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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MARCIANO PLATA, et al.,
Plaintiffs,
v.
GAVIN NEWSOM, et al.,
Defendants.

CASE NO. 01-1351 JST

**DECLARATION OF RITA LOMIO IN
SUPPORT OF PLAINTIFFS’
RESPONSE TO ORDER TO SHOW
CAUSE RE: RECEIVER’S
RECOMMENDATION ON
MANDATORY VACCINATION**

I, Rita Lomio, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a staff attorney at the Prison Law Office, counsel of record for Plaintiffs. I have personal knowledge of the facts set forth herein, and if called as a witness, I could competently so testify.

2. I am counsel of record in *Armstrong v. Newsom*, Case No. C94-2307 CW (N.D. Cal.), a federal class action lawsuit regarding disability discrimination in California’s prison and parole systems. I have worked on the case for the last five years.

1 3. As part of my duties in *Armstrong*, I regularly interview and correspond with
2 people with disabilities in California prisons. I also regularly speak with California
3 Department of Corrections and Rehabilitation (“CDCR”) attorneys and officials who work
4 on ensuring compliance with the requirements of *Armstrong*. I regularly visit prisons to
5 interview *Armstrong* class members and staff to monitor compliance.

6 4. The United States Department of Justice has said that “COVID-19 has had a
7 devastating and disproportionate impact on people with disabilities.” *See* U.S. Dep’t of
8 Justice, Statement by the Principal Deputy Assistant Attorney General for Civil Rights
9 Leading a Coordinated Civil Rights Response to Coronavirus (COVID-19) (Apr. 2, 2021),
10 available at <https://www.justice.gov/file/1382776/download>. That certainly has been true
11 in the California prison system. On February 1, 2021, the Court Expert in *Armstrong* filed
12 a report stating, among other things (and at page 2): “The fact that, to date, *Armstrong*
13 class members have been almost five times more likely to die of COVID-19 than non-class
14 members makes the work of protecting them all the more essential.” A true and correct
15 copy of the Court Expert’s Fourth Report and Recommendations Regarding Housing of
16 *Armstrong* Class Members During the COVID-19 Pandemic, filed in *Armstrong* on
17 February 1, 2021, at ECF No. 3201, is attached hereto as **Exhibit A**.

18 5. CDCR assigns Disability Placement Program (“DPP”) codes to people it
19 identifies as having certain disabilities related to mobility, hearing, vision, speech, and
20 kidney disease. CDCR separately tracks people with verified and unverified learning
21 disabilities.

22 6. On August 10, 2021, Alexander Powell, an attorney in the CDCR Office of
23 Legal Affairs, sent me a list of every person in prison with a DPP code and/or documented
24 learning disability as of August 9, 2021, as well as their current housing assignment.
25 Attached hereto as **Exhibit B** is a true and correct copy of the cover sheet, which shows
26 that 10,664 people have documented disabilities and that people with documented
27 disabilities are housed in every prison. (The cover sheet lists the total number as 10,799,
28

1 and I subtracted 135 for those people listed as housed in “SACCO” and “SHS,” which are
2 not CDCR prisons.)

3 7. Most of the 10,664 people have physical disabilities. Only 261 people
4 statewide have a verified or unverified learning disability and no DPP code. I determined
5 this by filtering the spreadsheet produced by Mr. Powell, limiting Column I (“LD”) to
6 “Yes” or “Unverified,” and Column E (“Code”) to “(Blanks),” and selecting all but “SHS”
7 and “SACCO” in Column A (“Inst.”).

8 8. Almost 2,000 people in California prisons use wheelchairs. 789 people have
9 a DPP code of “DPW,” which means that they are full-time wheelchair users. 1,143 people
10 have a DPP code of “DPO,” which means that they are part-time wheelchair users. I
11 determined this by filtering Column E (“Code”) on the spreadsheet produced by
12 Mr. Powell to “DPW” or “DPO,” and selecting all but “SHS” and “SACCO” in Column A
13 (“Inst.”).

14 9. 285 people have a DPP code of “DPV,” which means that they have a
15 significant vision disability that requires them to be housed only in certain prisons. I
16 determined this by filtering Column E (“Code”) on the spreadsheet produced by
17 Mr. Powell to “DPV,” and selecting all but “SHS” and “SACCO” in Column A (“Inst.”).

18 10. 136 people have a DPP code of “DKD,” which means that they require
19 dialysis. I determined this by filtering Column E (“Code”) on the spreadsheet produced by
20 Mr. Powell to “DKD,” and selecting all but “SHS” and “SACCO” in Column A (“Inst.”).

21 11. Some prisons house a particularly large number of people with documented
22 disabilities, as can be seen on Exhibit B. For example:

INSTITUTION	COUNT
CHCF	1,298
RJD	950
MCSP	921
SATF	822

CMF	761
VSP	661

12. People with disabilities depend on staff for a wide range of disability-related help and often cannot avoid coming in close and sustained contact with staff due to their disabilities. For example, custody staff push people in wheelchairs to and from appointments, including to healthcare appointments.

13. Another example relates to announcements made over the public address system in prison housing units. These announcements, among other things, let people know when the yard is open, when they have a medical appointment, when it is time to shower, and when there have been program modifications. Custody staff in the housing units are responsible for ensuring effective communication of announcements, including to people who are deaf or hard-of-hearing. This often requires personal notification by using written notes or speaking loudly and clearly while in close proximity to the person. This is particularly important in housing units with a lot of background noise that makes it difficult to hear unless someone is close to you.

14. Custody staff also serve as sighted guides to people who are blind or have low vision. Plaintiffs' counsel in *Armstrong* raised concerns earlier in the pandemic that blind and low-vision people were being moved more frequently during the pandemic in response to quarantines and public health protocols, and were not able to safely and independently navigate their new living environments without assistance. As a result, on January 14, 2021, Defendants issued a memorandum requiring staff to offer and provide orientation to people designated DPV upon transfer to a new housing environment. The memorandum stated (at page 1): "Without initial guidance from sighted individuals, DPV individuals may have difficulty familiarizing themselves with and navigating new living environments. . . . [T]hey may be unable to identify Americans with Disabilities Act (ADA) workers or staff for help, or to locate critical areas of their living environment such as their bed, dayroom area, toilet, shower, water fountains, doors, recreational areas, law

1 library, and dining hall.” A true and correct copy of the memorandum entitled, “Situating
2 Blind and Low-Vision Individuals to New Living Environments During the COVID-19
3 Pandemic,” and dated January 14, 2021, is attached hereto as **Exhibit C**.

4 15. Staff may be required to help people with disabilities, including those who
5 are blind, those with upper extremity disabilities, and those with limited literacy, read and
6 write, including personal correspondence, CDCR forms (such as a request for medical
7 attention or grievance), and CDCR paperwork (such as disciplinary paperwork).

8 16. Custody staff play a particularly important role in accommodating people
9 with disabilities housed quarantine and isolation units. This is because by memorandum
10 dated August 14, 2020, CDCR said that incarcerated ADA workers would not be allowed
11 to work in quarantine and isolation units. The memorandum stated (at page 2): “In an
12 effort to minimize the spread of COVID-19, for housing units and areas designated for
13 isolation/quarantine, services will be provided by staff within the housing unit.” The
14 memorandum noted (at page 1) that people with disabilities might “need help reading and
15 writing, navigating during yard time or to appointments, cleaning their bed area, and
16 carrying meal trays.” A true and correct copy of the memorandum entitled, “Americans
17 with Disabilities Act Worker Program for Duration of COVID-19 Pandemic,” and dated
18 August 14, 2020, is attached hereto as **Exhibit D**.

19 17. On July 20-23, 2021, I visited California State Prison, Sacramento (“CSP-
20 SAC”), as part of an *Armstrong* monitoring tour. I was joined by Prison Law Office
21 investigator Gabriela Pelsinger. During the tour, Ms. Pelsinger and I toured various parts
22 of CSP-SAC, including housing units, and directed CDCR staff to take photographs of
23 certain areas and people. Attached hereto as **Exhibit E** is a true and correct copy of a
24 photograph taken by CDCR staff at our direction during the tour of a man with a walker
25 being escorted in a housing unit by an officer, which was produced to me in redacted form
26 by Andrea Moon, Deputy Attorney General, on July 28, 2021.

**INDEX OF EXHIBITS
TO DECLARATION OF RITA LOMIO**

Exhibit	Description
A	Court Expert's Fourth Report and Recommendations Regarding Housing of <i>Armstrong</i> Class Members During the COVID-19 Pandemic, <i>Armstrong v. Newsom</i> , No. CV 94-2307 CW (N.D. Cal. Feb. 1, 2021)
B	Disability Inmate Counts (Aug. 9, 2021)
C	Memorandum from Connie Gipson, Director, Division of Adult Institutions, to Associate Directors <i>et al.</i> , Situating Blind and Low-Vision Individuals to New Living Environments During the COVID-19 Pandemic (Jan. 14, 2021)
D	Memorandum from Connie Gipson, Director, Division of Adult Institutions, to Associate Directors <i>et al.</i> , Americans with Disabilities Act Worker Program for Duration of COVID-19 Pandemic (Aug. 14, 2020)
E	Photograph of Patient with a Walker Being Escorted by Custody Staff in Housing Unit, CSP-SAC (July 2021)
F	Photograph of Dormitory on Facility A, SATF (Aug. 2020)

EXHIBIT A

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5 Court Expert
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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 JOHN ARMSTRONG, et al.,

14 Plaintiffs,

15 v.

16 GAVIN NEWSOM, et al.,

17 Defendants.
18

Case No. CV 94-2307 CW

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

19 **I. Introduction**

20 In the 60 days since the Court Expert’s last report, there have been substantial
21 developments regarding COVID-19 and the California prison system. CDCR experienced an
22 enormous rise in infections, peaking at around 750 new cases per day and over 10,000 active
23 cases – figures many times higher than previous surges. Those numbers have now improved
24 dramatically, with cases steadily declining since reaching those highs.

25 CDCR has also reported encouraging data on vaccinations. To date, over 10,000
26 incarcerated persons have received at least one dose of a vaccine. The vaccine acceptance rate
27 among the general population is 74%; among those aged 65 or older, the acceptance rate is
28 90%. Over three-quarters of individuals with COVID risk scores of 3 or above have received

1 one or both doses. Overall, roughly 56% of the population has either received at least one dose
 2 of the vaccine or has had COVID and recovered.

3 While these numbers are encouraging, it is important to remember that over 47,000
 4 incarcerated people have contracted the virus to date. Of those, 192 have died. The *Armstrong*
 5 population has been especially hard hit. Class members make up roughly 11% of the prison
 6 population, and they do not appear to be contracting the virus at higher rates than others: they
 7 make up roughly 12% of active cases and 11% of resolved cases. However, *Armstrong* class
 8 members have died at a far greater rate than the general population: of 192 deaths to date, a
 9 stunning 53% – 101 individuals – have been class members. The fact that, to date, *Armstrong*
 10 class members have been almost five times more likely to die of COVID-19 than non-class
 11 members makes the work of protecting them all the more essential.

12 **II. Adequacy of pandemic response plans for *Armstrong* class members (¶¶ 1-2)¹**

13 As discussed above, CDCR has made progress in containing the spread of COVID-19 in
 14 its facilities, and both infection and death rates have fallen since the surge of cases in
 15 December. The availability of a vaccine and the high acceptance rates reported by CDCR are
 16 likewise encouraging, and the Court Expert is optimistic that vaccination will further reduce the
 17 rate of spread of the disease, particularly among *Armstrong* class members. However, the Court
 18 Expert believes it would be premature at this point to modify the approaches to containment and
 19 monitoring developed by the parties. To date, most of the incarcerated persons who have been
 20 vaccinated have received only one of the two doses necessary for full efficacy, and it is yet
 21 unknown when CDCR will receive sufficient vaccine doses for its entire population or how new
 22 variants of the coronavirus will respond to the currently available vaccines. Moreover, the
 23 infection and death rates remain high and of great concern, with an average of 107 new
 24 infections and nearly one death per day.

25
 26
 27 ¹ As in previous reports, the sections below correspond to the numbered paragraphs in the
 28 Court’s September 9 order (Dkt. 3072), in which the Court set forth the categories of information
 on which the Court expert was to provide updates.

1 **Adequacy of isolation and quarantine space for class members.** As set forth in
2 previous reports, Defendants have implemented a methodology for calculating the number of
3 quarantine and isolation beds that must be accessible to class members with DPW and
4 lower/lower classifications. That methodology is two-fold. Institutions where *Armstrong* class
5 members are housed in shared spaces must have at least as many DPW and lower/lower
6 isolation and quarantine beds as there are inmates requiring DPW and lower/lower beds in the
7 two largest congregate living areas (the “congregate approach”). Institutions where such
8 individuals are housed in individual cells and not congregate living areas must have accessible
9 isolation and quarantine beds in proportion to the class member population (the “proportional
10 approach”) – thus, an institution with 15% DPWs must ensure that at least 15% of its isolation
11 and quarantine beds are DPW-accessible. As described in the Court Expert’s last report, the
12 congregate approach can yield an insufficient number of beds where an institution houses a
13 large number of class members but only a small number of them in congregate housing.
14 Accordingly, the Court Expert recommended that the parties meet and confer regarding
15 institutions where Plaintiffs believe application of the proportional approach will better ensure
16 available of isolation and quarantine beds for class members. Currently, there are sufficient
17 DPW and lower/lower isolation and quarantine beds at each institution under the methodology
18 that the parties have agreed should apply at each institution. However, Plaintiffs raise two
19 concerns with respect to the adequacy of the set-aside space.

20 **Designation of quarantine vs. isolation space.** Plaintiffs believe CDCR’s current
21 response plans are insufficient in that they do not require institutions to provide a sufficient
22 proportion of quarantine beds among the beds set aside for quarantine and isolation. Plaintiffs
23 note that in August 2020, CDCR and CCHCS’s Public Health Workgroup wrote that “the point
24 of the method proposed by the public health experts is to identify and respond to an outbreak at
25 the earliest onset which means most of the space will be for quarantine[.]” Public Health
26 Workgroup Recommendations (Aug. 17, 2020). Pointing to that recommendation, Plaintiffs
27 ask the Court Expert to recommend that at least 51% of the isolation and quarantine beds that
28 are accessible to class members be reserved for quarantine, rather than isolation.

1 As the Court Expert wrote in his previous report, this issue pertains to the entire prison
2 population, not only *Armstrong* class members, and it is therefore appropriate to address it in
3 *Plata* rather than here. The methodology applied under *Plata* does not require Defendants to
4 identify and set aside separate isolation and quarantine space. The *Armstrong*-accessible
5 housing is a subset of that designated in *Plata*, not a separate and additional group of beds.
6 Thus, the *Armstrong* Court cannot order CDCR to dedicate *Armstrong*-accessible beds to
7 quarantine space without disturbing the methodology applied by *Plata*. The Court Expert
8 recommends that Plaintiffs either raise this issue in *Plata* or continue to address it on an
9 institution-by-institution basis, as they have done to date.

10 **Equitable division of quarantine space.** Plaintiffs raise a related concern about the
11 extent to which *Armstrong* class members have unequal access to the safest type of quarantine
12 space. As noted in the Court Expert's last report, the parties agree that the safest place to
13 quarantine is in a single-person cell with a solid (rather than barred) door. The parties have met
14 and conferred about how to ensure that class members have equal access to such cells. In
15 November, Plaintiffs proposed a methodology pursuant to which CDCR would calculate the
16 percentage of the general population that could be housed in single-cell quarantine, compare it
17 to the percentage of the DPW and lower/ lower populations that could be so housed, and adjust
18 the available space to ensure equal access. In early December, defendants responded with a
19 letter in which they provided examples to illustrate why they believe Plaintiffs' approach is
20 unrealistic. Defendants suggested instead that the parties evaluate and address Plaintiffs'
21 concerns in this regard on an institution-by-institution basis.

22 The Court Expert believes Defendants have demonstrated that Plaintiffs' proposal, while
23 straight-forward on its face, would be difficult to implement given the subgroups to which the
24 methodology would have to be applied (for example, one might need to apply the methodology
25 based on a proportional approach for general population class members but a congregate
26 approach for SNY class members) and the fact that calculations would need to be reperfomed
27 in response to changing populations. Because Plaintiffs have not shown that Defendants'
28

1 concerns are misplaced, the Court Expert declines to recommend that Defendants implement
 2 Plaintiffs’ proposed methodology.

3 However, this does not change the fact that Defendants have an obligation to ensure that
 4 class members are treated equally, including in their ability to quarantine in single cells with
 5 solid doors. Plaintiffs have identified six institutions (SOL, CCWF, CMF, MCSP, SATF, and
 6 VSP) at which they believe class members are currently disadvantaged in this regard. As an
 7 example, CMF has 28 DPW class members in its two largest communal housing spaces and 72
 8 DPW-accessible isolation/quarantine beds. It thus has sufficient set-aside space under the
 9 congregate approach. However, Plaintiffs report that only 25 of the DPW-accessible beds are
 10 in single cells with solid doors, while CMF has enough celled quarantine beds to house its
 11 entire non-DPW population. The Court Expert agrees that Defendants have an obligation to
 12 ensure that class members have equal access to single-cell, solid-door quarantine space and
 13 recommends that the parties meet and confer to address any deficiency at CMF and at the other
 14 institutions identified by Plaintiffs, as well as at any other institutions with a deficiency of this
 15 sort.² The Court Expert notes that the obligation to identify such discrepancies
 16 does not lie solely with Plaintiffs and that CDCR must also work to identify and remedy
 17 instances of unequal access to preferable quarantine space prior to an outbreak.

18 **Separate isolation and quarantine spaces for specific populations.** As described in
 19 the Court Expert’s last report, Plaintiffs have raised concerns about the need to designate
 20 separate isolation and quarantine space for different security classifications and for certain
 21 populations, such as those housed on special needs yards (SNY). Plaintiffs believe that the
 22 failure to designate separate spaces may be contributing to some individuals’ refusal to move to
 23 quarantine or isolation during an outbreak. The Court Expert’s view remains that this issue is

24 _____
 25 ² Plaintiffs raised concerns about specific institutions in a January 27, 2021 letter, meaning that
 26 Defendants did not have an opportunity to respond to those particular concerns prior to issuance
 27 of this report. Accordingly, while the parties should discuss Plaintiffs’ concerns, the Court
 28 Expert does not in this report make any findings about the allegations in Plaintiff’s letter and
 does not make specific recommendations with regard to CMF or the other five institutions
 described in the letter.

1 appropriately raised in *Plata*, not *Armstrong*. However, at institutions where CDCR has already
2 designated separate spaces for different populations, it must ensure that each such space has
3 sufficient housing for *Armstrong* class members in each of the separate spaces. Defendants
4 report that the proportional or congregate approaches have been satisfied in each such space and
5 that they will continue to evaluate and address Plaintiffs’ concerns on an institution-by-
6 institution basis.

7 **III. Notification of changes in housing designations (¶ 3)**

8 CDCR’s November 5, 2020, directive (“Tracking of Isolation/Quarantine Units for
9 *Armstrong* Class Members”) implements the Court’s requirement that Defendants give notice
10 within 72 hours if they “designate substitute or additional quarantine and isolation space at any
11 institution.” Dkt. 3072, ¶ 3. As of late January, however, Plaintiffs noted that Defendants did
12 not appear to have actually ever provided the required notice under the directive. Defendants
13 have since updated their procedures to ensure the notice is sent on time.

14 **IV. Adjustment of Set-Aside Space (¶ 4)**

15 Defendants must “develop a reliable process . . . to ensure that adequate accessible
16 quarantine and isolation space is set-aside in advance of *Armstrong* class members transferring
17 into the institution, and in response to any changes in disability codes or movement within an
18 institution.” Dkt. 3072, ¶ 4.

19 Due to the surge in infections, CDCR paused intake in November 2020. Intake has now
20 resumed, and CDCR has implemented processes designed to ensure that receiving centers have
21 sufficient accessible space in quarantine to house arriving *Armstrong* class members. Plaintiffs
22 have expressed concern that there is a lack of accessible space at intake centers, giving rise to
23 the possibility of class members either being housed inaccessibly or being forced to spend
24 longer in county jails awaiting intake, with the concomitant risk of potential exposure to the
25 virus. They note that at NKSP, one of only two reception centers for men, there are no
26 accessible units designated for precautionary quarantine of new arrivals, and there are very few
27 such units at WSP, the other available reception center. The parties should discuss Plaintiffs’
28 concerns, and Defendants should implement changes to CDCR’s intake procedures as necessary

1 to prevent disadvantaging class members transition from local facilities. Because Plaintiffs’
2 concerns were raised too recently for Defendants to provide a response prior to the filing of this
3 Report, the Court Expert does not make any findings. However, given the importance of this
4 issue, the Court Expert recommends the parties meet and confer on this matter promptly and
5 report to the Court Expert any unresolved issues.

6 **V. Architectural and non-architectural modifications (¶¶ 5-7 and 10-15)**

7 As described in the Court Expert’s previous reports, the parties have established a
8 procedure for documenting and evaluating, through consultation with experts, the architectural
9 modifications Defendants have made to render isolation and quarantine space accessible to
10 class members. The process continues to work effectively, and the Court Expert commends
11 both parties for their efforts.

12 The Court Expert is also pleased to report that the parties have made significant progress
13 on non-architectural accommodations, an issue the Court Expert previously found had received
14 inadequate attention. *See* Dkt. 3142, at 7. The parties worked together to draft a memorandum
15 on this subject, which was finalized and disseminated in mid-January. That memorandum
16 (“COVID-19 Non-Architectural Accommodations for Americans with Disabilities Act Class
17 Members”) provides guidelines on issues such as availability of trapeze bars, electrical outlets,
18 TDD/TTY devices, and magnifiers and Braille materials. The memorandum also sets forth a
19 process for interviews of randomly selected class members to assess whether required
20 accommodations are in fact being provided and written follow-up by the institutions on any
21 deficiencies.

22 Defendants have also finalized and disseminated a memorandum entitled “Situating
23 Blind and Low-Vision Individuals to New Living Environments” to address the needs of DPV
24 class members. That memorandum, also prepared jointly with Plaintiffs, provides instructions
25 on issues such as designating sighted individuals who are trained to assist new DPV arrivals
26 and identifying preferred beds for DPV individuals, and it provides deadlines by which
27 institutions must conduct orientations and document the specific needs of DPV class members.
28

1 **VI. Housing of *Armstrong* class members, including rehousing of displaced class**
 2 **members (¶¶ 16, 18)**

3 As noted in the last report, CDCR has issued a directive (“Procedures for Reviewing and
 4 Reporting Housing for *Armstrong* Class Members During COVID-19”) aimed at ensuring that
 5 class members are appropriately housed and that they receive necessary accommodations in the
 6 event they are placed in nontraditional housing (such as gyms and chapels) or in areas that are
 7 not designated for their DPP code. That directive requires, *inter alia*, that class members be
 8 interviewed within 24 hours of such placement to ensure that their needs are being
 9 accommodated, that institutions collect and report on numbers of class members in non-
 10 designated and nontraditional spaces, and that class members not be placed in more restrictive
 11 housing (e.g., placing a class member with level two security classification in a level four
 12 facility) or in administrative segregation solely because there is no other accessible housing
 13 available.

14 As of the last reporting date (January 22), there were over 310 class members not
 15 housed in accordance with their DPP codes and approximately 60 class members not housed in
 16 accordance with their lower/lower designations. These figures are of concern. It is obviously
 17 preferable for class members to be housed in areas designated for their code, rather than for
 18 CDCR to have to provide accommodations and monitoring to ensure their needs are being met
 19 in a non-designated bed. The pandemic has necessitated the housing of individuals in locations
 20 not designated for their disability, and the sooner the number of mis-housed class members can
 21 be reduced and class members returned to designated housing, the better. In the meantime,
 22 while Defendants have been conducting and producing the required interviews of mis-housed
 23 class members, Plaintiffs have raised concerns that the process is at times incomplete or
 24 inaccurate. In particular, Plaintiffs believe that in many instances, class members were mis-
 25 housed despite the availability of appropriate beds. The parties should continue to meet and
 26 confer regarding deficiencies identified by Plaintiffs and address the needs of individual class
 27 members as they arise.
 28

1 **VII. Other matters**

2 On July 20, 2020, the Court ordered defendants to “develop and implement a plan to
3 ensure that the ADA worker program can safely and effectively function without undue risk of
4 transmission of COVID-19.” Dkt. 3015, 1. The ADA worker program is not within the scope
5 of matters on which the Court Expert is required to report. However, Plaintiffs have raised
6 concerns with the program that implicate safe housing for *Armstrong* class members.

7 Based on a monitoring tour of SAC, Plaintiffs have alleged that ADA supervisors are
8 not aware of their duties with respect to the ADA worker program and of the applicable
9 requirements regarding PPE. Of direct concern to *Armstrong* class member housing, Plaintiffs
10 also allege that supervisors appeared unaware of the directive that staff, rather than ADA
11 workers, assist class members who are in quarantine; supervisors also appear not to be
12 following the requirement that ADA workers not travel between housing units but assist only
13 those class members in their own units. The Court Expert recommends that the parties continue
14 to meet and confer on this issue to ensure that ADA workers do not inadvertently contribute to
15 the spread of the disease in the facilities.

16 **VIII. Conclusion**

17 The Court Expert recommends that the Court order a further update in 60 days.

18
19 Dated: February 1, 2021

Respectfully submitted,

20 _____
21 /s/
22 Edward W. Swanson
23 SWANSON & McNAMARA LLP
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EXHIBIT B

Selected Institution(s): ASP, CAC, CAL, CCC, CCI, CCWF, CCWF-RC, CEN, CHCF, CIM, CIM-RC, CIW, CMC, CMF, COR, CPMP, CRC, CTF, CVSP, FCRF, FOL, HDSP, ISP, KVSP, LAC, MCSP, NKSP, NKSP-RC, PBSP, PRCCF, PUCCF, PVSP, RJD, SAC, SACCO, SATF, SCC, SHS, SOL, SQ, SQ-RC, SVSP, VSP, WSP, WSP-RC

Inmate Type: DPP and/or Learning Disability

Disability Inmate Counts

Run By: ladjrs

Date Run: 08/09/2021 01:42 PM

Institution	Inmate Count
ASP	103
CAC	40
CAL	51
CCC	25
CCI	100
CCWF	235
CCWF-RC	9
CEN	54
CHCF	1,298
CIM	477
CIW	141
CMC	344
CMF	761
COR	282
CRC	60
CTF	455
CVSP	135
FOL	86
HDSP	204
ISP	61
KVSP	209
LAC	429
MCSP	921

Disability Inmate Counts

Run By: ladjrs

Date Run: 08/09/2021 01:42 PM

Institution	Inmate Count
NKSP	41
NKSP-RC	77
PBSP	77
PVSP	68
RJD	950
SAC	113
SACCO	109
SATF	822
SCC	86
SHS	26
SOL	470
SQ	323
SVSP	365
VSP	661
WSP	44
WSP-RC	87
	10,799

EXHIBIT C

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: January 14, 2021

To: Associate Directors, Division of Adult Institutions
Wardens
Americans with Disabilities Act Coordinators
Class Action Management Unit Correctional Counselor IIs

Subject: **SITUATING BLIND AND LOW-VISION INDIVIDUALS TO NEW LIVING ENVIRONMENTS DURING THE COVID-19 PANDEMIC**

The directives listed below are designed to ensure that blind and low-vision individuals are able to effectively and safely navigate their living environments during the COVID-19 pandemic. For purposes of this directive, "blind and low-vision individuals" shall be defined as those individuals who have a DPV code as identified in *Armstrong v. Newsom*. The requirements outlined in this directive are intended for individuals who have a DPV code, DNV code, or individuals who, because of a vision impairment, request the type of assistance identified as being available in this directive. For purposes of this directive, "orientation" shall be intended to mean an introduction to the living environment, location of necessities, and a conversation with the Americans with Disabilities Act Coordinator (ADAC), or their designee, who will document the individual's needs on a CDCR Form 128-O (attached).

BACKGROUND

Without initial guidance from sighted individuals, DPV individuals may have difficulty familiarizing themselves with and navigating new living environments. Depending on the nature and extent of their disability, they may be unable to identify Americans with Disabilities Act (ADA) workers or staff for help, or to locate critical areas of their living environment such as their bed, dayroom area, toilet, shower, water fountains, doors, recreational areas, law library, and dining hall. It is critical that DPV individuals receive orientation from an individual who has reviewed instructional materials on how to provide it.

DESIGNATED STAFF

The ADAC, or their designee, shall offer and provide orientation to DPV individuals upon transfer to a new housing environment. The ADAC, or their designee, shall review Exhibit A and the videos set forth in Exhibit B before providing individual orientations.

ADA WORKERS

ADA workers also may be designated to provide new environment orientation, with the exception of completing the CDCR Form 128-O, to DPV individuals housed in new living

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environments when staff are unavailable and ADA workers are available. ADA workers may not assist in isolation or quarantine units. ADA workers may, however assist in non-traditional housing when a DPV individual is placed into a new unit that is not designated as isolation or quarantine. They must first review Exhibit A and Exhibit B and may perform orientation services only under the supervision of institution staff.

IDENTIFICATION OF PREFERRED BEDS

The ADAC or designee shall review, identify, and document which beds in each housing unit are most suitable for DPV individuals. In making this determination, the ADAC or designee, shall consider whether a bed is accessible to areas that the DPV individual will need to access frequently including toilets and showers; whether there are obstructions, protruding or overhanging objects in the path of travel; whether a bed is situated in a low-traffic area of the unit; and whether the location facilitates the individual's ability to obtain assistance from staff. The beds that are most suitable for DPV individuals should be documented in the Armstrong binder of each housing unit.

PLACEMENT OF BLIND AND LOW-VISION INDIVIDUALS IN NEW ENVIRONMENTS

When a DPV individual is moved to a new housing unit, the institution must perform the following actions. This applies regardless of whether the individual arrived from a different institution or from a different unit within the same institution, yard, or building.

I. Bed Placement

The institution must take the DPV individual's disability into consideration when making bed placements including a review of those beds identified as most suitable for DPV individuals.

II. Orienting to New Environments

The ADAC, or designee, shall offer an initial orientation session to each DPV individual who is transferred to a new housing unit as soon as possible after the individual arrives at the new housing location, and no later than 24 hours after the individual arrives. Subsequent orientation sessions for a DPV individual who requests them shall be scheduled as soon as possible.

The ADAC, or designee, shall be responsible for ensuring that such orientation is timely offered and provided to all eligible people. In addition to offering orientation sessions to all individuals designated DPV, housing staff shall ensure that any individual who requests an orientation session due to a vision disability, regardless of DPP code, receives one within 24 hours of their

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request. Staff shall also identify individuals who appear unable to independently navigate their living environment, inform the ADAC or designee, and the ADAC, or designee, shall offer an orientation session to that individual within 24 hours of being advised. The CDCR Form 1824s may also be used to request an orientation. If a DPV individual arrives late at night or there is otherwise not enough time for a full orientation, the ADAC, or designee, shall on the same day as the individual's arrival, offer them an abbreviated orientation to include certain critical areas such as showers, toilets, and sinks and how to request assistance from staff and ADA workers. The full orientation shall be provided as soon as possible, but no later than 24 hours after placement.

The ADAC or designee, at various times, shall interview DPV individuals about the orientation and identify any areas for improvement.

III. ADA Worker and Staff Assistance

Blind and low-vision individuals may require assistance from ADA workers and staff throughout the day, including serving as sighted guides, helping clean bed areas, carrying items including meal trays and drinks, and reading and writing. However, these individuals may have difficulty finding ADA workers or staff when they need help due to their disability.

The same day that a DPV individual is moved to the new housing unit, the ADAC or designee shall interview the DPV individual using the CDCR Form 128-O to determine if they may need assistance. If there is not sufficient time for a full interview, the ADAC or designee shall, on the same-day as the individual's arrival, conduct an abbreviated interview with the individual to determine their immediate needs. A full interview shall be conducted as soon as possible, and no later than 24 hours after the new housing placement. All portions of the CDCR Form 128-O are to be reviewed and completed when an orientation is conducted.

Designated staff will review the Armstrong binder, understand the accommodations needed for the DPV individual, and ensure that the identified accommodations are provided. The plan to provide these accommodations must be communicated to the DPV individual.

When institutions return to pre-pandemic functioning, an amended memorandum will issue regarding the orientation of blind and low-vision individuals that will contain additional information.

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If you have any questions, please contact Landon Bravo, Correctional Administrator, Class Action Management Unit, at (916) 322-6562 or landon.bravo@cdcr.ca.gov.



CONNIE GIPSON
Director
Division of Adult Institutions

Attachments

cc: Kimberly Seibel
Charles W. Callahan
Adam Fouch
Landon Bravo
Chantel Quint
Jillian Hernandez
Francesca Jacobo
Megan Assenza

EXHIBIT A

Primer: Situating Blind and Low-Vision Individuals to Living Environments

INTRODUCTION

Without help from sighted individuals, blind and low-vision individuals may struggle to familiarize themselves with new living environments upon their arrival. Depending on the nature and extent of their vision disability, they may be unable to identify ADA workers or staff for help and be unable to locate critical areas of their living environment, such as their bed, dayroom area, toilet, shower, doors, and chow hall. This document is a primer on how to situate a blind or low-vision individual to a new living environment. The primer lays out basic principles for how to conduct such an orientation, divided into several categories.

SAFETY

- Before you begin orienting an individual, survey the housing unit to make a note of any potentially hazardous places that a blind or low-vision person may not be aware of. Common hazards include elevation changes, jutting out walls, water fountains, phones, overhanging objects, pillars, staircases, chairs, and cracks in pavement or tiles. Consider removing clutter from known walkways if possible.
- While surveying the housing unit before the orientation session begins, keep an eye out for features of the living environment that you can point out to the individual whom you will be orienting.

DIFFERENT LEVELS OF NEED

People, including those designated "DPV," can have a wide range of vision disabilities. Some may not be able to see anything at all. Others may not be able to see only in low- or high-light situations. Others may not be able to see clearly things that are more than a few inches or feet away. Others may be able to read without assistance but may not have much peripheral vision, putting them at risk of bumping into staircases and other objects; they often describe their vision as like "looking through a straw." And others may have vision that changes day-to-day. Glasses can help some people see better, but not always well enough to safely navigate based on sight alone.

- Start your session by asking the individual questions about their functional vision and their ability to navigate an environment. Remember that among the individuals you orient, their needs will greatly vary. The key is to determine, at the beginning of your first session, what level of familiarity the individual has both with general navigation as a blind or low-vision person and with the layout of their new living environment.
- To get a better sense of the individual's needs, here are few questions you should ask:

- Can you see color? (If so, you may be able to point out features in the environment that stand out by color.) Do you have trouble distinguishing between objects that are the same color? (If so, it might help to paint protruding objects different and bright colors.)
- Do you have trouble seeing in low-light or high-light environments?
- Do you have limited peripheral vision?
- Can you see things better close up or far away?
- Are you pretty good with cardinal directions (north, south, east, and west), if someone informs you that you are facing in a particular direction and which direction you are walking? (This can be a helpful way of situating an individual to their environment, as discussed below.)
- Do you know how to use your white cane? Are you familiar with trailing or the protective techniques? (If yes to any of these questions, the individual may be more able to navigate their environment independently if they are first properly situated to it.)
- How long does it generally take you to become familiar with a route? Do you have trouble remembering how to get somewhere after one or two times of being guided there? (If so, the individual may require multiple orientation sessions after the initial session.)

Remember: Ask lots of questions! It is not rude to ask a blind or low-vision person what they can or cannot see, feel, hear, etc. This is all part of the orientation. The more you can learn about the person's perceptions, the better you will be at assisting them.

- In addition to orienting newly arrived individuals with DPV codes, be on the lookout for individuals who may require orientation but do not have this code. If you or others notice that an individual is bumping into people or things, missing drop-offs in elevation, probing with their foot to find the beginning of a staircase, getting disoriented or lost, looking down at the ground frequently, or trailing their hand along a wall to keep track of where they are as they are walking, this person may require orientation.

WHITE CANES

White canes are used by blind and low-vision individuals to determine the location of physical objects in their path of travel. For many individuals, a white cane can greatly enhance their independence and ability to navigate the prison.

If an individual does not have a white cane, housing staff should ask them if they need one, and if they do not know what a white cane is, staff should describe it to them. If the individual expresses a need for a white cane, or if an individual who has a white cane expresses a need for training on how to use it, housing staff should inform medical staff immediately. The structure of an orientation may vary based on whether an individual uses a white cane or not.

PROTECTIVE TECHNIQUES

When a blind or low-vision individual is adjusting to a new living environment, they may be unaware of certain objects obstructing their path of travel. When the individual whom you are orienting is not using a white cane (for example, it is common for blind and low-vision individuals not to use a white cane in their living quarters) and is moving in open space (for example, along a wall), encourage them to use the “upper hand” and “lower hand” protective techniques. The first involves placing one’s hand in front of one’s face, with the palm facing outward, preventing one’s head from bumping into overhanging hazards. The second involves the opposite hand outstretched in front of the individual’s midsection with the wrist flexed downward to protect their fingers. These two techniques, combined, offer full protection from the waist up.

START WITH THE BIG PICTURE, THEN GET INTO DETAILS

- Begin your orientation by having the individual use the “upper hand” protective technique, discussed above, and walk along the perimeter of the overall space, along each wall, pointing out to them any points of interest along the walls. It is important for the individual to get an overall picture of the space in their mind before exploring more detailed structures. Once the individual has a general overview of the spatial layout of the entire housing unit, orally guide the individual in the area immediately surrounding their bed. Have the individual identify where different fixed objects are relative to the bed, including lockers.
- Encourage the individual to practice “trailing” in the area immediately surrounding their bed. Trailing is a technique that blind and low-vision people can use to become familiar with their environment. It involves the individual “trailing” or running the back of one hand along a wall of a given space, while walking forward along the wall, to make mental notes of the space’s layout; with the individual’s other hand, they should use the “upper hand” protective technique.
- After the individual has a sense of the “big picture,” start to practice detailed routes from point A to point B around the housing unit. Start with small, easy routes, and gradually build up to longer, more complex routes. It is difficult to learn even one route after only one attempt, so you may need to practice the routes repeatedly.

SENSORY AND SPATIAL CLUES

- Sensory: As you guide the individual around their housing unit, encourage them to pay attention to their other senses, such as sound and touch, to identify where they are. For example, you may note that the amount of noise changes when you move from one room to the next, or that you can hear the space open up when you enter the intersection of two hallways or when you enter a large room from a hallway. Additionally, alert the individual to any tactile domes or other tactile indicators that your housing unit has

installed for the benefit of blind and low-vision individuals, and if you or the person you are assisting notice that any particular location where a tactile indicator would be helpful, raise this with the ADAC or designee so one can be installed promptly.

- Spatial: Keep the individual aware of the space around them by (1) pointing out cardinal directions (e.g., “Now you are walking north so the dayroom is on your left” or “You’re leaving the East Wing, heading west toward the chow hall.”) or clock-face directions (e.g. “The chow hall is at your 2 o’clock”), depending on which method the individual prefers, and (2) identifying landmarks in the living environment. When you identify landmarks, focus on unique things—ideally fixed in place—that will stand out. You can also point out non-permanent landmarks, known as “clues,” which can be moved but will often be located in a particular spot; for example, a rubber mat that is placed a particular doorway entrance. Avoid pointing out objects, like a chair, that are common throughout the unit or are indistinguishable from one another. You can also encourage spatial awareness by having the individual use the trailing technique, described above, while they count the number of doors that they pass with their hand before reaching a certain location, like their cell. Make sure to continue checking in with the individual about where they are in relation to landmarks around them as they move through the space. Feedback is key.

PRACTICE

- Even if an individual is familiar with the general layout of an institution or housing unit, they may be unfamiliar with how to navigate specific routes (e.g., the route from their bed to the shower, sink, or toilet). Practice important routes multiple times to ensure that the individual can travel from point A to point B without a guide, and ensure that they identify landmarks along each route.
- Remember that equal time should be taken to learn reverse routes (point B back to point A). Do not assume that once an individual becomes proficient in one direction that they will immediately be able to do the same in reverse
- **One orientation session may not be sufficient to situate an individual to their new living environment.** If necessary, schedule follow-up orientation sessions to practice and build on what you taught in your first session.

ADA WORKERS AND STAFF

Blind and low-vision people may require assistance from ADA workers and staff throughout the day, including serving as sighted guides, helping clean bed areas, carrying items including meal trays and drinks, and reading and writing. Often times, however, they may have difficulty due to their disability finding ADA workers or staff when they need help.

- Interview the individual regarding when they anticipate needing assistance, including for meals and laundry exchange, and communicate these responses to the ADA workers and housing officers in the housing unit and ensure a plan is in place to make sure those services are provided going forward and that the plan is communicated to the individual with a disability.

- Introduce the individual to ADA workers and housing officers in the housing unit and explain to the individual how they can request unscheduled assistance when necessary and find ADA workers and housing officers.

EXHIBIT B

The following online videos demonstrate some general approaches to situating a blind or low-vision individual to a new space. These approaches will need to be modified for each new environment. Beneath the first two videos, which deal with the basics of orientation, are a few takeaways from the videos to keep in mind.

Room Familiarization: Part 1

Link address: <https://www.youtube.com/watch?v=OiPXNpjGlgE>



Notes

- Instructor starts with a perimeter exploration of each wall. Instructor points out unique features along each wall that distinguish it from other walls (i.e., pointing out that a large whiteboard sits along one wall).
- Instructor has the student put their hand out to protect their face as they're exploring.
- Instructor gives the student plenty of freedom to explore on their own (with their cane, hands, etc.) and simply offers input as needed. Often this input is in the form of questions

to encourage the student to discover on their own (which aids learning and mental mapping).

- Instructor simply describes objects as the student encounters them and points out important features the student might've missed.
- When explaining the location of important points of interest, the instructor uses very simple language and describes the objects as well as their location in relation to the student's body (i.e., "it's on the right" or "it's above you").
- The student's main feedback for environmental information was tactile. This includes not only things the student could feel with their hands, but also things under foot (like the wire cover) and things contacted with the cane (the trash can).

Room Familiarization: Part 2

Link address: https://www.youtube.com/watch?v=8o_EhEaL31A

Notes



- Now that the student has an idea about the size and layout of the space, the Instructor and student now explore the center of the room.
- Student puts their back to the wall and explores the room in a systematic grid pattern. Exploration should be done in some kind of systematic way that ensures the student covers the entire room. Doing it in a systematic way helps with creating a mental map and maintaining orientation.
- Student uses an area free of clutter to explore features of the room with cane.

Sighted Guide Technique

Link address: <https://www.youtube.com/watch?v=AuGb4yge-ys>



How to do Protective Techniques

Link address: <https://www.youtube.com/watch?v=9Q9bUI5wr->



INMATE

CDCR #

HOUSING

The inmate has a Disability Placement Program (DPP) code of DPV (severe vision impairment).

The inmate was moved to (unit/bed) _____ on (date) _____.

The inmate declined / accepted a detailed orientation of their new housing unit assignment and various institutional areas to ensure it is safe and accessible.

Inmate signature: _____. Date signed: _____.

If accepted: the orientation was provided on _____ (date).

If declined: Reason why _____ The inmate requested additional orientation sessions. (If yes, describe plan for additional sessions in Orientation Comments field below.)

The inmate received orientation, in accordance with the guidelines set forth in **Exhibit A** (primer on how to orient a blind or low-vision individual), to the following areas:

Area (N/A if Not Applicable)	Staff Initials	Area (N/A if Not Applicable)	Staff Initials
<input type="checkbox"/> HU restrooms	_____	<input type="checkbox"/> R&R (property/packages)	_____
<input type="checkbox"/> HU showers	_____	<input type="checkbox"/> yard	_____
<input type="checkbox"/> HU dayroom	_____	<input type="checkbox"/> equipment	_____
<input type="checkbox"/> HU entrance/exit	_____	<input type="checkbox"/> benches	_____
<input type="checkbox"/> HU emergency exits	_____	<input type="checkbox"/> tables	_____
<input type="checkbox"/> officer podium/station	_____	<input type="checkbox"/> restroom(s)	_____
<input type="checkbox"/> CDCR forms in HU	_____	<input type="checkbox"/> drinking faucet(s)	_____
<input type="checkbox"/> inmate phones	_____	<input type="checkbox"/> visiting	_____
<input type="checkbox"/> library	_____	<input type="checkbox"/> medication distribution area	_____
<input type="checkbox"/> canteen	_____	<input type="checkbox"/> medical building(s)	_____
<input type="checkbox"/> dining hall(s)	_____	COLLECTION BOXES	
<input type="checkbox"/> education area(s)	_____	<input type="checkbox"/> CDCR Form 7362	_____
<input type="checkbox"/> gymnasium	_____	<input type="checkbox"/> CDCR Form 602/1824	_____

Date:	INFORMATIONAL – DPP ACCOMMODATIONS CHRONO	Institution:
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ORIENTATION COMMENTS:

- Interview**
- The inmate was interviewed regarding when they anticipate needing assistance (e.g., meals and laundry exchange). A plan was put in place to ensure staff and/or ADA worker assistance for such scheduled activities going forward. Describe in Interview Comments field below.
- The inmate received instruction on how to request unscheduled assistance when necessary from ADA workers and staff including how to locate or get their attention throughout the day. Describe in Interview Comments field below.
- The inmate was introduced to ADA workers and staff in the housing unit.

INTERVIEW COMMENTS:

- Chrono completed by: (Staff Name and Date) _____
- A copy of this chrono was forwarded to the Americans with Disabilities Act Coordinator (ADAC). (Initials and Date) _____
- Copy was received by the ADAC. (Initials and Date) _____ (ADAC/designee)
- Copy forwarded to Records for scanning into ERMS. Copy uploaded to CAMU Mailbox.

Instructions:

This chrono shall be used to provide and document orientation each time an inmate with a DPV code is housed within a new housing unit, facility, staging area, or institution.

Inmates with disabilities are entitled to reasonable accommodations. Please inform the inmate that the purpose of this orientation is to ensure their new housing assignment is safe and accessible. Requests for disability accommodations will not result in rules violations or adverse transfers within the institution or to another institution. **Please assure inmates requesting disability accommodations that they will not receive a Rule Violation Report, be moved to administrative segregation, or be subject to an adverse transfer within the institution or to another institution for requesting disability accommodations.**

It is imperative that blind or low-vision individuals be given a detailed orientation of their new housing assignment, in accordance with the guidelines set forth in **Exhibit A**, to ensure they are familiar with areas within their housing assignment and outside of the housing unit. The designated staff member shall document that the inmate has been oriented to designated areas, including the path of travel to each of the designated areas.

The designated staff member will complete the form on page 1 documenting that orientation has been provided (or, if applicable, declined). Not Applicable (N/A) is an appropriate entry only if an inmate is provided meals, medication, or other necessities in-cell and does not require orientation to a specific path of travel. Additional space for comments is provided at the top of page 2. The designated staff member will complete the form on page 2 documenting that the interview has been conducted.

Upon completion of this chrono, please forward to the institution's Americans with Disabilities Act Coordinator (ADAC). Upon receiving the chrono, the ADAC will provide a copy to Records to be scanned into ERMS and a copy shall be uploaded to the CAMU mailbox.

EXHIBIT D

Memorandum

Date: August 14, 2020

To: Associate Directors, Division of Adult Institutions
Wardens
Americans with Disabilities Act Coordinators

Subject: **AMERICANS WITH DISABILITIES ACT WORKER PROGRAM FOR DURATION OF COVID-19 PANDEMIC**

The California Department of Corrections and Rehabilitation (CDCR) has an obligation to provide access to its programs, services, and activities for all inmates and parolees with disabilities, as required by Federal Law, the Americans with Disabilities Act (ADA), and the Armstrong and Clark Remedial Plans.

Oversight

All CDCR institutions are required to have an ADA Inmate Assistance Program. The purpose of this program is to provide inmates with disabilities the assistance they require to access CDCR's programs, services, and activities. The institutional ADA Coordinator shall provide oversight to ensure inmates with disabilities are receiving all required assistance, and all requirements below are being addressed and met. The ADA Coordinator or designee, shall continuously monitor the institutional ADA Worker program to ensure appropriate assistance is being provided and a sufficient amount of Personal Protective Equipment (PPE) is available for workers, or volunteers, to safely conduct their required duties. The ADA Coordinator shall regularly evaluate the needs of ADA inmates to determine the appropriate number of ADA Workers and to ensure inmates requiring assistance are able to access programs, services, and activities. For example, the ADA Coordinator shall consider how many people in the housing unit need help reading and writing, navigating during yard time or to appointments, cleaning their bed area, and carrying meal trays. The ADA Coordinator shall also consider when a large number of people in a housing unit would require assistance, such as during meal times, and ensure that there is sufficient staffing during those peak times to meet the needs of the ADA inmate population. The ADA Coordinator should consider the needs of all inmates who require disability-related assistance, including inmates in the Developmental Disability Program (DDP).

The expectation is that the ADA Coordinator is immediately notified by the area supervisor or manager if there are an insufficient number of ADA Workers available. In this instance, the ADA Coordinator shall create additional ADA Worker positions as well as seek volunteers. Additionally, during supervisor/manager mandated tours of housing units, individuals requiring assistance will be queried to ensure appropriate assistance is being provided. Supervisors or managers shall immediately report any concerns regarding the ADA Inmate Assistance Program to the ADA Coordinator. The ADA Coordinator shall regularly meet with individuals requiring assistance to ensure appropriate assistance is being provided to them.

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Implementation

Institutions are required to develop and implement a plan to ensure the ADA Worker Program can safely function during the COVID-19 pandemic. Therefore, for the duration of the COVID-19 pandemic, ADA Workers are authorized to assist inmates housed within their building or unit around the institution, but shall not assist other inmates housed outside of their own building or unit. ADA Workers assigned to program areas other than their building or unit may only assist inmates from their building or unit in these assigned program areas. Each building or unit that houses inmates with disabilities shall have a minimum of one ADA Worker assigned. The exceptions to this requirement are restricted housing units such as Administrative Segregation Unit (ASU), Mental Health Crisis Beds (MHCB), Psychiatric Inpatient Program (PIP) and Administrative Security Housing Unit (SHU). Restricted housing units (ASU, MHCB, PIP, SHU) provide a higher staff to inmate ratio ensuring staff assistance will be readily available to those who need it.

Isolation/Quarantine

In an effort to minimize the spread of COVID-19, for housing units and areas designated for isolation/quarantine, services will be provided by staff within the housing unit. Each isolation/quarantine housing unit will be evaluated daily by the unit supervisor to ensure adequate staffing is available to provide necessary assistance to inmates with disabilities.

Screening

If an ADA Worker is not available to assist a DPP inmate, volunteers may be utilized. Inmates will be preliminarily screened using the criteria within the memorandum titled *Revised Americans with Disabilities Act Inmate Assistance Program*, dated, June 25, 2020 and temporarily placed in a recognized inmate assignment as an ADA Worker pending committee action. Inmates shall also be screened to determine if the inmate has symptoms of influenza-like illness (ILI) in accordance with the memorandum titled *Screening of Critical Inmate Workers*, dated April 10, 2020. Under no circumstances shall an ADA Worker or volunteer who is not positive for COVID-19, or showing symptoms of ILI, assist an inmate who has a positive and unresolved case of COVID-19; nor shall an ADA Worker or volunteer who is currently positive for COVID-19, or showing symptoms of ILI, assist any inmate who has not tested positive for COVID-19 or symptoms of ILI. Due to these restrictions, inmates exhibiting symptoms of ILI, or who have had a positive test for COVID-19, shall be provided assistance by staff to ensure their access to programs, services, and activities.

Training

Please ensure all ADA Workers and volunteers are provided training consistent with the California Prison Industry Authority (PIA) Healthcare Facilities Maintenance (HFM), *Porter COVID-19 Training* curriculum. Additionally, newly assigned ADA Workers will receive the

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required mandated ADA Worker Program Training consistent with the memorandum titled, *Revised Americans With Disabilities Act Inmate Assistance Program*, dated June 25, 2020. Volunteers will receive an overview of the required training by a supervisor. This required training instructs volunteer ADA workers on how to appropriately assist inmates to or from programs, services, and activities, including the sighted guide technique, the proper way to help someone in a wheelchair navigate the prison environment, and what type of assistance they are, and are not, allowed to provide. Additionally, volunteer ADA Workers will be trained on how to assist with conveying staff announcements, including ducat lists and other activity lists made via the public address system. Assigned ADA Workers will be able to provide all other forms of assistance consistent with the above referenced memorandum.

PPE

All ADA Workers and volunteers who provide assistance to inmates with disabilities are required to wear face coverings (surgical masks) that completely cover the nose and mouth, and to wear non-sterile disposable gloves at all times while assisting inmates with disabilities. Staff members providing assistance to inmates with disabilities are required to follow CDCR guidelines outlined in the memorandum titled, *COVID-19 Personal Protective Equipment Guidance and Information*, dated April 6, 2020. Gloves must be disposed of immediately after each inmate interaction, and new gloves must be worn prior to each new inmate interaction. ADA workers are required to wash and sanitize their hands before and after coming into contact with each inmate who they are assisting. ADA Workers are also required to thoroughly clean the area of any appliance (wheelchair, walker, etc.) they touch while assisting ADA inmates before and after each contact. Areas shall be designated for ADA Workers to access cleaning supplies and hand sanitizer as needed to complete their assigned duties. Additionally, to maintain compliance with social distancing guidelines, areas will be designated to allow ADA Workers to conduct tasks, such as completing forms and reading documents, while maintaining a distance of six feet whenever possible. When an ADA worker must come into close contact with a disabled inmate to provide assistance, such as when an ADA worker serves as a sighted guide, the disabled inmate shall also be provided with gloves and a surgical mask.

Reporting Requirement

Please provide proof of practice on a weekly basis, no later than close of business, Fridays electronically to the following staff:

- Adam.Fouch@cdcr.ca.gov
- Landon.Bravo@cdcr.ca.gov
- Amanda.Jaravata@cdcr.ca.gov
- Sam.Malhi@cdcr.ca.gov

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The health and safety of all individuals within the institution is our top priority. Please work together at the institution to standardize the process provided above.

If you have any questions, please contact Landon Bravo, Correctional Administrator, Class Action Management Unit, at (916) 322-6522, or Landon.Bravo@cdcr.ca.gov.



CONNIE GIPSON
Director
Division of Adult Institutions

Attachments

cc: Kimberly Seibel
Charles Callahan
Adam Fouch
Landon Bravo
Chance Andes
Amanda Jaravata
Sam Malhi

EXHIBIT E



Facility A-1 Inmate

EXHIBIT F

Facility A, Building 3-'A' Section Dayroom with 3 Lower Tier Pods

Each POD currently houses 7-8 man 'Cohorts' Due to Covid. Beds 1,2,6 & 7 in each POD are DPW for a total of
(36)

As of 8-27-20, A3 has zero DPW inmates

