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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

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

Judge: Hon. Jon S. Tigar
Date: March 30, 2022
Time: 9:30 a.m.
Crtrm.: 6, 2nd Floor

The parties submit the following joint statement in advance of the March 30, 2022 Case Management Conference.[1]

I. UPDATES REGARDING CDCR AND CCHCS'S COVID-19 RESPONSE

Plaintiffs' Position: As of March 22, there were approximately 200 patients with active COVID-19 infections in CDCR custody, according to CDCR/CCHCS's online tracker. This number has thankfully declined significantly in recent weeks, as the wave of cases related to the Omicron variant has subsided.

This most recent outbreak demonstrated, again, that existing CDCR and CCHCS policies will not prevent significant outbreaks of the coronavirus in California state prisons. Cases in CDCR reached nearly the same levels in January 2022 (with more than 9,600 new cases in the prior 14 days reported on 1/27/22) as they did during the massive wave in December 2020/January 2021 (10,644 new cases in the prior 14 days reported on 12/22/20).[2] Again, during this most recent wave, CDCR reported case rates (6.8 new cases in the previous seven days per 1000 people) that were more than double the rates reported in California (3.1 per 1000).[3] To date, three people incarcerated in CDCR have died during this wave. On March 25, CCHCS reported three people were in the hospital due to COVID-19; two were in the ICU, one of whom was intubated.

During this wave, the number of patients on quarantine/isolation in CDCR—tens of thousands at certain points—again far exceeded the spaces prisons had set aside for those

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[1] Plaintiffs advised Defendants of their intent to use Plaintiffs' Exhibits B through J on March 28, 2022, the filing deadline. Defendants did not have sufficient time to evaluate these documents in the context of Plaintiffs' position in this statement or respond to Plaintiffs' references to these documents before filing this statement.

[2] *See* Cal. Dep't of Corr. & Rehab., *CDCR Patients: COVID-19 Trends*, https://www.cdcr.ca.gov/covid19/population-status-tracking/ (last accessed March 22, 2022). CCHCS staff has told us there have been approximately 25,000 patients identified as having COVID since the start of the calendar year.

[3] *See id*.

purposes.[4] As described in greater detail below, these quarantines and isolations resulted in significant disruptions to patients' lives and prison operations, further exacerbating delays and backlogs of medical care services and remedial actions.

CDCR's prisons remain vulnerable to future massive outbreaks of COVID-19, especially if variants as or more transmissible than Omicron emerge. CDCR and CCHCS should use the current reprieve from crisis management to continue to evaluate their existing policies and consider whether additional or alternative measures—including the mandatory vaccination of staff and reduction of the incarcerated population—are or will be necessary to prevent further illness and death.

Defendants' Position: The incarcerated population's statewide COVID-19 case count is 96 as of March 28, 2022.[5] And as of March 25, three incarcerated people are hospitalized for COVID-19.

Defendants have previously reported on their COVID-19 mitigation efforts, which were implemented to reduce the risk of exposure and serious health consequences. Plaintiffs, however, continue to understate the effectiveness of existing mitigation measures without citing data to support their position (*see, e.g.*, ECF No. 3779 at 3).

Plaintiffs' report that CDCR's case rates during the January 2022 Omicron surge "were more than double the rates reported in California" is based on cherry-picked data that provides a misleading picture. In fact, during the Delta and Omicron surges, CDCR inmate case numbers increased by a much smaller percentage than case numbers statewide. For example, looking at the last ten months (since June 1, 2021), spanning the period of

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[4] For example, the California Institution for Men (CIM) has set aside approximately 300 beds for quarantine and isolation purposes, according to information produced by Defendants on March 7, 2022. But on January 14, CIM in an Outbreak Management Tool (OMT) reported more than 480 patients on COVID-19 isolation and nearly 1400 on quarantine. Similarly, the Central California Women's Facility has set aside approximately 280 beds, but in its February 1 OMT reported more than 300 active COVID-19 cases and more than 1100 patients on quarantine.

[5] Cal. Dep't Corr. & Rehabilitation, *Population COVID-19 Tracking*, https://www.cdcr.ca.gov/covid19/population-status-tracking/ (last visited Mar. 28, 2022).

both the Delta and Omicron surges, CDCR inmate case numbers increased by 47 percent, while total case numbers in California increased by 136 percent.[6] Plaintiffs also fail to qualify their comparison of CDCR's case counts to California's case counts with the fact that CDCR's incarcerated population is tested regularly and frequently, whereas the state's non-incarcerated population is not. Moreover, with the recent rise in the use of "self-tests" or "at-home" tests, many COVID-19 tests taken in the community are not automatically reported to agencies collecting case rate data.[7] In any case, as previously reported (*see* ECF Nos. 3771 at 7-8 & 3779 at 5-6), the most relevant metric—according to experts such as Dr. Fauci, Chief Medical Advisor to the President of the United States and Director of the National Institute of Allergy and Infectious Diseases—is the hospitalization rate. And by this measure as well, there can be no doubt CDCR performed well. Significantly, CDCR's hospitalization rates remained consistently low during the surge. (*See* ECF Nos. 3771 at 6, n.9 (reporting 3 hospitalizations as of mid-January 2022) & 3779 at 5 (reporting 4 hospitalizations as of February 14, 2022).) Plaintiffs' continued focus on case counts is therefore inconsistent with public health science.

II. COVID-19 VACCINE

A. Patients

Plaintiffs' Position: According to CCHCS, as of March 20, 82% of the approximately 96,000 people incarcerated in CDCR were completely vaccinated against COVID, and 60% of the population had also received a booster.[8]

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[6] Cal. Dep't Corr. & Rehabilitation, *Population COVID-19 Tracking, Patients: COVID-19 Trends (Table View)*, https://www.cdcr.ca.gov/covid19/population-status-tracking/ (last visited Mar. 28, 2022).

[7] Public Broadcasting Service, *Growing use of home COVID-19 tests leaves health agencies in the dark about unreported cases* (Dec. 9, 2021), https://www.pbs.org/newshour/health/growing-use-of-home-covid-19-tests-leaves-health-agencies-in-the-dark-about-unreported-cases ("It's a story that's becoming commonplace in the era of rapid home COVID testing: People who test positive are almost never counted by public health agencies charged with bringing the pandemic to heel.").

[8] This data is stated in or derived from the CCHCS COVID-19 Patient Vaccine Registry.

CCHCS in mid-March reported that it had analyzed survey responses from more than 2,000 people who so far had declined the COVID vaccine. Approximately one-third of those surveyed stated they had additional questions about the vaccine. Substantial percentages of people, ranging from approximately 40% to more than 85% depending on the option, said they definitely or possibly would get vaccinated if incentives such as sentence credits, cash, canteen or tablet credits, or special meals were offered. CCHCS stated the survey results had been shared with the Receiver and the Undersecretary of Health Care Services for CDCR. CCHCS further reported it was continuing to educate patients and address concerns about vaccination, but that there were no plans to offer additional incentives. In contrast, CDCR has offered additional paid sick leave and cash prizes to *staff* who get vaccinated.[9] We asked to meet-and-confer about these matters, including why there are no plans to offer incentives to the patient population, and whether the continuing education efforts will specifically target the patients who said they had additional questions about the vaccine. The Receiver declined our request, but stated he is considering vaccine fairs and other education efforts. We hope the latter will promptly focus on approaches that may succeed with the approximately 175 patients age 65 and older who are both unvaccinated and COVID naïve.

Defendants' Position: Defendants agree with Plaintiffs' summary of patient vaccination data above. CDCR is evaluating the survey results and working with CCHCS to educate the population, but does not currently anticipate offering additional incentives to encourage incarcerated population to accept the vaccine. As the Receiver explained, efforts to educate patients "have been aggressive" and include "encouraging them to accept vaccination, resulting in the 82% statewide vaccination rate noted in the survey." And "[t]hough we are respectful of patients who are firm in their decisions not to vaccinate, health care staff have consistently reminded patients of the benefits of vaccination and will continue to use their professional judgment in providing that education." The Receiver

[9] *See* ECF No. 3662 ¶ 13.

further opined that "education is the most successful approach to encourage patients to take ownership of their health care[,]" and advised that he is "still considering the efficacy of vaccine fairs and other ways to provide education to our patients population, so that they may make well-informed health care decisions." *See* Defendants' Exhibit A, attached. Accordingly, Defendants agree with the Receiver that a further meet and confer on this topic is not necessary at this time.

B. Staff

Plaintiffs' Position: On March 15, the Ninth Circuit Court of Appeals heard argument on Defendants' and Intervenor's appeal of this Court's September and October 2021 orders requiring that all staff who enter CDCR prisons be fully vaccinated against COVID or have an established exemption.

Staff remain the primary vector for introducing the virus that causes COVID into the prisons. Vaccination, including during the recent Omicron wave, remains the key means to substantially reduce infections among staff and thus the number and extent of infections and outbreaks among incarcerated persons. The Centers for Disease Control and Prevention (CDC) reports that in January 2022, unvaccinated people had approximately two and one-half times the risk of testing positive for COVID compared to fully vaccinated people, and nearly three times the risk in February 2022.[10] The CDC further reports unvaccinated people had more than three times the risk of testing positive for COVID in January and February compared to those who were fully vaccinated and had also received a booster.[11]

Unfortunately, vaccination rates among CDCR prison staff, including correctional officers, remain low, and especially so at certain prisons. As of March 10, only 71% of approximately 53,200 prison staff statewide were completely vaccinated, and the rate was

[10] Centers for Disease Control & Prevention, *COVID Data Tracker, Rates of COVID-19 Cases and Deaths by Vaccination Status*, https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status (last accessed March 22, 2022).

[11] *Id.*

less than 50% at California Correctional Center, High Desert State Prison, and Pelican Bay State Prison.[12] Even worse, the statewide complete vaccination rate among correctional officers – the staff who have the most contact with class members – was only 63%, and only approximately 40% at the three prisons mentioned above and at California City Correctional Facility.[13]

The California Department of Public Health (CDPH) vaccination mandate has greatly increased vaccination rates among the subset of prison staff to whom it applies. As of March 9, CCHCS said 86.5% of the approximately 20,200 CDCR prison staff covered by the mandate were fully vaccinated.[14] At California Health Care Facility (CHCF) and California Medical Facility (CMF), the two prisons at which the mandate applies to essentially all staff, full vaccination rates were 85% and 90%, respectively.[15]

Nevertheless, concerning numbers of prison staff covered by the CDPH mandate are not vaccinated. These include approximately 1,300 granted a religious accommodation, approximately 125 granted a medical or both a medical and religious exemption, and nearly 200 who have an exemption request pending.[16] We disagree with the State's assertion that such requests essentially must be granted, a position they take by eliding the word "may" – which clearly indicates discretion to deny – from their quotation of the CDPH order.[17] But even assuming all *requests for accommodation* were rightly

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[12] *See* CCHCS Memorandum (March 16, 2022) (attached hereto as Plaintiffs' Exhibit A), attach. E. The term "completely vaccinated" as used by CCHCS means, as we understand it, that a person has received two doses needed of the Pfizer or Moderna vaccine, or one dose of the J&J vaccine.

[13] *Id.*, attach. F.

[14] *Id.*, attach. A. CCHCS, as we understand it, uses the terms "fully vaccinated" and "completely vaccinated" interchangeably.

[15] *Id.*

[16] *Id.*

[17] *Compare* ECF No. 3779 at 15:5:15 *with* Cal. Dep't Pub. Health, *State and Local Correctional Facilities and Detention Centers Health Care Worker Vaccination Requirement* (Jan. 25, 2022), https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-

granted, we are concerned whether prison officials properly considered whether *the accommodation granted* was appropriate—that is, whether it is appropriate to permit unvaccinated staff to work in positions where they have regular close contact with people at high risk of severe outcomes if infected, as opposed to assigning them to a position with less frequent or no such patient contact. On March 22, we asked the Receiver to look into this concern.[18] On March 24, the Receiver declined our request, explaining among other things that he had no purview over assignments of CDCR staff, had chosen to delegate review of accommodation requests even of healthcare staff to CDCR, and that it would be difficult if not impossible to implement our request among healthcare staff without significant adverse impact to the delivery of healthcare.

In addition to those with accommodations, there were as of March 10 as many as 1,075 staff (custody and healthcare) statewide subject to the CDPH mandate who were not vaccinated and had not received an accommodation, including 370 at CHCF and 126 at CMF.[19] This data states these totals may include those on long-term leave, those newly hired, retired staff, and those who did not submit proof of vaccination.[20] Still, this newly-reported number of staff subject to the CDPH mandate who are possibly unvaccinated and not exempted is much larger than previously understood; the data provided in January indicated there were approximately 670 CDCR and CCHCS staff in this category.[21] On March 22, we asked Defendants and the Receiver about this, including how many of the 1000+ staff are actually entering the prisons and how many of those have been issued progressive discipline for failing to comply with the CDPH order. We appreciate that

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Vaccination-Order.aspx.

[18] We first raised this concern to the Receiver in late January; unfortunately, Defendants responded to it instead, simply repeating the position they set forth in last month's Joint Case Management Conference Statement that CDCR and CCHCS acted properly because CDPH's order does not contemplate denying accommodation requests. *See* ECF No. 3779 at 15:5:15.

[19] *See* Pltfs.' Ex. A, attach. A (third column from the right).

[20] *Id.*

[21] *See* ECF. No. 3379-2 at 13 & 44 (reporting number of staff covered by CDPH mandate requiring an explanation as to why neither vaccinated nor exempted).

Defendants below state that an additional report on these staff will be prepared.

On March 4, we asked whether CDCR and CCHCS will require staff newly assigned to a position requiring vaccination pursuant to the CDPH mandate to, before starting work, show proof of full vaccination or have an accommodation granted. The March 24 reply first states that CCHCS requires staff to show proof of full vaccination or submit an exemption request on or before the date they start the new assignment, with those requesting accommodation tested twice-weekly.[22] In contrast, CDCR only requires staff to show proof of receiving the first dose of vaccine or submit an accommodation request on or before the date they start the new assignment, with only those who request an accommodation tested twice-weekly.[23] The reply does not explain, and we do not understand, why CCHCS requires full vaccination and CDCR does not, or why CDCR does not require those who are not fully vaccinated to test twice-weekly.

Finally, as of March 10, only 36% of prison staff statewide were both fully vaccinated and boosted against COVID.[24] The rate for correctional officers statewide was only 22%, with the rates for such staff at ten prisons 15% or less, including six prisons at which the rate was 10% or less.[25] Even among staff CDPH-mandated to be fully vaccinated, only approximately 58% are boosted.[26] This data is deeply concerning, given the demonstrated increased effectiveness against infection resulting from receiving a booster dose in addition to being fully vaccinated.[27] All staff in prison should be boosted

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[22] *See* CCHCS Memorandum (March 24, 2022) (attached hereto as Plaintiffs' Exhibit B).

[23] *Id.*

[24] Pltfs.' Ex. A, attach. E.

[25] *Id.* at attach. F.

[26] *Id.* at attach. A.

[27] *See* Centers for Disease Control & Prevention, *COVID Data Tracker, Rates of COVID-19 Cases and Deaths by Vaccination Status*, https://covid.cdc.gov/covid-data-tracker/#rates-by-vaccine-status (last accessed March 22, 2022) ("People who were vaccinated with a primary series and an additional or booster dose had lower case rates overall compared with those without an additional or booster dose."). The CDC recommends that "everyone ages 12 years and older get a booster shot after completing

as well as fully vaccinated against the virus that causes COVID.

Defendants' Position:[28] Seventy-two percent of CDCR's staff are fully vaccinated against COVID-19, and an additional one percent are partially vaccinated.

1. Religious Accommodations.

As explained in the February 2022 case management conference statement, CDCR has a robust religious accommodation review process that predates the COVID-19 pandemic, and includes at least one review of each initial decision made regarding a religious accommodation request. (*See* ECF No. 3779 at 16.) Contrary to Plaintiffs' suggestion above, based on a peculiar interpretation of Defendants' wording in the previous case management conference statement, it is not CDCR's practice to grant every religious accommodation. In fact, Plaintiffs' own exhibit contradicts their position as it shows that religious accommodation requests have been denied. *See* Plaintiffs' Exhibit A, Attachment A.

Plaintiffs suggest it is not "appropriate to permit unvaccinated staff" who have been granted a religious accommodation consistent with the state's chief public health officer's mandate "to work in positions where they have regular close contact with people at high risk of severe outcomes if infected," and that those workers should be assigned "to a position with less frequent or no such patient contact." However, each worker subject to the August 19, 2021 and December 22, 2021 CDPH mandates can comply with those mandates by: (1) accepting the vaccine, (2) being excused from vaccination based on religious beliefs, *or* (3) being excused from vaccination due to a qualifying medical reason.

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their primary vaccination series." *See* Centers for Disease Control & Prevention, *Frequently Asked Questions about COVID-19 Vaccination*, https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html (updated Feb. 28, 2022).

[28] Plaintiffs continue to re-litigate the question of whether every worker entering CDCR's institutions must be vaccinated. This question is still pending before the Ninth Circuit. Defendants addressed their position on this topic in briefing filed with the Ninth Circuit, previous case management conferences filed with this Court, and briefing in response to this Court's order to show cause.

The CDPH mandates do not require position changes for compliant workers.[29] And all workers entering CDCR's institutions are subject to masking requirements, regardless of vaccination status. CDCR's policy exceeds the requirements of the CDPH order, which requires only exempted or booster-eligible workers who have not yet received their boosters to wear masks. Additionally, unvaccinated workers are subject to regular COVID-19 testing designed to detect COVID-19 and take precautions as early as possible. CDCR is appropriately implementing the directives set forth in the state's COVID-19 public health mandates applicable to its institutions.

2. Staff Vaccination and Booster Data.

Plaintiffs' reading of staff vaccination and booster data on page nine above is misleading. Attachment A of Plaintiffs' Exhibit A shows that approximately 85 percent of custody staff are compliant with the CDPH vaccination and booster mandates. CDCR and CCHCS will calculate CDPH order compliance rates with greater accuracy in a detailed report, similar to the ones attached to the January 2022 case management conference statement and Plaintiffs' errata to the February 2022 statement, discussed in further detail below.

Plaintiffs' presentation of staff booster data is also misleading because they fail to clarify that the vaccination and booster rates they quote on page nine apply to staff statewide, including those *not* subject to the CDPH vaccination and booster orders. Indeed, Attachment A of Plaintiffs' Exhibit A shows that approximately 6,511 custody staff are subject to the CDPH vaccination and booster mandates, while Attachment E calculates vaccination percentages for 26,248 custody staff, and Attachment F calculates vaccination percentages for 21,368 correctional officers.

Additionally, Plaintiffs fail to clarify that the percentages they cite include staff who

[29] Cal. Dep't Pub. Health, *State and Local Correctional Facilities and Detention Centers Health Care Worker Vacciation Requirement* (Feb. 22, 2022), https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-Vaccination-Order.aspx.

are not yet eligible for the booster. The CDPH order is clear that, depending on the type of COVID-19 vaccine administered, a person must wait either two or six months after receiving a final vaccine dose before they are eligible to receive a booster dose. Plaintiffs also fail to note that prison staff who receive booster doses outside CDCR, but are not subject to the CDPH order, may choose not to report their booster status to CDCR. Plaintiffs similarly fail to note that prison staff who were recently infected with COVID-19 may have been advised to wait to take a booster dose of the vaccine.

Separately, regarding newly-hired employees, Plaintiffs state "we do not understand, why CCHCS requires full vaccination and CDCR does not, or why CDCR does not require those who are not fully vaccinated to test twice-weekly." Public health orders have directed healthcare workers, including those who do not work in correctional settings, to be fully vaccinated and boosted.[30] Correctional officers who did not previously work in a correctional setting are not subject to similar orders. Moreover, it can take at least three to six months to be fully vaccinated and boosted, depending on the type of vaccine and assuming no COVID-19 infection or other contraindication during that period. Plaintiffs suggest that CDCR should wait at least three to six months before onboarding new staff without acknowledging staffing considerations, which factor in staffing levels required to meet the incarcerated populations' needs. Additionally, as discussed below and in previous statements, all staff who are not fully vaccinated or boosted are subject to regular testing requirements, and all staff—regardless of vaccination status—must wear face coverings. Finally, Plaintiffs acknowledged in a March 18 meet and confer that the staff testing policy process is undergoing changes.

[30] *See, e.g.*, Cal. Dep't Pub. Health, *Health Care Worker Vaccine Requirement*, https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx (last modified Feb. 22, 2022) (requiring healthcare workers to receive a final dose of a COVID-19 vaccine by September 30, 2021).

3. CDCR's Oversight of Staff Subject to CDPH Order.

As described in the February 14 case management conference statement and in the COVID-19 testing section below, CDCR's efforts to track and verify custody staff[31] compliance with California Department of Public Health vaccination and testing requirements continues. To demonstrate their efforts to enforce and track compliance with the August 19, 2021 CDPH vaccine-mandate order, Defendants attached a comprehensive tabulation of custody staff's compliance with the CDPH order to the case management conference statement filed on January 19, 2022. (*See* ECF No. 3771-6.) This tabulation included an explanation for every custody staff member at every institution subject to the CDPH order, but who had not yet been vaccinated or granted an accommodation. (*Id.*) The data showed 98 percent of custody staff statewide were compliant with the CDPH mandate as of November 28, 2021. (*Id.*) CCHCS included a similar tabulation of custody staff's compliance with the CDPH order in a document sent to Plaintiffs on February 14, 2022, which shows 99 percent of custody staff were compliant with the CDPH order as of January 9, 2022. (*See* ECF No. 3783-1 at 18.)

It was a significant undertaking to compile this data for each prison, including detailed explanations for every noncompliant staff member, and to create the report attached to the last case management conference statement. The effort required the reallocation of already stretched resources. Accordingly, CDCR determined that its limited resources were best allocated elsewhere, and that it would not prepare the same type of report on a monthly basis. CDCR has, however, assigned staff at each institution to monitor compliance with the CDPH vaccine mandate to ensure that the mandate is enforced, as explained in the staff testing section below. (*See also* ECF No. 3779 at 13:23-14:4.)

In the February 14 statement, however, Plaintiffs stated the following:

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[31] Compliance tracking is a joint effort between CDCR and CCHCS. CCHCS separately tracks healthcare workers' compliance with the CDPH mandate and testing requirements.

> CDCR said it does not have the resources to gather the data that CCHCS provided regarding the number of staff issued LOIs and what became of them. This is not acceptable, because this review should be done in order to ensure adequate enforcement of the CDPH mandate. As a result, there is a major gap in information and an inability to assess whether CDCR is actually enforcing the CDPH mandate among its staff.

(ECF No. 3779 at 13:9-13.) Plaintiffs based this assertion on a document that CCHCS provided to them on February 14. Plaintiffs added this assertion to the statement at 2:43 p.m., about an hour before the filing deadline, and Defendants were unable to substantively respond to the assertion before the statement was filed.

Plaintiffs seem to have misunderstood the CCHCS response to mean that CDCR does not have resources to monitor compliance with the CDPH order. In fact, that monitoring is ongoing at each of the prisons, as Defendants explained in the last case management conference statement. (ECF No. 3779 at 13-14.) The CCHCS response intended to convey that CDCR would not continue to produce *the exact type of report* created in January. However, as mentioned above, CCHCS and CDCR have decided to prepare one more report of this type to measure compliance with the December 22, 2021 CDPH order requiring staff subject to the August 19, 2021 order to receive a booster dose of a COVID-19 vaccine, and follow-up or disciplinary action taken for noncompliance.

III. COVID-19 TESTING

A. Patients

Plaintiffs' Position: During the last Case Management Conference, we reported that, at Folsom State Prison, patients were reluctant to test because of (among other issues) a concern that they would not return to their same cell after moving for isolation purposes. We met and conferred with CDCR and CCHCS about this on March 3. Current CDCR/CCHCS policy says "every effort should be made to return the inmate back to the original unit, if the original cell is not available." *See* Defs.' Ex. B. Thus, under current policy, people may be required to move to another housing unit for isolation or for quarantine if exposed, for example, to a staff person who tests positive for COVID-19. They are told CDCR will make "every effort" to return them to their job and housing

assignment, but that CDCR cannot guarantee this will be done. If they refuse to move, they are subject to progressive discipline—which can result in a loss of time credits and seriously impact a person's chances to receive parole—and may be removed from their cell by force. *See* Pltfs.' Exs. C & D.

During the meet and confer, we asked whether CDCR could strengthen the policy regarding patients' housing/job assignments, by guaranteeing patients would be moved back to their original cell after COVID-related quarantines or isolations. CDCR said it could not do so, because prison officials must have the flexibility to move people around (even those not on quarantine or isolation) in order to manage outbreaks, particularly when the number of patients on COVID-19 isolation and/or quarantine at a prison exceeds that prison's designated set-aside space.

Defendants' Position: CDCR makes every effort to return incarcerated persons to their cells following movement due to quarantine or isolation. However, as Plaintiffs note, CDCR cannot *guarantee* incarcerated persons will be returned to their prior cell, or prior job assignment, for a number of reasons. The Deputy Director of CDCR's Division of Adult Institutions explained these reasons to Plaintiffs' counsel during a meet and confer on this topic on March 4, 2022. First and foremost, institutions require flexibility to make housing determinations based on available space and other institutional needs that may exist at any specific point in time. Indeed, the Receiver's Movement Matrix factors this necessary flexibility into its directives.[32] Many factors are considered when housing is assigned, including cellmate compatibility (and enemy lists), security level, disciplinary history, and gang affiliation, for instance.

Similarly, job assignments are based on a number of factors that include, but are not limited to, an incarcerated person's expressed desires, the incarcerated person's eligibility,

[32] Cal. Corr. Healthcare Services, *COVID-19 Screening and Testing Matrix for Patient Movement* at 12, https://cchcs.ca.gov/wp-content/uploads/sites/60/COVID19/Appendix13-PatientMovement.pdf (last visited Mar. 23, 2022).

the institution's security and operational needs, and the availability of the desired work or program activity. Paid job assignments are a privilege, and operational needs may always override a program assignment.

Notwithstanding the above concerns and considerations, on February 12, 2021, CDCR issued a memorandum in recognition of the impact of COVID-19 on the incarcerated population, and in CDCR's continued effort to assist incarcerated persons in their rehabilitative efforts. *See* Defendants' Exhibit B. The February 12, 2021 memorandum was created to provide guidance and direction to the institutions, and to ensure that "every effort" will be made to retain residents in their job assignments and original housing cell/unit whenever possible. Not all residents can be accommodated, however, as job assignments and housing needs change. But CDCR's Division of Adult Institutions is committed to make every effort to accommodate housing and job placements by placing residents at the top of the appropriate wait list. CDCR will not provide incentives or compensation to residents who are not able to be placed back into their prior assignment or housing, as such a proposal lacks rehabilitative value.

B. Staff

Plaintiffs' Position: As described in the last Joint Case Management Conference Statement, the parties and the Receiver previously met and conferred regarding a revised policy for staff testing.[33] We support the revised testing policy and believe it should be adopted and implemented as soon as possible.

Separately, we have requested to have further discussions with CDCR and CCHCS after the policy is finalized and implemented, to discuss whether improvements can be made to compliance enforcement and monitoring. We remain concerned that CDCR and CCHCS are unable to enforce testing requirements in real time and are unable to provide reliable staff testing data. During a call on March 18, CDCR officials described the current system for enforcing and monitoring compliance with staff testing requirements as

[33] *See* ECF No. 3779 at 17:9-18:5.

follows: Each week, staff at each prison filter a master registry of staff by vaccination status to identify those required to test. They then compare this list to a list of staff who tested the week prior. Through this process, they generate a list of staff who were apparently noncompliant with the testing requirements the previous week. They then remove staff who recently tested positive for COVID-19. They then investigate each remaining employee to figure out why they did not test. If the employee does not provide an appropriate explanation, they are reportedly subject to progressive discipline. CDCR staff said this process takes approximately one week to complete.

We have two concerns. First, this process leaves us unable to monitor compliance with staff testing. We have received biweekly reports of compliance with testing requirements for custody and nursing staff, which reported significant noncompliance with testing requirements. However, as we have noted previously, we have been told there are problems with this data and that the reports overstate noncompliance, though we do not know by how much.[34] We also receive biweekly lists of staff who were disciplined for noncompliance with masking and/or testing policies, but those reports do not state how many staff were subject to the requirements each week nor do they affirm that monitoring has actually occurred at each prison each week. During our call on March 18, we were told the verification process described above does not result in any written document/report. We have asked whether Defendants could, at a minimum, regularly provide certification from each prison that the verification process has taken place each week. CDCR is considering this request.

Second, this process will not identify noncompliant staff until, at a minimum, a week after their failure to test. It thus cannot ensure that the staff entering the prisons each day are compliant with testing requirements. As noted above, we have requested to discuss whether any changes will be made to the process for enforcing and monitoring compliance with testing requirements after the revised policy is implemented, such that

[34] *Id.* at 18:24-19:5; ECF No. 3771 at 20:19-25.

more immediate enforcement might be possible. Previously, CDCR and CCHCS stationed screeners at the entrance to each prison, who were tasked with asking staff entering the prisons each day whether they had tested within the required timeframes (among other questions). Staff who reported noncompliance were immediately given a rapid test. This process relied on staff accurately recalling and honestly reporting their testing, but it at least served as a daily reminder to staff to test, and ensured some noncompliant staff would be identified, tested immediately, and sent home if positive. We hope to discuss whether this entrance screening process, or some other means of enforcing testing requirements in real time, can be implemented once the revised testing policy is in place.

Defendants' Position: The process of ensuring compliance with staff vaccination and testing requirements is an arduous, but ultimately thorough. At least three staff at each institution – one custody supervisor and two clerical staff – have been reassigned from other job duties and designated to assist with the task of monitoring testing compliance. Each week, these teams at each institution download a list of all employees from the Quality Management (Testing) registry. This list is then cross-referenced with employee health, Telestaff (to ensure the employee was actually working that week, and if so, how many days/shifts), and the vaccination list. As a Deputy Director for CDCR's Division of Adult Institutions explained to Plaintiffs' counsel during a March 18, 2022 meet and confer, this list includes every designated person assigned to a post who is subject to CDPH's vaccination requirement, as well as employees who actually worked at the institution, regardless of whether they are regularly assigned to that institution. Employees are removed from the list if they are on vacation, are on long-term sick leave, were recently COVID-19 positive, have a pending request for medical or religious accommodation, are out on workers compensation leave, or are out on leave pending retirement. The list of individuals who failed to test, and who do not appear to have a valid justification, is then provided to the supervisor at the institution who then reaches out to the employees' supervisor or the employee to request proof of compliance or other valid

explanation. If an employee is unable to provide proof of testing and was required to test but failed to do so, the interactive process is initiated and progressive discipline is imposed. Wardens then report compliance to the Assistant Director assigned to their region. Because this is a manual process that has been delegated to each institution by headquarters, reports setting forth these findings or results are not generated in any centralized database. They are also not tracked in a uniform manner—each institution tailors the process to fit with its unique operations. Instead, the wardens track compliance at an institutional level using processes tailored to the operations of each institution. Each institution has advised headquarters of its respective process. CCHCS has a separate process for tracking healthcare workers' compliance with testing requirements. CDCR is considering the feasibility of Plaintiffs' request for regular certifications that each institution followed its verification process.

This tracking cannot be done "in real time" as Plaintiffs request. Staff subject to the testing requirement may only work one or two days in a week, and because there must be 72 hours between each COVID-19 test, may not be able to test twice given their schedule that week. Further, staff may not be out of compliance until the very end of the week, particularly if they tested once at the beginning of the week but failed to test a second time at the end of the week. In short, because the testing protocol requires employees to undergo a certain number of tests in a one-week period, it is not possible to evaluate compliance until the week concludes. Employees are disciplined regardless of when the noncompliance is discovered, even if the employee is in compliance when the previous noncompliance is discovered. Contrary to Plaintiffs' assertion that they are unable to monitor staff compliance with testing requirements, Defendants produce noncompliance logs to Plaintiffs twice a month. Defendants have completed 25 productions to date.

CDCR also understands based on its participation in discussions between CCHCS and Plaintiffs' counsel on this topic, that it is not currently operationally feasible to redirect a sufficient number of nursing staff to be stationed at the entrance of each institution to

monitor compliance and provide rapid tests. CCHCS is developing a new staff testing plan, an iteration of which was discussed in the previous case management conference statement (ECF No. 3779), which may obviate the need to station staff at institution entrances for the sole purpose of checking testing compliance. It is anticipated that this new plan, when implemented, will provide testing data significantly sooner than the current process allows. Plaintiffs' counsel stated they recognized the process might change during a March 18, 2022 meet and confer with Defendants. During the same meet and confer, CCHCS informed Plaintiffs that it plans to provide a written update regarding the new staff testing plan.

IV. VENTILATION

Plaintiffs' Position: Adequate ventilation is important to reduce the risk of spread of COVID. CDCR reported late last year that it had completed installation of MERV-13 filters in 630 Air Handling Units (AHUs) in housing units statewide.[35] Such filters are supposed to reduce spread of the virus when air is recirculated during cold weather months. The degree to which the filters reduce viral spread is not known. As reported above, during the late January 2022 peak of the Omicron wave CDCR residents experienced approximately 2.5 times the infection rate of California's general population.[36] Defendants should engage experts to evaluate how much filters and the other ventilation improvement efforts discussed below reduce the spread of the virus, and whether other efforts should be undertaken.

After last month's Case Management Conference, we asked CDCR for an update on its efforts to (1) repair or complete maintenance on, or measure airflow in, all AHUs identified as needing that so as to perform within 90% of design specifications; (2) inspect all housing unit exhaust fans and, as we requested, establish a program to repeat that

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[35] *See* ECF Nos. 3771 at 24:20-22, 3762 at 13:11-15, & 3717 at 17-22.

[36] *See* Cal. Dep't of Corr. & Rehab., *CDCR Patients: COVID-19 Trends*, https://www.cdcr.ca.gov/covid19/population-status-tracking (last accessed March 21, 2022).

periodically; and (3) complete its project to verify that each prison has (a) correctly determined how many portable air filtration units are required for each indoor group activity area pursuant to the December 8, 2021 joint CDCR/CCCHS memorandum, and (b) placed the requisite number of filtration units in those areas. Defendants' counsel provided responsive information on March 17, and the next day facilitated a discussion of these matters with CDCR staff.

With regard to AHU repairs, CDCR data indicates the number of AHUs needing repair or maintenance in order to perform within 90% of design specifications was since mid-February reduced from 140 to 47, and that work on the rest was scheduled to be completed either by the end of March or April. The data also showed that an additional 22 AHUs had not yet had airflow measured. We will continue to ask about and monitor these matters.

With regard to housing unit exhaust fans, CDCR states it expects each prison by April 3 to report that it (1) has completed inspection of housing unit exhaust fans, including submitting work orders for any repairs identified as necessary, and (2) has a schedule for preventive maintenance of all components of housing unit ventilation, including AHUs and exhaust fans. However, there is no plan for Headquarters to check that prisons complete work orders submitted about exhaust fans, or actually perform future scheduled maintenance, including the necessary periodic replacement of the MERV-13 filters. We asked that CDCR establish a process to do so. Defendants said they would get back to us.

Defendants below state that Headquarters will only check that work orders were submitted for any exhaust fan repairs, but indicate that Headquarters will not monitor whether necessary periodic ventilation system maintenance – including presumably filter changes – is actually conducted by prisons or that ventilation-related work orders are completed. We believe such monitoring, with reporting to Plaintiffs, is necessary until there is proof that required maintenance and repair work has been done repeatedly over

time. In this regard, Defendants appear to overlook that CalPROTECT, in its early 2021 presentation on its visit to the Substance Abuse Treatment Facility and State Prison (SATF), stated that lack of routine maintenance of housing unit ventilation systems compromised overall indoor air quality.

With regard to the portable air filtration units for indoor group activity areas, CDCR states it hopes by the end of March to validate each prison's calculations, which have been submitted on Headquarters-mandated spreadsheets, regarding the number of units needed for each area. The spreadsheets also identify the number of filtration units placed in each specified area. The validation process will thus determine both whether the number of filtration units was correctly determined and if the correct number of units are currently in place. We asked CDCR to provide the validated spreadsheets so that we could know where or how many filtration units are supposed to be in place. CDCR said it would get back to us. As of March 28, no response has been received.

CDCR also states that it will leave to individual prisons entirely the task – if it is done at all – of checking the operation and placement of filtration units in the future, including whether the units remain where they are supposed to be, are working, and have had filters changed in accord with the manufacturer's specifications (we do not know who is required to track and do the latter task). To ensure that the units continue to be effective and used as required, Headquarters supervision and review must occur, including mandating periodic checks of the air filtration units, filter changes as necessary, and a plan to accomplish those tasks.

Defendants' Position:

Since last year, CDCR has taken a number of significant steps to improve ventilation in the prisons, which include:

- Replacing and upgrading hundreds of air-handling-unit filters throughout the prisons;
- Performing expedited maintenance and repairs on hundreds of air-handling

units throughout the prisons; and

- Performing expedited inspections to confirm that thousands of exhaust fans are working throughout the prisons.

In addition to the expedited repairs, maintenance, and inspections describe above, each of the prisons has its own preventative maintenance schedule that provides for the routine inspection and maintenance of prison facilities, including ventilation systems and exhaust fans. Above, Plaintiffs mistakenly imply that the prisons need to report on whether they have such a preventative-maintenance schedule in place. In fact, no such reporting is necessary—every prison already follows a preventative-maintenance schedule.

A prison's maintenance schedule is based on that particular prison's unique facilities. No headquarters oversight is necessary to ensure that these regular maintenance schedules are followed because this is the standard practice at each of the prisons. The maintenance schedules for the prisons typically require the inspection of ventilation systems, including exhaust fans, every three to six months. Accordingly, each prison's ventilation systems should be checked about every three to six months, in accordance with each prison's routine maintenance schedule.

Similarly, prisons also have in place routine practices for completing work orders for needed repairs and maintenance. Thus, headquarters oversight is not necessary to ensure that work orders are addressed. Nonetheless, once the exhaust-fan checks are complete, CDCR will confirm that work orders were submitted for any needed exhaust-fan repairs.

As discussed in previous case-management statements, CDCR and CCHCS voluntarily developed and implemented a policy to install portable air-filter units in locations where increased-capacity group programming would take place. To this end, CDCR purchased thousands of air-filter units and distributed them to the prisons. Additionally, CDCR has provided the prisons with instructions and materials for constructing additional air-filter units. Through two memoranda issued on December 8

2021, and March 24, 2022, CDCR directed the prisons to use the air-filter units in rooms used for full-capacity group programming. CDCR has also provided the prisons with specific instructions on how to calculate the number of units that should be used, and provided the prisons with a tool to calculate the number of air-filter units that should be used in each programming space. CDCR has committed to review each prison's calculations of the number of required units to confirm their accuracy.

The March 24, 2022 memorandum specifies that multiple officials at each of the prisons are responsible for ensuring compliance with the air-filter-unit policy, including the wardens, education supervisors, and chief executive officers. More generally, all staff members are responsible for the equipment located in the areas to which they are assigned, and are expected to promptly report any missing, damaged, or inoperable equipment.

V. IMPACT OF COVID-19 ON MEDICAL CARE SERVICES AND REMEDIAL ACTIONS

Plaintiffs' Position: Backlogs and delays of primary care appointments, specialty services, diagnostic exams, and remedial measures, caused or exacerbated by COVID outbreaks and quarantines, continue.[37]

A. Primary Care Provider Appointments

As of March 15, 2022 there were approximately 7,000 overdue Primary Care Provider (PCP) appointments statewide.[38] That total represents a reduction of 12.5% since January 31, 2022, but remains significant. The number and rate of overdue PCP appointments is especially concerning at California Men's Colony. At that prison, nearly

[37] Quarantines of large numbers of people continue, even though the number of new COVID cases among CDCR residents is low compared to the mid-January 2022 Omicron wave peak. Per CCHCS's internal COVID Monitoring Custody registry, there were as of March 24 approximately 8,400 on quarantine, including nearly 800 at Mule Creek State Prison, approximately 700 at California State Prison – Corcoran, and nearly 600 at California Health Care Facility. Those on quarantine are mostly not scheduled for routine primary care appointments.

[38] *See* Attachment A to CCHCS Memorandum (March 25, 2022), attached hereto as Plaintiffs' Exhibit E.

1,400 such appointments are overdue, at a rate of 43 overdue appointments per 100 patients. Those numbers are approximately six times higher than the statewide averages.[39] We will continue to monitor this issue.[40]

B. Specialty Services

Unfortunately, the number of overdue specialty services appointments also remains substantial. Per data provided by CCHCS, as of March 15, 2022, approximately 10,100 such appointments were overdue, a modest 10% reduction since February 7, 2022.[41] We have not received the abstract of information or report on overdue specialty services that CCHCS previously said was being prepared for us.[42] Review of this information is necessary to evaluate whether further efforts are necessary to address this backlog.

C. Ultrasound Exams for End-Stage and Advance Liver Disease Patients

The number of overdue cancer-screening ultrasound exams for end-stage and advanced liver disease patients unfortunately has not lessened. We first raised concerns about this in June and July 2021, when there were approximately 900 to 1,000 such exams overdue.[43] In December 2020, we reported that the number overdue remained above 900.[44] In January 2021, we wrote that CCHCS had a plan, involving additional staffing and contracted-for providers, to reduce the backlog of ultrasound exams in February, even

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[39] *See id.*

[40] California State Prison – Los Angeles County, which for months in late 2021 had a substantial backlog of PCP appointments (reaching 2,000 in number, a rate of 71 per 1000 patients), and still had approximately 1,000 overdue appointments as of January 2022 (see ECF Nos. 3762 at 16:19-17:11, 3771 at 28:8-15, & 3779 at 26:11-24), had 240 overdue appointments as of March 15, according to CCHCS. *See* Pltfs.' Ex. E, attach. A. We appreciate the efforts to reduce this backlog.

[41] *See* Plaintiffs' Exhibit F, attached hereto ("Specialty Backlog by Institution" as of various dates from April 30, 2021, including February 7 and March 15, 2022, extracted from a CCHCS spreadsheet provided as Attachment C to its March 25, 2022 Memorandum (Plaintiffs' Exhibit E)).

[42] *See* ECF Nos. 3771 at 26:8-9 & 3779 at 26:26-27.

[43] *See* ECF Nos. 3605 at 12:25-13:5 & 3623 at 13:14-17.

[44] *See* ECF No. 3762 at 14:16-21.

if the prisons were on a modified program because of COVID outbreaks.[45]

As of March 15, the statewide total of overdue ultrasound exams for end-stage and advanced liver disease patients was 1,020.[46] It is not entirely clear why the exams scheduled in February and early March[47] did not reduce the number of overdue ultrasounds needed for theses vulnerable patients, but CCHCS on March 25 said the prisons earlier this month were directed to schedule at least 20 exams per clinic date, and that (1) the contractor hired an additional ultrasound technologist; (2) exams were being scheduled through April; and (3) "efforts to conduct additional ultrasound exams will continue until the backlog is significantly reduced."[48] We appreciate these efforts and assurances. However, given the persistence of these delays, including after the efforts in February and early March, CCHCS should provide the date by which it expects the number of overdue ultrasound exams to be eliminated.

D. Emergency Medical Response Improvement Project

CCHCS this month also provided information that quantifies how much the COVID pandemic has delayed its major project to improve emergency medical response in the prisons. The project was begun in 2017, resulting from, among other things, concerning percentages of lapses in emergency response identified in death reviews and response delays identified in health care incident reports.[49] In June 2019, CCHCS said that by October 2020 all prisons were anticipated to complete the training required by the improvement project.[50] CCHCS has now provided an updated schedule that shows 17 prisons have not yet completed training, including 11 which have not started it; the latter

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[45] *See* ECF No. 3771 at 26:17-23.

[46] *See* Pltfs.' Ex. E, attach. D.

[47] *See* Pltfs.' Ex. E, attach. E.

[48] *See* Pltfs.' Ex. E at 2.

[49] *See* CCHCS Emergency Medical Response Improvement Initiative PROGRAM CHARTER (rev. 03/18/19), attached hereto as Plaintiffs' Exhibit G.

[50] *See* CCHCS Memorandum (June 17, 2019) at 2, attached hereto as Plaintiffs' Exhibit H.

are scheduled serially and at regular intervals between now and June 2023.[51]

After training, a prison emergency response processes must be verified by headquarters or regional staff, a final drill conducted, and a final transition report completed; only then is the prison certified to use CCHCS's improved emergency response procedures. This process takes several months. Currently, only six prisons have completed it; the schedule indicates another 13 may complete it in 2022, but the final drill dates for 10 of those are listed as "tentative."[52] The remaining 15 prisons presumably will complete receive certification in 2023 and 2024. We will continue to monitor this essential project.

E. Health Care Facilities Improvement Projects

Finally, the pandemic has significantly and negatively impacted Phase I of the Health Care Facilities Improvement Project (HC-FIP), as seen in the changed projected end dates at the 17 prisons which CDCR says have not yet completed construction. Comparison of the January 2020 CDCR-provided projected completion dates for work at those prisons with those provided by CDCR in January 2022 shows that end dates now at all prisons are at least 16 months later than they were at the start of the pandemic, with completion dates at eleven of the prions now delayed two years or more including five at which those dates are now delayed three years or more.[53] We believe there have been similar delays with HC-FIP Phase II construction, authorized by the Budget enacted for Fiscal Year 2019-2020 and involving medication distribution facilities at 13 prisons, including some that have completed Phase 1 work. Phase II work was originally envisioned to begin in November 2020. We will continue to monitor this necessary construction.

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[51] *See* CCHCS Memorandum (March 21, 2022), attach. A, attached hereto as Plaintiffs' Exhibit I.

[52] *See id.*

[53] The changes in the projected HC-FIP completion dates from January 2020 to January 2022 at the 17 prisons at which construction continues, as collated by Plaintiffs' counsel from the monthly HC-FIP Dashboards provided by CDCR, are summarized in Plaintiffs' Exhibit J, filed herewith.

Defendants' Position: Plaintiffs provided their position to Defendants on March 28, 2022, the filing deadline. Defendants did not have sufficient time to evaluate or respond to Plaintiffs' position before filing this statement.

VI. CALPROTECT REPORT

Plaintiffs' Position: The final CalPROTECT report remains pending. The draft report provided in January indicates that findings and recommendations will be made on a variety of COVID-related matters, including for example outbreak prevention and management, ventilation and air filtration, and preventing COVID transmission from staff. As discussed above, we believe CDCR and CCHCS should use this relative reprieve from outbreak management to reassess the value and efficacy of their COVID-19 policies. We are hopeful that the CalPROTECT report will be a useful source for that assessment, and thus hope it will be finalized very soon.

Defendants' Position: As discussed in the ventilation section above, Defendants continue to undertake significant efforts to ensure ventilation systems are working as designed and, if not, repairing them, in addition to using portable air filtration devices to further treat the air inside the institutions. Defendants look forward to evaluating the findings of the final version of the CalPROTECT report.

VII. OTHER MEDICAL CARE MATTERS

A. Health Care in the PIPs

Plaintiffs' Position: On September 27, 2021, we wrote the Receiver and CCHCS regarding medical care in the Psychiatric Inpatient Programs (PIPs), based on chart reviews for patients housed in the PIPs and site visits to those programs at Salinas Valley State Prison and California Medical Facility in, respectively, June and July 2021. We reported major problems with medical care in those programs, including: inconsistent scheduling practices; no use of sick-call slips and a lack of standardized nurse triage practices; lack of clear guidelines for follow-up with chronic care patients, many of whom could go months without provider encounters; and a lack of follow-up for patients said to

have refused medical services, including specialty services.

On March 9, 2022, CCHCS responded to our letter, stating they are going to convene an internal workgroup, with the goal of developing new approaches for the provision of medical services in the PIPs, and that CCHCS would share the group's recommendations with counsel for Plaintiffs, once issued. We are glad CCHCS is looking into this issue, but are disappointed that little or no action was taken for five months after we sent our report. We are also concerned that there do not appear to be any set timeframes for the workgroup to develop and implement recommendations. We believe patients housed in the PIPs face an on-going serious risk of harm due to problems with the medical care delivery system in these units, and that these problems should be addressed as soon as possible. We believe if permanent changes cannot be achieved timely, then interim steps should be taken to ensure that all patients in the PIP are seen by medical staff on a regular, set timeframe, until a systemic plan is put into place.

Defendants' Position: Defendants are committed to working with the Receiver to implement any needed changes in policy with respect to providing appropriate medical care to Psychiatric Inpatient Program patients.

VIII. DELEGATIONS

The parties were previously scheduled to meet and confer regarding the possible delegation of medical care at the California Rehabilitation Center (CRC) and Richard J. Donovan Correctional Facility (RJD) on April 26, 2022. The Receiver has rescheduled those meet and confers for May 25 (CRC) and June 13 (RJD).

DATED: March 28, 2022

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