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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**
19

20 MARCIANO PLATA, et al.,

21 Plaintiffs,

22 v.

23 GAVIN NEWSOM, et al.,

24 Defendants.
25
26

CASE NO. 01-1351 JST

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: April 20, 2020
Time: 2:00 p.m.
Crtrm.: 6, 2nd Floor
Judge: Hon. Jon S. Tigar

1 The parties submit the following joint statement in advance of the April 20, 2019
2 Case Management Conference.

3 **I. PLAINTIFFS' STATEMENT**

4 As of 8:00 a.m. this morning, 121 patients statewide have tested positive for COVID-19:
5 60 at the California Institution for Men (CIM) (all from Facility D, we believe), 55 at California
6 State Prison – Los Angeles County (LAC) (all from Facility D, almost or perhaps all from a single
7 housing unit in that Facility, we believe), two at Centinela State Prison, and one each at the
8 California Institution for Women, California Men's Colony, North Kern State Prison, and the
9 Substance Abuse Treatment Facility and State Prison. There has been one patient death from
10 COVID-19, on April 19, 2020.

11 **A. Defendants' plan to implement the Receiver's directive to facilitate distancing.**

12 Plaintiffs seek further information regarding Defendants' intent to implement the
13 Receiver's April 10, 2020 Directive (Receiver's Directive) (ECF 3273-2) to create in the prison
14 dormitories eight-person housing cohorts, each separated by a distance of at least six feet in all
15 directions. Defendants before this Court last week unequivocally indicated that they would
16 implement this Directive, "and explained that they have already moved some individuals from
17 dormitory housing into gymnasiums to increase physical distancing in the dorms." Order, ECF
18 3291 at 11. They further stated that the aspiration was to complete the process in the following
19 week.

20 That same day, in response to Judge Mueller's Order requiring Defendants to submit a
21 strategic plan for achieving compliance with the U.S. Centers for Disease Control and Prevention
22 (CDC) *Interim Guidance on Management of Coronavirus Disease (2019) (COVID-19) in*
23 *Correctional and Detention Facilities* ("CDC Guidance"), the CDCR filed a COVID-19 Plan that
24 is inconclusive as to whether they will implement the Receiver's Directive. That Plan states
25 "CDCR, in conjunction with the Plata Receiver, will assess the population in the dorms and
26 determine *what additional steps need to be taken, if any*" after completing already-scheduled
27 transfers. CDCR COVID Plan at 6, *Coleman v. Newsom*, Case No. 2:90-CV-00520-KJM-DB,
28 ECF No. 6616 at 11 ("Strategic Plan") (emphasis added).

1 In light of these inconsistent positions, Plaintiffs seek the following information from
2 Defendants:

3 First, do Defendants intend to comply with the Receiver's Directive to create housing
4 cohorts?

5 Second, if Defendants intend to comply with the Receiver's Directive, Plaintiffs request
6 that Defendants provide the "activation schedule" that Defendants' counsel referenced during the
7 April 16, 2020 motion hearing. That schedule should include an explanation of the methodology
8 Defendants intend to use to house people at high risk due to COVID-19. Plaintiffs request that
9 this schedule include all of the dormitories, including any existing or established in re-purposed
10 space (e.g., gyms) in each of the 35 facilities and indicate whether each dormitory has been or will
11 be reorganized to incorporate the eight-person cohort plan, with six-foot separation, and the final
12 date by which Defendants intend to complete this transition for each dormitory.

13 Third, Defendants must provide photos or video-recorded site visits of each of the newly
14 configured dormitories, in which staff measure the distances between cohorts, and document
15 access to programs, bathrooms and showers, medical/mental health services, and meals.

16 Finally, if Defendants do not intend to fully implement the Receiver's Directive, Plaintiffs
17 request that Defendants provide details on their alternative plan to effect physical distancing in the
18 prison dormitories.

19 **B. People at higher risk for severe illness or death from COVID-19.**

20 In their Strategic Plan, Defendants stated that they do not intend to target COVID-related
21 efforts to any particular population, including the medically vulnerable: "There are currently no
22 plans to target specific portions of the population, such as *Coleman* class members or high risk
23 inmates, for special movement or housing, except as detailed [elsewhere in the Plan] regarding the
24 provision of Mental Health care." Strategic Plan at 4 (*Coleman* ECF 6616 at 9). Defendants'
25 filings in this Court likewise do not indicate any plan to specially-house the medically vulnerable.

26 Plaintiffs remain concerned by Defendants' decision to not target any COVID-19 efforts to
27 the medically vulnerable people in their custody. The Receiver's office has recognized the
28

1 importance of taking steps to protect these patients. In its April 3 *COVID-19: Interim Guidance*
2 *for Health Care and Public Health Providers*, CCHCS instructed that prisons may consider
3 placing these vulnerable patients on a “protective shelter in place”:

4 During the COVID-19 pandemic, CCHCS institutions may implement additional
5 measures to protect vulnerable patients who are at increased risk for severe
6 COVID-19 disease (e.g., single-cell or protected housing area, limited movement,
7 separate dining and yard time, and telemedicine services). Patients in protective
8 shelter in place should be educated regarding their risk and how to protect
9 themselves, early symptom recognition and request for medical attention, and the
10 availability of testing for COVID-19.

11 *See* April 3 Guidance at 18 (ECF 3274-6 at 19).

12 Defendants apparently have not adopted this recommendation. On April 8, CCHCS and
13 Defendants provided Plaintiffs a spreadsheet of patients considered more vulnerable to COVID-19
14 complications. The spreadsheet showed that many of these individuals remained housed in
15 crowded dorms. For example, CIM’s Alder Hall housed 71 people who were classified as “high
16 risk” medical, over the age of 50, and/or had conditions that made them vulnerable to severe
17 illness from COVID-19. Alder Hall is the locus of a COVID-19 outbreak: at least 22 people were
18 housed there prior to testing positive for COVID-19. ECF 3284-2 ¶ 5. Tragically, one CIM
19 patient has recently died from COVID-19 complications, *see* Cal. Dep’t of Corr. & Rehab.,
20 *California Institution for Men Inmate Dies from Complications Related to COVID-19* (April 19,
21 2020), [https://www.cdcr.ca.gov/news/2020/04/19/california-institution-for-men-inmate-dies-from-
22 complications-related-to-covid-19/](https://www.cdcr.ca.gov/news/2020/04/19/california-institution-for-men-inmate-dies-from-complications-related-to-covid-19/), and medical records indicate he had been housed in Alder
23 Hall. In addition, those records indicate the patient had risk factors, including age and underlying
24 medical conditions, which made him especially vulnerable to COVID-19.

25 According to the April 7, 2020 Bed Audit, Alder Hall was at 112% capacity (ECF 3284-2
26 at 27), with 112 people in a space designed for 100 beds. Thus, sixty-three percent (63%) of the
27 112 people in this dorm were considered vulnerable to COVID-19 complications. As of April 8,
28 there were also 71 medically vulnerable people (70% of that dorm’s population) in Cedar Hall,

1 where at least 5 people were housed prior to testing positive for COVID-19 (ECF 3284-2 ¶ 7).¹
2 And, there were 83 medically vulnerable people (74% of that dorm's population) in Spruce Hall,
3 where at least 6 people have tested positive for COVID-19 (ECF 3284-2 ¶ 6).

4 CIM is not the only prison in the state housing medically vulnerable people in crowded
5 dormitories. For example, data provided by the Receiver indicates that California Medical Facility
6 has five dorms that house 92, 84, 70, 70, and 61 people designated "high risk medical" in dorms
7 that are, respectively, 129%, 134%, 142%, 116%, and 114% of design capacity. And, at
8 California State Prison Solano, a dorm houses 57 such people in a dorm at 162% of design
9 capacity. Valley State Prison houses 63 and 71 people in dorms who have at least one COVID-19
10 risk factor; these housing units are up to 133% of design capacity. Similarly, at the Substance
11 Abuse and Treatment Facility there are 47 and 46 people housed in dorms who have at least one
12 COVID-19 risk factor; those units are up to 141% of design capacity.

13 These figures demonstrate that Defendants have knowingly housed medically vulnerable
14 people in a situation that puts them at a serious risk of harm and in one recent case, death. As
15 stated above, Defendants have no plan to specially protect these individuals through physical
16 distancing in their housing units. In monitoring Defendants' response to COVID-19 the Court
17 should direct that those at medically high risk be housed in a manner that protects them from
18 infection to the fullest extent possible.

19 **C. Medical care related to COVID-19.**

20 The changes to medical services, and Plaintiffs' monitoring, caused by the COVID-19
21 pandemic, described in the April 13, 2020 Case Management Conference Statement, continue.
22 On April 14th, the Receiver's Chief Medical Executive and Chief of Corrections Services held an
23 hour-long phone conference to answer questions Plaintiffs' regarding COVID-19. Defendants
24 counsel participated in the conference. Plaintiffs have asked for a similar session this week to
25 address questions and concerns that remain unresolved. The Receiver has not yet replied whether
26

27 ¹ Plaintiffs understand that the Cedar Hall dorm has since been converted to a kind of
28 infection control unit for patients who have tested positive for COVID-19.

1 a conference will be scheduled. Among the questions and concerns Plaintiffs hope to discuss with
2 Receiver are:

3 a. Medical Isolation

4 i. Criteria for release from medical isolation: CCHCS said its “priority” last
5 week was reconsideration of the criteria for when COVID-19 patients
6 would be considered recovered and thus can be released from medical
7 isolation. Currently, no CDCR COVID-19 patient has been determined to
8 be recovered and released from isolation; one patient has been on isolation
9 for 30 days and others have been on that status for approximately three
10 weeks.

11 ii. Outdoor time for those on medical isolation: None of the dozen patients on
12 medical isolation at LAC and CIM were offered outdoor time, CCHCS said
13 last week, even though it also said there was no medical or public health
14 reason they could not be, so long as they did not mix with those not on
15 medical isolation. CCHCS guidance to the prisons is currently silent
16 regarding outdoor time for those on medical isolation, even though it has
17 specifically said those on quarantine can be provided outdoor exercise so
18 long as they do not mix with others. CCHCS said it would pass along
19 Plaintiffs’ request that the prisons be told that medical isolation patients can
20 be offered outdoor time to those currently revising the directives and
21 guidance given to the prisons.

22 iii. Question about cell-housing of medical isolation patient at LAC: A class
23 member reported that although he did not have COVID-19 he was double-
24 celled with a person who was positive for the virus. Plaintiffs have asked
25 CCHCS for information to determine if the class member’s report is correct.

26 b. Testing

27 i. Availability of tests and timely test results: CCHCS said last week its
28

1 supply of test kits was fairly stable. It reported 1400 COVID-19 test kits
2 statewide, roughly distributed equally among the prisons except for re-
3 allocations made to CIM and LAC given the outbreaks at those prisons.
4 CCHCS said it had not heard of any problems in obtaining tests in the near
5 future. CCHCS said the test results turn-around time was 48-72 hours,
6 except at Pelican Bay State Prison (PBSP), where it was taking six days
7 (currently, seven PBSP patients have been tested).

8 ii. Rapid tests: CCHCS said it expected to hear last week whether it would
9 obtain rapid COVID-19 testing developed and being sold by Abbott Labs.

10 iii. Surveillance testing of non-symptomatic persons: CCHCS sometime in the
11 last two weeks, apparently in partnership with an outside entity, offered
12 COVID-19 testing to non-symptomatic people housed in LAC's D-2, the
13 locus of a large outbreak. As a result, more than 20 persons have been
14 diagnosed with COVID-19. CCHCS has said it will attempt similar
15 surveillance testing at CIM, given the large outbreak at that prison's Facility
16 D.

17 c. Personal Protective Equipment for staff

18 i. CCHCS said last week that its supplies of masks for healthcare and other
19 staff was stabilizing. It stated it had received approximately 10,000 N95 or
20 Nk95 masks, and some of those had been distributed to CIM and LAC.
21 CCHCS said it did have issues with gowns, but did not provide further
22 information.

23 d. Cloth face barriers for incarcerated persons and staff

24 i. On April 16, 2020, CDCR and CCHCS executives issued a memo stating
25 that incarcerated persons and staff are required to wear a cloth face barrier
26 "once a supply of two (2) face barriers/masks per correctional staff and
27 inmate/patient has been delivered to the institution." CDCR last week
28

1 stated that it is manufacturing 20,000 cloth face coverings per day for use
2 by incarcerated persons and staff. However, it is not known when each
3 prison will receive the supply necessary to trigger the requirement that cloth
4 face barriers be worn.

5 e. Availability of community hospital beds for COVID-19 patients in need of
6 inpatient or other advanced care including ICU placement

7 i. CCHCS last week said it has not had and does not anticipate problems with
8 hospital admissions in the Los Angeles area. There may be concerns if
9 patients need hospitalization in areas referred to as “medical deserts.” For
10 example, the hospital in Crescent City, California, which is the nearest one
11 to PBSP, has only eight ICU beds.

12 **II. DEFENDANTS’ STATEMENT**

13 Defendants’ statement describes the additional measures CDCR has taken since the
14 filing of Defendants’ opposition to Plaintiffs’ emergency motion on April 13, 2020 (ECF
15 No. 3272 et seq.). In particular, this statement discusses the steps CDCR has taken in
16 response to the Receiver’s directives from April 10 and April 12, 2020, to mitigate the
17 risks of COVID-19 in CDCR’s institutions, including the creation of eight-person cohorts
18 for inmates housed in dorm settings.

19 First, however, Defendants must raise a concern about the potential for orders
20 related to CDCR’s response to the COVID-19 pandemic issued in *Coleman v. Newsom*,
21 No. 2:90-cv-0520 KJM DB (E.D. Cal.) to conflict with orders issued about that subject in
22 *Plata*. While the *Coleman* case focuses on a particular subset of correctional health care—
23 mental health care—the potential for conflicting orders related to correctional health care
24 more generally is emerging. For example, in its recent ruling denying Plaintiffs’
25 emergency motion, this Court concluded that it could not order the injunctive relief
26 requested by Plaintiffs—which included a request for an order requiring CDCR to develop
27 and implement a plan to minimize the spread of the COVID-19 virus to the incarcerated
28

1 population in California’s state prisons—because Defendants have not been deliberately
2 indifferent. (ECF No. 3291.) By contrast, on April 10, the *Coleman* Court, after
3 acknowledging the same robust response to the COVID-19 crisis that this Court
4 considered, concluded that CDCR’s efforts were insufficient,² and ordered the following:

5 Good cause appearing, defendants will be directed to file, not later than
6 5 p.m. on Thursday, April 16, 2020, a strategic plan for achieving
7 compliance with the U.S. Centers for Disease Control and Prevention
8 (CDC) Interim Guidance on Management of Coronavirus Disease (2019)
 (COVID-19) in Correctional and Detention Facilities (CDC Guidance),
 to the maximum extent defendants currently maintain is possible.

9 (*Coleman*, ECF No. 6600 at 1-2; *see also* ECF No. 6622 at 1-2.) It is difficult to reconcile
10 these two orders. And the situation becomes more ambiguous upon considering the fact
11 that many of the CDC recommendations concern subjects that fall directly under the
12 Receiver’s responsibility.

13 As this Court is aware, on February 14, 2006, it issued an order appointing the
14 Receiver, which divested the Secretary of CDCR from control of the medical delivery
15 system and placed the day-to-day management of it in the control of the Receiver. (ECF
16 No. 473 at 4.) Under that order, the Receiver shall “exercise all powers vested by law in
17 the Secretary of CDCR as they relate to the administration, control, management,
18 operation, and financing of the California prison medical health care system.” (*Id.*) And
19 although some institutions’ medical delivery has been delegated back to CDCR, the
20 Receiver retains control of the administrative functions of CDCR’s medical services.
21 Thus, CDCR cannot enter into agreements about how to provide medical care to “high
22 risk” patients or on how to provide physical-distancing measures for medical purposes
23 without the approval of the Receiver.

24 On April 16, Defendants complied with the *Coleman* Court’s order, which required
25 them to file a plan with the Court. The strategic plan filed in *Coleman* sets forth a

26 _____
27 ² The *Coleman* Court did not, however, explicitly find that CDCR’s response to the pandemic
28 constituted deliberate indifference under the Eighth Amendment or otherwise violated the
Constitution.

1 comprehensive summary of the measures that have already been presented to this Court,
2 plus additional actions CDCR has taken regarding the provision of mental health care to
3 address the needs of patients with mental illnesses. (*Coleman*, ECF No. 6616.) However,
4 upon “initial review,” the *Coleman* Court found the plan (not limited to the mental health
5 components)—which was developed in close cooperation with the Receiver—to be
6 problematic. (*Coleman*, ECF No. 6622 at 2 (noting that the Court’s review “suggest[ed]
7 an absence of specific goals and objectives and no identification of the expected duration
8 of the plan or aspects thereof”).)

9 The *Coleman* Court has allowed for additional briefing regarding the plan before it
10 takes the plan under formal review. (*Id.* at 2.) It is unclear what additional orders the
11 *Coleman* Court will make concerning CDCR’s response to the pandemic. To support
12 CDCR’s preference for a holistic approach to addressing inmates’ health needs and to
13 mitigate the potential for conflicting orders, Defendants request that this Court and the
14 *Coleman* Court address this issue through the Court’s normal coordination mechanism.

15 While there is no doubt that the *Coleman* Court’s jurisdiction fully encompasses
16 CDCR’s continuing provision of adequate mental health care in its institutions, Defendants
17 believe that the determination of the adequacy of CDCR’s measures to mitigate the
18 medical risks of COVID-19 in its institutions falls squarely in the purview of this Court.
19 In its April 10 order, the *Coleman* Court acknowledged that coordination between the two
20 cases is desirable, and going forward, Defendants are optimistic that coordination can
21 prevent the issuance of any conflicting orders.

22
23 **A. CDCR Has Taken Significant Additional Steps to Improve Physical
Distancing in its Institutions.**

24 Defendants have rapidly begun to implement the Receiver’s April 10 plan to
25 improve physical distancing in the dorms by transferring numerous inmates out of dorms
26 and into other locations, including celled housing and gyms. Although additional transfers
27 are still needed, CDCR anticipates that by activating gymnasiums for occupation, and by
28

1 fully utilizing vacant cells in various locations, it will be able to fully implement the eight-
2 person cohorts contemplated in the Receiver's plan.

3 **1. Dorm transfers have commenced.**

4 Officials at all prisons with dorms have been directed to determine the reductions in
5 their dorm populations that will be required to create the eight-person cohorts described in
6 the Receiver's plan, and CDCR has moved quickly to conduct the required transfers. In
7 their opposition to Plaintiffs' emergency motion, Defendants described an initial phase of
8 inmate transfers from dorms to improve physical distancing, which included the following
9 transfers:

- 10 • 361 inmates from California Rehabilitation Center to CSP Corcoran; and
- 11 • 300 inmates from Chuckawalla Valley State Prison to Ironwood State Prison;
- 12 • 226 inmates from CSP Solano to Deuel Vocational Institution;
- 13 • 143 inmates from Sierra Conservation Center to camps;
- 14 • 100 inmates from Substance Abuse Treatment Facility to CSP Corcoran;
- 15 • 57 inmates from Chuckawalla Valley State Prison to CSP Corcoran;
- 16 • 52 inmates from California Correctional Center to camps;
- 17 • 43 inmates from Folsom State Prison B Facility to Female Community Reentry
18 Facility.

19 The last of these transfers were completed last week, and the total number of inmates
20 transferred in this first phase was about 1,282.

21 To create the space in the dorms required to implement the Receiver's plan for eight-
22 person cohorts, however, additional transfers from some of the dorms are required. On
23 April 17, 2020, CDCR presented to the Receiver an initial proposal to comply with the
24 Receiver's plan. The Receiver sought additional information and CDCR therefore
25 submitted a modified proposal to the Receiver for approval this morning—April 20, 2020.
26 That modified proposal includes following additional dorm transfers:

- 27 • 175 inmates from Substance Abuse Treatment Facility to CSP Corcoran;

- 1 • 76 inmates from Substance Abuse Treatment Facility to California City
- 2 Correctional Facility;
- 3 • 133 inmates from Correctional Training Facility to CSP Corcoran;
- 4 • 180 inmates from Chuckawalla Valley State Prison to Ironwood State Prison;
- 5 • 95 inmates from San Quentin to CSP Corcoran;
- 6 • 76 inmates from California Rehabilitation Center to CSP Corcoran;
- 7 • 57 inmates from CSP Solano to California City Correctional Facility;
- 8 • 19 inmates from CSP Solano to Deuel Vocational Institute;
- 9 • 50 inmates from Central California Women’s Facility to Female Community
- 10 Reentry Facility; and
- 11 • 38 inmates from Correctional Institution for Women to Female Community
- 12 Reentry Facility.

13 If the Receiver approves these transfers on April 20, then CDCR should be able to
14 complete them within about two weeks. CDCR anticipates that once these transfers are
15 completed, nearly all dorms should have sufficient space to implement eight-person
16 cohorts in accordance with the Receiver’s plan. But it is possible that as CDCR works
17 through this process it will identify a few remaining transfers that might be needed to fully
18 implement eight-person cohorts in every dorm, in which case CDCR will promptly seek
19 the Receiver’s approval and conduct any such transfers as soon as possible.

20 **2. CDCR has begun to activate gyms for housing as needed.**

21 At this time, nineteen potential gymnasium sites have been identified. The State
22 Fire Marshal, whose inspections are still underway, has approved occupancy at twelve
23 gyms. The activation of gyms also requires that cots and lockers be moved into those
24 locations for the inmates who will be housed there. CDCR has already acquired 600 cots
25 and has ordered an additional 500 cots. And CDCR is in the process of surveying its need
26 for additional lockers.

27 CDCR has already activated some approved gyms. To date, 108 inmates have been
28

1 moved into gyms at San Quentin, and 21 inmates have been moved into a gym at
2 California Institution for Men (that number will likely be increased to 50 inmates this
3 week). CDCR anticipates that two gyms at CSP Solano will be activated this week and
4 that 128 inmates will be housed in them. CDCR has the ability and resources to activate
5 more gyms, and will continue to do so as the need arises.

6 **3. Appropriate physical distancing is being achieved in the dorms.**

7 All institutions with dorms have been directed to determine how their dorms can be
8 arranged to comply with the Receiver's eight-person-cohort plan, and to the extent their
9 dorm populations allow it, those prisons have been directed to begin implementing the
10 cohort plan. A number of dorm locations have already completed implementing eight-
11 person cohorts. And rather than use the cohort model, a number of dorm locations were
12 able to separate all inmates by at least six feet.

13 CDCR is in the process of surveying these efforts and has compiled some rough
14 numbers concerning dorm areas that have achieved appropriate physical distancing.
15 CDCR offers the following rough numbers to demonstrate that the process of ensuring
16 appropriate physical distancing in the dorms is well underway. When considering these
17 numbers, it is important to note that the dorm locations vary greatly from institution to
18 institution. Some dorm areas house as few as ten inmates and others house well over 200
19 inmates. To date, it appears that about 135 dorm areas have implemented eight-person
20 cohorts and about 67 dorm areas have been able to separate all inmates by at least six feet.
21 Additionally, CDCR anticipates that over the next week an additional 88 dorm areas will
22 be able to implement eight-person cohorts, and eight additional dorm areas will be able to
23 separate all inmates by at least six feet. CDCR anticipates that within about the next three
24 weeks, the remaining dorm areas (approximately 55) will achieve either eight-person
25 cohorts or six-foot distancing for all inmates.

1 **B. Steps Taken at California Institution for Men and CSP Los Angeles**
2 **County to contain the spread of COVID-19**

3 **1. Status of positive COVID-19 cases and hospitalizations among**
4 **the inmate population**

5 As of April 18, 2020, at 5:30 p.m., a total of 115 inmates at CDCR's 35 institutions
6 have tested positive for COVID-19. Out of those 110 inmates, 59 are housed at California
7 Institution for Men (CIM) and 50 are housed at CSP Los Angeles County (LAC).³ At
8 CIM, the majority of the inmates who tested positive were previously housed in Dorm
9 D10. The other inmates who tested positive were also housed in Facility D dorms.
10 Similarly, all inmates who tested positive at LAC were housed in Facility D at that
11 institution before testing positive.

12 As of April 19, 2020, seven inmates from CIM and one inmate from LAC were
13 hospitalized for COVID-19-related symptoms.

14 **2. CIM's and LAC's continuing efforts to contain the spread of**
15 **COVID-19**

16 As described in prior briefings relating to Plaintiffs' emergency motions filed in the
17 Three-Judge Panel and this case, to contain the spread of COVID-19, CDCR has been
18 isolating inmates with COVID-19-related symptoms and quarantining inmates who have
19 had contact with a COVID-19-positive individual.

20 **a. Measures taken by CIM to contain the spread of COVID-**
21 **19**

22 In addition to the previously described measures, CIM has had a thorough and
23 detailed plan in place to contain the spread of COVID-19 since the early stages of the
24 COVID-19 pandemic. For example, during the second week in March, CIM's healthcare
25 and custody leadership started mapping out a plan to ensure that CIM would have
26 sufficient supplies and buildings available to house quarantined or isolated inmates. In
27 addition, as soon as the first staff members and inmates tested positive, CIM immediately
28 began its contact tracing investigations and placed inmates who had contact with COVID-

³ In addition, as of April 18, 2020, two inmates at CEN, one inmate at CIW, one inmate at CMC, one inmate at NKSP, and one inmate at SATF have tested positive.

1 19 cases into quarantine. Further, after receiving the first positive test from an inmate,
2 CIM set up an outdoor tent clinic where patients with COVID-19-related symptoms could
3 be evaluated without risking exposure to inmates receiving treatment for other issues.

4 In addition, CIM set up an Incident Command Post, which was staffed seven days a
5 week, to monitor patient information, supplies, and staff resources to consistently manage
6 the effects of the ongoing pandemic. As part of the Incident Command Post, CIM
7 conducts a daily call (except for weekends and holidays) with various healthcare and
8 custody staff, including the Warden, the Associate Warden for health care, the Chief
9 Executive Officer, the Chief Medical Executive, the Chief Nurse Executive, and various
10 captains to discuss COVID-19-related topics.

11 All CIM inmates who display COVID-19-related symptoms are tested for COVID-
12 19 and housed individually in cells while awaiting their test results. If the tests return
13 positive, the inmates are sent to a dorm where they will be housed with other inmates who
14 tested positive. If the test results are negative, the inmates do not go straight back into
15 their old housing units. Instead, as a matter of precaution, they are housed in a separate
16 unit together with other inmates who tested negative and are monitored for COVID-19-
17 related symptoms for 14 days before they return to their housing units.

18 Inmates who have had contact with a person infected with COVID-19 are
19 quarantined and monitored together in dorms. As of April 18, 2020, approximately 1,200
20 inmates at CIM are quarantined. Nurses and physicians perform surveillance screenings of
21 all inmates in isolation or on quarantine for COVID-19-related symptoms at least twice per
22 day.

23 With respect to face coverings, all CIM inmates who are isolated or quarantined
24 have received at least three cloth masks. Inmates who tested positive are required to wear
25 cloth masks at all times. Healthcare staff who evaluate inmates are required to wear a cap,
26 a face shield, and a N95 mask. Inmates are required to wear their cloth masks during those
27 evaluations. Custody staff who walk around the institution are also required to wear
28

1 surgical or cloth masks. (For further details about face coverings, Defendants refer to
2 heading D., *infra*.)

3 **b. Measures taken at LAC to contain the spread of COVID-19**

4 Similar to CIM, LAC reacted quickly after the first inmate in Facility D tested
5 positive for COVID-19. Custody and health care immediately isolated the inmate and
6 began working together to establish protocols and methods to keep all inmates and staff
7 safe. Further, LAC has set up an incident command center and reduced the staff footprint
8 by increasing telework options with alternating onsite and telework schedules for primary
9 care providers.

10 Staff members at LAC conduct additional rounds to ensure the safety and well-
11 being of inmates who are placed on modified program. Inmates with complaints of cough,
12 fever or shortness of breath are tested for COVID-19. In addition, inmates with respiratory
13 symptoms or complaints such as sore throat, runny nose, sneezing, loss of smell, feeling
14 feverish, or chest congestion are considered for COVID-19 testing as well. Staff members
15 conduct additional rounds to ensure the safety and well-being of inmates on modified
16 program. Further, cloth masks have been provided to all inmates at LAC and LAC is in
17 the process of providing cloth masks to all staff members.

18 Also, to determine the prevalence and the manner of the spread of COVID-19 at
19 LAC's housing unit D2 (where the majority of the inmates who tested positive were
20 located previously), the prison commenced surveillance testing of all quarantined inmates
21 who were asymptomatic last week. According to California Correctional Health Care
22 Services, as of April 18, out of 51 inmates who were tested, 21 were positive, 18 were
23 negative, and 12 results were pending. An additional 47 inmates still need to be tested.

24 **3. Passing of released CIM inmate at a congregate living facility in**
25 **Los Angeles County**

26 On April 11, 2020, a 63-year old inmate who was released on parole (not an early
27 release) from CIM on April 3, 2020, to a congregate living center in Los Angeles County,
28 was found dead at the living center. Prior to his release, the inmate was quarantined

1 because he had been in contact with a COVID-19 positive person. According to the
2 California Correctional Health Care Services, the inmate did not have any symptoms upon
3 release, and the Los Angeles County Public Health Department was notified of the
4 inmate's release and of his quarantine status. He died at the living center of apparent
5 respiratory failure and his post-mortem testing was positive for COVID-19. Los Angeles
6 County is performing a contact investigation at the living center. The inmate had other
7 serious medical conditions at the time of his death.

8 **4. Passing of a current CIM inmate**

9 On April 19, 2020, a 60-year old inmate from CIM passed away from what appear to
10 be complications related to COVID-19. The exact cause of death has not yet been
11 determined. The inmate was at an outside community hospital at the time of his death. He
12 was sent to the hospital on April 16, 2020, from CIM's quarantined D10 dorm after he
13 became hypoxemic with a fever.

14 **C. Updates on CALPIA's production and supply of hand sanitizer and 15 masks, and new face covering policies**

16 The California Prison Industry Authority (CALPIA) plans to ship 11,880 bottles of
17 hand sanitizer next week. Starting in May, CALPIA plans to produce 50,000 32-ounce
18 bottles of hand sanitizer per month, which will be shipped on a weekly basis.

19 In addition, CALPIA continues to produce 22,000 washable cloth barrier masks per
20 day. The cloth masks are being distributed to all institutions for inmate and staff use. On
21 April 10, 2020, CDCR issued a memorandum to notify all institutions that the cloth masks
22 will be issued to all inmates, starting with three cloth masks per inmate for immediate
23 distribution, with a later distribution of two additional cloth masks per inmate. The
24 memorandum also noted that each facility needed to prepare for an increased demand for
25 laundry services in light of the need to wash the masks regularly.

26 On April 15, 2020, California Correctional Health Care Services issued a
27 memorandum that provided guidance on the use of the cloth masks. The memorandum
28

1 clarified that the cloth masks are not intended for direct patient-care scenarios. The
2 memorandum advised that staff members who are working or performing duties on
3 institutional grounds shall (at a minimum) wear a cloth face covering. It also stated that
4 inmates shall use a cloth face covering within the institution during the following
5 activities: any situation that requires movement outside of cell or while in a dorm setting;
6 during interactions with other inmates (ex: yard time, canteen, dayroom); movement to and
7 from health care appointments; and movement to and from medication administration
8 areas. These requirements are effective as soon as each institution receives a supply of two
9 face barriers/masks for each correctional staff member and each inmate.

10 DATED: April 20, 2020

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