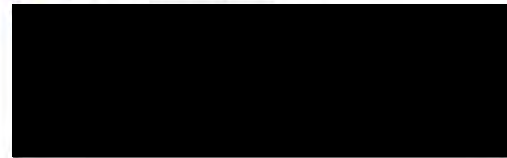
1 12. Multiple times I have also seen staff let fights occur between prisoners right
2 in front of them without stopping them or doing anything to assist the prisoners.

3 13. I have not reported any staff misconduct that I have witnessed. I am afraid to
4 report any misconduct. I believe, because of what I have seen staff do to other
5 incarcerated people, that staff will attack me if I report misconduct. This fear has kept me
6 from reporting misconduct.

7 14. In my experience, people with disabilities or mental health issues are
8 vulnerable because they are unable to protect themselves. Not all staff are bullies, but I
9 have observed that the staff that are bullies pick on people with disabilities or mental
10 health issues and those prisoners do not fight back.

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct, and that this declaration is executed at

13 San Diego, California this 7th day of January, 2020.

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[3477131 1]
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Initials 

Exhibit 53

DECLARATION OF

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation (“CDCR”) number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility (“RJD”) in cell [REDACTED] on Facility A in Building 5. I am 76 years old.

3. I have been housed at RJD from 2011 until the present. I was initially housed on Facility C, then was moved to Facility D, then was moved to Facility B, and then most recently was moved to Facility A.

4. I am an *Armstrong* class member. I am designated as DPW, which means I use a wheelchair full-time. I am unable to walk. As accommodations for my disability, I have a wheelchair and wheelchair-accessible housing.

5. I have a number of serious medical conditions. I am classified as high-risk medical because of heart problems and COPD.

6. I was a victim of staff misconduct at RJD. On December 19, 2016, I was making food on a hot plate in my cell, [REDACTED], in Building 10 on Facility B at about 4 p.m. I admit that the hot plate was contraband and that I should not have possessed it. While cooking, I accidentally created some smoke heating up some butter. Officer [REDACTED] who was a regular floor officer in the building on Third Watch, noticed the smoke and came over to my cell. He ordered the control tower to open the door to my cell. The cell door opened. He told me to "get the fuck out of there." I complied with his order immediately and went outside the cell in my wheelchair. Officer [REDACTED] then entered my cell. He then proceeded to completely trash my cell and destroy my property. He picked up the wheelchair-accessible writing board that I had in my cell, turned around, and threw it out of the cell. It flew over my head and almost hit another prisoner in the dayroom. He ripped my television from its plug and threw it on the bed; in so doing, he broke the

1 television. He also broke my television antenna. He threw all sorts of food on the floor
 2 and then smashing some of it with his boots, including mustard packets which squirted all
 3 over the cell floor. He also threw both of my mattresses on the floor. He scattered my
 4 legal paperwork all over the cell. He also swore at me.

5 7. I told Officer [REDACTED] that I was going to write him up for trashing my cell.
 6 He said, "I don't give a fuck what you do." He later returned to my cell and told me that if
 7 I was going to write him up, he would write me up for a serious Rules Violation Report.
 8 In fact, he ultimately did do that *and I lost access to yard & dayroom for 30 days.* [REDACTED]

9 8. I then attempted to get back into my cell, but I could not do so because the
 10 property Officer [REDACTED] threw on the ground obstructed the entire floor so that I could not
 11 enter with my wheelchair. In particular, the mattresses blocked the cell entrance. Because
 12 I'm in a wheelchair, I could do very little to clean up the cell. I asked another prisoner for
 13 help. He leaned into the cell and pushed the mattresses back so I could at least fit my
 14 wheelchair into the very front of the cell. Once I entered the cell, staff closed the door
 15 behind me. I was essentially trapped at the front of the cell, surrounded by my property
 16 and unable to move in my wheelchair in the cell.

17 9. I did my best to clean up the mess made by Officer [REDACTED] Since I couldn't
 18 move my wheelchair around, I crawled over the mattresses and other property to first clean
 19 up my legal paperwork. Once I had gathered some of my legal paperwork, I then crawled
 20 on my hands and knees to try to get some of the food items off of the floor. I started
 21 getting chest pains from exerting myself too much. I then tried moving the mattresses
 22 back onto the bed, but I couldn't do it myself. My chest was pounding and I was having a
 23 hard time breathing. I needed to recuperate. I unrolled one of the mattresses flat on the
 24 floor and lied down on it. That night I slept on the floor. * [REDACTED]

25 10. *After I talked to sergeant [REDACTED] I spoke with Sergeant [REDACTED]*
 26 *Whiting about Officer [REDACTED] trashing my cell. Sergeant [REDACTED]*
 27 *directed me to talk to the floor officer, who was officer [REDACTED]*
 28 *partner. I tried to get him to look at my cell, but he refused.*

*Earlier that evening, I asked Sergeant [REDACTED] to take a look at my cell. In response, he said, "Go get fucked. How do I know you didn't do it yourself to get the officer in trouble?"

1 The next morning, I crawled back over to my wheelchair and [REDACTED]
2 went to breakfast. I asked a sergeant to view my cell, but he said he did not have time.

3 11. I was continuing to have chest pains that made it impossible for me to make
4 much progress cleaning up my cell. I slept on the floor the second night in a row.

5 [REDACTED] 12.

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9 13. I slept on the floor for a third night because I was still unable to clean my
10 cell.

11 14. Finally, on the fourth day, I was able to get the mattresses back onto the bed.
12 It wasn't until the very end of the fourth day that I was able to fully clean my cell and
13 restore it to the way it was before Officer [REDACTED] trashed it.

14 15. I filed a 602 staff complaint about the incident. I was interviewed by a
15 lieutenant. My 602 was denied.

16 16. A few months later, Officer [REDACTED] without any justification, trashed my
17 cell another time, although not quite as badly as the first time. I believe he did this in
18 retaliation for filing the first 602 about the first incident. I filed a 602 about this incident
19 as well. It was also denied.

20 17. Officer [REDACTED] still works at RJD. Since he trashed my cell, I have been
21 moved to Facility A. I have seen him working the dining hall on Facility A as recently as
22 the start of December. He has also worked in my building, Building 5, as a floor officer on
23 several occasions since I moved the building in September 2019. As far as I know, he's
24 never faced any discipline for trashing my cell.

25 18. I've also seen some officers do some terrible things to other incarcerated
26 people at RJD.

1 19. In February or March 2019 at about 2 p.m., I saw officers brutally beat a
2 Hispanic prisoner on the Facility B Yard. The prisoner was sitting on a bench near the
3 basketball court in front of Building 6. One officer—Officer 1—approached him and
4 started talking with him. I could overhear them discussing whether the prisoner had been
5 smoking something. Another officer—Officer 2^{from Building 6}—approached Officer 1 and the prisoner.

6 Officer 2 ordered the prisoner to come talk to him. The prisoner
7 complied and walked around the bench to speak with Officer 2. While the prisoner was
8 talking to Officer 2, he was standing with the back of his knees up against the low, metal
9 bench. All of the sudden and without the prisoner showing any signs of aggression,
10 Officer 2 pushed the prisoner in his chest. The prisoner fell backward over the bench,
11 tumbling head over heels. He landed on his back, then rolled over part of the way toward
12 his stomach. Officer 1 then grabbed the prisoner by the right arm and rolled him fully onto
13 his stomach. Officer 1 “chicken winged” him, pulling the prisoner’s arm behind his back.
14 Officer 2 then came around the bench and jumped directly onto the back of the prisoner.
15 Officer 2 landed on the prisoner with his right knee, putting all of his weight into the
16 prisoner’s back. Officer 2 proceeded to hit the prisoner in the head repeatedly, punching
17 with one of his arms and hitting the prisoner with a pepper spray canister with his other
18 arm. Additional officers then flooded into the area. The officers all began beating the
19 prisoner. One officer had his knee on the prisoner’s neck and was using his baton to hit
20 the prisoner in his face. I noticed other officers hitting him all over his body with their
21 batons. I think there 5 to 7 officers who participated in beating up this prisoner. I would
22 estimate that about 45 seconds passed from the time Officer 1 jumped on the prisoner’s
23 back until the end of the altercation. At no time did I see the prisoner resist in any way. I
24 was about 15-20 yards away from this incident and watched the entire time.

25 20. When the prisoner returned to our housing unit ^{approximately three days later} the whole left
26 side of his face, his forehead, and his chin were bruised. He told me that his left eye socket
27
28

1 was broken. He had multiple stitches in his right eyebrow area. And he also had stitches
2 in his lip. He had been so disfigured that it made me feel a little nauseous looking at him.

3 21. I helped the prisoner write a staff complaint. My understanding is that the
4 staff complaint was denied.

5 22. I saw at least some of the officers involved in the incident working regularly
6 on Facility B after the incident. As far as I am aware, none of the officers faced any
7 discipline for attacking this prisoner.

8 23. I recall another incident in the Facility B dining hall where an officer beat up
9 and pepper sprayed a prisoner for no reason. In early-2018, I was sitting in the dining hall
10 for dinner. At the table next to me, one prisoner—Prisoner 1—offered another prisoner—
11 Prisoner 2—his tray of food. An officer told Prisoner 2 that he could not have two trays.
12 Prisoner 2 replied that he was given the tray by Prisoner 1. Prisoner 1 confirmed that he
13 had given away his tray. The officer told Prisoner 1 to “get the hell out of here” and then
14 told Prisoner 2 to give the officer the extra tray. Prisoner 2 picked up the tray and gave it
15 to the officer in a what appeared to be a normal, non-hostile manner. As he was giving
16 him the tray, Prisoner 2 said, “Sir, I was given the tray.” The officer replied, “Don’t get
17 smart with me.” The officer then immediately took out his pepper spray canister and
18 started spraying Prisoner 2 right in the face. As far as I could tell, he discharged the whole
19 canister. Prisoner 2 was wiping his face and then fell down to the ground. The officer,
20 with the assistance of another officer, cuffed Prisoner 2 and took him out of the dining hall.
21 I was only a few feet away when this incident happened. As far as I could tell, there was
22 absolutely no reason for the officer to use any force against Prisoner 2.

23 24. After the incident, I saw the officer who used the pepper spray regularly
24 working on the yard. I was told by Prisoner 2 that he was found guilty of a Rules
25 Violation Report for assaulting the officer. He served six months in administrative
26 segregation.

1 25. Seeing what happened to these prisoners and how I was treated makes me
2 hurt emotionally. I feel empathy for the victims who are abused unjustifiably. These
3 incidents also make me angry that in a so-called civilized society we treat people like this.
4 These officers are supposed to represent the law. Instead, I have seen the officers take
5 action that I believe violates the law and the rights of prisoners.

6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct, and that this declaration is executed at
8 San Diego, California this 07 day of January 2020.

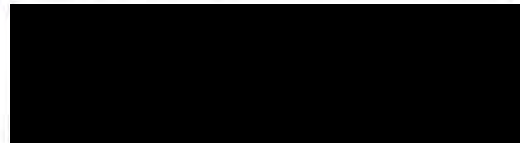
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Exhibit 54

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD"). I am 30 years old.

3. I have been housed at RJD from July 2013 to the present. During my time at RJD, I have been housed in Buildings 1, 2, and 3 on Facility A, and in Building 8 on Facility B. I am currently housed in Building 8, cell 103.

4. I am a *Coleman* class member. I am at the CCCMS level of care. I have previously been at the EOP level of care. I am diagnosed with schizoaffective disorder, bipolar disorder, and anti-social disorder. I take a number of medications that help me control my nightmares, anxiety, and depression. In the past, I have attempted suicide.

5. I witnessed events relevant to an incident where staff assaulted [REDACTED] [REDACTED] who is a friend of mine. On April 24, 2019, I was returning from the college class to Building 2 on Facility A, which is where I was housed at the time. There were three officers, one of whom was Officer [REDACTED] standing just to the side of the entrance to Building 2. One of the officers was talking to the control tower officer, Officer [REDACTED] through the window in the control tower that is located above the building entrance. When I got near the officers and the entrance, they stopped talking to each other. The gate to the building was open. I walked into Building 2 and entered the dayroom. I remember having to wait about two or three minutes before Officer [REDACTED] opened the door to my cell, cell 145. When I got into my cell, I put down my school materials and put on my ADA worker vest. I then went out of the cell to start performing my job as an ADA worker, pushing prisoners in wheelchairs to different locations on Facility A.

1 6. I was walking from my cell to the exit of the building. I could see in front of
2 me that all of the cells on the bottom floor of the A Section of the building—which
3 includes cells [REDACTED]—were open, with the exception of cell [REDACTED], which was Mr.
4 [REDACTED]'s cell. I remember hearing another prisoner, [REDACTED], yelling to Officer
5 [REDACTED] in the tower, "You forgot [REDACTED]." Officer [REDACTED] said, "Don't worry about it." I
6 then walked out of the building. It struck me as really strange that Officer [REDACTED] had not
7 opened cell [REDACTED] because usually, the tower officer opens all of the doors in a section at the
8 same time, so it was weird that all of the doors were open except one.

9 7. I walked outside of the building. When I went through the exit, I noticed
10 that Officer [REDACTED] and another officer were still standing just outside the entrance to
11 Building 2, in the dirt to the side of the walkway. Officer [REDACTED] looked upset.

12 8. I walked along the walkway from Building 2 until I reached the track. I then
13 turned left along the track. I reached the walkway that cuts across the yard from in
14 between Buildings 2 and 3 to the dining hall and started walking down it. After I had
15 walked only a few feet on the walkway that cuts across the yard, I heard a sound behind
16 me of keys jangling from being bounced up and down. I turned around and saw Officer
17 [REDACTED] running quickly into Building 2 from the area of the track in front of Building 1.
18 Officers usually only run when there is an emergency. When there is an emergency, there
19 is usually an alarm. Because I saw Officer [REDACTED] running, I assumed an alarm was about
20 to sound. When no alarm went off for a few seconds, I kept walking to the dining hall and
21 then ate dinner. After dinner, I returned to Building 2 and went back to my cell.

22 9. At about 7 p.m., my cell door opened for evening yard and dayroom. I saw
23 Mr. [REDACTED] standing near the medical area of the building. His face was really swollen,
24 his arm was also visibly swollen and looked like it had gone limp. His shirt also had a lot
25 of blood on it. I asked him what happened. He said, "These motherfuckers jumped me in
26 the rotunda." We call the sally port between the outside of Building 2 and the dayroom in
27 Building 2 the "rotunda." The rotunda is a short hallway with gates on either end that are
28

1 controlled by the control tower. He told me that the officers let him out of his cell last and
2 by himself to leave the building to go to dinner. He told me that he walked into the
3 rotunda. He told me that he saw two officers, including Officer [REDACTED] coming into the
4 rotunda at the same time he was trying to go out. He told me that he tried to turn around to
5 leave the rotunda to get out of the officers' way, but could not because Officer [REDACTED]
6 had shut the gate behind him. He told me that the officers then came further into the
7 rotunda and started beating him up. He told me that Officer [REDACTED] then joined the attack.
8 He also told me that he could see Officer [REDACTED] taking a video of the whole incident
9 from the tower through a window in the floor of the tower. He told me that one of the
10 officers was saying "Shoot this motherfucker." He told me that Officer [REDACTED] somehow
11 hurt his hand and then all of the officer left.

12 10. I walked with Mr. [REDACTED] and Mr. [REDACTED] to the window at the nurse's
13 station in the building. Mr. [REDACTED] knocked on the window, which was covered with a
14 plastic bag so that no one could see in. A nurse in the station, I believe it was Nurse
15 Sanchez, then lifted up the plastic bag. Mr. [REDACTED] asked for help. Given the way that
16 the nurse and Mr. [REDACTED] were standing, I am certain that the nurse could see that Mr.
17 [REDACTED]'s face had been injured and that there was blood on his shirt. The nurse
18 responded, "The COs told me to leave it alone and not do anything." The nurse then
19 pulled the bag back over the window.

20 11. Another nurse in the building, Nurse 2, then walked back to the nurse's
21 station from somewhere else. Mr. [REDACTED] told this nurse what had happened and asked
22 this nurse for help. The nurse stuttered and held his hands up in front of his body,
23 indicating to me that he was confused about what to do. He then opened the door and went
24 into the nurse's station without saying anything or doing anything to help Mr. [REDACTED].

25 12. I and two other incarcerated people then went over to the guard station in the
26 middle of the dayroom to talk to Officer [REDACTED] who was serving as one of the floor
27 officers at the time. We all asked for him to ensure that Mr. [REDACTED] receive medical
28

1 treatment. Officer [REDACTED] said "Ain't that medical over there? It's not our field." I
2 interpreted Officer [REDACTED] statement as meaning that, if Mr. [REDACTED] needed medical
3 attention, he should ask medical staff directly. I told Officer [REDACTED] that Mr. [REDACTED]
4 had asked medical staff for help and medical staff had said that the officers had ordered
5 them to not provide medical care. I also told him that whatever the officers had done to
6 Mr. [REDACTED], it was clear that Mr. [REDACTED] needed medical attention. Officer [REDACTED]
7 then said, "What are you talking about?" I interpreted his statement as meaning that he
8 was denying that officers played any role in hurting Mr. [REDACTED] or even that Mr.
9 [REDACTED] was hurt.

10 13. About a minute later, Nurse 2 came out of the nurse's station. He had a
11 clipboard with a form on it that CDCR uses to document people's injuries. Mr. [REDACTED]
12 explained to the nurse what had happened. The nurse started marking down Mr.
13 [REDACTED]'s injuries.

14 14. At this point, I and other incarcerated people were pretty upset that Mr.
15 [REDACTED] was not able to get any real medical care for his serious injuries. We made it
16 pretty clear to staff that we were not happy. Officer [REDACTED] ordered Mr. [REDACTED] to go
17 back to his cell because he was allegedly inciting a riot. Officer [REDACTED] also said that if
18 Mr. [REDACTED] did not go back to his cell, he would make everyone go back to their cells.
19 Mr. [REDACTED] complied with Officer [REDACTED] order and went back to his cell.

20 15. I then tried to walk over to Mr. [REDACTED]'s cell to talk to him. Officer
21 [REDACTED] ordered me to get away from Mr. [REDACTED]'s door. I followed his order. A few
22 minutes later, dayroom ended and I went back to my cell.

23 16. From the time that I went into my cell, which was about 8:45 p.m., until
24 officers conducted their nightly count, which was about 9:20 p.m., I stood at the window
25 of my cell and watched Mr. [REDACTED]'s cell, cell [REDACTED]. I observed his door open one time
26 and officers talking to him with the cell door closed at a later time. As far as I am aware,
27 Mr. [REDACTED] remained in his cell for the period from about 8:45 to 9:20.

1 17. The next day at about 10 a.m., I was on the yard near the program area. I
 2 saw a female mental health clinician walking with Sergeant [REDACTED] near me. I heard her
 3 say to Sergeant [REDACTED] "His arm is swollen, he didn't get any medical attention, his jaw is
 4 swollen." I believed that she was referring to what happened to Mr. [REDACTED].

5 18. No staff member has ever come to talk to me about the incident with Mr.
 6 [REDACTED].

7 19. Officer [REDACTED] regularly worked in the control tower in Building 2 from the
 8 date of Mr. [REDACTED]'s incident until I moved out of Building 2 in July 2019. Officer
 9 [REDACTED] was also often in the building after the incident because he escorted incarcerated
 10 people from the building to mental health group sessions. I also saw Officer [REDACTED] on the
 11 yard often; he also worked in the Building 2 tower on at least one occasion after the
 12 incident. I remember having to calm Mr. [REDACTED] down on a few occasions when Officer
 13 [REDACTED] came into Building 2. Mr. [REDACTED] was upset that Officer [REDACTED] was able to be
 14 around him after beating him up.

15 20. In late 2018, I saw [REDACTED], who was another incarcerated person in
 16 Building 2 and a friend of mine, get beat up badly by staff. Mr. [REDACTED] was ^{on his way to get} his [REDACTED]
 17 medications from the medication window inside the unit.

18 Officer [REDACTED] shined a flashlight in Mr. [REDACTED]'s eyes. Mr. [REDACTED]
 19 complained about Officer [REDACTED] doing that. Officer [REDACTED] and Mr. [REDACTED] started shouting at
 20 each other. Officer [REDACTED] ordered Mr. [REDACTED] to get down on the ground. Mr. [REDACTED] folded
 21 his arms and said "I don't have to get down, I have a vest." Mr. [REDACTED] was referring to the
 22 mobility-impaired vest that he was wearing. It is my understanding that people who have
 23 those vests do not need to get down on the ground during an alarm. Officer [REDACTED] then hit
 24 his personal alarm, which set off the alarm in the building. Officers rushed into the
 25 building from other locations. The first officer that came in was Officer [REDACTED]. He
 26 walked right behind Mr. [REDACTED] and, without saying anything, grabbed Mr. [REDACTED], and body
 27 slammed Mr. [REDACTED] onto his head. It looked to me that the impact knocked Mr. [REDACTED] out
 28

1 because after he hit the ground, he stopped moving. Other officers started punching and
2 kicking Mr. [REDACTED]. Officers also sprayed him in the face with pepper spray. For the entire
3 time, Mr. [REDACTED] was limp on the ground. As far as I could see, he wasn't reacting to any of
4 the kicks or punches because he was unconscious. I would estimate that the officers beat
5 him on the ground while he was unconscious for about one minute.

6 21. The officers then picked him up and started dragging his limp body toward
7 the exit of the building. Just before they reached the rotunda, I saw Mr. [REDACTED] start to wake
8 up. He started to struggle with the officers. It looked to me that he was panicking. The
9 officers then slammed him on the ground again. They then picked him up and escorted
10 him through the rotunda and out of the building.

11 22. Mr. [REDACTED] did not return to the building for a few weeks. Once he did get
12 back, he told me that, because of the assault, he had to have fluid drained from his brain.

13 23. I remember another incident in June 2019. I was walking back from
14 breakfast to Building 2. I was in front of Building 1 at the time. Across the yard, on the
15 track in front of the work change area, two incarcerated people were fighting on the
16 ground. I did not realize it at the time, but one of the people was [REDACTED], a friend of
17 mine. Mr. [REDACTED] was on top of the other incarcerated person. Two officers, Officers [REDACTED]
18 and [REDACTED] responded to the fight. Both of them took out their batons and started
19 smashing Mr. [REDACTED]. After they had hit him two times in the upper body, Mr. [REDACTED] lied
20 down on the ground, face down, in a position that people in prison refer to as "proning
21 out." Even though he was now compliant, the officers continued beating him with their
22 batons. It looked like they were hitting him as hard as they possibly could. It reminded
23 me of videos I've seen of the Rodney King beating. Each officer hit Mr. [REDACTED] about three
24 times after he had proned out, for a total of about six strikes. After Mr. [REDACTED] had proned
25 out, Officer [REDACTED] hit Mr. [REDACTED] so hard in the head with one of his strikes that the metal
26 baton actually broke into two pieces. After that strike, the officers stopped beating him. I
27 learned that Mr. [REDACTED] was the person that the officers had assaulted after I saw him on the
28

1 yard later that day. He looked like a walking monster. His face was incredibly swollen.
2 Both officers still continue to work regularly at RJD. I often saw both of them on Facility
3 A before I was transferred to Facility B in September 2019. I saw Officer [REDACTED] on the
4 yard of Facility B in early-December.

5 24. I was also a victim of staff misconduct at RJD. On May 21, 2016, I was
6 housed in Building 2 on Facility A. I walked out of the building to go to breakfast. I
7 walked out to the track and turned left to walk toward the pathway that cuts across the yard
8 to the dining hall. About ten incarcerated people around me started fighting. They fought
9 for a few minutes. I did not participate in the fight. I was just trying to just stay out of the
10 way and be safe. After a few minutes, there was an order over the yard PA system for
11 everyone to get down and prone out. I complied with the order. I lied face down on the
12 ground with my upper body and chest on the track and my legs on the dirt just to the
13 outside of the track. My arms were extended up above my head.

14 25. Shortly after the announcement, officers started arriving to the area where I
15 was and where the fight had happened. By the time the officers arrived, no one was
16 fighting. Everyone who I could see was laying down on the ground.

17 26. I saw Officer [REDACTED] running toward me. He was about ten feet away. He
18 yelled "Get down!" He then took out and extended his baton. I remember clearly the
19 sound the baton made when he whipped it out. He then hit me really hard with his baton
20 on my arms about 8 or 9 times. He was hitting me so hard that my arms were jerking in
21 reaction to the strikes. I was turning my head side to side to avoid being hit in the head
22 with the baton. He only stopped hitting me when another officer came up to him, pushed
23 Officer [REDACTED] away, and told him "Stop, he's not doing anything." Another officer then
24 pepper sprayed me and two other incarcerated people who were near me. The pepper
25 spray made it so that I had trouble breathing. I was placed in hand cuffs and taken to the
26 Facility A gym, where I was able to wash off the pepper spray. As far as I am aware, other
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1 than the two people who were pepper sprayed along with me, I am the only person who
2 any officers used force against as part of this incident.

3 27. I suffered some serious injuries as a result of this beating. Officer [REDACTED]
4 chipped a bone in my elbow that still causes me pain and problems today. The chipped
5 bone sometimes touches a nerve in my arm and causes my forearm and fingers to go
6 numb. I've been told by my doctor that I need to have surgery to remove the bone chip. I
7 also had scrapes on my face caused by scraping my head on the pavement trying to avoid
8 being hit by the baton. I have a scar on my left eyebrow as a result.

9 28. I was found guilty of participating in a riot and had 90 days of credit taken
10 away as a punishment.

11 29. I believe that Officer [REDACTED] intentionally targeted me for attack during the
12 incident. Prior to the incident, I had some history with Officer [REDACTED] About a month prior
13 to the incident, Officer [REDACTED] would not let me go to religious services. I immediately got
14 a 602 grievance form, filled it out explaining about how he had not allowed me to go to
15 religious services, and then handed it to him. He then let me go to religious services.

16 30. Shortly after, Officer [REDACTED] searched my cell while I was at breakfast. He
17 alleged that he found a tarantula and five gallons of pruno, which is alcohol made in
18 prison. I admit that I had a pet tarantula, but he completely made up the fact that there was
19 alcohol in my cell. I believe that he made up that I had alcohol and then later attacked me
20 on the yard in retaliation for me threatening to file a 602 about being denied access to
21 religious services.

22 31. I filed a 602 staff complaint about Officer [REDACTED] attacking me on the yard.
23 My 602 was denied at all levels.

24 32. A few months later, I had to have a cast put on my right leg. When I
25 returned to Building 2 after seeing the doctor, I was placed by Officer [REDACTED] in a cell,
26 cell [REDACTED] in which someone else had already been assigned the lower bunk. I could not
27 climb up to the upper bunk because of my cast. Officer [REDACTED] promised me that before
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1 the officers locked everyone up for the night, she would move me to a cell where I could
2 be assigned to a lower bunk. However, when she left the building at the end of her shift at
3 10 p.m. that night, she never moved me to another cell. In fact, when she left the building
4 that night, she looked right at me in my cell and just walked out of the building. As a
5 result, I was forced to sleep on the floor of the cell that night. I was not moved into a cell
6 where I could sleep on a lower bunk until the following night.

7 33. Being a victim of misconduct and witnessing what happened to Mr.
8 [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] has made my mental health much worse. I've had
9 some pretty bad things happen to me before I came to prison. I saw someone get shot in
10 the head when I was 16 years old. My best friend was killed when I was 16 years old. My
11 brother got killed a few months later. I almost was killed twice before I was arrested. And
12 a friend of mine committed suicide when I was 20 years old. Seeing the way officers treat
13 incarcerated people here at RJD has triggered feelings I have about witnessing violence in
14 my past. I often have nightmares about all of those things that wake me up and keep me
15 from sleeping.

16 34. I now also have nightmares about being a victim of staff misconduct and
17 about what happened to my friends at RJD. I am also more anxious and depressed. Every
18 time I see certain officers that I know have hurt other people or who carry themselves in a
19 hostile way, I'm afraid that that they are going to hurt me. I do my best to avoid
20 interacting with staff to try to manage my anxiety and anger. For example, if I run out of
21 soap or indigent envelopes, I'll ask other incarcerated people to help me rather than asking
22 staff because I don't want to have to interact with staff and risk being beaten up again.

23 35. The misconduct I have witnessed and experienced makes me feel powerless.
24 It seems to me that staff can do whatever they want without any consequences. As far as I
25 know, none of the staff involved in the incidents discussed above ever faced any discipline
26 for those incidents.

1 36. From my experience at RJD, staff seem to primarily beat up weak people,
2 including people with disabilities, people with mental illness, and old people. In the time
3 that I've been at RJD, I have never seen staff target a healthy, strong, young person. The
4 assaults on weaker people send a message to everyone: this is what will happen to you if
5 you get out of line.

6 37. I have been in CDCR prisons for about 10 years of my life. I've been
7 housed in a number of different CDCR prisons, including California Correctional
8 Institution and Pleasant Valley State Prison. The staff misconduct at RJD is worse than at
9 those other prisons. Staff misconduct happens much more frequently at RJD than at the
10 other prisons I have been at.

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct, and that this declaration is executed at

13 R.J. DONOVAN, this 7th day of January 2020.
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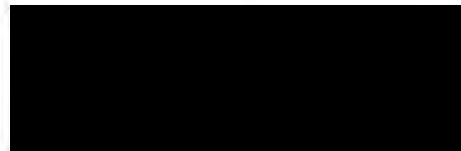


Exhibit 55

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility on Facility D in Building 20. I am 70 years old.

3. I have been incarcerated at RJD from May 5, 2013 to the present. During my time at RJD, I have been housed in the following locations: C13, B10, and D20. [REDACTED]

4. I am an *Armstrong* class member. I am designated as DPM. I have a number of degenerated discs in my back and neck from being shot down multiple times while flying in helicopters while serving my country in Vietnam. I also have had two shoulder replacements and three other surgeries to correct other injuries from my service in Vietnam, as well as multiple surgeries on my knees to reconstruct torn ligaments. Due to my shoulder replacements, I cannot lift my right arm above my waist. I use a walker to keep me stable and prevent me from falling when I walk around. I am also housed in a lower bunk and on a lower tier due to my mobility impairments.

5. I am a *Coleman* class member. I am at the CCCMS level of care. I have been diagnosed with post-traumatic stress disorder (PTSD) from my experiences in Vietnam. My PTSD gives me persistent nightmares, flashbacks, insomnia, and anxiety, and causes me to relive the war, the smells of battle, and the deaths of friends I served with. My PTSD causes problems with cellmates due to my frequent nightmares and flashbacks.

6. I have a number of other serious medical conditions. I have tinnitus due to my time in Vietnam, which causes persistent ringing in my ears. I was recently diagnosed with diabetes, which my doctor told me I will soon need treatment for. I also have Barrett's Esophagus due to my gastroesophageal reflux disease, which causes me to

1 experience frequent chest pain and heartburn. Due to my medical conditions, I am
2 classified as high risk medical.

3 7. I was a victim of staff misconduct at RJD. On December 8, 2019 at
4 approximately 11:30 a.m., I was returning from canteen and entered my unit to return to
5 my cell (■■■■). I went up to my cell-front and waved at the tower officer to open my cell
6 for me. After my cell door began to open, I put my walker to the side and put one arm on
7 the door frame to keep me stable so I would not fall as I entered my cell. As I entered my
8 cell, however, the door began to close. I yelled at the tower "Hey! Old and Slow!" to
9 make clear that I needed more time to get into my cell. There was no response – the door
10 just kept closing. I was pushed sideways by the door, which hit and injured my arm and
11 shoulder. I fell against the wall due to the impact with the door. As I was falling, I caught
12 myself against a box next to the wall to prevent myself from falling to the ground. As I
13 fell against the wall, my cellmate jumped up to make sure I wasn't hurt. I then regained
14 my footing and walked slowly and wobbly back to my bed.

15 8. Later that day, at approximately 1:00 p.m., I was let out of my cell for yard.
16 I left my cell and went to talk to the tower officer about what had happened earlier. I
17 noticed that the tower officer was not the regular officer. I told her "I need more time to
18 get in and out of my cell." She replied "I gave you five minutes with the door open."
19 When I told her that I hadn't received anywhere close to five minutes earlier that day, she
20 waved me away and would not talk to me further.

21 9. I have also had the door shut on me in the past by other tower officers in the
22 D20 Unit. Officer ■■■■ shut the door on me while she was working as a tower officer in
23 2018. Due to having the door closed on me that time, I had bleeding and cuts on my hand
24 from where the door had shut on it.

25 10. I have also witnessed staff engage in misconduct against other incarcerated
26 people with disabilities at RJD. On December 9, 2019, at approximately 7:00 p.m., I saw
27 the tower officer in my unit close the door on Mr. ■■■■ as he was leaving
28 his cell. Mr. ■■■■ is elderly and uses a walker to ambulate. As the cell door was closing

1 on him that evening, I yelled at the tower officer "Old and Slow!" to make it clear that he
2 needed more time, but Mr. [REDACTED] was hit by the cell door and fell against the wall.

3 11. In my opinion and based on my experiences, including all of the incidents
4 discussed above where officers have closed doors on old incarcerated people with
5 disabilities, some custody officers do not care about the needs of incarcerated people who
6 have disabilities. It seems to me that it is easy to not close doors on people and provide
7 old, slow, and disabled people with a bit of extra time to get into and out of their cells. Yet
8 staff close doors on people frequently.

9 12. I have been in CDCR prisons for about 17 years of my life. I have been
10 housed in a number of different CDCR prisons, including RJD, Kern Valley State Prison,
11 California Substance Abuse Treatment Facility, and Pleasant Valley State Prison. The
12 staff misconduct at RJD is far worse than what I have experienced or seen at any other
13 state prison. The staff at RJD simply do not care about the needs of prisoners under their
14 supervision. From what I have seen, officers at RJD are indifferent to how incarcerated
15 people are doing and especially indifferent to the needs of incarcerated people with
16 disabilities.

17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct, and that this declaration is executed at
19 SAN DIEGO, California this 07 day of January 2020.

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

Exhibit 56

DECLARATION OF [REDACTED]

I, [REDACTED] declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at Richard J. Donovan Correctional Facility ("RJD") in the C12 Unit. I am 31 years old.

3. I have been housed at RJD multiple times over the last few years. I was housed at RJD from May 2017 to April 2018, when I transferred to LAC for about a week. I then returned to RJD on April 14, 2018 and have been incarcerated here ever since. During my time at RJD, I have been housed in the B9 Unit, the infirmary, the C13 Unit, and the C12 Unit.

4. I am a transgender woman. I take hormone therapy to lower my testosterone. My pronouns are she/her/hers. My birth name is [REDACTED].

5. I am a *Coleman* class member. I am at the CCCMS level of care. I suffer from bipolar disorder and anxiety. I take Zoloft for my depression and bipolar disorder. I also take Buspar for my anxiety. I also take Zyprexa when I need it to help me calm down.

6. I have a number of serious medical conditions. I am HIV positive and take medications to control my HIV. I have been HIV positive for nine years now. I also a seizure disorder, which dates back to when I was a child. I have seizures when I am really stressed. I take Keppra for my seizure disorder. I am classified as high risk medical.

7. I was a victim of staff misconduct at RJD. On October 2, 2018, at approximately 10:00 a.m., I was walking from the yard with my cellmate, [REDACTED], back to the B9 Unit. As I walked through the sally port and into the unit, Officer [REDACTED] came up and told us that he was doing "random pat downs" and told me that he had to pat me down. As his partner, Officer [REDACTED] took my cell-mate to be patted down, Officer [REDACTED] me to the wall besides the office in the unit and patted me down against the wall. He then patted me down again, more forcefully, so I asked him "Why are you being

1 so rough?" He replied "I'm going to take you into the sally port and do a strip search." I
2 asked him whether he could call the sergeant to be present during the strip search. Officer
3 [REDACTED] not respond, but only grabbed my hands, put them behind my back, and brought
4 me into the sally port. He then threw me up against the wall while holding my hands. It is
5 my belief that these actions were in retaliation for my question about the roughness of his
6 second search.

7 8. At that point, I asked Officer [REDACTED] he was doing this to me. In
8 response, he began aggressively shaking my entire body, twisting me back and forth by my
9 hands. I screamed "Why are you doing this?" He did not respond. Officer [REDACTED]
10 continued to shake my entire body back and forth. Suddenly, he lifted me up and threw
11 me hard against the ground. I heard my left leg snap. I landed hard on my face on the
12 concrete. Officer [REDACTED] landed on top of me. I started screaming and crying that my leg
13 was broken as he climbed on top of me and repeatedly punched me in the head and the
14 back.

15 9. As I was yelling, Officer [REDACTED] yelled to Officer [REDACTED] who was still in the
16 building searching other incarcerated people, "Call in a staff assault!" I was stunned
17 because I had not assaulted Officer [REDACTED] in any way. I was still on my stomach,
18 screaming and crying at the top of my lungs, when more officers began to arrive. As
19 officers arrived, one of them, Officer [REDACTED] took over from [REDACTED] and handcuffed
20 me. A sergeant ordered Officer [REDACTED] to turn me over onto my back. As I was turned over,
21 I saw that my lower leg was swollen to the size of my thigh and that my leg turned
22 outwards unnaturally. It looked – and felt – clearly broken. The sergeant then ordered
23 another officer, Officer [REDACTED] to cuff up my legs, even though it was clear that my leg
24 had been broken. Officer [REDACTED] then roughly grabbed my broken leg, twisting it as I
25 yelled in pain, and placed it in leg cuffs. The cuffs squeezed around my broken leg.

26 10. Approximately five minutes later, an ambulance arrived and backed up
27 behind the unit. Sergeant [REDACTED] asked me whether I could walk and I told him I could not.
28 He then told Officer [REDACTED] to pick me up and place me up against the wall. I pleaded with

1 the officers to help me get up and get to the ambulance. They told me to walk on my own,
2 even though there was a gurney in the unit that I could have been placed on. I hobbled out
3 of the unit, dragging my broken leg behind me, as the officers watched. No one – nursing
4 staff, the EMT, or officers – helped me get to the ambulance. As I got to the door of the
5 ambulance, I couldn't get up over the bumper. Staff would not help me. So I fell into the
6 ambulance. One of the officers, Officer [REDACTED] then got into the ambulance, grabbed
7 the back of my shirt, and dragged me into the ambulance and onto the gurney.

8 11. I was then taken to the TTA building, where I was examined by a doctor. He
9 immediately told me that my leg was likely broken and called 911 to take me to the
10 emergency room. This time, I was transported by outside EMTs, who placed me on a
11 gurney and placed me gently into the ambulance. At the emergency room, I was examined
12 by doctors and nurses, who sedated me for a transport to another hospital that had a trauma
13 unit. I was then transported by ambulance to Alvarado Hospital. Again, these EMTs
14 placed me on a gurney and carefully transferred me to the second hospital. At Alvarado
15 Hospital, an orthopedic surgeon, Dr. Jacobson, set my leg to protect it and scheduled me
16 for surgery the next morning. I told him that I had been injured by an officer at RJD and
17 that my leg broke when the officer threw me to the ground. He told me that, due to the
18 type of fracture, my leg had likely broken from being twisted by Officer [REDACTED]

19 12. The next morning, I had surgery on my leg. Dr. Jacobson put a metal plate
20 and several screws into my leg to stabilize it. I stayed in the hospital for five to six days
21 and was then discharged back to RJD. Upon arriving at RJD, I was placed into a cell in
22 the CTC building, where I stayed for four months. I was in a wheelchair the entire time.
23 After four months, I was released from the CTC and placed into the C13 Unit. I was on
24 crutches and in a protective boot for the next eight weeks. I only started walking without
25 any assistive devices in July 2019.

26 13. While I was at the hospital, I was interviewed by a sergeant while I was in
27 my hospital bed. I told him what had happened to me. The sergeant videotaped my
28 injuries. The interview lasted only five minutes.

1 14. After returning from the hospital, I filed a 602 staff misconduct complaint
2 about Officer [REDACTED] excessive and unnecessary use of force against me. I did not file this
3 appeal immediately after returning from the hospital, because I did not have the resources
4 – including a pen or pencil or any appeal forms – for several weeks. Approximately a
5 week later, I was interviewed by Lieutenant [REDACTED] and Sergeant [REDACTED]. This
6 interview was recorded as well. They asked me to describe what had happened and if I
7 had any witnesses. I gave them my cellmate's name and a full account of what had
8 happened. They told me that they would investigate my complaint and that I would get a
9 response.

10 15. A few weeks later, I received a response to my appeal partially granting my
11 appeal. The response stated that an investigation had been conducted and that Officer
12 [REDACTED] conduct that day had not violated CDCR policy. I immediately appealed the
13 response to the next level. In January 2019, I received a response to my appeal from
14 headquarters, stating that my complaint should never have been accepted at any level due
15 to the time constraints not having been met, even though I had not been able to file an
16 appeal earlier because I had not had access to any forms or writing materials following my
17 return from the hospital.

18 16. While I was in the CTC, I was issued a Rules Violation Report ("RVR") for
19 "Battery on a Peace Officer." Six weeks later, I was found guilty of the RVR. At the
20 hearing, the officers would not answer my questions and would not let me call my cellmate
21 nor anyone else as a witness. I immediately appealed the guilty finding. My appeal about
22 the RVR was denied at every level.

23 17. This incident made my depression worse. Once I returned to RJD, I was
24 very scared and unsure about what would happen to me. My psychiatrist increased my
25 anti-depressant dosage to help me cope with my increasing depression in the weeks after
26 the incident. I think about Officer [REDACTED] me all the time. Since the incident, I
27 only get around three or four hours of sleep a night. The incident has put me on edge all
28 the time. I feel like at any time I could be attacked by officers again.

1 18. In November 2019, I was told by another incarcerated person that two
2 incarcerated people had approached an officer in my unit, Officer [REDACTED] and asked if
3 they could assault me. According to what this other person told me, Officer [REDACTED]
4 told them "Do it. I don't like [REDACTED] anyway." Two days later, at approximately 2:30 p.m.,
5 I was in the C12 Unit on the dayroom and I was approached by two other incarcerated
6 people. They rushed me and started punching me repeatedly in the head and stomach.
7 Officers in my unit at the time, including Officer [REDACTED] who was in the control tower, and
8 Officer [REDACTED] who was working on the floor of the unit, watched as I was assaulted.
9 The assault lasted for a few minutes before another incarcerated person stopped the assault
10 and protected me. I suffered bruising and abrasions to my face and chest from this
11 incident.

12 19. I have also seen officers engage in staff misconduct against other
13 incarcerated people at RJD. In June or July 2019, at approximately 8:30 p.m., I saw
14 officers in the C13 Unit use excessive force on another incarcerated person who refused to
15 go inside his cell. I don't know the person's name, but he is white, wore glasses, is older
16 but not elderly, had a lower bunk, lower tier placement, and was designated as CCCMS. I
17 was in my cell, C13-102, at the time and saw officers trying to force the person into his
18 cell on the other side of the unit. Officer [REDACTED] and another officer, whose name I do not
19 know but who I believe is [REDACTED] and whose name may start with the letter [REDACTED], were
20 laughing, saying "Oh, you're going to go in there," and motioning to the cell. After the
21 incarcerated person continued to refuse to enter his cell, they slammed him into the ground
22 and began beating him with closed fists and batons while kicking him repeatedly with their
23 boots. As they beat him, I heard him yell and scream for them to stop. The assault lasted
24 for approximately three or four minutes before he was cuffed up and dragged out of the
25 unit. I have not seen him since.

26 20. I still see the officers that were involved in the staff misconduct against me
27 and that I witnessed frequently, even after they were accused of staff misconduct. Officer
28 [REDACTED] to my yard occasionally. Two months ago, Sergeant [REDACTED] was moved onto

1 my yard. I try to avoid both of them as much as I can. Officer [REDACTED] and Officer
2 [REDACTED] still work on C-Yard. Officer [REDACTED] now works on A-Yard – I saw him
3 recently in the library.

4 21. Officers regularly harass me now about the incident with Officer [REDACTED]
5 Officers have regularly told me that they “know I’m the type” to file complaints against
6 officers. After I filed a lawsuit about the excessive use of force incident, multiple officers
7 began asking me why I was suing their co-workers and causing trouble for them.

8 22. In my time at RJD, there have been a few times that I needed help but didn’t
9 ask for it because I was afraid of what would happen to me. I now avoid officers as much
10 as I can and do not feel comfortable or safe around them. I do not even ask officers for
11 simple things such as request forms, razors, or toilet paper, which I instead ask other
12 incarcerated people to get for me.

13 23. If I was feeling suicidal, I would not ask officers for help. If I felt very
14 depressed in the middle of the night, I would rather sit in my cell and wait to talk to
15 nursing staff in the morning rather than ask custody officers for help.

16 24. I no longer feel like there is any point in filing staff complaints about staff
17 misconduct. I couldn’t believe that my appeals were denied. Officer [REDACTED] broke my leg.
18 I did not do anything wrong. And yet my staff complaint against Officer [REDACTED] denied
19 when RJD found he did not violate any policies. And my appeal of the RVR for battery
20 against a peace officer was also denied, even though Officer [REDACTED] had assaulted me, not
21 the other way around. After I was assaulted by other incarcerated people in November
22 2019 and officers did not intervene right away, I did not file a staff complaint because I
23 knew it would not lead anywhere.

24 ///

25 ///

26 ///

27 ///

28 ///

1 25. In my opinion, staff target people who are transgender, who have mental
2 health problems, who are elderly, and who have disabilities with staff misconduct. I feel
3 that officers target people who are weak and defenseless to assert their authority and
4 maintain their control. The officers are bullies. They prey on people who cannot defend
5 themselves so that they can continue to demean us and treat us like we are not human.

6 I declare under penalty of perjury under the laws of the United States of America
7 that the foregoing is true and correct, and that this declaration is executed at
8 San Diego, California this 8 day of January 2020.

9 

Exhibit 56a

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Exhibit 57

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

3. I have been housed at RJD from February 2017 to the present. During my time at RJD, I have been housed in Facility A, Building 2 with the exception of the first week that I was at RJD, when I was housed in Facility B, Building 6.

5. I am also a *Coleman* class member. I am at the EOP level of care. I have been diagnosed with paranoid schizophrenia. As treatment for my mental illness, I receive group and individual therapy.

7. I was a victim of staff misconduct at RJD. On April 24, 2019, I was in my cell—cell [REDACTED] in Building 2 on Facility A—prior to release for dinner. The tower guard, Officer [REDACTED] did not release me for dinner at the same time as other prisoners in the building. Instead, Officer [REDACTED] released me from my cell only after all other prisoners in the building who wanted to go to dinner had been released from their cells and had exited the building. This was unusual because incarcerated people are typically released for dinner in groups, not individually. Officer [REDACTED] finally opened my cell door at

1 approximately 5:00 p.m. I walked out into the dayroom. As far as I could tell, I was the
 2 only person in the dayroom other than the floor officer, Officer [REDACTED] I walked
 3 through the dayroom to the sally port, a short hallway between the dayroom inside of the
 4 building and the door to the outside of the building. At each end of the sally port, there is a
 5 gate that is controlled by the control tower officer. In order to exit the building, you have
 6 to pass through the gate that separates the dayroom from the sally port, walk through the
 7 sally port hallway, and then pass through the gate that separates the sally port from the
 8 outside of the building.

9 8. Once I passed through the gate that separates the sally port from the
 10 dayroom, three officers—Officer [REDACTED] Officer A. [REDACTED] and Officer [REDACTED]
 11 [REDACTED] entered the sally port from outside the building. They rushed toward me. Officer
 12 [REDACTED] who was in front of the other two officers, said “I’m gonna kick your ass.” I tried
 13 to back up to get away from them, but the gate that separates the sally port from the
 14 dayroom was already closed so I was trapped in the sally port with the officers. Officer
 15 [REDACTED] had closed the gate behind me, but I had not heard it close because of my hearing
 16 impairment. I told the officers, “I’m not gonna fight you.” Officer [REDACTED] said again, “I’m
 17 gonna kick your ass.” Officer [REDACTED] then took a fighting stance, but somehow tripped or
 18 slipped and fell to the ground. While Officer [REDACTED] was on the ground, the other two
 19 officers started kicking me in my chest until I fell to the ground. I fell to a seated position
 20 with my back against the sally port gate. Officer [REDACTED] then got back to his feet and
 21 started hitting me in my face repeatedly. He hit me about 50 times. At the same time, ** That officer was punching me*
 22 Officer [REDACTED] was stomping and kicking me in my chest, legs, and my left arm. The
 23 officers attacked me for about two minutes. During the attack, I thought that the officers
 24 were going to kill me. There was nothing that I could do to stop them from beating me up.
 25 The attack finally stopped when Officer [REDACTED] threw another punch to hit me in the face,
 26 but missed and instead hit the gate behind me. He screamed out in pain. All three officers
 27 then left the sally port.

28 ** At one point, Officer [REDACTED] paused and stopped hitting me. I took that opportunity to tell him I had a pacemaker. He said, “So what, bitch,” and started hitting me again.*

Initials [REDACTED]

1 9. During the assault, I saw Officer [REDACTED] filming the officers beating me up
2 with a cell phone through a window in the floor of the tower that lets the tower officer be
3 able to see into the sally port. I also saw that throughout the assault, Officer [REDACTED]
4 stood just on the dayroom side of the sally port gate, watching as the officers attacked me.

5 10. The officers beat me up very badly. I had a number of serious injuries from
6 the attack. I was crying from the pain. The officers broke my left arm, which swelled up
7 immediately. The officers also hit my head so hard and so many times that they broke my
8 jaw. The officers' punches to my head also caused a large cut to my tongue; it felt like the
9 inside muscle of my tongue was leaking out into my mouth. My clothes were covered in
10 blood. I also had a number of large bruises and cuts on my head and chest.

11 11. After the officers stopped attacking me, I got up off the ground and walked
12 out of the sally port onto the yard. I saw Officers A. [REDACTED] and [REDACTED] running toward
13 and into Building 1. Officer [REDACTED] was standing just outside of Building 2. He said to me,
14 "I ain't no joke, bitch." Officer [REDACTED] then walked over to Building 1.

15 12. As far as I am aware, at no time during the assault did the officers use their
16 radios to call for help from other officers. As far as I am aware, the officers also did not
17 hit the buttons they carry that sound an alarm. In my experience, officers typically hit their
18 alarms when they are involved in an incident (including a physical altercation) because,
19 when an alarm goes off, other officers respond to the area. I was never charged with a
20 Rules Violation Report or any other form of discipline related to the incident. I also was
21 not placed in the Administrative Segregation Unit ("ASU") after the incident or even taken
22 to a holding cage. As a result, I do not believe that the officers reported the incident or
23 their use of force.

24 13. I am not certain but I think I may have been attacked because I sometimes
25 file 602 grievances about officers. In particular, I think that the attack on April 24, 2019
26 was in retaliation for a 602 I filed against Officer [REDACTED] for stealing my property. I
27 believe the attack is related because earlier that day out on the yard, Officer [REDACTED] told
28

1 me "They're gonna kick your ass." I interpreted his statement as meaning that officers
2 were going to beat me up.

3 14. After the assault was over and the officers left the sally port, I walked from
4 Building 2 to the dining hall. Even though my face was bloodied and bruised and my shirt
5 was covered in blood, none of the officers that I passed by at the dining hall offered to help
6 me. I walked into the dining room, looked around, and then walked right back out. I then
7 went back to Building 2.

8 15. Once inside Building 2, I went to Nurse Sanchez, who worked in the
9 building. I told her that I had been beaten up by officers and that I thought my arm was
10 broken. I asked her to give me a pass to the Triage and Treatment Area ("TTA") or to
11 push her alarm to call for emergency medical assistance. She refused, stating that Officer
12 [REDACTED] and another officer told her not to give me a pass. [REDACTED]

13 16. I then went to talk to Officer [REDACTED] and another officer who was on the
14 dayroom floor. I asked them for a pass to the TTA. They refused and ordered me to go
15 back to my cell.

16 17. At about 7:00 p.m., my cell door opened for evening dayroom. I again asked
17 Nurse Sanchez to provide me with medical assistance or a pass to the TTA. At this point
18 my broken arm continued to swell and was causing extreme pain. She again refused,
19 telling me that the officers told her not to give me a pass.

20 18. I then asked Officer [REDACTED] if he would give me a pass to go to the TTA.
21 He refused and told me that "You shouldn't have been talking shit." He also said that
22 "nothing happened, so you don't need medical care." Other people, including [REDACTED]
23 [REDACTED], [REDACTED], and [REDACTED], also tried, without success, to convince
24 Officer [REDACTED] and Nurse Sanchez that I needed urgent medical attention for my broken
25 arm and other injuries. Instead, Officer [REDACTED] told me that I had to go back to my cell
26 because I was inciting a riot in the building. I went back to my cell to avoid any additional
27 problems with the officers.
28

1 19. While I was in my cell, I was in an incredible amount of pain, especially
2 from my broken arm. My whole body began to stiffen up so that I could barely move

3 20. At about 8:30, Officer [REDACTED] yelled from in front of the sally port to my cell
4 that he was there to take me to the TTA. I declined, because I was afraid that he was going
5 to beat me up, as I had previously had a verbal altercation with him and he had written me
6 up for a rules violation. After what had happened earlier in the day, I did not feel
7 comfortable walking to the TTA with only custody staff.

8 21. At about 1:00 a.m. on April 25, 2019, a nurse from the TTA came to my cell
9 and took me to the TTA. I was ultimately diagnosed with a fracture to my arm and a
10 fracture to my jaw.

11 22. Later on April 25, 2019, I reported to my mental health clinician, Dr.
12 Valaskatnjis, that officers had beaten me up.

13 23. On May 15, 2019, I filed a 602 staff complaint about the assault. On June 3,
14 2019, I received a Second Level response to the 602 (I believe the First Level was
15 bypassed) that indicated that the ISU was still investigating my allegations. I appealed the
16 Second Level response on June 25, 2019. On October 23, 2019, I received a Third Level
17 response to my 602, which indicated that my staff complaint had been referred to the
18 Office of Internal Affairs ("OIA") for further investigation. I have not been provided with
19 any information regarding the results of the OIA investigation.

20 24. My broken arm has not healed properly. As a result, it still causes me a lot
21 of pain. I have been told by medical staff that it may be necessary to have surgery to re-
22 break the bone and set it with a plate and pins. In addition, the attack has made my
23 mental health worse. After the assault, I became sad and depressed and had problems
24 sleeping.

25 25. I still regularly see some of the officers that were involved in attacking me. I
26 have seen Officer A [REDACTED] on Facility A a number of times since the attack. Officer
27 [REDACTED]
28

1 [REDACTED] is a regular in Building 1, so I see him on the yard frequently. Officer [REDACTED] still
2 works regularly in the tower in Building 2 during Third Watch.

3 26. Since the attack, I am much more reluctant to ask staff for any type of help
4 that I might need for mental illness or for my disabilities. I am afraid that if I interact with
5 staff, it will cause them to beat me up again.

6 27. I have been in CDCR prisons for about 40 years of my life. I've been
7 housed in a number of different CDCR prisons, including Correctional Training Facility,
8 Folsom State Prison, California Medical Facility, Avenal State Prison, California State
9 Prison – Solano, and California Men's Colony. The staff misconduct at RJD is the worst
10 that I have seen at any prison.

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct, and that this declaration is executed at

13 San Diego, California this 7 day of January 2020.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

Exhibit 57a

Filed Under Seal

Exhibit 57b



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Michael Freedman
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May 31, 2019

VIA ELECTRONIC MAIL ONLY

**SUBJECT TO
PROTECTIVE ORDERS**

Russa Boyd
CDCR Office of Legal Affairs
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rusa.boyd@cdcr.ca.gov

Re: *Armstrong v. Newsom; Coleman v. Newsom*: Advocacy Letter re: DNH,
EOP Class Member, [REDACTED] Regarding Staff
Misconduct at RJD
Our File Nos. 0581-03, 0489-03

Dear Russa:

I write regarding [REDACTED] a 64-year-old *Armstrong* and *Coleman* class member at RJD who reports he was assaulted by staff at RJD on April 24, 2019. [REDACTED] is DNH, is a participant in the EOP, and has a pacemaker.

On the date in question, [REDACTED] reports that he was in his cell—[REDACTED] in Building 2 on Facility A—prior to release for evening meal. Building 2 is one of the two EOP housing units on that facility. The tower guard, Officer [REDACTED] did not release [REDACTED] for dinner at the same time as other prisoners in the same section of the building as [REDACTED]. Instead, Officer [REDACTED] released [REDACTED] from his cell only after all other prisoners in the building had already been released for the meal and had exited the building. When [REDACTED] cell door opened at approximately 5:00 p.m., he walked from his cell to the sally port of Building 2. Once he entered the sally port, Officer [REDACTED] closed the gate that separates the sally port from the dayroom. Three officers—Officer [REDACTED] Officer A. [REDACTED] and Officer [REDACTED] then ran into the sally port from outside the building, trapping [REDACTED] between them and the gate behind [REDACTED].

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

May 31, 2019

Page 2

██████████ reports that for the next two to three minutes, the three officers assaulted him. At first, the officers kicked ██████████ until he fell to the ground. The officers then proceeded to punch ██████████ in the head and mouth approximately 30 times. The officers also stomped on ██████████ left arm a number of times. ██████████ reports that Officer ██████████ filmed the entire assault on a cell phone through the gun port from the tower to the sally port. Throughout the assault, Officer ██████████ who was the floor officer on duty, stood just on the dayroom side of the sally port gate, observing the attack.

██████████ is not aware of any reason for this assault by staff. No officer sounded any alarm related to the incident. Moreover, ██████████ reports that he did not resist or fight back in any way. ██████████ was not issued a 115 or any other form of discipline. ██████████ also was also never placed in ASU.

██████████ suffered a broken arm as a result of the assault by the officers. ██████████ jaw was so damaged and swollen that it took almost three weeks for the oral surgeon to rule out a jaw fracture. ██████████ tongue was so severely cut that the muscle inside his tongue was, in his words, "leaking out" of his tongue. ██████████ bled profusely from his mouth such that much of his clothes were covered in blood. ██████████ also suffered numerous bruises and contusions on his head. Plaintiffs' counsel has confirmed these injuries by way of a review of ██████████ medical file.

Once the officers ceased assaulting ██████████ ██████████ reports that they exited the sally port and told ██████████ to get up and go to the dining hall. ██████████ complied. ██████████ reports that despite the fact that his face was bloodied and swollen and his clothes were covered in blood, no staff on the yard or in the dining hall offered to assist ██████████ or even inquired what had caused the damage.

██████████ returned to Building 2 with others from his building and went back into his cell. At approximately 6:30 p.m., he and others in the building were released for evening dayroom. ██████████ with the assistance of other incarcerated people, attempted to obtain medical treatment from Psych Tech Sanchez, who was in the building at the time. ██████████ reports that Psych Tech Sanchez declined to provide assistance, stating "I don't want to be part of that." Psych Tech Sanchez also stated that ██████████ could not go to the CTC to receive treatment unless the officers provided ██████████ with a pass. Officer ██████████ refused to provide such a pass. Officer ██████████ then claimed that ██████████ was inciting a riot and ordered him to lock up in his cell.

At just before 10:00 p.m., an unknown sergeant spoke with ██████████ cell front and stated "You're not getting any medical attention," or words to that effect.

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

May 31, 2019

Page 3

After shift change at 10:00 p.m., [REDACTED] spoke with another officer who finally called medical staff on his behalf. At approximately 1:00 a.m. on April 25, 2019, more than six hours after staff had broken his arm, [REDACTED] was taken by medical staff to the CTC. [REDACTED] was triaged by medical staff at that time. Later on April 25, 2019, medical staff took x-rays of [REDACTED] arm, which confirmed that staff had fractured his arm in the assault.¹ Also on April 25, 2019, [REDACTED] reported to his mental health clinician, Psychologist Margitsa Valaskantjis, that he had been “beat up” by officers. According to [REDACTED] medical records, Ms. Valaskantjis, after consulting with her supervisor, then completed a memorandum regarding [REDACTED] allegations.

After returning from having x-rays taken, [REDACTED] reports speaking with EOP Lt. [REDACTED] and Sgt. [REDACTED] who videotaped an interview and took photos of [REDACTED] injuries. As far as [REDACTED] is aware no other actions have been taken to investigate his allegations of staff misconduct. [REDACTED] reports seeing all of the staff involved in the assault—Officers [REDACTED] A. [REDACTED], [REDACTED] and [REDACTED] in Building 2 or on Facility A since they assaulted him. [REDACTED] also reports filing a 602 regarding the assault on May 15, 2019, though has not yet received a response.

As a result of the assault, [REDACTED] has experienced significant physical pain. His broken arm is still not fully healed. [REDACTED] mental health records also indicate that his mental health has declined.

Other class members have provided Plaintiffs’ counsel with details that are consistent with and corroborate [REDACTED] report of the assault. [REDACTED] is the clerk in Building 2. He reports that just prior to the assault, after everyone but [REDACTED] had been released for chow and exited the building, [REDACTED] was in Building 2 waiting for Officer [REDACTED] to return to provide [REDACTED] the next day’s ducats to distribute to incarcerated people in the building (a task that [REDACTED] does on a daily basis). Instead of permitting [REDACTED] to wait in the dayroom, Officer [REDACTED] told [REDACTED] to “either go eat or lock up,” an order that, according to [REDACTED] was out of the ordinary. As [REDACTED] left the building, he saw Officers [REDACTED] A. [REDACTED] and [REDACTED] waiting right outside and to the side of the door to the unit with gloves on. [REDACTED] walked out to the track and then proceeded clockwise toward the pathway [REDACTED] cuts across the middle of the yard. While he was still in front of Building 2, [REDACTED] saw the officers run into the entrance to Building 2; [REDACTED]

¹ On April 26, 2019, medical staff completed an urgent request for services for [REDACTED] to see an orthopedic surgeon. [REDACTED] was not seen by an orthopedist or orthopedic surgeon until May 14, 2019.

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

May 31, 2019

Page 4

specifically recalls the sound of the officers' keys jangling while they ran. stopped where he was standing, as he assumed from the officers' behavior that an alarm was about to sound. However, no alarm was raised. Later that night, after chow, spoke to at cell front and observed swollen face and arm. reported to that the officers had assaulted him and broken his arm.

DPO, EOP, reports that he was in the back of the line when arrived at the dining hall. observed that had blood in his mouth and on his clothes and many bruises and welts on his head. told that officers attacked him that he could not move his arm. also stated that during evening dayroom, he and two or three other incarcerated people attempted to help obtain medical attention. reports that, in response, the officers in the building accused of inciting a riot. indicated that Officer the tower officer, went so far as to aim his gun at

One other incarcerated individual in the EOP, who has not granted Plaintiffs' counsel permission to share his name, also provided Plaintiffs' counsel with details that corroborate the attack on and its aftermath.

Plaintiffs' counsel requests that this serious allegation of misconduct be investigated by investigators from outside of RJD. In addition, we request that, pending a thorough investigation, immediate action be taken to place Officers and on administrative time off. If the officers return to work, the officers should not be permitted to occupy any positions in which they have contact with or can impact the lives of incarcerated people, especially *Armstrong/Coleman/Clark* class members. Plaintiffs' counsel also requests that the investigators determine whether the use of force discussed above complied with Defendants' policies developed in response to the *Coleman* Court's April 10, 2014 order and approved by the *Coleman* Court. See 4/10/14 Order, ECF No. 5131; Defs.' 8/1/14 Policies ECF No. 5190; 8/11/14 Order Approving Policies, ECF No. 5196.

No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members continue to report that ISU staff members at RJD are closely aligned with officers committing misconduct at that prison and that being identified for interview by ISU places them at great risk of retaliation from staff. Every effort should be made to identify all witnesses to this incident who might be willing to participate in an investigation including any incarcerated people, non-custody staff members, or others who may have witnessed the

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd

May 31, 2019

Page 5

assault and/or its aftermath. In addition, all evidence, including photographs and videos of [REDACTED] injuries and video footage of the incident itself, should be obtained and preserved immediately for review. Likewise, any footage and relevant data from Officer [REDACTED] cell phone and the other involved staff should be obtained and preserved immediately. Plaintiffs' counsel request that staff do not engage in retaliation, including against [REDACTED] and any witnesses, in response to these allegations.

Plaintiffs' counsel also requests that Defendants produce (1) the log number for [REDACTED] 602, the date it was received by RJD, and a copy of the 602 as received; (2) any photographs or videos of [REDACTED] injuries taken by medical or custody staff; (3) any video of interviews with [REDACTED] regarding this incident; (4) the memorandum regarding the incident drafted by Ms. Valaskantjis on April 25, 2019; and (5) pursuant to California Penal Code § 832.7(b)(1)(C), any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by Officers [REDACTED] or [REDACTED] directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman
By: Senior Counsel

MLF:aa

cc: Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hrvatin
CDCR OLA Armstrong

Jerome Hessick
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Exhibit 57c



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July 12, 2019

VIA ELECTRONIC MAIL ONLY

**SUBJECT TO
PROTECTIVE ORDERS**

Russa Boyd
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Re: *Armstrong v. Newsom; Coleman v. Newsom*: Advocacy Letter re: DNH,
EOP Class Member, [REDACTED] Regarding Staff
Misconduct at RJD
Our File Nos. 0581-03, 0489-03

Dear Russa and Ursula:

I write to bring to CDCR's attention additional information regarding the staff assault against [REDACTED] on April 24, 2019, and to raise concerns about what we understand has occurred in the investigation to date. This letter is intended to supplement my letter of May 31, 2019 regarding the staff assault on [REDACTED]

I. Additional Witnesses ([REDACTED]) and Additional Fact Regarding the Incident (Officer [REDACTED] May Have Injured His Hand and Sought Medical Treatment)

We have identified additional witnesses—[REDACTED] and [REDACTED] who observed events relevant to the incident and are willing to speak with investigators. Both [REDACTED] and [REDACTED] witnessed [REDACTED] being kept in his cell until everyone else from Building 2 had been released; [REDACTED] was one of the last people to leave the building for dinner, while [REDACTED] actually remained in the building during dinner. Both [REDACTED] and [REDACTED] observed multiple officers waiting outside of Building 2 during the release of people for dinner. [REDACTED] confirmed that one of the officers standing outside of Building 2 was

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
July 12, 2019
Page 2

Officer [REDACTED] While [REDACTED] was walking toward the dining hall, he heard shaking keys and turned to see Officer [REDACTED] running quickly into Building 2. And both [REDACTED] and [REDACTED] confirmed that, as far as they were aware, at no time relevant to the incident was an alarm sounded.

After the assault while in the dayroom for evening dayroom, both [REDACTED] and [REDACTED] observed [REDACTED] injuries, including his visibly broken arm and severely bruised and bleeding face. Both [REDACTED] and [REDACTED] observed medical staff in Building 2's refusal to provide timely care to [REDACTED]. In fact, both [REDACTED] and [REDACTED] attempted to help [REDACTED] obtain medical care, by speaking to medical (Nurse Sanchez) and custody (Officer [REDACTED] staff, with no success. Both [REDACTED] and [REDACTED] confirmed that medical staff and custody staff refused to call for urgent medical attention or to have [REDACTED] transported to the TTA. [REDACTED] heard Nurse Sanchez state that "COs told me to leave it alone and not do anything."

Both [REDACTED] and [REDACTED] observed that an unnamed health care worker in the building, a Hispanic male who may have the last name of Garcia, ultimately documented [REDACTED] injuries, but did not call for additional medical attention. [REDACTED] reported that the male health care worker refused to provide his name to [REDACTED] and [REDACTED] reports that after the male health care worker documented [REDACTED] injuries, he stated to [REDACTED] that "I made the documentation, that's all I can do."

Both [REDACTED] and [REDACTED] observed how Officer [REDACTED] made [REDACTED] return to his cell without obtaining any medical care, allegedly on the grounds that [REDACTED] was inciting a riot.

Plaintiffs' counsel requests that [REDACTED] and [REDACTED] be interviewed as part of the investigation into the April 24, 2019 staff assault against [REDACTED]. As discussed more fully below and in the May 31, 2019 letter, the interviews should be conducted by staff from outside of RJD.

We have also identified an additional fact that may be useful to the investigation. Plaintiffs' counsel has come to learn that Officer [REDACTED] may have injured his hand while assaulting [REDACTED]. Plaintiffs' counsel has further learned that, on April 24, 2019, Officer [REDACTED] may have sought medical attention at the TTA for his injury.

II. Concerns Regarding the Investigation of the April 24, 2019 Staff Assault on

SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
July 12, 2019
Page 3

We also write to raise serious concerns regarding the manner in which CDCR is conducting its investigation of the staff assault against [REDACTED]. Plaintiffs' counsel specifically requested in our April 24, 2019 letter that "this serious allegation of misconduct be investigated by investigators from outside of RJD.... No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations."

Plaintiffs' counsel is aware that [REDACTED] and [REDACTED] one of the witnesses identified in our May 31, 2019 letter, have been interviewed as part of the investigation. Rather than being interviewed by non-RJD ISU staff, both individuals were interviewed by local, RJD ISU staff led by Lieutenant [REDACTED]. Perhaps more troublingly, ISU staff pulled [REDACTED] and [REDACTED] out for interviews by entering Building 2, escorting them from the building, and transporting them across and off of the yard in a golf cart. Such actions place [REDACTED] and [REDACTED] at risk by widely associating them with an ISU investigation.

Additionally, as of July 2, 2019, [REDACTED] one of the other witnesses to events related to the assault, has not yet been interviewed. Plaintiffs' counsel expects that [REDACTED] who we indicated in our May 31, 2019 letter possesses information that corroborates [REDACTED] recollection, will be interviewed as part of the investigation. [REDACTED] should, as we requested, be interviewed by staff from outside of RJD.

Finally, we are concerned that at least some of the officers involved in the April 24, 2019 assault remain on Facility A in positions in which they continue to have contact with and exercise control over incarcerated people. It is our understanding that as recently as June 30, 2019 (and perhaps more recently as well), Officer [REDACTED] has been in his usual post in the tower in Building 2 and Officer [REDACTED] has been in his usual post in Building 1. As we stated in our May 31, 2019 letter, given the seriousness of the allegations, all of the officers involved in the April 24, 2019 assault should, pending the completion of the investigation, be placed on leave or, at a minimum, moved to positions where they have no interaction or control over incarcerated people.

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SUBJECT TO PROTECTIVE ORDERS

Russa Boyd
July 12, 2019
Page 4

The issues we have raised regarding the attack on [REDACTED] and the related investigation are extremely serious. Accordingly, please respond to this letter and the May 31, 2019 letter by no later than July 26, 2019.

Sincerely,
ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Michael Freedman

Michael Freedman
By: Senior Counsel

MLF:aa

cc: Ed Swanson
Nicholas Weber
Sharon Garske
Jay Russell
Adriano Hrvatin
CDCR OLA Armstrong

Jerome Hessick
Tyler Heath
Damon McClain
Roy Wesley
Melissa Bentz
Dillon Hockerson

Laurie Hoogland
Kristin Moose
Elise Thorn
Office of Inspector General
Coleman Special Master Team
Prison Law Office

Exhibit 57d

OFFICE OF LEGAL AFFAIRS

Jennifer Neill

General Counsel

P.O. Box 942883

Sacramento, CA 94283-0001



December 30, 2019

VIA EMAIL ONLY

Michael Freedman

Rosen, Bien, Galvan & Grunfeld

MFreedman@rbgg.com**RE: *ARMSTRONG V. NEWSOM; COLEMAN V. NEWSOM*: ADVOCACY LETTER RE:**

[REDACTED]

Dear Mr. Freedman:

I write in response to your July 12, 2019 and May 31, 2019 letters regarding *Armstrong* and *Coleman* class member [REDACTED] ([REDACTED]). Mr. [REDACTED] reported to you that he was assaulted on or about April 24, 2019 while housed at Richard J. Donovan Correctional Facility (RJD). Mr. [REDACTED] alleged that custody staff trapped in him in between the sally port where multiple officers then assaulted him.

Subsequent to the receipt of your May 31, 2019 letter, and prior to the receipt of your second letter, an inquiry into the allegations of staff misconduct was completed¹. The inquiry included interviews with multiple staff and with inmates, a review of all available documentation and the Strategic Offender Management System. The inquiry resulted in referral to the Office of Internal Affairs (OIA) via a 989 for an Internal Affairs Investigation into the above-noted allegations of staff misconduct on July 17, 2019. OIA accepted the case on August 14, 2019 and there is currently an open investigation.

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///

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department's Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

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SUBJECT TO PROTECTIVE ORDERS

Mr. Freedman

Page 2

CDCR considers the staff misconduct allegation inquiry open and pending completion of an internal affairs investigation.

Sincerely,

/s/ Ursula Stuter

URSULA STUTER

Attorney

Office of Legal Affairs

Exhibit 58

DECLARATION OF [REDACTED]

I, [REDACTED], declare:

1. I am a party in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. My California Department of Corrections and Rehabilitation ("CDCR") number is [REDACTED]. I am currently housed at California State Prison – Los Angeles County ("LAC") on Facility D in Building 4.

3. I was housed at Richard J. Donovan State Prison ("RJD") from January 18, 2018 until July 31, 2018, when I was transferred to the California Medical Facility.

4. During my time at RJD, I was housed in the C14 Unit and in a Mental Health Crisis Bed. When I was housed at RJD, the C14 Unit housed prisoners who, like me, were at the EOP level of care.

5. I am an *Armstrong* class member. I am designated as DPM. I am diagnosed with peripheral neuropathy, which causes my feet to feel alternatively cold, numb, tingling, and very hot. My problems with my feet cause me to lose my balance easily, so I need to use a walker to get around. I also struggle to go upstairs and I have a lower bunk chrono. I had the same disabilities, limitations, and accommodations during the time that I was at RJD.

6. I am a *Coleman* class member. I am currently at the EOP level of care. I was also at the EOP level of care during the time that I was housed at RJD. I am diagnosed with bipolar disorder (Type II), borderline personality disorder, and major depressive disorder. My bipolar disorder sometimes makes me feel manic, up for days at a time and unable to sleep. Other times, I feel very depressed. I often struggle to sleep and only get five intermittent hours of sleep a night.

7. I have also been diagnosed with post-traumatic stress disorder. When I was a child, I moved in and out of the foster care system. During my adolescent years I went to live with a foster parent who repeatedly molested me and abused me both physically and

Initials: [REDACTED]

1 mentally. These experiences continue to haunt me and make me feel like I am not wanted
2 or needed. I struggle chronically with what happened to me as a child and my feelings of
3 shame from those experiences.

4 8. The mental health treatment I receive helps me cope with my mental health
5 problems. I participate in anger management classes, classes on how to manage my
6 moods, and other groups that help me cope day-to-day. I take Trazodone, an anti-
7 depressant, which helps me feel more stable and happier. I also take other medications to
8 help keep my mood stable and help with my daily life.

9 9. I have a number of serious medical conditions. I suffer from end-stage liver
10 disease. I have cirrhosis and fibrosis of my liver due to Hepatitis C, which I have had for
11 many years. I also take high blood pressure medications to control my chronically high
12 blood pressure. I also take a medication for my stomach, so that I do not get an ulcer as a
13 result of my liver problems. I am classified as high risk medical. [REDACTED]

14 10. I was a victim of staff misconduct at RJD. On ^{July} [REDACTED] 6, 2018, I went to the
15 Facility C chow hall for dinner at around 5:00 P.M. I went to get some Kool-Aid from the
16 dispenser, but it was empty, so I went and asked an officer working in the chow hall to
17 refill the Kool-Aid. In response, he yelled at me "What do I look like? A fucking kitchen
18 worker? Go ask a fucking kitchen worker." I was taken aback, so I said "Excuse me."
19 The officer yelled "What did you fucking say?", so I repeated "Excuse me" and then sat
20 down at a table.

21 11. I did not know this officer's name, so after I sat down I looked over at him so
22 that I could see his name tag. He saw me looking at him and came over to me, yelling
23 "You got a fucking problem?" I replied "No, I'm just trying to get your name, that's all."
24 The officer then yelled his name at me and asked me "What building are you from?" After
25 I told him where I was housed, he told me "I'll deal with you later" and then walked away.

26 12. After dinner ended that day, he told me "Step to the side." After the chow
27 hall emptied, he told me to step outside and ^{get on} [REDACTED] the wall. He grabbed my walker and
28 threw it three or four feet away from me. The officer then aggressively searched me while

1 telling me that I should not talk back to him. He then grabbed my glasses. *As I was facing*
 2 *the wall, ()* he remarked to another officer standing by "These look like they're altered, don't
 3 they" *and the other officers started laughing. ()* He then turned to
 4 me and said "You better sit down before you fall down" so I *sat ()* down against the wall.
 5 *I noticed my glasses on the ground twisted and broken. ()*

13. The officer then took off my shoes, my shirt, and my pants, leaving me just
 6 in my boxers and undershirt. He told me that my pants and shirt were altered, and then
 7 told me to go back to my cell dressed as I was, only in my underclothes. I walked back
 8 into my housing unit in only a t-shirt and boxers, feeling very humiliated and depressed.

14. After this happened, I knew that I had to get out of RJD before something
 10 worse happened. *On July 9, 2018, ()* I went to see my clinician. I told her that I was feeling
 11 suicidal and felt like hurting myself. I told her that if I was kept at RJD, I would stick a
 12 needle in my neck and let myself bleed out. At the time, I was feeling depressed,
 13 panicked, scared, humiliated, and like I had no other options other than leave RJD or
 14 attempt to kill myself. My clinician then admitted me to a crisis bed, where I stayed for
 15 ten days. After ten days, I still needed more intensive mental health care, so I was sent to
 16 the PIP program at California Medical Facility ("CMF").

15. After I arrived at CMF, I filed a 602 appeal about what had happened to me.
 18 After I filed a 602, I was interviewed over the phone by *Sergeant A. () At RJD, ()* During the
 19 interview, I told her about what had happened to me. The sergeant told me that I should
 20 have asked *for help in getting the other officers names. ()* The sergeant did not tell me
 21 that she would investigate the incident, that she had talked to staff about the incident, or
 22 anything else about my appeal. The interview with the sergeant lasted at most five
 23 minutes. Around *one month later, ()* I received a response to my 602, informing me that they
 24 had determined staff's treatment of me on *July ()* 6, 2018 did not violate any policies.

16. I have also witnessed staff engage in misconduct against other people at
 26 RJD. During my time at RJD, I saw a prisoner who appeared to be transgender tell Officer
 27 *()* and another officer in the C14 Unit that he was suicidal. Officer *()* and the
 28 other officer dragged the prisoner by his hands back to his cell and slammed the door.

1 Later that day, the same prisoner started yelling in the unit "I cut myself! I cut myself!"
2 and no officers responded. None of the officers in the unit at the time – Officer [REDACTED] and
3 a few others – said or did anything in response to the prisoner's cry for help. They did not
4 get mental health staff or provide any other assistance. The next morning, I saw officers
5 take the prisoner out of the unit. From where I was, I saw that the prisoner's wrists were
6 bandaged. I did not see that prisoner again after that.

7 17. I also saw Officer [REDACTED] and Officer [REDACTED] frequently allow prisoners to
8 fight without intervening. The officers would just watch the prisoners fight and, after the
9 fight had concluded, would just tell the prisoners to go back to their cells.

10 18. Witnessing these incidents often made my mental health deteriorate.
11 Because of the regular physical and sexual abuse I experienced from authority figures,
12 including my foster parents, every time I witness or experience staff abuse I am forced
13 back into my childhood years of abuse. Witnessing authority figures abuse those under
14 their control triggers my post-traumatic stress disorder and makes me think about things
15 that I really do not want to think about ever again.

16 19. To the best of my knowledge, none of the officers I saw engaging in staff
17 misconduct at RJD were ever disciplined or reassigned. As of the time I left RJD in July
18 2018, they continued to work in the same units or other posts.

19 20. In my time at RJD, there have been a few times that I needed help but did not
20 ask for it because I was afraid of what would happen to me. I felt like I could not ask for
21 help from clinical staff, officers, or anyone else. I worked hard to avoid all of the officers
22 in my unit and not ask them for anything because of what I experienced and witnessed.

23 21. I have been in CDCR prisons for about twenty-five years of my life. I have
24 been housed in a number of different CDCR prisons, including RJD, LAC, CMF, Mule
25 Creek State Prison, California Substance Abuse Treatment Facility and State Prison,
26 California Health Care Facility, High Desert State Prison, Salinas Valley State Prison, and
27 several other facilities. The staff misconduct at RJD is the worst that I have ever
28

1 experienced. It seemed to me that staff misconduct happened more frequently at RJD and,
2 when it did happen, was worse.

3 I declare under penalty of perjury under the laws of the United States of America
4 that the foregoing is true and correct, and that this declaration is executed at Lancaster,
5 California this 16 day of December, 2019.

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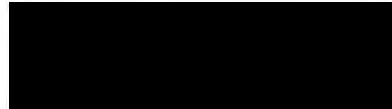
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Exhibit 58a

Filed Under Seal

Exhibit 59



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Penny Godbold
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November 14, 2017

VIA ELECTRONIC MAIL ONLY

<p>PRIVILEGED AND CONFIDENTIAL</p> <hr/> <p>SUBJECT TO PROTECTIVE ORDERS</p>
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Russa Boyd
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov

Re: *Armstrong v. Brown*
Staff Misconduct Allegation from Richard J. Donovan Correctional Facility
Our File No. 0581-03

Dear Russa:

As you are aware, Plaintiffs' convened a small meeting with Associate Director, Brian Duffy, Warden Paramo, the Chief Deputy, and other key staff during the most recent, October 2017, RJD monitoring tour. During that meeting, Plaintiffs' counsel provided the institution with information about a staff assault that was alleged in C-15. All but [REDACTED] refused to be interviewed in conjunction with the incident.

[REDACTED] and others who stated they witnessed the incident, reported observing Sergeant [REDACTED] exchange words with an inmate through the door of [REDACTED]. Sergeant [REDACTED] reportedly left the cell front for a few minutes and then returned to the cell with a crew of officers. Sergeant [REDACTED] then reportedly entered the cell where an altercation could be heard. Then, the prisoner from [REDACTED], who reportedly looked "beaten up" when he was removed from the cell, was dragged by his feet down a flight of stairs, banging his head on the steps along the way. This incident reportedly occurred in plain view of everyone in the C-15 housing unit sometime during the first months of 2017. Plaintiffs' counsel was unable to identify the name of the prisoner who was in cell 216. Nevertheless, multiple class members reported observing this incident and reported being deeply disturbed by what they saw.

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Russa Boyd

November 14, 2017

Page 2

As discussed in the May 2017 *Armstrong* RJD report, and multiple other reports by Plaintiffs' counsel, when class members observe staff assaults, it has a direct and negative effect on their ability to obtain required disability accommodations. As a result of observing this and other staff misconduct incidents, class members report that they are reluctant to turn to staff for help and reluctant to request disability accommodations from staff out of fear of those staff members. In this case, where the allegation is against a Sergeant, the concern is heightened. Prisoners not only fear staff but also fear their supervisors, the very staff members they should be able to turn to report staff misconduct. When this happens, class members report they have no recourse for reporting staff misconduct, much less seeking accommodations, and they are even less likely to do so.

Plaintiffs do not currently allege that the staff assault occurred against a class member. As stated above, the identity of the prisoner in [REDACTED] is unknown. However, because this alleged incident was observed by multiple class members, and has a direct impact on the ability of class members to request and obtain disability accommodations, Plaintiffs request that this incident be investigated. During the tour, staff stated that the information shared during Plaintiffs' meeting was enough to initiate the investigation.

After reviewing our notes, Plaintiffs identified two additional allegations against this staff member that do not pertain to the assault described above but which both relate to the very serious allegation of falsification of documents. [REDACTED] reported that Sergeant [REDACTED] fabricated documents responding to his allegations regarding stolen property. Plaintiffs' counsel requested, but has not yet received, copies of the documents in question. [REDACTED], reported that he filed a 602 regarding staff misconduct by an Officer on the yard. He reported that Sergeant [REDACTED] handled the 602 and on it the Sergeant states that he interviewed [REDACTED] who reported that he had nothing further to add in connection with his misconduct claim. According to [REDACTED] he was not ever interviewed and in fact it would have been impossible to interview him on the date recorded by the Sergeant on the 602 because he (and other inmates on C) were locked down in the gym while the yard was being searched. Plaintiffs also request that these allegations be investigated.

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PRIVILEGED AND CONFIDENTIAL

Russa Boyd

November 14, 2017

Page 3

Plaintiffs do not object to these allegations being addressed through the Complex Litigation Coordination Committee process. However, given the effect that allegations of this nature have on class members' ability to obtain disability accommodations, Plaintiffs are concerned about the outcome of these investigations and what action will be taken by CDCR.

We look forward to communicating with CDCR about these allegations as the investigations progress.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

Penny Godbold

By: Of Counsel

PMG:cg

cc:

Ed Swanson

Joanne Chen

Sharon Garske

Janet Chen

Patrick McKinney

Bryan Kao

Co-Counsel

Exhibit 60



**ROSEN BIEN
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March 2, 2018

VIA E-MAIL AND U.S. MAIL

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Russa Boyd
Nick Weber
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Sacramento, CA 94283
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Nick.Weber@cdcr.ca.gov

Re: *Armstrong v. Brown* and *Coleman v. Brown*:
Reports of Abuse of Class Members at RJD
Our File Nos. 581-3 and 489-3

Dear Russa and Nick:

I write regarding allegations of abuse and excessive force against *Armstrong* and *Coleman* class members at Richard J. Donovan Correctional Facility (“RJD”).

These incidents were reported to our office separately by a *Coleman* class member, [REDACTED] who reported that he witnessed the events that occurred and by [REDACTED] a class member in both *Armstrong* and *Coleman* who was involved in the incident.

[REDACTED] reportedly notified CDCR about witnessing these events, including turning over alleged video footage of the staff members involved in the incidents but, as of his last communication with Plaintiffs’ counsel, he was never interviewed by any CDCR staff in conjunction with any investigation of the allegations.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
 Nick Weber
 February 28, 2018
 Page 2

██████████ was reportedly interviewed after filing a staff complaint but it remains unclear who interviewed him and to what end. The interview occurred several months after the event.

Both ██████████ report that on or around July 17, 2017, in RJD Housing Unit C-14, an EOP housing unit that also houses *Armstrong* class members with disabilities impacting placement, three *Coleman* class members, two of whom are also *Armstrong* class members, were assaulted by staff members. Both witnesses state that the assaults were unprovoked and started after a staff member in the unit, a CC-1, was initially assaulted by a different inmate in the unit.

Assault on ██████████ *Armstrong* and *Coleman* class member

Both ██████████ and ██████████ report that following the initial assault on the CC-1, all staff that were on the dayroom floor left the unit together. There were approximately 15 or so inmates still out of their cells on the dayroom floor at this time including ██████████ and ██████████ two *Armstrong* class members. The officers were out of the unit for approximately three minutes. When they returned, there were about 8-10 officers including CO ██████████ who, according to ██████████ appeared to be leading the returning officers. CO ██████████ reportedly returned to the unit and stopped by ██████████ who stood with his cane and a vest, on during the alarm.

According to both ██████████ and ██████████ an officer yelled, “resume, recall” which prompted people to start to get up and return to their cells. ██████████ reports that he attempted to return to his cell at this time. According to ██████████ as ██████████ started to take a step towards his cell, CO ██████████ drew back and punched ██████████ in the face, knocking him out and sending him a few feet from where he was observed to be standing. ██████████ observed ██████████ glasses explode on contact and then witnessed several officers jump on ██████████ including CO ██████████ who was reportedly hitting him in the head. ██████████ was reportedly on the ground and not moving, and appeared to be unconscious according to ██████████ who stated that ██████████ did not ball up or move his hands to try and protect himself during this time. Other officers were reportedly kicking him in the face and body while CO ██████████ hit his head. They cuffed him and reportedly continued to hit and kick him after he was cuffed. The officers who were kicking him reportedly included an Investigative Services Unit (ISU) officer. According to ██████████ it was evident that it was an ISU officer because their uniform differs. The ISU officer that was involved is believed to be either Officer ██████████ or Officer ██████████ who were both seen in the unit.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd

Nick Weber

February 28, 2018

Page 3

██████ reported that he is not exactly sure what happened, but that the assault was unprovoked. When he hit the ground, he came to and felt multiple punches. He reports that one officer had his foot pressed on his face, holding his head on the floor. He vividly remembers the smell of the rubber and dirt from the bottom of the officer's shoe. According to ██████ officers continued to punch him while he was subdued on the ground and they repeated, "Quit resisting." Then they cuffed him. When the officer removed his foot from his face, ██████ lifted his head and saw five or six COs standing around him.

These officers reportedly kept him pinned to the ground while a scuffle with ██████ took place behind him.

According to ██████ while ██████ was being assaulted, ██████, a *Coleman* class member, could be heard in his cell near ██████ yelling statements such as "Stop! Stop! I see you. I will report you. This is an unlawful use of force."

██████ reports that he received a 115 for Battery on Staff and he was found guilty of the incident in September 2017.

Assault on ██████, ██████ *Armstrong* class member

According to ██████ after the cuffs were on ██████ CO ██████ and CO ██████ approached ██████ in a seated position on the floor with his cane beside him, and they attacked him without provocation. ██████ was even closer to ██████ cell and thus the entire assault was reportedly clearly observable. They reportedly kicked ██████ multiple times, sat on him and, at one point, they cuffed him and continued to beat him even after he was cuffed. Next the officers reportedly obtained shackles from the tower and put them on ██████ legs. Once the leg shackles were on ██████ and he was laying on his stomach, an officer crossed ██████ legs and bent them into his back and sat down on them while the other officers continued to kick him in the head. The beating reportedly continued for two to three minutes after he was secured on the ground.

All the while ██████, ██████ *Coleman* class member, could reportedly still be heard yelling at the officers from his cell to stop the attack.

██████ and ██████ were then taken out of the building.

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Russa Boyd
Nick Weber
February 28, 2018
Page 4

██████████ and ██████████ were Singled Out by Staff As a Result of Their Disabilities

██████████ specifically alleges that ██████████ and ██████████ were identified by staff for assault because they are elderly, have assistive devices and visible disabilities and were therefore easy targets who will not fight back. He reports that there were multiple other inmates on the dayroom floor at the time of the attacks who could have been selected by staff members but, as a result of their disabilities, ██████████ and ██████████ were singled out.

Assault on ██████████ Coleman class member

After ██████████ and ██████████ were removed from the building, ██████████ reported that a small group of officers returned to the unit including CO ██████████ CO ██████████ and Sgt. ██████████. One of the officers reportedly yelled, ██████████ and the sound of the door to ██████████ cell could be heard popping open. ██████████ reported that he was unable to see inside the cell from his location, but that he heard a loud thud and heard ██████████ crying out.

The officers reportedly left and returned about two minutes later. Again they yelled for his door to be popped open. Next, the officers yelled, “Did you see anything?” and ██████████ said “yes, I’m going to tell.” Next, officers apparently beat ██████████ badly in his cell. Though ██████████ could not see what occurred in the cell, he reports that he knows there were witnesses who could see inside and he believes that some of those witnesses would be willing to cooperate with an investigation.

██████████ stated that he did see ██████████ emerge from his cell looking beaten and bloody. Reportedly, even after he emerged from his cell cuffed, CO ██████████ held ██████████ by the cuffs, forcing him to bend forward while CO ██████████ (an ISU Officer) punched him. Next, ██████████ witnessed staff ramming ██████████ face first into the stairs as they escorted him out of the housing unit. He stated that ██████████ lost teeth and required stitches as a result of his injuries.

After about 10 minutes, staff returned, cuffed everyone still out in the dayroom and threatened that if anyone reported anything, they would wind up just like those three.

Request For Information

Plaintiffs request a complete investigation into the alleged incidents of abuse and assaults of the *Armstrong* and *Coleman* class members described above, including interviews with the prisoners who were involved as well as any prisoners, nursing staff, EOP mental health staff, medical staff, counseling staff or other non-custody staff

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Nick Weber
February 28, 2018
Page 5

witnesses in the building at the time of the incident who may be willing to cooperate in an investigation. These serious allegations should be investigated by staff members outside of RJD and not by ISU at RJD given that these allegations of abuse specifically involve ISU staff members at RJD. Also, consistent with Plaintiffs' November 17, 2017, letter (attached as **Exhibit 1**) investigations should be conducted in a professional and confidential manner and should ensure anonymity to significantly reduce any risk of retaliation from staff. CDCR should determine who was in the unit at the time of the alleged incident and interview people who were in a position to have seen what happened. Witness stories should be corroborated and be used to either bolster or discredit accounts of what happened and should not be treated as separate and individual allegations. Also, the fact that someone has not filed an appeal about the incident should not be used to discredit their verbal account of what they witnessed because, as stated in multiple tour reports, many class members at RJD express fear of retaliation for filing appeals. Computer Voice Stress Analysis should not be used during the interview process. Lastly, people who have transferred to other prisons and are no longer at RJD but who were potentially a witness to the alleged events should be interviewed.

Plaintiffs request to be notified within one week who is conducting the investigation. Also, given the seriousness of the allegations and the fear of retaliation expressed by class members at RJD, Plaintiffs' counsel request to be present during interviews of any class members.

The allegations regarding [REDACTED] and [REDACTED] should be handled pursuant to the *Armstrong* Accountability protocols because, as stated above, they were allegedly targeted for abuse and assault as a result of their disabilities. Regarding investigations involving [REDACTED] and [REDACTED] pursuant to previous agreement by the parties, Plaintiffs' counsel is available to travel to any location to review the investigative reports generated as a result of these allegations within two weeks.

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PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Nick Weber
February 28, 2018
Page 6

Lastly, [REDACTED] reports that he has been notified that he will be transferred back to RJD. As a result of the serious misconduct allegations he has made against staff members at RJD, and allegations regarding staff assault and retaliation at RJD which Plaintiffs and CDCR are aware of, Plaintiffs request that an alternative placement be found for him and that his safety is ensured wherever he is transferred.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:HW:cg

cc: *Armstrong* Co-Counsel
Coleman Co-Counsel
Ed Swanson
Joanne Chen
Nicholas Meyer
Patricia Lee
Trennie Rios
Erin Anderson
Amber Campbell
Sharon Garske
Bryan Kao
Erick Rhoan
Danielle O'Bannon
Janet Chen
Kelly Mitchell

Teauna Miranda
Georgia Johas-Darnell
Laurie Hoogland
Evelyn Matteucci
Brunce Beland
Steven Blum
Pam Cantelmi
John Dovey
Vincent Cullen
Donald Meier
Judy Burleson
Kelli Abernathy
Laurene Payne
Ceasar Aguila
Rita Lowe

Samantha Chastain
Olga Dobrynina
CCHS Accountability
OLA Armstrong
Office of the Inspector General
of California
Coleman Special Master Team
Katherine Tebrock
Jeff Macomber
Elise Thorn
Andrea Moon
Melissa Bentz
Patricia Ferguson

Exhibit 61



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March 14, 2018

VIA ELECTRONIC MAIL ONLY

<p>PRIVILEGED AND CONFIDENTIAL</p> <hr/> <p>SUBJECT TO PROTECTIVE ORDERS</p>
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Russa Boyd
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov

Re: *Armstrong v. Brown*: Letter re Mobility Impaired Class Member at RJD,
[REDACTED]
Our File No. 581-3

Dear Russa:

I write regarding the investigation into alleged *Armstrong* violations involving Mr. [REDACTED] DPO, at RJD. [REDACTED] a wheelchair user, states that he has neuropathy and pain in both legs which causes difficulty balancing and standing. His most recent 1845 confirms his difficulty balancing and states that he has Ataxia, neurological impairment, or Parkinson's. **(see Exhibit A)**. The form further states that he has a severe orthopedic condition of the hips, knees, ankles or feet and that he is unable to stand and pivot, even with staff assistance. *Id.*

[REDACTED] filed a staff complaint against Officer [REDACTED] regarding a December 6, 2017, search. Mr. [REDACTED] alleged that Officer [REDACTED] conducted a search of Mr. [REDACTED] in a public location – an occupied dayroom – and forced him to stand up out of his wheelchair against a wall with nothing to hold on to and would not let him use his cane or his wheelchair for support. Mr. [REDACTED] reported that he was struggling to remain standing and stay balanced when Officer [REDACTED] pulled his pants down in front of everyone. Mr. [REDACTED] also alleged that, following the search, he was forced to walk without assistance to collect his assistive devices that were thrown by Officer [REDACTED] during the search. Mr. [REDACTED] further alleged that Officer [REDACTED] was rough with him

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
March 14, 2018
Page 2

and his assistive devices during the search and that he had no regard for his disabilities. He included two signed statements from witnesses reporting the same facts.

The appeal inquiry response states that the matter was investigated and staff did not violate CDCR policy with respect to the issues appealed. A copy of the appeal and response is attached for reference. **(see Exhibit B).**

It is a violation of the ADA, *Armstrong* Remedial Plan, and CDCR policy to fail to accommodate people with disabilities during searches. Searches of people with disabilities, especially those with wheelchairs or other severe mobility limitations, require reasonable accommodation and professionalism. (ARP IV.I.8) Further, unclothed body searches are to be conducted in a safe manner and in an area that allows the inmate to preserve some measure of dignity and self-respect. (DOM 52050.16.5) Mr. [REDACTED] allegations that he was required to stand without his wheelchair or anything to hold on to during the search, that he was required to walk without any assistance to collect his wheelchair and assistive devices following the search, and that his pants were pulled down in a public location during the search are all alleged violations of CDCR policy.

Plaintiffs request to know the exact basis for concluding that no violation of CDCR policy occurred in this case. If the investigation failed to address any of these alleged violations, the matter should be re-investigated. If the investigation did not include statements from witnesses who reportedly saw the incident and are willing to cooperate in the investigation, the matter should be re-investigated. If the investigation concluded that any of these allegations occurred, the violation of CDCR policy must be confirmed.

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PRIVILEGED AND CONFIDENTIAL

Russa Boyd
March 14, 2018
Page 3

Plaintiffs request to see the underlying investigative reports regarding this incident. We look forward to receiving your response within 14 days.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold
By: Of Counsel

PMG:hw

cc: *Armstrong* Co-Counsel
Ed Swanson
Joanne Chen
Nicholas Meyer
Patricia Lee
Trennie Rios
Tamiya Davis
Erin Anderson
Sharon Garske
Erick Rhoan
Danielle O'Bannon

Annakarina De La Torre-Fennell
Jane Mackie
Kelly Mitchell
Teauna Miranda
Georgia Johas-Darnell
Laurie Hoogland
Brunce Beland
Steven Blum
Pam Cantelmi
John Dovey
Vincent Cullen

Donald Meier
Judy Burleson
Kelli Abernathy
Laurene Payne
Ceasar Aguila
Rita Lowe
Samantha Chastain
Olga Dobrynina
OLA Armstrong
CCHS Accountability

Exhibit 61a

OFFICE OF LEGAL AFFAIRS

Patrick R. McKinney II
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001



June 12, 2018

VIA ELECTRONIC MAIL ONLY

Penny Godbold
Rosen, Bien, Galvan & Grunfeld
PGodbold@rbgg.com

Re: *Armstrong v. Brown*: Letter re Mobility Impaired Class Member at RJD, [REDACTED]
[REDACTED] DPO

Dear Penny:

I write in response to your letter dated March 14, 2018, in which you state that *Armstrong* class member [REDACTED] DPO, alleges Officer [REDACTED] conducted a search of him in a public location – an occupied day room – and forced him to stand up out of his wheelchair against a wall with nothing to hold on to and would not let him use this cane or his wheelchair for support. Mr. [REDACTED] alleges that he struggled to remain standing and that Officer [REDACTED] pulled his pants down in front of everyone. Mr. [REDACTED] also alleges that he was forced to walk without assistance to collect his assistive devices that were thrown by Officer [REDACTED] during the search.

Mr. [REDACTED] submitted an 1824 regarding the allegation described above. RJD elected to process the allegation as a staff complaint. Subsequently, the allegations were also reviewed as part of an *Armstrong* non-compliance inquiry. Both inquiries determined that no violation of CDCR policy occurred in this case.

You request to know the exact basis for CDCR's conclusion that there was no violation of policy, and you request copies of the underlying investigative reports. Defendants decline to produce the Confidential Supplement (Attachment C) to the staff complaint. The non-compliance inquiry completed in response to the 1824 Mr. [REDACTED] submitted provides information to address your concerns and supports CDCR's conclusion that policy was not violated by staff.

Attached to this letter is a copy of the non-compliance inquiry package, with employee names redacted pursuant to the August 22, 2012 Court Order (ECF No. 2180). The documents reflect that Mr. [REDACTED] two inmate-witnesses, and six staff witnesses were interviewed, and that SOMS and the relevant FLSA time sheet were reviewed. The attached documents contain the evidence supporting the conclusion that CDCR staff did not violate policy.

In summary, seven of the nine witnesses reported that Mr. [REDACTED] pants were never pulled down during the search. Therefore, the evidence supports the conclusion that there was no

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Ms. Godbold

Page 2

unclothed body search and, therefore, no violation of DOM Section 52050.16.5. Further, a preponderance of the evidence indicates that Mr. [REDACTED] was asked – and reported that he could – stand up from his wheelchair and walk out of his cell so it could be searched. The evidence reveals that Mr. [REDACTED] was seen placing something in the waistband of his pants, which precipitated the short, clothed body search (no longer than two to three minutes) once Mr. [REDACTED] exited his cell. The evidence reveals that one of the officers involved in the search observed that Mr. [REDACTED] was unsteady on his feet during the search and so the officer placed his hand on Mr. [REDACTED] shoulder and arm as an accommodation to provide stability. Additional staff witnesses confirmed that the officer provided Mr. [REDACTED] assistance standing during the clothed body search. A cell phone was discovered in Mr. [REDACTED] waistband during the search.

Officer [REDACTED] then searched Mr. [REDACTED] wheelchair and another officer assisting with the search promptly gave Mr. [REDACTED] his wheelchair once the search was complete. The witness accounts, including the accounts of the inmate-witnesses, indicate that Mr. [REDACTED] wheelchair was not pushed away from him and that he was not forced to walk to collect his wheelchair. To the contrary, the officers who were conducting the cell searches specifically recalled that one officer immediately gave Mr. [REDACTED] his wheelchair – cell side – once the chair was searched. Both of the inmate-witnesses also confirmed this. Given that Mr. [REDACTED] was immediately given his wheelchair after the search concluded, it follows that he would not have had to walk in order to retrieve any of his other property. The attached documentation supports CDCR's finding that policy was not violated.

Moreover, witness accounts indicate that Mr. [REDACTED] was upset that he had been caught with a cell phone and threatened that he would “write up” Officer [REDACTED]. Mr. [REDACTED] subsequently received a RVR for possession of a cell phone. Mr. [REDACTED] credibility comes into question because he denied possession of the cell phone, accused Officer [REDACTED] with falsifying and RVR, yet he pled guilty to the violation and admitted the phone was his.

Sincerely,

/s/ Russa Boyd

RUSSA BOYD

Attorney IV, Office of Legal Affairs

Encl.

cc:	Co-counsel	Donald Meier	Armstrong-RBGG
	Ed Swanson	Kelly Mitchell	Armstrong-PLO
	Erick Rhoan	Georgia Johas-Darnell	Joseph (Jason) Williams
	Vince Cullen	Teauna Miranda	Laurene Payne
	Caesar Aguila	Laurie Hoogland	Armstrong CAT
	Samantha Chastain	Olga Dobrynina	

Exhibit 61b

Allegation of Non-Compliance Inquiry Worksheet

*** Inquiries shall only be conducted based on an allegation of DPP/DDP non-compliance ***

ALLEGATION (to be included in Final Inquiry Memorandum)Inmate/Parolee: [REDACTED] CDCR # [REDACTED] Disability Class member: ☒ Armstrong (DPP) ☐ Clark (DDP)

Allegation of Non-Compliance: Inmate is DPO, alleges when conducting a cell search, a staff member was rough on him, ordering him to stand for several minutes, and threw his wheelchair cushion on the cell floor and would not allow him to retrieve it.

Employee Identified Last/First: D. [REDACTED] C/O [REDACTED]

(If unknown, the involved employee(s) shall be determined through supervisor/manager review and entered by the reviewing staff member)

DISCOVERY REVIEW (to be included in Final Inquiry Memorandum)

Date of Discovery: 12/14/2017 Source of Allegation/Reported By: 1824 LOG # [REDACTED]

Date Allegation Inquiry Initiated: 12/19/2017 Assigned To: G. [REDACTED] LT Date Inquiry Due to ADA Coordinator: 1/10/18

INMATE INTERVIEW (to be included in Final Inquiry Memorandum)*** All inquiries SHALL include an interview with the inmate/parolee who is the subject of the allegation – no exceptions ***

Staff Conducting Interview (print name and title): G. [REDACTED] Lt.

Date of Interview: 12/20/2017

1. Disability Code Requiring E/C: <input type="checkbox"/> TABE ≤ 4 <input type="checkbox"/> LD <input type="checkbox"/> DPH <input type="checkbox"/> DPV <input type="checkbox"/> DNH <input type="checkbox"/> DPS <input type="checkbox"/> DDP <input type="checkbox"/> EOP <input checked="" type="checkbox"/> N/A	2. Accommodation (Primary Method Required): <input type="checkbox"/> Glasses <input type="checkbox"/> Hearing Aids <input type="checkbox"/> Loud/Clear Speech <input type="checkbox"/> Speak Slowly <input type="checkbox"/> Written Notes <input type="checkbox"/> SLI <input type="checkbox"/> Reads Lips <input checked="" type="checkbox"/> Other: Simple language 1,2 steps <input type="checkbox"/> N/A	3. Effective Communication (Check all that apply): <input checked="" type="checkbox"/> Reiterated, in own words, what was explained. <input checked="" type="checkbox"/> Asked appropriate questions regarding the information provided. <input checked="" type="checkbox"/> Provided appropriate, substantive responses to questions asked. <input type="checkbox"/> Did not appear to understand the communication. <input type="checkbox"/> Other: Other. ADL Prompts Utilized
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Summary of Interview: Inmate provided ISU Officer D. [REDACTED] and other staff conducted a cell search. [REDACTED] ordered his cell door opened then ordered him to stand for several minutes while an unclothed body search was being conducted. After the unclothed body search was completed, inmate alleges staff made him walk several feet to his wheelchair. His wheel chair cushion was thrown on the cell floor and he was not allowed to retrieve it. Additionally, he claims staff member lied in the RVR he was issued saying Inmate accepted responsibility for the phone. Several staff members and inmates were interviewed in this inquiry. Staff provided they were conducting random cell searches with use of canine unit. Inmate was informed staff would be conducting a random cell search and ordered the cell door opened. The inmate stood up without being directed to do so. A cell phone was removed from his waistband. Inmate was searched then staff searched wheelchair and pushed it next to the inmate so he could be seated. Inmate exited the cell. The cushion was placed on the lower bunk to be searched by canine unit. Canine operator indicates cushion was on lower bunk when she entered the cell. RVR indicates inmate plead guilty accepting responsibility for the phone found in his possession.

FINDINGS (to be included in Final Inquiry Memorandum)

Inmate alleges he was ordered to stand for several minutes while he was being searched, his cushion was thrown on the floor, and staff lied in RVR report. Search team and housing unit staff were interviewed and provide inmate stood up when cell door was opened. One staff member provided he placed his hand on inmate to provide stability should inmate lose his balance. The cushion was not returned to the inmate as it needed to be searched by canine unit to ensure it was free of contraband. RVR indicates inmate stated he plead "guilty" and said "I got a little greedy".

SUMMARY OF ADAC REVIEW

Allegation is not confirmed, several staff witnesses including ISU and floor staff provided the allegation made were not true. Inmate claims he did not accept responsibility for phone located in his waistband, however, RVR indicates inmate plead guilty.

ADAC RECOMMENDATION

Allegation is not confirmed. Recommend no further action.

Print Name: R. Din,

Signature: R. Din

Date: 1/17/2018

HIRING AUTHORITY REVIEWAllegation: ☐ Confirmed ☒ Not ConfirmedAction Required: No ActionSignature: [Signature]Date: 1/22/18

Updated 4/13/2016

State of California

Department of Corrections

Memorandum

Date : January 10, 2018

To : D. Paramo
Warden

Subject: ALLEGATIONS OF STAFF MISCONDUCT BY [REDACTED]

SYNOPSIS OF CIRCUMSTANCE

[REDACTED] submitted a Reasonable Accommodation Request, due to the allegations on the aforementioned form the Richard J. Donovan Correctional Facility elected to treat this form as an appeal and it will be completed as a staff complaint. It was issued appeal log # RJD-A-1 [REDACTED] it was dated December 06, 2017. Inmate [REDACTED] alleged that on December 06, 2017 an unidentified IGI Squad Officer searched his cell. Inmate [REDACTED] alleged that the Officer made him stand in front of a wall, made him place his hands behind his back, pulled down his pants and did not allow him to use his wheelchair. Inmate [REDACTED] also alleged that the officer searched his wheelchair pillow and threw it in the cell. Inmate [REDACTED] also claimed the Officer got rough with him.

INTERVIEW WITH [REDACTED]

On Wednesday, December 20, 2017, at approximately 1150 hours I interviewed Inmate [REDACTED] in the Investigative Services Unit interview room.

Effective communication was established in the following manner: A review of the Disability and Effective Communication System (DECS), at the time of the interview Inmate [REDACTED] a Test of Adult Basic Education (T.A.B.E.) score of 11.3 which is above the minimum threshold score of 4.0. Inmate [REDACTED] is not a participant in the Mental Health Delivery System.

I established Effective Communication with Inmate [REDACTED] by speaking slowly, clearly and using simple English. I explained to Inmate [REDACTED] the reason for the interview and asked Inmate [REDACTED] if he understood to which he said he did. When I asked him a question Inmate [REDACTED] provided appropriate, substantive responses to questions asked.

I asked Inmate [REDACTED] if he could identify who the Correctional Officer who allegedly had done everything he wrote on his Reasonable Accommodation Request. Inmate [REDACTED] informed me that it was Officer [REDACTED] I asked Inmate [REDACTED] if Officer [REDACTED] had been by himself. Inmate [REDACTED] informed me that there was another male

CDC 1617 (3/89)

Page 2

Cont.: [REDACTED] [REDACTED]

Officer and a female Officer with a dog but he said he did not know their names and he had no issues with either one of them only [REDACTED]. Inmate [REDACTED] described Correctional [REDACTED] who is a K-9 Officer. I asked Inmate [REDACTED] to describe the male Officer. Inmate [REDACTED] informed me it was the little black Officer that works on the Squad. Inmate [REDACTED] described Correctional Officer [REDACTED] who is assigned to the Investigative Services Unit. I asked Inmate [REDACTED] to tell me what happened. Inmate [REDACTED] informed me that on December 6, 2017, at about 1045 A.M. he was sitting in his wheelchair in his assigned cell [REDACTED] facing away from the cell door with his head phones on listening to music. Inmate [REDACTED] informed me that he heard a tap at his cell door and turned to face the cell door. Officer [REDACTED] informed him that they would be conducting a cell search. The cell door opened and Officer [REDACTED] grabbed him by his shirt and arm. I asked Inmate [REDACTED] if Officer [REDACTED] had pulled him off his wheelchair to which he replied that he had not that he had stood up by himself. Inmate [REDACTED] informed me that [REDACTED] had instructed him to step outside his cell and he did. Inmate [REDACTED] informed me that Officer [REDACTED] had made him stand in front of his cell with his hands on his head and that he was an ADA Inmate who had difficulties standing on his own. Inmate [REDACTED] said that Officer [REDACTED] had pulled his pants and boxers down and looked up his butt. I asked Inmate [REDACTED] if Officer [REDACTED] had touched his buttocks. Inmate [REDACTED] replied that he had not but that he had looked in his butt and that he was embarrassed because Officer [REDACTED] had done so in front of the female Officer. Inmate [REDACTED] informed me that Officer [REDACTED] searched his wheelchair and wheelchair pillow. Officer [REDACTED] threw his wheelchair pillow on the ground then in his cell and was not allowed to use it. Inmate [REDACTED] alleged that Officer [REDACTED] pulled his wheelchair out of his cell and placed it approximately 10 feet from where he was standing and made him walk to his wheelchair on his own. Inmate [REDACTED] alleged that Officer [REDACTED] lied on the Rules Violations Report because he was never interviewed by Officer [REDACTED] and he never said the cell phone was his. I asked Inmate [REDACTED] if he knew who the Officers assigned to Housing Unit 4 when all this occurred. Inmate [REDACTED] replied that he was unsure but it could have been Officer [REDACTED]. I asked Inmate [REDACTED] if he had any other information to add to this report. Inmate [REDACTED] replied that he didn't. I asked Inmate [REDACTED] if he had any Inmate witnesses. Inmate [REDACTED] informed me that he had a few but did not have them with him. Inmate [REDACTED] informed me that the names were in his cell. I informed Inmate [REDACTED] that I would have Correctional Officer [REDACTED] escort him back to his cell and get the names of his Inmate witnesses. Inmate [REDACTED] Inmate witnesses were Inmate [REDACTED]

I asked Inmate [REDACTED] what he wanted out of his allegations. Inmate [REDACTED] informed me that he wanted Officer [REDACTED] to leave him alone, his allegations investigated and Officer [REDACTED] punished for what he did. I asked Inmate [REDACTED] if he was being truthful with his allegations and he replied yes. I concluded the interview.

Page 3

Cont.: [REDACTED]

INTERVIEW WITH [REDACTED]

On Wednesday, December 20, 2017, I conducted an interview with Inmate [REDACTED] in the Investigative Services Unit. I informed Inmate [REDACTED] that Inmate [REDACTED] had identified him as a witness to an incident that occurred on December 06, 2017, On Facility A, Housing Unit 4. I asked Inmate [REDACTED] if he has observed what had transpired on the aforementioned day. Inmate [REDACTED] informed me that he was sitting on the dayroom table between A & B section. He observed Inmate [REDACTED] and the short Hispanic Officer talking in front of cell [REDACTED]. Inmate [REDACTED] said the Officer made him stand and he pushed the wheelchair inside the cell and then threw his pillow on the ground. I asked Inmate [REDACTED] if he observed Officer [REDACTED] search Inmate [REDACTED]. Inmate [REDACTED] replied that he did. I asked Inmate [REDACTED] if he had observed Officer [REDACTED] pull Inmate [REDACTED] pants and boxers down. Inmate [REDACTED] replied that he had not. I asked Inmate [REDACTED] if he had observed Officer [REDACTED] put Inmate [REDACTED] wheelchair about ten feet away from Inmate [REDACTED] and made him walk to it. Inmate [REDACTED] replied that he had not. Inmate [REDACTED] informed me that he had heard Inmate [REDACTED] request his wheelchair and the Officer was speaking to him in a mean tone of voice. I asked Inmate [REDACTED] if he heard the conversation Officer [REDACTED] and Inmate [REDACTED] were having. Inmate [REDACTED] informed me that he couldn't hear what was being said but Inmate [REDACTED] was being polite. Inmate [REDACTED] heard the Officer tell Inmate [REDACTED] that he was going to write him up. I asked Inmate [REDACTED] where Inmate [REDACTED] at when this conversation took place. Inmate [REDACTED] informed me that Inmate [REDACTED] was sitting on his wheelchair by the B section stairs. I asked Inmate [REDACTED] if he had observed how Inmate [REDACTED] had gotten his wheelchair. Inmate [REDACTED] informed me that the short black Officer had given him the wheelchair. I asked Inmate [REDACTED] if he had any other information that could help me complete this assignment. Inmate [REDACTED] replied that he did not. I asked Inmate [REDACTED] if he had been truthful with his answers and he said yes. I concluded the interview.

INTERVIEW WITH INMATE [REDACTED]

On Wednesday, December 20, 2017, I conducted an interview with Inmate [REDACTED] in the Investigative Services Unit. I informed [REDACTED] that Inmate [REDACTED] had identified him as a witness to an incident that occurred on December 06, 2017, On Facility A, Housing Unit 4. Inmate [REDACTED] informed me that he saw Officer [REDACTED] denied Inmate [REDACTED] access to his wheelchair and his cane. Inmate [REDACTED] informed me that Officer [REDACTED] pulled Inmate [REDACTED] pants and boxers down. I asked Inmate [REDACTED] where all this occurred, he replied in front of cell [REDACTED]. I asked Inmate [REDACTED] if he had observed Inmate [REDACTED] sitting in his wheelchair at any time during the time this incident was happening. Inmate [REDACTED] informed me that once [REDACTED] had finished searching him Officer [REDACTED] gave Inmate [REDACTED] his wheelchair. I asked Inmate [REDACTED] if he had observed Inmate [REDACTED] having to walk to his wheelchair. Inmate [REDACTED] said [REDACTED] put it next to him. I asked Inmate [REDACTED] if he had heard the conversation between Officer

Page 4

Cont.: [REDACTED]

[REDACTED] and Inmate [REDACTED] Inmate [REDACTED] informed me that they were both talking back and forth, he heard Officer [REDACTED] tell Inmate [REDACTED] that he was going to write him up and Inmate [REDACTED] told Officer [REDACTED] that he was going to write him up. I asked Inmate [REDACTED] if he had any other information that could help me complete this inquiry. Inmate [REDACTED] informed me that Officer [REDACTED] had lied on the 115. I asked him how Officer [REDACTED] lied on the Rules Violations Report. Inmate [REDACTED] informed me that Officer [REDACTED] had not interviewed Inmate [REDACTED] I asked Inmate [REDACTED] if he had heard Inmate [REDACTED] and Officer [REDACTED] speaking. Inmate [REDACTED] replied that he had. I asked Inmate [REDACTED] why he was then saying Officer [REDACTED] didn't interview Inmate [REDACTED] Inmate [REDACTED] informed me that what we were having was an interview not just talking in the Housing Unit. I informed Inmate [REDACTED] that Officer [REDACTED] speaking with Inmate [REDACTED] was an interview that a desk and chairs were not necessary to interview someone. Inmate [REDACTED] did not agree. I asked Inmate [REDACTED] if he had been honest with all the information he provided to which he said he had. I concluded the interview.

INTERVIEW WITH CORRECTIONAL OFFICER M [REDACTED]

On Wednesday, December 20, 2017, at approximately 1300 hours I conducted an interview with Correctional Officer M. [REDACTED] in the Investigative Services Unit interview room. I informed Officer [REDACTED] of the allegations being made by Inmate [REDACTED] against Correctional Officer [REDACTED] I asked Officer [REDACTED] if he knew who Inmate [REDACTED] was. Officer [REDACTED] informed me that he hasn't had a lot of interaction with Inmate [REDACTED] but that he was present on December 6, 2017, when Officer [REDACTED] found Inmate [REDACTED] in possession of a cell phone. I asked Officer [REDACTED] to tell me what happened on that day. Officer [REDACTED] informed me that Officer [REDACTED] and he were walking around in different Housing Units conducting random cell searches. They were walking the lower tier of Housing Unit 4. Officer [REDACTED] looked inside of cell [REDACTED] and knocked on the cell door and informed the Inmate inside that he would be conducting a search of his cell. Officer [REDACTED] requested the cell door to be opened. Officer [REDACTED] asked the Inmate if he could walk and the Inmate who was identified as [REDACTED] replied that he could. Officer [REDACTED] instructed Inmate [REDACTED] to step out of the cell. Officer [REDACTED] informed me that Inmate [REDACTED] had put something in his waistband. When Inmate [REDACTED] stepped out of the cell Officer [REDACTED] instructed him to face the wall and place his hands on his head to which he complied. Officer [REDACTED] started conducting a clothed body search. I observed that the Inmate was not steady on his feet so I placed my hand on his shoulder and arm so he would not fall while [REDACTED] conducted the search. Officer [REDACTED] discovered a cell phone in Inmate [REDACTED] waist band. Officer [REDACTED] finished the clothed body search and found nothing else on him. Officer [REDACTED] stepped inside the cell and searched the wheelchair and found no contraband. Officer [REDACTED] informed me that the wheelchair was clear. I grabbed the wheelchair and gave it to Inmate [REDACTED] I instructed him to move towards the benches or the dayroom until we finished the search. Inmate [REDACTED] complied but I could tell he was upset at [REDACTED] based on his demeanor. Once Inmate [REDACTED] was out of the way, Officer [REDACTED] stepped out of the cell and Officer [REDACTED] entered the cell with her K9 partner. She cleared the cell and we moved on to another cell. I

Page 5

Cont.: [REDACTED]

asked Officer [REDACTED] if Officer [REDACTED] had searched the wheelchair pillow that Inmate [REDACTED] used to sit on. Officer [REDACTED] informed me that he was not sure. I asked Officer [REDACTED] if he observed Officer [REDACTED] throw the pillow on the ground. Officer [REDACTED] said he didn't. I asked Officer [REDACTED] if he had observed Officer [REDACTED] pull Inmate [REDACTED] pants and boxer shorts down at any time. Officer [REDACTED] replied that he never saw Officer [REDACTED] do that. I asked Officer [REDACTED] if it was possible that he missed Officer [REDACTED] doing that. Officer [REDACTED] replied that there was no way possible he could have missed that since he never left Inmate [REDACTED] side until he told him to move to the dayroom area. I asked Officer [REDACTED] if he had heard the conversation that Officer [REDACTED] and Inmate [REDACTED] had. Officer [REDACTED] said that Officer [REDACTED] had approached Inmate [REDACTED] but he could not hear what was being said. Officer [REDACTED] informed me that Inmate [REDACTED] yelled at Officer [REDACTED] that he was going to write him up. We exited the Housing Unit. I asked Officer [REDACTED] if he observed Officer [REDACTED] being unprofessional at any time during the interaction with Inmate [REDACTED]. Officer [REDACTED] replied that he had not. I asked Officer [REDACTED] if he had observed Officer [REDACTED] move Inmate [REDACTED] wheelchair about 10 feet away from him and made Inmate [REDACTED] walk to it on his own. Officer [REDACTED] stated "No I gave Inmate [REDACTED] wheelchair." I asked [REDACTED] how long was Inmate [REDACTED] made to stand without his wheelchair. Officer [REDACTED] informed me that it was a couple minutes just as long as it took Officer [REDACTED] to conduct the clothed body search and search the wheelchair. I asked Officer [REDACTED] if Inmate [REDACTED] had been made to stand without a wheelchair for the duration of the cell search. Officer [REDACTED] stated "As soon as [REDACTED] was done searching the wheelchair I gave it to him and told him to move away until we were done with the search. I asked Officer [REDACTED] if he had any other information that would be helpful in completing this inquiry. Officer [REDACTED] said that I should speak with Officer [REDACTED] she observed the entire process from a few feet away. I asked Officer [REDACTED] if he had been truthful with all the information provided, to which he replied yes. I concluded the interview.

INTERVIEW WITH CORRECTIONAL OFFICER B [REDACTED]

On Wednesday, December 20, 2017, at approximately 1400 hours I conducted an interview with Correctional Officer B. [REDACTED] in the Investigative Services Unit interview room. I informed Officer [REDACTED] of the allegations being made by Inmate [REDACTED] against Correctional Officer D. [REDACTED]. I asked Officer [REDACTED] if she was present during the December 06, 2017, search of Inmate [REDACTED] and his assigned cell. Officer [REDACTED] informed me that she was. I asked her to tell me what happened. Officer [REDACTED] informed me that they had been conducting random cell searches. I asked Officer [REDACTED] who she meant by "they". Officer [REDACTED] replied [REDACTED] and I. Officer [REDACTED] informed me that Officer [REDACTED] approached cell [REDACTED] and looked inside, Officer [REDACTED] tapped on the cell door and told the Inmate he was going to search his cell. Officer [REDACTED] instructed the Control Booth Officer to open the cell door. The cell door opened and Officer [REDACTED] said something to the Inmate but I could not hear what was said because I was about 10 to 12 feet away because I had my K9 "[REDACTED]" with me. I saw the Inmate step out of the cell and faced the wall.

Page 6

Cont.: [REDACTED]

Officer [REDACTED] started a clothed body search. I observed Officer [REDACTED] placed his hand on the Inmate's shoulder. Officer [REDACTED] found something but at that moment I was not sure what it was, [REDACTED] put it in his pocket. I was informed by [REDACTED] later that he had found a cell phone. Officer [REDACTED] finished the clothed body search and entered the cell. I observed Officer [REDACTED] put the wheelchair by the toilet and I observed Officer [REDACTED] grab the wheelchair and place it next to the Inmate. The Inmate moved to the dayroom, Officer [REDACTED] stepped out of the cell and I entered the cell with [REDACTED]. She showed interest in a couple areas but there was nothing there we exited the cell and went to the next cell. I asked Officer [REDACTED] if she knew the Inmate in the cell. She replied [REDACTED]. I asked Officer [REDACTED] if she observed Officer [REDACTED] pull Inmate [REDACTED] pants and boxer shorts at any time. Officer [REDACTED] said no. I asked her if there was a possibility that she could have missed when this happened. Officer [REDACTED] said she observed the entire thing and that never happened. I asked Officer [REDACTED] if she observed Officer [REDACTED] throw the wheelchair pillow Inmate [REDACTED] sits on when on his wheelchair. Officer [REDACTED] said she did not see that but recalls that [REDACTED] showed interest on a cushion in the cell. I asked Officer [REDACTED] where the cushion was at. Officer [REDACTED] said she thought it was on the bunk but was not 100% sure. I asked Officer [REDACTED] if she observed Officer [REDACTED] being unprofessional during the interaction with Inmate [REDACTED]. Officer [REDACTED] replied no. I asked Officer [REDACTED] if she observed or heard the conversation that took place between Officer [REDACTED] and Inmate [REDACTED]. Officer [REDACTED] said she observed Officer [REDACTED] approach Inmate [REDACTED] but she could not hear what was said by Officer [REDACTED] because she has to keep her distance away from Inmates because of her K9. Officer [REDACTED] informed me that she heard Inmate [REDACTED] telling Officer [REDACTED] he was going to write him up as they were exiting the Housing Unit. I asked Officer [REDACTED] if she observed Officer [REDACTED] move Inmate [REDACTED] wheelchair away from him and made him walk towards it. Officer [REDACTED] stated "that never happened." I asked Officer [REDACTED] if she thought Inmate [REDACTED] was made to stand for a long period of time without his wheelchair. Officer [REDACTED] informed me that he stood for a couple of minutes while Officer [REDACTED] searched him. I asked Officer [REDACTED] if she had any other information to add, to which she said no. I asked Officer [REDACTED] if she had been honest with the information provided. She said yes, I concluded the interview.

REVIEW OF FLSA TIME SHEET

On Thursday, December 21, 2017, I reviewed F.L.S.A. time sheet dated December 06, 2017, for Facility A, Second Watch to determine the Officers that were assigned to the Housing Unit. Correctional Officer [REDACTED] was assigned as the Control Booth Officer, Correctional Officer [REDACTED] and Correctional Officer D [REDACTED] were assigned as the Floor Officers.

Page 7

Cont.: [REDACTED]

INTERVIEW WITH CORRECTIONAL OFFICER J. [REDACTED]

On Thursday, December 21, 2017, at approximately 0900 hours I conducted an interview with Correctional Officer J. [REDACTED] in the Investigative Services Unit interview room. I informed Officer [REDACTED] that I was conducting an appeal Inquiry in regards to allegations being made by Inmate [REDACTED] against Correctional Officer [REDACTED]. The alleged misconduct occurred on December 06, 2017, at approximately 1045 hours. I asked Officer [REDACTED] if he was assigned to Housing Unit 4 on that date. Officer [REDACTED] replied that he was. I asked Officer [REDACTED] if he recalled seeing Officer [REDACTED], Officer [REDACTED] and Officer [REDACTED] in the housing unit. Officer [REDACTED] replied that he remembers that date and they were in the housing unit. I asked Officer [REDACTED] if he recalled the aforementioned Officers conducting a search of Inmate [REDACTED] cell. Officer [REDACTED] said yes. I asked him to tell me what he saw. Officer [REDACTED] informed me that he saw Officer [REDACTED] conducting a clothed body search of Inmate [REDACTED]. After the search Inmate [REDACTED] was given his wheelchair and went towards the Inmate benches on A section. The cell was searched and after they conducted another search I observed Officer [REDACTED] approach Inmate [REDACTED] but I couldn't hear what they were talking about because of the distance. As the ISU staff were walking out the housing unit Inmate [REDACTED] told Officer [REDACTED] in a loud voice that he was going to write him up. I asked Officer [REDACTED] if he had witnessed Officer [REDACTED] pull Inmate [REDACTED] pants and boxer short down. Officer [REDACTED] said no. I asked Officer [REDACTED] if he had observed Officer [REDACTED] place Inmate [REDACTED] wheelchair approximately 10 feet away from Inmate [REDACTED] and make him walk too it without assistant. Officer [REDACTED] said Officer [REDACTED] placed the wheelchair right next to him. I asked Officer [REDACTED] if he observed Officer [REDACTED] throw Inmate [REDACTED] pillow on the ground. Officer [REDACTED] said no. I asked Officer [REDACTED] if he though Inmate [REDACTED] was made to stand for a prolonged period of time. Officer [REDACTED] informed me that he was standing as long as Officer [REDACTED] took to conduct the clothed body search. I asked how long approximately Inmate [REDACTED] had been standing. Officer [REDACTED] said no longer than 2 or 3 minutes if that. I asked Officer [REDACTED] if he had any other information he would like to add. Officer [REDACTED] said that [REDACTED] and Officer [REDACTED] are in his housing unit on a regular basis and are always professional with the Inmate they have contact with. I asked Officer [REDACTED] if he had been honest with all information he provided to which he replied yes. I concluded the interview.

INTERVIEW WITH CORRECTIONAL [REDACTED]

On Thursday, December 21, 2017, at approximately 0945 hours I conducted an interview with Correctional Officer [REDACTED] in the Investigative Services Unit interview room. I informed Officer [REDACTED] that I was conducting an appeal Inquiry in regards to allegations being made by Inmate [REDACTED] against Correctional Officer [REDACTED]. The alleged misconduct occurred on December 06, 2017, at approximately 1045 hours. I asked Officer [REDACTED] if he was assigned to Housing Unit 4 on that date. Officer [REDACTED] replied that he was the Control Booth Officer. I

Page 8

Cont.: [REDACTED]

asked Officer [REDACTED] if he recalled seeing Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED] in the housing unit. [REDACTED] replied yes. I asked Officer [REDACTED] if he recalled the aforementioned Officers conducting a search of Inmate [REDACTED] cell. Officer [REDACTED] informed me that they were walking around conducting multiple cell searches. I asked if he recalled the search of cell [REDACTED] assigned to Inmate [REDACTED]. Officer [REDACTED] replied that he did. I asked Officer [REDACTED] to tell me what he saw. Officer [REDACTED] informed me that he observed Officer [REDACTED] look into cell [REDACTED] and requested the cell door open. Officer [REDACTED] stepped to the threshold of the door and then backed up as Inmate [REDACTED] walked out of the cell. Inmate [REDACTED] faced the wall put his hands on his head and Officer [REDACTED] conducted a clothed body search. I observed Officer [REDACTED] put the wheelchair next to Inmate [REDACTED] and he moved towards A section Dayroom. Officer [REDACTED] said Officer [REDACTED] stepped out of the cell and Officer [REDACTED] and her dog went in. [REDACTED] came out of the cell and they moved to another cell. I observed Officer [REDACTED] approach Inmate [REDACTED] and it appeared they were talking. The 3 Officers and dog left the unit. I asked Officer [REDACTED] if he observed Officer [REDACTED] pull Inmate [REDACTED] pants and boxer shorts down, to which he said no. I asked Officer [REDACTED] if he had observed Inmate [REDACTED]'s wheelchair placed about 10 feet away from him and had to walk to it. Officer [REDACTED] said that did not happen I had my eyes on them from when Officer [REDACTED] first approached the cell. I asked Officer [REDACTED] if he observed Officer [REDACTED] throw Inmate [REDACTED] wheelchair pillow on the ground. Officer [REDACTED] replied no. I asked Officer [REDACTED] if he had anything to add, to which he said no. I asked Officer [REDACTED] if he had been truthful when answering or providing information to me. [REDACTED] replied yes. I concluded the interview.

INTERVIEW WITH CORRECTIONAL OFFICER D [REDACTED]

On Wednesday, January 10, 2018, I conducted an interview with Correctional Officer [REDACTED] at approximately 0930 hours in the Investigative Services Unit Interview room. I informed Officer [REDACTED] that I was conducting an appeal Inquiry in regards to allegations being made by Inmate [REDACTED] against Correctional Officer [REDACTED]. The alleged misconduct occurred on December 06, 2017, at approximately 1045 hours. I asked Officer [REDACTED] if he was assigned to Housing Unit 4 on that date. Officer [REDACTED] replied that he was. I asked Officer [REDACTED] if he recalled seeing Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED] the housing unit. Officer [REDACTED] replied that he did see them in the housing unit. I asked Officer [REDACTED] if he recalled the aforementioned Officers conducting a search of Inmate [REDACTED] cell. Officer [REDACTED] said yes. I asked him to tell me what he saw. Officer [REDACTED] said he was monitoring the dayroom from the Officer's podium with Officer [REDACTED] and was not constantly watching what was happening with the search. Officer [REDACTED] informed me that he observed Officer [REDACTED] conducting a clothed body search on Inmate [REDACTED]. I asked him if he observed Officer [REDACTED] pull Inmate [REDACTED] pants and boxers down while he was being searched. Officer [REDACTED] said he observed the clothed body search but, never saw [REDACTED] pull Inmate [REDACTED] pants down. I asked Officer [REDACTED] if he observed Officer [REDACTED] move Inmate [REDACTED] wheelchair away from him so he would have to walk to it. Officer [REDACTED] replied that he did not see that. I asked Officer [REDACTED] if he observed how Inmate [REDACTED]

Page 9

Cont.: [REDACTED] [REDACTED]

got his wheel chair. Officer [REDACTED] said he did not see that, he informed me that once the clothed body search was complete he turned back to monitor the dayroom and saw [REDACTED] in his chair on the dayroom. I asked Officer [REDACTED] if he observed Officer [REDACTED] speak to Inmate [REDACTED]. Officer [REDACTED] said he observed Officer [REDACTED] approach [REDACTED] while he was on the dayroom but, he could not hear what was said or if they had a conversation, [REDACTED] informed me that he heard Inmate [REDACTED] tell [REDACTED] that he was going to write him up as the three Officers were exiting the Housing Unit. I asked Officer [REDACTED] if he had any other information that would help me complete this assignment. Officer [REDACTED] replied that he did not. I asked Officer [REDACTED] if he had been truthful with his answers to which he said yes. I concluded the interview.

INTERVIEW WITH CORRECTIONAL OFFICER D [REDACTED]

On Tuesday, January 09, 2018, I attempted to serve Correctional Officer [REDACTED] his Notice of Interview due to a staff complaint. Officer [REDACTED] informed me that he waived his 24 hours preparation time and wanted to go forward with the interview at this time.

On Tuesday, January 09, 2018, at approximately 1000 hours I conducted an interview with Correctional Officer [REDACTED] in regards to the allegations being made by Inmate [REDACTED]. I asked Officer [REDACTED] if he knew who Inmate [REDACTED] was. Officer [REDACTED] said he did. I informed Officer [REDACTED] of the allegations made by Inmate [REDACTED]. I asked Officer [REDACTED] to tell me what happened on December 06, 2017. Officer [REDACTED] informed me that ISU Officers [REDACTED] and he were in Housing Unit 4 conducting random cell searches. Officer [REDACTED] informed me that he approached cell [REDACTED] assigned to Inmate [REDACTED]. Officer [REDACTED] informed me that he looked inside the cell and observed Inmate [REDACTED] sitting in his wheelchair facing away from the cell door. Officer [REDACTED] said he observed Inmate [REDACTED] wearing head phones so he tapped on the cell door to get Inmate [REDACTED] attention. Officer [REDACTED] said he noticed that Inmate [REDACTED] was attempting to conceal an unidentified item because he noticed movement by [REDACTED]. Officer [REDACTED] informed Inmate [REDACTED] that he would be conducting a search of his cell and ordered the cell door opened. Officer [REDACTED] informed me that by the time the cell door was opened Inmate [REDACTED] had turned his wheelchair to face the cell door. Officer [REDACTED] instructed Inmate [REDACTED] to exit the cell. Officer [REDACTED] said Inmate [REDACTED] stood up and exited the cell, as he walked out the cell Officer [REDACTED] instructed Inmate [REDACTED] to turn and face the wall so he could perform a clothed body search, to which Inmate [REDACTED] complied. Officer [REDACTED] said during the search he discovered a cellular telephone in Inmate [REDACTED] waist area. Officer [REDACTED] said he removed the cell phone placed it in his uniform pocket and continued with the search which was negative for any additional contraband. Officer [REDACTED] said he told Officer [REDACTED] that he was done with the clothed body search and he entered the cell and searched Inmate [REDACTED] wheelchair which was negative for contraband. Officer [REDACTED] said he pushed the wheelchair out towards the cell door. Officer [REDACTED] grabbed the wheelchair and gave it to Inmate [REDACTED]. Once Inmate [REDACTED] moved towards the

Page 10

Cont.: [REDACTED] [REDACTED]

Dayroom Officer [REDACTED] entered the cell with her K9 and conducted a search of the cell. The K9 showed interest in a couple areas which were searched they exited the cell and moved on to another cell. Officer [REDACTED] approached Inmate [REDACTED] while on the Dayroom and attempted to interview him but [REDACTED] did not want to talk. Officer [REDACTED] asked him where he had obtained the cell phone to which [REDACTED] refused to answer. Officer [REDACTED] informed Inmate [REDACTED] he would be receiving a Rules Violations Report for possession of a cell phone and walked out the Housing Unit. I asked Officer [REDACTED] if he had pulled Inmate [REDACTED] pants and boxer shorts down in the Dayroom. Officer [REDACTED] said he had not. I asked Officer [REDACTED] if he had made Inmate [REDACTED] stand for a long period of time while being searched. Officer [REDACTED] said the Inmate [REDACTED] was standing for approximately 2 or 3 minutes max. I asked Officer [REDACTED] if he had placed Inmate [REDACTED] wheelchair approximately 10 feet away from Inmate [REDACTED] and made him walk to it. Officer [REDACTED] said that he did not give Inmate [REDACTED] his chair. Officer [REDACTED] said that when he was done searching it he pushed it towards the cell door and Officer [REDACTED] gave it to Inmate [REDACTED]. I asked Officer [REDACTED] if he had thrown Inmate [REDACTED] wheelchair cushion on the floor. Officer [REDACTED] said he placed it on the bunk. I asked Officer [REDACTED] if he had lied on the Rules Violations Report that he issued Inmate [REDACTED] by writing that Inmate [REDACTED] said the cell phone was his. Officer [REDACTED] said he did not lie on the RVR. I asked Officer [REDACTED] if he had any other information regarding this issue that he would like to add. Officer [REDACTED] said that Inmate [REDACTED] was upset when he told him he would be receiving an RVR. Officer [REDACTED] said he conducted the search of [REDACTED] the wheelchair within policy. I asked Officer [REDACTED] if he had been truthful with his answers to which he replied he had. I concluded the interview.

REVIEW OF SOMS

On Wednesday January 10, 2018, I reviewed SOMS Disciplinary section and reviewed RVR Log # 3863624, authored by Correctional Officer D. [REDACTED] issued to Inmate [REDACTED] for possession of a cellular telephone; date of violation was December 06, 2017, at approximately 1045 hours. The adjudicating hearing date was December 10, 2017, hear by Correctional Lieutenant [REDACTED]. Inmate [REDACTED] pled guilty and took responsibility for the cell phone.

Page 11

Cont.: [REDACTED]

EVIDENCE

1. Appeal Log # RJD-A-[REDACTED]
2. Interview with Inmate [REDACTED]
3. Interview with Inmate [REDACTED]
4. Interview with Inmate [REDACTED]
5. Interview with Officer [REDACTED]
6. Interview with Officer [REDACTED]
7. Interview with Officer [REDACTED]
8. Interview with Officer [REDACTED]
9. Interview with Officer [REDACTED]
10. Interview with Officer [REDACTED]
11. Review of RVR Log # [REDACTED]
12. Review of FLSA Time Sheet dated December 06, 2017, Facility A

CONCLUSION

In reviewing all staff and Inmate interviews there is insufficient evidence to substantiate Inmate [REDACTED] allegations against Correctional Officer [REDACTED]. It also appears that Inmate [REDACTED] is being dishonest when he alleged that Officer [REDACTED] lied on the Rules Violations Report by writing that Inmate [REDACTED] took ownership of the cell phone. Inmate [REDACTED] plead guilty to the offense and took responsibility for the cell phone.

There is insufficient evidence to substantiate Inmate [REDACTED] allegations against staff. I recommend this issue be closed with no further inquiry needed.

[REDACTED]
Correctional Lieutenant
Investigative Services Unit
RJDCF

Memorandum

Date : December 19, 2017

To : J. Juarez, AW
Associate Warden
Facility A

Subject: **ALLEGATION OF DISABILITY PLACEMENT PROGRAM (DPP) / DEVELOPMENTAL DISABILITY PROGRAM (DDP) POLICY NON-COMPLIANCE:** [REDACTED] [REDACTED]

On December, 14, 2017, RJD Americans with Disabilities Act (ADA) Office was advised via 1824 log# 17-[REDACTED] of a DPP/DDP noncompliance concern. Specifically, inmate is DPO, alleges on or about 12/6/17, ISU staff conducted a cell search and tossed his wheelchair pad. Additionally, Moffet claims staff were rough with him. Inmate states he was ordered to stand while being searched and twice he almost fell.


This alleged violation is confidential in nature and has been logged on the Armstrong/Clark Staff Accountability Log and requires an inquiry. A supervisor shall conduct the inquiry and prepare a memorandum, addressed to D. Paramo, Warden.

The memorandum must include:

- **Summary of Alleged Violation** (as noted above in this memorandum)
 - Date and source of discovery
 - Effectuated inmate's name, CDCR number, DPP/DDP code
 - Name and title of staff member(s) included in allegation (if known)
 - **Inquiry Summary**
 - Steps taken to complete a thorough inquiry into the allegation
 - List and copies of all source(s) of information used to reach conclusion
 - Date of **mandatory** interview with effectuated inmate, what methods were used to establish EC (if required) and whether or not EC was achieved.
 - **Findings**
 - Results of inquiry and whether the allegations were confirmed or not confirmed
 - Specific information or evidence that supports the results of findings
 - Name and title of staff member(s) revealed to be involved in allegation
 - Name and title of staff member(s) revealed to be responsible in allegation (if confirmed)
- Signature Block with name and title of supervisor conducting inquiry

Do not take any employee corrective action. Appropriate corrective action will be determined by the Hiring Authority.

Please return completed memorandum to my office. Due Jan 10, 2018. If you have any questions regarding this issue, contact me at 619-671-7515.



R. DIN
Associate Warden
ADA Coordinator

NON-compliance allegation

BUREAU OF PRISON

REASONABLE ACCOMMODATION
REQUEST

CDCR 1824 (rev)

INSTITUTION (staff use only)

RJDC

EC

YC

Date Received by Staff (staff use only)

DEC 07 2017

Do not use a CDCR 1824 to request health care or to appeal a health care decision. This may delay your access to health care. Instead, submit a CDCR 7362 or a CDCR 602-DC.

*** TALK TO STAFF IF YOU HAVE AN EMERGENCY ***

INSTRUCTIONS

- You may use this form if you have a physical or mental disability or if you believe you have a physical or mental disability.
- You may use this form to request a specific reasonable accommodation which, if approved, will enable you to access and/or participate in a program, service, or activity. You may also use this form to submit an allegation of disability based discrimination.
- Submit this form to the Custody Appeals Office.
- The 1824 process is intended for an individual's accommodation request. Each individual's request requires a case-by-case review.
- The CDCR 1824 is a request procedure not an appeal process. All CDCR 1824 requests will require a response.
- If you have received an 1824 decision that you disagree with, you may submit an appeal of 1824 (302 or 602-DC) if you are disagreeing with a medical diagnosis/treatment decision.

WHAT CAN'T YOU DO / WHAT IS THE PROBLEM: *I have balance problems when trying to stand from my wheelchair, today 12/6/17 the IGT Squad searched my cell, made me stand in front of a wall in the day while they pulled my pants down, threw my wheelchair onto the floor and wouldn't allow me to retrieve it, made me place my hands behind my head, after almost falling down twice, they got even rougher with me, with no regard for my ADA.*

WHY CAN'T YOU DO IT:

WHAT DO YOU NEED: *IGT Squad that entered my cell has no regard for ADA patients, or their disabilities. After the search the cop IGT member threw my cushion for my wheelchair into my cell and would not let me retrieve it, nor would he allow me to be resented in my wheelchair for another 5 minutes. It was pottime / Dayroom time for lower tier this cop pulled my pants down as I was almost falling in front of the whole classroom.*

(use the back of this form if you need more space)

Which of the following best describes your disability that caused you to file this request:

- ☒ Difficulty walking or getting around ☒ Difficulty seeing ☐ Difficulty hearing ☐ Difficulty talking ☐ On kidney dialysis
☐ Difficulty using arms/hands ☐ Difficulty learning ☐ Difficulty thinking or understanding ☐ Mental impairment
☐ Other Disability (briefly describe) *I am in a wheelchair.*

DO YOU HAVE ANY DOCUMENTS THAT DESCRIBE YOUR DISABILITY?

Yes ☐ No ☐ Not Sure ☐

(List and attach documents if available including 1645, 7410, 126-C)

I understand staff have a right to interview or examine me, and my failure to cooperate may cause this request to be disapproved.

SIGNED

Assistance completing this form provided by

Last Name

First Name

Signature

Exhibit 62



101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Penny Godbold
Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

<p>PRIVILEGED AND CONFIDENTIAL</p> <hr/> <p>SUBJECT TO PROTECTIVE ORDERS</p>
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Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Advocacy Letter re Class Member Experiencing
Staff Misconduct at RJD
Our File No. 581-3

Dear Russa and Ursula:

I write regarding a recent staff misconduct incident involving an *Armstrong* class member. On January 21, 2019, an “elderly ADA inmate” who uses a walker, and is believed to be EOP and have intellectual disabilities, was reportedly attacked by Officer [REDACTED] on RJD’s Facility C. This incident was reported by an eye witness who is not willing to disclose his name or identifying information for fear of retaliation by staff. The events as he witnessed them are stated below:

On January 20, 2019, during morning meal, the witness observed an “elderly ADA inmate” who was using a walker coming from the C13/C14/C15 side of the yard toward the dining hall in the direction of work change.

The witness observed Officer [REDACTED] stop this class member and ask him where he was going. The class member stated that he was on his way to medical to let them know he was on a hunger strike. Officer [REDACTED] was heard telling this inmate that he did not need to go to medical, that Officer [REDACTED] would let medical know that he was on a hunger strike. At this point the class member protested, stating that he must go to medical to tell them himself.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 2

The witness entered the dining hall and did not observe what happened next. However, he heard over the dining hall officer's radio that there was a 10-15 in restraints being taken to the C Facility Gym.

The witness left the dining hall and proceeded to medical for medication. He observed Officer [REDACTED] escorting the elderly class member in handcuffs. They approached the yard access gate by education and were stopped by Sergeant [REDACTED]. Sergeant [REDACTED] appeared to order the handcuffs off and, according to the witness, appeared to admonish Officer [REDACTED]. The elderly class member then began walking towards his housing unit and Sergeant [REDACTED] walked with Officer [REDACTED] back to the dining hall.

The following morning, January 21, 2019, at approximately 7:00 am, the witness observed a commotion in front of the dining hall. He observed Officer [REDACTED] and the same "elderly ADA inmate" from the incident the day before. The witness saw Officer [REDACTED] grab the class member and push him up against the fence between the dining hall and the yard. He saw Officer [REDACTED] knock the elderly man in the torso causing him to fall to the ground.

The witness observed Officer [REDACTED] jump forcefully on the elderly man's back and heard the elderly man scream out in pain.

Next he reportedly heard Officer [REDACTED] yell for the class member to "stop resisting!" According to the witness, the elderly man was pinned down by the officer, was in visible pain, and was not resisting.

Next, the witness observed multiple nearby staff members converge on the scene, and begin punching and kicking the elderly man. He was secured in handcuffs and lifted by his elbows off the ground and taken in the direction of the medical clinic.

Next, the witness observed the elderly man be pushed or otherwise collapse to the ground mid-escort. The witness observed two psych-techs who were walking by also witness this incident. The two psych-techs stopped.

The officers reportedly attempted to pull the elderly man to his feet but he did not get up and remained on all fours. At this point the witness saw Officer [REDACTED] kick the man in the rib area causing him to scream out and collapse to the ground.

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 3

Sergeant [REDACTED] responded to the scene but did not intervene. Sergeant [REDACTED] reportedly appeared to encourage the attacks on the elderly class member and the witness observed the abuse continue.

Sergeant [REDACTED] responded and reportedly appeared to ultimately stop the attack.

Following the incident, the witness observed medical staff arrive and examine the class member. He was seen being then taken to the Facility C gym.

Following the incident, the witness observed all of the officers involved including Officer [REDACTED] Officer [REDACTED] and Sergeant [REDACTED] walking back towards the dining hall, laughing and, at one point, "fist bumping" one another. As Officer [REDACTED] approached a group of inmates on the ground by the dining hall he was heard saying, "Yeah, anyone else feel like going on hunger strike?"

Multiple witnesses were on the yard during this incident and possibly witnessed what occurred including inmates from C-11 who were released from chow at the time.

We request that the name and identity of the class member involved in the incident be provided to us. We also request to review all copies of investigation reports produced as a result of this incident, including all 115s received, any unusual occurrence reports produced and any videos of the incident.

Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations.¹ Plaintiffs' counsel would like to discuss with you additional steps that

¹ As Plaintiffs' counsel has reported multiple times, people incarcerated at RJD will not cooperate with ISU staff during investigations. They are believed to be affiliated with the officers reportedly involved in the misconduct because they are friends with and, in at least one case, married to officers who work at the prison. They are not considered an impartial or trustworthy source for reporting acts of serious misconduct. Further, simply being identified by ISU staff for interview in a staff misconduct investigation reportedly places people at great risk of harm from retaliation by staff. In addition, the OIG has reported on serious failings of the ISU process. *See* Office of the Inspector General Fact

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 4

should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:cg

Enclosures

cc: Ed Swanson
Sharon Garske
Annakarina De La Torre-Fennell
Co-counsel

Sheet regarding Special Review of SVSP's Processing of Inmate Allegations of Staff Misconduct, revised February 11, 2019, attached as Exhibit A.

Exhibit 62a

OFFICE OF LEGAL AFFAIRS

Jennifer Neill

General Counsel

P.O. Box 942883

Sacramento, CA 94283-0001



November 1, 2019

VIA EMAIL ONLY

Penny Godbold

Rosen, Bien, Galvan & Grunfeld, LLP

Pgodbold@rbgg.com

RE: *ARMSTRONG V. NEWSOM*: ADVOCACY EMAIL RE: CLASS MEMBER EXPERIENCING STAFF MISCONDUCT AT RJD

Dear Ms. Godbold:

I write in response to your February 26, 2019, letter regarding an “elderly ADA inmate” who was allegedly assaulted by correctional staff on or about January 20 and 21, 2019. Your letter describes a report from an anonymous inmate witness in relation to an inmate, also not identified, who used a walker and who was involved in an incident on C-Yard at Richard J. Donovan Correctional Facility (RJD).

Prior to the receipt of your letter, a thorough inquiry had already been completed.¹ In January 2019, several investigators were at RJD to conduct interviews regarding staff misconduct allegations from the previous year. During the course of their inquiries regarding the prior year allegations, two confidential inmate interviews resulted in allegations of staff misconduct that had some similarity to the description of events you provided. Upon receiving this information, the outside investigators recommended further review.

¹ DAI and delegated RJD staff conducted the fact-finding inquiry into the allegations identified in this letter in accordance with the Department’s Operations Manual, Article 22. The Department is currently in the process of revising that policy and, once approved and adopted, future fact-finding inquiries will comply with the new policy.

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SUBJECT TO PROTECTIVE ORDERS

Ms. Penny Godbold
Page 2

The Hiring Authority informs me that the matter has been referred to the Office of Internal Affairs for an administrative investigation and is currently pending.

As such, your request for investigatory documents related to the described incidents is denied pending the outcome of an investigation.

Sincerely,

/s/ Ursula Stuter

URSULA STUTER
Attorney
Office of Legal Affairs

Cc: Russa Boyd, Attorney IV
Tamiya Davis, Attorney III

Exhibit 62b

Filed Under Seal

Exhibit 63



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San Francisco, California 94105-1738
T: (415) 433-6830 ▪ F: (415) 433-7104
www.rbgg.com

Penny Godbold
Email: pgodbold@rbgg.com

February 26, 2019

VIA ELECTRONIC MAIL ONLY

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Russa Boyd
Ursula Stuter
CDCR Office of Legal Affairs
Russa.Boyd@cdcr.ca.gov
Ursula.Stuter@cdcr.ca.gov

Re: *Armstrong v. Newsom*: Advocacy Letter re DNH Class Member,
[REDACTED], Experiencing Staff Misconduct at RJD
Our File No. 581-3

Dear Russa and Ursula:

I write regarding multiple staff misconduct allegations at RJD reported by *Armstrong* class member [REDACTED], DNH. Mr. [REDACTED] reports that the staff misconduct he experienced most recently was in retaliation for filing a staff misconduct case against a tower officer, Officer [REDACTED], who shot Mr. [REDACTED] in the face.

Mr. [REDACTED] reports that on December 14, 2018, he requested that Officer [REDACTED] and [REDACTED] in B-7 make copies of his legal mail through the food port while it was open because staff were handing out breakfast. One officer reportedly responded, "Fuck no, you filed on [REDACTED]." Mr. [REDACTED] reportedly requested to talk to the Sergeant and stated that he wanted to food port left open. Next, Officer [REDACTED] reportedly said, "Slam the food port on his hand" at which point Officer [REDACTED] did so. Mr. [REDACTED] reported that his hand was fractured and was placed in a cast as a result of the incident. Health care records, attached as **Exhibit A**, confirm that Mr. [REDACTED] received a fracture.

After returning from a doctor's appointment on December 17, 2018, at approximately 8:10 am, three officers and Sergeant [REDACTED] were reportedly waiting for Mr. [REDACTED]. They told him to lie down in the sally port where he was reportedly cuffed, shackled, bull chained, and taken back to his cell. His cellie at the time, Mr. [REDACTED],

PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 2

██████████, was cuffed and removed from the cell. Next, Mr. ██████████ was reportedly placed on his knees in front of the cell to remove the ankle restraints. He reports that suddenly, in response to a signal from Sergeant ██████████, his cell door closed on his neck and chin, causing him to lose feeling in his body and crash to the ground. Next Sergeant ██████████ threatened him stating, "Don't get up, if you get up I will say you threatened me." Mr. ██████████ was reportedly unable to get up because he experienced temporary paralysis as a result of the injury. He was reportedly taken to the hospital in an ambulance. He reports that he was diagnosed with a neck contusion, that he coughed up blood for five days and has ongoing pain in his neck and lower back as a result of the injury. Health care records, attached as **Exhibit B**, confirm that Mr. ██████████ reported to medical staff that he had neck pain and was unable to move his arms and legs following the incident. These records also confirm that he was diagnosed with a neck contusion and report that his symptoms may represent a serious emergency issue.

The health care records document that a CO witness, who arrived with the inmate patient, reported that the inmate got down on his hands and knees and put his head in the way [of the door], acting like he was struck by the door though he never made contact with the object. These statements appear inconsistent with Mr. ██████████ diagnosed injuries.

Attached as **Exhibit C**, is a declaration from Mr. ██████████, stating that he saw Mr. ██████████ get hit by the door and saw him fall to the ground.

Plaintiffs' request to review all video evidence, including videos of dayroom activity on December 14, 2018 and December 17, 2018 which may have caught these incidents on camera. Plaintiffs' counsel further request that all 115's and any unusual occurrence reports be reviewed. We request to review copies of all investigative reports produced as a result of this incident.

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PRIVILEGED AND CONFIDENTIAL

Russa Boyd
Ursula Stuter
February 26, 2019
Page 3

Immediate action should be taken to stop these incidents. Please ensure that staff do not engage in retaliation in response to these allegations. No ISU staff member at RJD should be notified of these allegations or be involved in any action that is taken in response to these allegations. Class members should not be contacted by ISU staff members nor taken to the ISU complex for questioning by any staff member regarding these allegations. Plaintiffs' counsel would like to discuss with you additional steps that should be taken to resolve serious and ongoing reports of staff misconduct at RJD impacting class members.

Sincerely,

ROSEN BIEN
GALVAN & GRUNFELD LLP

/s/ Penny Godbold

Penny Godbold

By: Of Counsel

PMG:cg

Enclosures

cc: Ed Swanson
Sharon Garske
Annakarina De La Torre-Fennell
Co-counsel

Exhibit 63a

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Exhibit 63b

OFFICE OF LEGAL AFFAIRS

Howard E. Moseley
General Counsel (A)
P.O. Box 942883
Sacramento, CA 94283-0001



March 15, 2019

VIA EMAIL ONLY

Penny Godbold
Rosen Bien Galvan & Grunfeld LLP
pgodbold@rbgg.com

Re: *Armstrong v. Brown*, Advocacy Letter re DNH Class Member, [REDACTED]
[REDACTED] Experiencing Staff Misconduct at RJD

Dear Ms. Godbold:

This letter is to acknowledge receipt of the advocacy letter received from your office on February 26, 2019, regarding allegations concerning [REDACTED] ([REDACTED]) experiencing staff misconduct at R.J. Donovan (RJD) Correctional Facility.

The California Department of Corrections and Rehabilitation takes every allegation made against the Department seriously. We note that your letter does not raise allegations that Mr. [REDACTED] was denied access to or excluded from participation in CDCR programs, services or activities based on a disability in violation of the Americans with Disabilities Act. 42 U.S.C. § 12112(a). We have determined that the staff misconduct allegations described in your February 26, 2019 letter are appropriate for referral to the processes articulated in Chapter 3, Articles 14 and 22 of CDCR's Operations Manual, which govern Internal Affairs Investigations and employee discipline. These processes were specifically implemented as a result of the *Madrid* class action litigation. Insofar as you have indicated not to notify the ISU staff at RJD of the above mentioned allegations, we have forwarded the allegations to Director (A) Connie Gipson, of the Division of Adult Institutions. Legal Liaison, Ursula Stuter, will provide you with updates regarding these allegation(s) when additional information becomes available.

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Penny Godbold
Page 2

If we need any additional information in order to address these matters, we will contact your office.

Sincerely,

/s/ Erin D. Anderson

ERIN D. ANDERSON
Appeals and Compliance Coordinator
Office of Legal Affairs

cc: Russa Boyd, Attorney IV
Tamiya Davis, Attorney
Ursula Stuter, Attorney