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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JOHN ARMSTRONG, et al.,

13 Plaintiffs,

14 v.

15 GAVIN NEWSOM, et al.,

16 Defendants.
17

Case No. CV 94-2307 CW

**REPORT AND RECOMMENDATIONS
REGARDING HOUSING OF
ARMSTRONG CLASS MEMBERS
DURING THE COVID-19 PANDEMIC**

18 **I. Background**

19 On July 14, 2020, Plaintiffs filed a Motion to Protect *Armstrong* Class Members During
20 COVID-19 Pandemic, asking that the Court order Defendants to take “immediate steps to
21 ensure that Armstrong class members are safely housed in the event of additional and expected
22 outbreaks in the California prison system.” Dkt 2966, 2-3. Following the filing of the motion,
23 the parties met and conferred and submitted a proposed order concerning the matters raised in
24 Plaintiffs’ motion, and the Court issued the stipulated order on July 20, 2020. The order
25 required the *Armstrong* Court Expert “to conduct a review of the sufficiency of Defendants’
26 existing supply of accessible housing, including for purposes of medical isolation and
27 quarantine in the event of COVID-19 outbreaks, to confer with the Federal Receiver in *Plata v.*
28 *Newsom*, and to present his recommendations to the Court[.]” Dkt. 3015, 2.

1 Separately, on July 7, 2020, Judge John Tigar ordered the parties in *Plata v. Newsom*,
2 CV 01-1351 JST, to ensure there would be “sufficient space at each institution to allow the
3 institution to follow public health guidance on isolating and quarantining patients in the event
4 of a COVID-19 outbreak.” *Plata* Dkt. 3401, 1. On July 22, Judge Tigar ordered CDCR
5 immediately to set aside at least 100 beds per institution and then to “assess whether additional
6 space is required at the institution for isolation and quarantine purposes[.]” *Id.* at 3-4. On
7 August 18, 2020, the Receiver’s Office issued its Public Health Workgroup Recommendations
8 on how many beds had been designated at each institution and the methodologies employed to
9 determine what would constitute an adequate number of beds. That report is discussed in more
10 detail below.

11 In order to evaluate the proposed quarantine and isolation spaces from the perspective of
12 *Armstrong* class members, the parties collected large amounts of data on the number of class
13 members at each institution, the types of accommodations required for each, the rate at which
14 class members have been isolated or quarantined to date, and specific architectural and other
15 characteristics of the housing units designated in *Plata* as quarantine and isolation space. The
16 parties participated in numerous telephonic conferences, including two full-day meetings during
17 which representatives from each institution were questioned on the status of quarantine and
18 isolation housing at their institution. The Court Expert appreciates the promptness, diligence,
19 hard work, and good faith efforts of Plaintiffs, Defendants, and representatives of the
20 Receiver’s Office throughout this process.

21 **II. Scope and limitations of the Court Expert’s evaluation and recommendations**

22 In light of the proceedings underway in *Plata*, the Court Expert informed the parties
23 that, in preparing his report to the Court, he would not be separately assessing whether CDCR
24 had set aside sufficient quarantine and isolation beds to adequately respond to an outbreak.
25 Instead, the focus of his analysis would be whether the quarantine and isolation spaces selected
26 by CDCR in response to Judge Tigar’s order in *Plata* were adequate and appropriate for
27 *Armstrong* class members.
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1 The Court Expert understands that CDCR's response to the coronavirus is dynamic, and
2 it is likely that changes will be made to the current plans for quarantine and isolation spaces.
3 For example, the Receiver's Public Health Workgroup recommends that additional beds be
4 designated for quarantine and isolation at certain institutions, and, if beds are added, they will
5 need to be assessed to determine whether they are suitable for *Armstrong* class members.
6 However, the only plans before the Court Expert now are those that have been advanced by
7 CDCR in response to Judge Tigar's order, and this report focuses on the adequacy of those
8 plans. Given the likelihood of changes in the near future in response to the Receiver's report,
9 this report, and developments with the spread of the virus in the prison system, the Court Expert
10 recommends that the Court order an updated report in 30 days.

11 The Court Expert recognizes that, in the event of a large outbreak, the beds currently
12 designated for quarantine and isolation will almost certainly prove insufficient in number. The
13 Court Expert understands that CDCR has contracted with a vendor to install tents at any CDCR
14 institution that experiences a COVID outbreak. These tents are to be set up within 48-72 hours
15 and will be used for isolation. (They are not suitable for quarantine because they are congregate
16 living areas.) These tents are intended to be ADA-accessible, and CDCR has provided
17 Plaintiffs information on the dimensions and other specifications of the tents. The parties are
18 currently discussing any concerns about accessibility in these tents and will alert the Court
19 Expert to any issues that may require the Court's attention. Even should these tents prove
20 adequate for *Armstrong* class members, it is still possible that CDCR will need to designate
21 additional quarantine space within an institution, and that space would need to be analyzed from
22 an *Armstrong* perspective.

23 **III. General principles related to quarantine and isolation housing for *Armstrong* class**
24 **members**

25 The Court Expert has identified five general principles to determine whether CDCR has
26 adequately addressed the needs of *Armstrong* class members in designating quarantine and
27 isolation space.
28

1 **1) The quarantine and isolation housing at each institution must provide**
2 **appropriate architectural accommodations for all class members housed at that**
3 **institution.** *Armstrong* class members have a range of disabilities, some of which require
4 architectural accommodations. CDCR has developed a system of coded designations for such
5 individuals. For example, DPW denotes an individual with a disability that affects his or her
6 placement for housing because he or she requires a wheelchair. A DPW class member must be
7 housed in a cell large enough to fit a wheelchair, in a unit that has showers with grab bars and
8 other necessary features, where the path of travel to common spaces can be navigated by
9 wheelchair, among other requirements. Other types of disabilities require different architectural
10 accommodations. In order to evaluate the suitability of proposed quarantine and isolation
11 spaces for class members, the parties have generated a chart of necessary architectural
12 accommodations for each CDCR placement code, attached as Exhibit A.

13 The Court Expert finds that each institution should have quarantine and isolation space
14 that is accessible to all class members at the institution who have placement-affecting codes,
15 regardless of the number of such class members. Thus, for example, an institution that houses
16 any number of DPM class members (those with severe mobility restrictions who do not require
17 a wheelchair) must ensure that its quarantine and isolation space has no stairs, adequate
18 accessible beds, and an accessible shower.

19 The Court Expert understands that, in at least some situations, inmates in quarantine or
20 isolation may have access to the yard. To the extent it is medically appropriate for any
21 quarantined or isolated inmate to have yard access, institutions must address and resolve any
22 path of travel or other issues in order to ensure that *Armstrong* class members have access to the
23 same extent as non-class members.

24 **2) The quarantine and isolation housing must contain an adequate number of**
25 **accessible beds.** As discussed above, DPW class members use wheelchairs at all times and
26 thus require the most significant architectural accommodations. Institutions must ensure that
27 quarantine and isolation housing includes a sufficient number of DPW-accessible beds.
28

1 In addition, certain other class members require lower/lower beds, meaning a lower
2 bunk on a lower tier (i.e. one that does not require steps to access). Institutions must ensure that
3 quarantine and isolation housing includes a sufficient number of lower/lower beds to
4 accommodate these class members.

5 **3) CDCR must appropriately rehouse any displaced *Armstrong* class members.** In
6 any institution where the selection of a building for isolation or quarantine has resulted in the
7 displacement of *Armstrong* class members, they must be appropriately rehoused. As of this
8 filing, CDCR has informed the Court that “all *Armstrong* class members are accessibly
9 housed.” Status Report of Assistant Deputy Director Adam Fouch (Dkt. 3047), 6. CDCR will
10 report to Plaintiffs, the Receiver, and the Court Expert within 24 hours if “due to emergent and
11 unforeseen circumstances, Defendants temporarily are not able to house an *Armstrong* class
12 member in safe, accessible housing[.]” *Id.* at 7.

13 **4) CDCR must provide accessible showers.** The Court Expert understands that the
14 quarantine and isolation units at certain facilities have adequate accessible beds for class
15 members but do not have accessible showers. Depending upon the documented needs of class
16 members at the institution, accessible showers may require features such as grab bars, shower
17 benches, and a ramp to traverse any lip or curb surrounding the shower area. Based on
18 information obtained in the course of institution-by-institution meetings, the Court Expert
19 understands that CDCR has committed to make necessary modifications to showers in the event
20 that a class member is moved into a quarantine or isolation unit that currently lacks them. Such
21 modifications are to be made with 48 hours.

22 **5) CDCR must provide non-architectural accommodations for class members.** In
23 addition to the architectural accommodations described in Exhibit A, institutions must ensure
24 that class members in quarantine and isolation housing have the same access to whatever
25 programming, recreation and outside communication is available to other quarantined or
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1 isolated inmates. That includes appropriate telephones, magnifiers, talking books, captioned
2 televisions and any other accommodations.¹

3 With respect to architectural accommodations, including showers, and non-architectural
4 accommodations, on August 13, 2020, Director Gipson issued a directive instructing the
5 wardens to “ensure that all buildings/units identified for isolation/quarantine have all necessary
6 accessibility features installed by August 28, 2020, including: ramps to allow a level entrance to
7 the building and shower, shower grab bars and a shower chair/bench, and any other features
8 necessary to ensure that disabled inmates are able to access everything in the unit that non-
9 disabled inmates are able to access, including phone calls, if permitted within the building, for
10 deaf persons (e.g. video phones).” Status Report (Dkt. 3047), 10. The Court Expert
11 recommends that the Court order the Court Expert to review with the parties any issues that
12 arise in connection with installation of architectural accommodations and provision of non-
13 architectural accommodations.

14 **IV. Methodology used to assess the adequacy of quarantine and isolation space for**
15 ***Armstrong* class members**

16 The July 22, 2020 order in the *Plata* case required CDCR to designate quarantine and
17 isolation spaces at each institution. While the order did not discuss the specific requirements of
18 quarantine housing as opposed to isolation housing, it is important to note that the purpose of
19 each is distinct.

20 Medical isolation housing is for individuals who have confirmed, active COVID-19
21 infections. Because there is no known additional risk to an infected individual from further
22 exposure to the virus, inmates who have tested positive can be housed in a common space with
23 others who have tested positive, but they must be isolated from those who have not.

24 Quarantine housing is for individuals who are at risk of infection because they have
25 been exposed to someone who is infected. For example, an inmate who works in the kitchen
26

27 ¹ Included among the required non-architectural accommodations are trapeze bars for class
28 members who need assistance getting in and out of bed, and which CDCR has represented will
be on hand and can be promptly installed where necessary.

1 may need to be quarantined if a fellow worker tests positive; an entire dorm may need to be
2 quarantined if one resident tests positive. Unlike individuals in isolation, individuals in
3 quarantine cannot be housed in a common space with any other individual because of the risk
4 that an infected quarantined inmate could spread the virus to others in quarantine who may not
5 yet be infected. A quarantined individual who subsequently tests positive for the virus must be
6 moved into medical isolation.

7 Because of the risk of airborne spread of the disease, individuals in quarantine should
8 be housed in cells with solid doors. Individuals in medical isolation may be housed in cells
9 with barred or perforated doors or in dorms, provided that the airspace is shared only with
10 others in isolation.

11 Because individuals in quarantine cannot share congregate housing with anyone else,
12 including those in medical isolation, the ideal solution is for each institution to have separate
13 quarantine and isolation spaces. However, this is not always possible due to space limitations,
14 among other reasons. Therefore, in response to Judge Tigar's order in *Plata*, CDCR has
15 designated spaces that can serve either as quarantine or isolation spaces depending on need.
16 Generally, a given designated unit houses either inmates in quarantine or inmates in medical
17 isolation, but not both; in certain institutions, however (as discussed in more detail below)
18 different portions of the same facility have been designated as specific to either quarantine or
19 isolation housing. The Court Expert has evaluated the proposed spaces for their suitability for
20 *Armstrong* class members as quarantine and as isolation housing.

21 The parties in *Plata* focused on the risk of airborne infection in determining the number
22 of beds that should be set aside for quarantine or isolation housing. As explained in the
23 Receiver's Public Health Workgroup Recommendations:

24 It is expected that if an outbreak were to occur that has the potential of infecting
25 significant numbers of residents it would likely start and spread within congregate
living spaces such as dormitories or cells with open bars or porous doors.

26 . . .

27 [I]t was determined that a sound method to ensure sufficient quantity of space to
28 house infected and exposed individuals who require isolation and quarantine
respectively would be to base it on each institution's largest congregate living
spaces because the risk of transmission of infection to large numbers of residents

1 is greatest in these equivalent dorm-like settings that include, at some institutions,
2 celled housing with open bars and porous doors.

3 Information in Attachment A, which was prepared by Quality Management staff,
4 provides the numbers of isolation and quarantine beds required at each institution
5 based on the method of reserving enough space to equal the *combined occupancy*
6 *in each institution's two largest congregate housing units.*

7 Public Health Workgroup Recommendations, 1-2 (emphasis in original).

8 In assessing the sufficiency of the designated housing units for *Armstrong* class
9 members, the Court Expert proceeds from the same assumption, namely that the most likely
10 scenario in which a significant number class members becomes infected is one in which an
11 outbreak occurs in a congregate living space, i.e., a dorm or a unit where the cells have barred
12 or perforated doors. Like the parties in *Plata*, the Court Expert has assumed that there is a
13 reasonable probability of such an outbreak in more than one congregate housing space at the
14 same time.

15 **Sufficiency of quarantine and isolation space for DPW class members.** Following
16 the methodology applied by the Receiver, the Court Expert recommends there be at least as
17 many DPW-accessible beds as there are inmates designated as DPW currently living in an
18 institution's two largest congregate living spaces. For example, at CCWF there are 17 DPW
19 class members in the largest congregate living area that houses class members, and there are 6
20 DPW class members in the second largest. Accordingly, the designated quarantine and
21 isolation spaces must have at least 23 DPW-accessible beds.

22 In some institutions, there are no DPW class members in congregate living spaces. For
23 such institutions, the Court Expert recommends that the number of DPW-accessible quarantine
24 and isolation beds be proportional to the number of DPW class members in the institution. For
25 example, KVSP currently houses 17 DPW class members, less than 1% of the total population.
26 None resides in congregate living space. Accordingly, at least 1% of the 128 beds currently set
27 aside for quarantine or isolation housing – equivalent to at least 1 bed – must be DPW
28 accessible.

29 **Sufficiency of quarantine and isolation space for other *Armstrong* class members**
30 **requiring lower/lower beds.** As described above, class members with certain code

1 designations require lower/lower beds. As set forth in Exhibit A, that includes class members
 2 with DPO, DPM, DLT, and DPV codes.² However, there are also non-class members who need
 3 such beds, such as those with temporary medical conditions that prevent them from accessing
 4 an upper bunk or an upper tier. In order to ensure sufficient lower/lower bedspace in the
 5 quarantine and isolation units for *Armstrong* class members, there must also be sufficient
 6 lower/lower bedspace for non-class members.

7 Again following the methodology of the Receiver, the Court Expert recommends that
 8 the quarantine and isolation spaces have sufficient lower/lower beds to house the total number
 9 of inmates who need lower/lower beds and are currently living in the two largest congregate
 10 living spaces in an institution. For example, there are currently 45 inmates – both class
 11 members and non-class members – who need lower/lower beds in the largest congregate living
 12 area at CCWF, and there are 17 in the second largest. Accordingly, the quarantine and
 13 isolations spaces at CCWF must include at least 62 lower/lower beds.

14 As with DPW class members, there are some institutions where no lower/lower inmates
 15 live in congregate housing. There, the number of lower/lower quarantine and isolation beds
 16 should be at least proportional to the number of lower/lower inmates. For example, at CAC
 17 15.6% of the population requires lower/lower beds. At least 16% of the 168 quarantine and
 18 isolation beds – equivalent to at least 26 beds – must be lower/lower.

19 **V. Findings**

20 Attached as Exhibit B is a chart summarizing the Court Expert's findings regarding each
 21 of CDCR's 35 institutions. For each institution, the chart includes the following information:

- 22 • The number of quarantine and isolation beds currently set aside;
- 23 • The number of DPW and lower/lower beds in the currently-selected quarantine and
 24 isolation units;
- 25 • The number of DPW and lower/lower beds needed based on the Court Expert's
 26 assessment, and an explanation of whether that figure is based on (a) the number of
 27 DPW or lower/lower inmates living in the largest two congregate housing units, or (b)
 28 the proportion of lower/lower inmates in the institution; and

² DPW class members also require lower/lower beds. However, they are not included in these calculations because the sufficiency of DPW beds has been evaluated separately.

- The number of additional DPW or lower/lower beds needed, if any.

The Court Expert makes the following findings with respect to the specific institutions. These findings describe current populations and needs based on data collected by the parties during the course of the Court Expert's review. Because the populations are in flux to some extent, and because the quarantine and isolation spaces designated by CDCR may also change at some institutions, these findings should be viewed as preliminary.

ASP (Avenal State Prison) has **sufficient DPW** beds and **sufficient lower/lower** beds. It currently houses no DPW class members and thus needs no DPW beds. Its lower/lower beds are adequate for class members and non-class members in the two largest congregate living spaces. Plaintiffs have raised no concerns about accessibility in the isolation/quarantine spaces.

CAC (California City Correctional Facility) has **sufficient DPW** and **sufficient lower/lower** beds. There are no DPW class members at CAC, but it has 8 accessible beds. There are no lower/lower inmates in congregate housing, but CAC has sufficient lower/lower quarantine and isolation beds (54) based on the percentage of lower/lower inmates at the facility. Plaintiffs have raised no concerns about accessibility in the isolation/quarantine spaces.

CAL (Calipatria State Prison) has **sufficient DPW** and **sufficient lower/lower** beds. There are currently no DPW class members at CAL, and the lower/lower beds are adequate based on the two largest congregate living spaces. The isolation/quarantine space is not accessible for DPMs, but there is one DPM class member housed at CAL. CDCR should be required to make appropriate accommodations within 48 hours if that class member is isolated or quarantined.

CCC (California Correctional Center) has **sufficient DPW** and **sufficient lower/lower** beds. CCC needs no DPW quarantine/isolation beds and has sufficient lower/lower beds based on the relevant population in the two largest congregate living spaces. Plaintiffs have raised no concerns about accessibility in the isolation/quarantine spaces.

CCI (California Correctional Institution) has **sufficient DPW** and **sufficient lower/lower** beds. CCI currently has no DPW inmates, and the lower/lower beds are adequate to

1 house the population in the two largest congregate living spaces. The isolation/quarantine
2 space is not accessible for DLTs, but there are 6 DLTs currently at the institution. CDCR
3 should be required to make appropriate accommodations within 48 hours if a DLT class
4 member is isolated or quarantined.

5 **CCWF (Central California Women's Facility)** has **insufficient DPW** and
6 **insufficient lower/lower** beds. Based on the number of DPW class members in the two largest
7 airspaces, CCWF needs at least 21 additional DPW beds. Based on the number of lower/lower
8 inmates in the two largest airspaces, CCWF needs at least 12 additional lower/lower beds.
9 Plaintiffs have raised no concerns about accessibility in the isolation/quarantine areas.

10 **CEN (Centinela State Prison)** has **sufficient DPW** beds and **sufficient lower/lower**
11 beds. Although there are no DPW-accessible beds, the Court Expert understands that the sole
12 DPW class member at CEN is housed where he can be isolated or quarantined in place if
13 necessary. Plaintiffs have raised no concerns about accessibility in the isolation/quarantine
14 areas.

15 **CHCF (California Health Care Facility)** has **sufficient DPW** and **sufficient lower/**
16 **lower** beds. Both DPW and lower/lower beds are adequate based on the populations in the two
17 largest relevant living spaces. The quarantine and isolation housing is in tents in Facility E, and
18 CDCR is currently gathering information on the accessibility of these tents. The Court Expert
19 recommends that the Court order the parties to update the Court Expert of any issues.

20 **CIM (California Institution for Men)** has **insufficient DPW** and **insufficient lower/**
21 **lower** beds. CIM has no DPW beds and needs at least 10 based on the DPW population in the
22 two largest living areas. It has only 34 lower/lower beds but needs at least 95 based on the
23 population in the two largest air spaces. The current quarantine and isolation space is not
24 accessible to class members with DPO and DPM codes, and CDCR is evaluating the use of
25 ADA-accessible tents for isolation. Plaintiffs have also raised concerns with accessibility for
26 DPV class members; CDCR is to make appropriate accommodations (which may include the
27 use of guides) within 48 hours of a DPV class member being isolated or quarantined.
28

1 **CIW (California Institution for Women)** has **sufficient DPW** and **sufficient lower/**
2 **lower** beds. Although CIW has no DPW beds, the Court Expert understands that the two DPW
3 class members will be quarantined or isolated in place if necessary. There are no lower/lower
4 inmates in congregate housing, but CIW has sufficient lower/lower beds proportionate to the
5 lower/lower population. Plaintiffs have raised no concerns about accessibility in the
6 isolation/quarantine areas.

7 **CMC (California Men's Colony)** has **sufficient DPW** but **insufficient lower/lower**
8 beds. Because there are no DPW class members at CMC, there is no need for DPW beds.
9 CMC has 59 lower/lower beds but needs at least 85 based on the two largest living areas.
10 Plaintiffs have raised no concerns about accessibility in the isolation/quarantine areas.

11 According to the Receiver, **CMF (California Medical Facility)** has “acknowledged
12 that [its] submitted plan needs to be completely redone.” Public Health Workgroup
13 Recommendations, Attachment C. The previously submitted plan has both insufficient DPW
14 beds (at least 21 additional needed) and insufficient lower/lower beds (at least 77 additional
15 needed). Plaintiffs raised no concerns about the accessibility of the previously designated
16 isolation/quarantine areas but should inform the Court Expert of any concerns regarding CMF’s
17 new plan.

18 **COR (California State Prison, Corcoran)** has **insufficient DPW** but **sufficient lower/**
19 **lower** beds. COR has no DPW beds and needs at least one. The quarantine and isolation space
20 is not accessible for DPO, DPM, or DPV codes, and CDCR should be required to make
21 appropriate accommodations within 48 hours if necessary.

22 **CRC (California Rehabilitation Center)** has **sufficient DPW** and **sufficient lower/**
23 **lower** beds. CRC has no DPW inmates and needs no DPW beds. Its quarantine and isolation
24 space is not accessible for DLT class members, of which there are three at the institution.
25 However, the Court Expert understands that because those three inmates are in the infirmary,
26 they will be isolated or quarantined in place and thus no additional accommodations are
27 currently required.

1 **CTF (Correctional Training Facility)** has **sufficient DPW** and **sufficient lower/lower**
2 beds. CTF has no DPW beds in quarantine or isolation, but the Court Expert understands that
3 the only DPW class member currently at CTF is housed where he can be appropriately isolated
4 or quarantined in place. The quarantine and isolation space is not accessible for DPM codes,
5 but there is one DPM class member housed at the institution. CDCR should make appropriate
6 accommodations within 48 hours as necessary.

7 **CVSP (Chuckawalla Valley State Prison)** has **sufficient DPW** but **insufficient lower/**
8 **lower** beds. There are no DPW inmates at CVSP, thus no DPW beds are needed. Based on the
9 lower/lower population in the two largest living areas, CVSP needs at least 27 additional
10 lower/lower beds. The quarantine and isolation space is not accessible for DPV class members,
11 of which there is currently one at the facility. CDCR should make the appropriate
12 accommodations within 48 hours if needed.

13 **DVI (Deuel Vocational Institution)** has **sufficient DPW** but **insufficient lower/lower**
14 beds. There are no lower/lower inmates in congregate housing, but based on the percentage of
15 the population that is lower/lower, DVI needs at least 18 additional beds. Plaintiffs raised no
16 concerns about the accessibility of the quarantine and isolation areas.

17 **FSP (Folsom State Prison)** has **sufficient DPW** and **sufficient lower/lower** beds
18 designated. Folsom has no DPW inmates and needs no DPW beds, and it currently has 5 more
19 lower/lower beds than needed based on the population of the two largest congregate housing
20 units. However, CDCR is actively responding to an outbreak at FSP, and the quarantine and
21 isolation needs may change.

22 **HDSP (High Desert State Prison)** has **sufficient DPW** and **sufficient lower/lower**
23 beds, and Plaintiffs raised no concerns about the accessibility of the quarantine and isolation
24 areas.

25 **ISP (Ironwood State Prison)** has **sufficient DPW** but **insufficient lower/lower** beds.
26 Although ISP has no DPW beds, the Court Expert understands that its 3 DPW inmates are
27 housed where they can be isolated or quarantined in place. Based on its percentage of
28

1 lower/lower inmates, ISP needs at least 6 additional lower/lower beds. Plaintiffs raised no
2 concerns about the accessibility of the quarantine and isolation areas.

3 **KVSP (Kern Valley State Prison)** has **sufficient DPW** and **sufficient lower/lower**
4 beds, and Plaintiffs raised no concerns about the accessibility of the quarantine and isolation
5 areas.

6 **LAC (California State Prison, Los Angeles County)** has **sufficient DPW** but
7 **insufficient lower/lower** beds. LAC needs 3 DPW beds and has 6, but based on lower/lower
8 population in the two largest airspaces it needs at least 15 additional lower/lower beds. The
9 quarantine and isolation space is not accessible for DPV class members, and CDCR is to make
10 accommodations within 48 hours of the need arising.

11 **MCSP (Mule Creek State Prison)** has **insufficient DPW** and **insufficient lower/lower**
12 beds. There are currently 25 DPW class members at MCSP, 22 of whom live in the two largest
13 congregate living spaces, but the facility has not designated any DPW-accessible beds for
14 isolation or quarantine. There are 480 lower/lower inmates in the two largest living areas, but
15 the facility has only 50 lower/lower beds designated. In addition, the quarantine and isolation
16 space is not accessible for DPO, DPM, or DPV class members. The Court Expert understands
17 that CDCR is considering alternate quarantine and isolation spaces. In the interim, it should
18 make any necessary accommodations within 48 hours of class members requiring isolation or
19 quarantine.

20 **NKSP (North Kern State Prison)** has **sufficient DPW** and **sufficient lower/lower**
21 beds. As noted above, the Court Expert understands that generally institutions will use
22 designated space for either quarantine or isolation, but not both. At NKSP, however, one side
23 of the designated unit is intended for quarantine and the other for isolation. This raises the
24 possibility that although the total number of beds is sufficient, there may not be enough beds in
25 either quarantine or isolation depending on the nature of an outbreak. In addition, the only
26 DPW accessible showers are on the quarantine side. In the event that a DPW class member
27 requires isolation, NKSP should make necessary changes to the showers on the isolation side of
28 the building within 48 hours.

1 **PBSP (Pelican Bay State Prison)** has **sufficient DPW** but **insufficient lower/lower**
2 beds. Because there are no DPW class members at PBSP currently, there is no need for DPW
3 quarantine and isolation beds. Based on the number of lower/lower inmates in the two largest
4 living areas, at least 4 additional lower/lower beds are required. The quarantine and isolation is
5 not accessible to DPO, DPM, and DPV class members, and CDCR must make appropriate
6 accommodations with 48 hours as needed.

7 **PVSP (Pleasant Valley State Prison)** has **sufficient DPW** and **sufficient lower/lower**
8 beds, and Plaintiffs have raised no concerns about the accessibility of the designated quarantine
9 and isolation spaces.

10 **RJD (RJ Donovan Correctional Facility)** has **insufficient DPW** and **insufficient**
11 **lower/lower** beds. Although there are 90 DPW class members at RJD, 17 of whom live in the
12 two largest congregate housing areas, DPW has no DPW-accessible beds in its quarantine and
13 isolation areas. It has only 50 lower/lower beds, when based on the lower/lower population in
14 the two largest living areas it needs at least 162. In addition, its quarantine and isolation space
15 is not accessible to DPO or DPW class members.

16 **SAC (California State Prison, Sacramento)** has **sufficient DPW** and **sufficient**
17 **lower/lower** beds. Although there are two DPW-accessible beds available, the Court Expert
18 understands that the sole DPW class member at SAC is housed where he can be appropriately
19 isolated or quarantined in place if necessary. Two of the three quarantine and isolation areas
20 are not accessible to DPO, DPM, or DPV class members. CDCR will make necessary
21 accommodations should the remaining quarantine and isolation unit prove insufficient for the
22 number of these class members.

23 **SATF (California Substance Abuse Treatment Facility)** has **insufficient DPW** and
24 **insufficient lower/lower** beds. The institution has only 2 DPW beds and needs at least 27 more
25 based on the DPW population of the two largest living areas. It has 48 lower/lower beds but
26 needs at least 56 more based on the lower/lower population in the two largest living areas.
27 Plaintiffs have not raised concerns about the accessibility of the quarantine and isolation units.
28

1 **SCC (Sierra Conservation Center)** has **sufficient DPW** and **sufficient lower/lower**
2 beds. SCC has no DPW inmates and needs no DPW-accessible beds. Its quarantine and
3 isolation space is not designated for DPM class members, and CDCR will make necessary
4 accommodations within 48 hours. The quarantine and isolation space is not accessible to DPM
5 class members, and CDCR will make necessary accommodations within 48 hours as needed.

6 **SOL (California State Prison, Solano)** has **sufficient DPW** but **insufficient lower/**
7 **lower** beds. SOL has no DPW beds, but its sole DPW class member inmate is housed where he
8 can be isolated or quarantine in place. Based on the number of lower/lower inmates in the two
9 largest congregate living spaces, SOL needs at least 12 additional lower/lower beds. The
10 quarantine and isolation space is not accessible for DPO or DPMs, and CDCR will make
11 necessary accommodations within 48 hours as needed.

12 **SQ (San Quentin State Prison)** has **sufficient DPW** and **sufficient lower/lower** beds.
13 Although SQ has no DPW accessible beds, the Court Expert understands that the sole DPW
14 class member currently at SQ is housed where he can be isolated or quarantined in place as
15 needed. Plaintiffs have not raised concerns regarding accessibility of the quarantine and
16 isolation spaces.

17 **SVSP (Salinas Valley State Prison)** has **insufficient DPW** and **insufficient lower/**
18 **lower** beds. Based on the DPW population, it needs at least 2 additional DPW beds. Based on
19 the number of lower/lower inmates in the two largest living areas, it needs at least 4 additional
20 lower/lower beds. The quarantine and isolation space is not accessible for DPV class members,
21 and CDCR will make necessary accommodations within 48 hours as needed.

22 **VSP (Valley State Prison)** has **insufficient DPW** but **sufficient lower/lower** beds.
23 Based on the number of DPW class members in the two largest living areas, VSP needs at least
24 5 additional DPW beds. Plaintiffs have not raised concerns about the accessibility of the
25 quarantine and isolation spaces.

26 **WSP (Wasco State Prison)** has **sufficient DPW** and **sufficient lower/lower** beds.
27 However, WSP has divided its designated area into one portion for isolation and one for
28 quarantine, and the only DPW-accessible showers are on the quarantine side. CDCR has

1 informed the Court Expert that the showers on the isolation side of the unit cannot be altered to
2 accommodate DPWs, and therefore CDCR must designate an alternate, DPW-accessible space
3 for quarantine.

4 **VI. Conclusion**

5 CDCR has insufficient DPW-accessible quarantine and isolation beds at 9 institutions,
6 and insufficient lower/lower beds at 14 institutions. At certain institutions, the deficiency is
7 extreme. Mule Creek State Prison, R.J. Donovan, and California Institute for Men all have
8 sizeable DPW populations but have selected quarantine and isolation spaces that cannot
9 appropriately house a single DPW class member. SATF has more than 70 DPW class members
10 but has selected quarantine and isolation spaces that can house no more than two of them. Each
11 of these institutions also has dramatic deficiencies in lower/lower beds, with over 100 too few
12 beds at R.J. Donovan and Mule Creek. These obvious shortcomings are of particular concern at
13 California Institute for Men: the impetus for Plaintiffs' motion to protect class members was, in
14 large part, CDCR's improper placement of inmates with disabilities who had been infected by
15 or exposed to the coronavirus at CIM.

16 The Court should order these institutions, and the others identified in this report that
17 have insufficiently accounted for the needs of *Armstrong* class members, immediately to revisit
18 and revise their pandemic response plans. The Court Expert recommends that the Court order
19 CDCR to propose new quarantine and isolation spaces that are sufficient for *Armstrong* class
20 members within 21 days. The Court should order that in designated substitute or additional
21 quarantine and isolation space, CDCR must ensure there are both necessary architectural
22 accommodations and sufficient DPW-accessible and lower/lower beds according to the
23 methodologies applied in this report. The Court should further order that any class members
24 who are displaced must be appropriately rehoused.

25 The Court should order that where class members are moved into quarantine or isolation
26 housing that lacks necessary architectural accommodations, CDCR must promptly, and no later
27 than 48 hours, make necessary modifications to render the spaces accessible. CDCR must also
28 ensure that amenities such as telephone access, books, and televisions are available to class

1 members in quarantine and isolation to the same extent they are available to non-class
2 members. The Court Expert notes in this regard that CDCR has already issued directives
3 requiring that architectural and non-architectural accommodations be provided promptly. The
4 Court should order the parties to meet and confer on any deficiencies identified by Plaintiffs
5 and to raise with the Court Expert any issues the parties believe may need to be brought to the
6 Court's attention.

7 Finally, the Court Expert recommends that the Court order a follow-up report on
8 quarantine and isolation in 30 days.

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10 Dated: August 19, 2020

Respectfully submitted,

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12 /s/
13 Edward W. Swanson
14 SWANSON & McNAMARA LLP
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