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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,
Plaintiffs,
v.
EDMUND G. BROWN, JR., et al.,
Defendants.

Case No. C94 2307 CW

JOINT CASE STATUS STATEMENT

Judge: Hon. Claudia Wilken

CURRENT ISSUES

A. Accommodating Deaf Prisoners with Videophones

Defendants are required to provide reasonable accommodations, including the use of auxiliary aids, to deaf prisoners to ensure equally effective communication with the public. ARP § II.E.1. Many other state and county correctional systems have installed videophones. *See* Doc. 2655 at 2, n.1. One Court of Appeal recently found that a prison policy providing only TTY access to deaf prisoners impinged on the First Amendment rights of at least one detainee who, like many *Armstrong* class members, was unable to effectively communicate through the TTY phone because American Sign Language, and not written language, is his primary means of communication. *Heyer v. Boyd*, No. 15-6826, 2017 WL 715823 (4th Cir. Feb. 23, 2017) (overturning summary judgment against a deaf detainee seeking access to a videophone.) As detailed exhaustively in past case management statements, Plaintiffs have attempted to work collaboratively and in good faith with Defendants for close to six years to have videophones installed to accommodate deaf prisoners. Defendants are committed to installing videophones at all institutions that house hearing-impaired class members and working on this matter with Plaintiffs' counsel.

Defendants reported at the February 14, 2017 meet and confer, that 11 videophones have been installed throughout the Substance Abuse Treatment Facility (SATF) providing access for all areas housing deaf class members. Staff was trained beginning on February 22, 2017, and over the next few days. Class members were notified and trained to use the videophones. The videophones became operational on March 3, 2017

Defendants' contractor is installing 69 videophones at 11 additional institutions, including all of the facilities that currently house deaf prisoners, on the following schedule:

March 2017

California Correctional Women's Facility – 6 Video Relay Systems ("VRS")

R.J. Donovan State Prison – 11 VRS

California Institution for Men – 5 VRS

April 2017

California Medical Facility – 6 VRS

California Health Care Facility – 10 VRS

CSP Los Angeles County – 10 VRS

May 2017

North Kern State Prison – 5 VRS

CSP Corcoran – 7 VRS

Deuel Vocational Institution – 2 VRS

June 2017

San Quentin State Prison – 5 VRS

California State Prison, Sacramento – 2 VRS

Defendants will continue to work to implement the installation of the videophones pursuant to the above schedule. Defendants conduct weekly internal meetings regarding the status of the installation schedule and will regularly update Plaintiffs' counsel on the installation progress. Defendants are preparing notification for statewide labor negotiations regarding the videophone installations at the other prisons and hope to have any labor disputes resolved simultaneously with roll out at those prisons.

Plaintiffs remain concerned that this process has been plagued by delays and that some deaf class members still do not have access to videophones after six years of meet and confer. If delays continue to arise, Plaintiffs reserve their right to move the Court to order Defendants to provide this accommodation without delay. Defendants do not believe court intervention is necessary because the parties are engaged in a collaborative effort to address the issues, Defendants are pursuing resolution of labor items with the union, and their vendor is continuing to install the videophone equipment.

B. Allegations of Abuse and Violence Against Prisoners

Over the past two years, Plaintiffs have asserted allegations of abuse and violations of the rights of prisoners with disabilities at both High Desert State Prison (High Desert) and the Central California Women's Facility (CCWF). Plaintiffs issued multiple reports regarding both prisons outlining violations that class members allege are occurring. Plaintiffs requested Defendants take concrete steps to remedy confirmed violations and change the culture at both prisons. Many of the allegations of abuse, violence, and retaliation documented in Plaintiffs' reports are directed at class members, and Plaintiffs assert that these allegations constitute evidence of a culture that discourages prisoners from asking for help and discriminates against people with disabilities. The parties are

1 collaboratively working together to address the *Armstrong* and non-*Armstrong* related
2 issues at these institutions.

3 Defendants have implemented several changes at High Desert, including a change
4 to key leadership positions at the institution, staff training, and changes to local policies.¹
5 With respect to Plaintiffs' High Desert physical plant allegations, Defendants have made
6 improvements to provide greater access for prisoners with disabilities, with additional
7 work being prioritized through the Master Plan process. The court expert is monitoring
8 progress at High Desert. CDCR held quarterly peer reviews at High Desert in 2016 and is
9 piloting surveillance cameras on "B" facility. The parties continue to work together in
10 order to identify the necessary changes at High Desert to remedy alleged violations.

11 With regard to CCWF, the parties jointly conducted interviews of approximately
12 150 randomly selected prisoners at CCWF on June 20-29, 2016, in an effort to identify
13 systemic problems and any staff who may be violating prisoners' rights.

14 Plaintiffs' counsel visited the institution and interviewed prisoners again on
15 October 20, 2016, and January 30 through February 1, 2017. Unfortunately, Plaintiffs
16 alleged they discovered that reports of many of the same systemic problems of abuse and
17 violence still exist. Further, Plaintiffs allege that many officers, who were identified
18 during prisoner interviews, as being especially problematic and abusive were still working
19 in the housing units. Plaintiffs' counsel provided CDCR a report summarizing the findings
20 of the October interviews on December 8, 2016 and a report summarizing the January/
21 February findings on February 17, 2017.

22 Defendants have taken action at CCWF including: changing key Custody and
23 Healthcare leadership; conducting an audit of the prisoner grievance process that included
24 staff complaints and subsequently revising the local Department Operations Manual
25 Supplement to correct deficiencies and ensure integrity of the inmate grievance process;

27 ¹ For a detailed description of the policy and personnel changes put into place at High
28 Desert by CDCR, see Joint Status Statement, Doc. 2655 at 8-9.

1 and revising the local operational procedure relating to the Inmate Disability Assistance
2 Program, and enhancing training for prisoner workers and staff. Defendants have also
3 assembled a team of supervisory staff from other institutions to conduct allegation
4 inquiries for claims of staff misconduct brought forward during Plaintiffs' tours and the
5 subsequent interviews; all sustained allegations of staff misconduct are being addressed
6 through the Employee Discipline process. Defendants have contracted with experts in the
7 field of Gender Responsive Strategies to identify shortcomings and recommend
8 improvements to operational procedures and staff training. Plaintiffs' counsel alleges that
9 despite these changes problems persist. According to Plaintiffs' counsel, in contrast with
10 High Desert, problematic custody officers have not been removed from their positions
11 which they believe result in persistent problems of allegations of abuse and harassment of
12 prisoners at CCWF, which disproportionately impact prisoners with disabilities.
13 Defendants have offered Plaintiffs no explanation as to why these problematic officers
14 remain on the job and in housing units, despite being the subjects of dozens of allegations
15 of noncompliance with *Armstrong* and/or allegations of verbal, physical, or sexual abuse
16 and harassment. Defendants have advised Plaintiffs' counsel that the investigations are
17 ongoing and they cannot release information regarding pending investigations.

18 Defendants have explained to Plaintiffs that the Warden and Associate Director
19 have been involved in significant effort to investigate all of the allegations of staff
20 misconduct. Several of the allegations have been referred to the Office of Internal Affairs.
21 Of the allegations referred to the Office of Internal Affairs, some have been closed by the
22 Office of Internal Affairs as unsubstantiated, unfounded, or rejected. For several cases, the
23 Office of Internal Affairs has directed the institution to conduct additional review. At this
24 time, Defendants are not at liberty to disclose additional information to Plaintiffs about the
25 results of these reviews, including the specific number of allegations and/or which officers
26 have been referred to OIA, the number of allegations confirmed or rejected. Plaintiffs'
27 counsel reserves the right to seek the Court's assistance and an order directing Defendants
28 to provide more specific information regarding the outcome of these investigations,

1 pursuant to the protective order(s) of this case. Defendants do not believe court
 2 intervention is necessary because the parties are engaged in a collaborative effort to
 3 address the issues.

4 For over three years, Plaintiffs' counsel has raised concerns in tour reports for
 5 Salinas Valley State Prison about problematic staff attitudes toward prisoners with
 6 disabilities and disregard for the *Armstrong* Remedial Plan requirements. Plaintiffs'
 7 counsel believes this attitude has resulted in a failure to accommodate prisoners with
 8 disabilities, and a culture of retaliation at the prison. At the exit meeting after a monitoring
 9 tour in late August 2016, Plaintiffs reported serious and widespread allegations of staff
 10 misconduct throughout the institution, including harassment of class members, interference
 11 with class members' access to programs and services, and widespread refusal to provide
 12 class members with reasonable accommodations for their disabilities. On December 27,
 13 2016, Plaintiffs provided a detailed report that documents allegations of retaliation against
 14 prisoners for communicating with Plaintiffs' counsel, the opening and reading of legal
 15 mail between class members and Plaintiffs' counsel after the monitoring tour,² and
 16 physical and verbal harassment of *Armstrong* class members. The report documents
 17 allegations of a culture of violence, intimidation, and harassment, perpetuated by some
 18 custody officers who fail to intervene in fights, actively harass and threaten prisoners, and
 19 operate with impunity. Defendants acted quickly to review the allegations detailed in
 20 Plaintiffs' December 27, 2016 report, and are taking affirmative steps towards addressing
 21

22 ² See CDCR Department of Operations Manual Sec. 54010.12.1 (providing that inmates
 23 may correspond confidentially with attorneys and legal services organizations, specifically
 24 mentioning the Prison Law Office by name). "Regulations and practices that unjustifiably
 25 obstruct the availability of professional representation or other aspects of the right of
 26 access to the courts are invalid." *Procunier v. Martinez*, 416 U.S. 396, 419 (1974),
 27 *overruled in part on other grounds by Thornburgh v. Abbott*, 490 U.S. 401 (1989). Legal
 28 mail systems are critical to a prisoner's constitutional rights to free speech, to legal
 counsel, and to access to the courts. *Nordstrom v. Ryan*, 762 F.3d 903, 909 (9th Cir.
 2014). Interference with prisoners' communications with attorneys also violates the
 lawyers' First Amendment rights, as these are communications in which "the interests of
 both parties are inextricably meshed." *Procunier*, 416 U.S. at 408-09.

1 confirmed violations. Defendants also provided *Armstrong* refresher training to over 600
2 employees, and surveyed use of force and staff misconduct reports for additional
3 information.

4 In late December 2016, Plaintiffs' counsel proposed that the parties conduct joint
5 interviews at Salinas Valley in order to further inquire into these allegations and determine
6 appropriate corrective actions. Plaintiffs proposed that they would identify prisoners at
7 Salinas Valley who are willing to cooperate with the investigation. Defendants proposed
8 instead that the parties jointly interview 7% of the *Armstrong* class, 7% of non-*Armstrong*
9 class members, and 10 inmates identified by Plaintiffs' counsel. Plaintiffs have expressed
10 serious reservations that randomly selected class members will not be forthcoming about
11 their experiences of violence and harassment at SVSP in light of the pervasive allegations
12 of retaliation and violence. The parties continue to negotiate plans to conduct some
13 random interviews and some interviews of class members who are willing to participate
14 and provide information as identified by Plaintiffs' counsel.

15 During the discussions, Defendants informed Plaintiffs' counsel of their plans to
16 conduct random interviews at Salinas Valley without Plaintiffs' counsel. Plaintiffs'
17 counsel objected to Defendants interviewing any class members without their presence,
18 including class members for other cases which are also represented by Plaintiffs' counsel
19 including *Coleman v. Brown*, and *Clark v. California*. Defendants observed Plaintiffs'
20 objection and on February 28 through March 2, 2017, sent two teams of staff from
21 headquarters and other prisons to conduct random interviews with prisoners at Salinas
22 Valley who are not members of the *Coleman*, *Clark*, or *Armstrong* classes. Plaintiffs
23 question the value of an interview process that takes place without the involvement of the
24 most vulnerable populations at Salinas Valley, including prisoners with physical,
25 psychiatric, and intellectual disabilities.

26 Defendants assert that many of Plaintiffs' allegations are not specific to the
27 Americans with Disabilities Act, and that CDCR has a duty to quickly respond to ensure
28 the safety and security of all inmates at Salinas Valley. Defendants believe there is value

1 to hearing from a broad sample of inmates about potential issues. Defendants believe that
2 jointly interviewing a random selection of class and non-class members would yield help-
3 ful information to determine what individual and systemic problems may exist and how to
4 address confirmed violations and prevent future incidents. While the parties may disagree
5 on the manner and process in which to investigate the allegations, Defendants believe the
6 parties agree that the allegations should be investigated and promptly addressed.

7 The parties, with the assistance of the court expert, hope to continue to work
8 collaboratively to improve conditions at these institutions. Plaintiffs reserve the right to
9 seek this Court's assistance or to pursue separate litigation regarding the issue. Defendants
10 do not believe court intervention is necessary because the parties are engaged in a
11 collaborative effort to address the issues.

12 **C. Parole Planning and Working With Class Members Preparing for**
13 **Release**

14 *Plaintiffs' Statement*

15 Plaintiffs have asserted that Defendants violate the ADA and the *Armstrong*
16 Remedial Plans by excluding prisoners who use wheelchairs from CDCR-funded
17 community placements. *See* Doc. 2655 at 11-13. Plaintiffs also assert that by failing to
18 provide paroling prisoners with disabilities timely assistance in obtaining Social Security
19 disability benefits and by failing to provide other transition to parole services, "CDCR is
20 operating its services, programs and activities in a manner that inevitably channels person
21 with disabilities into repeated institutional confinement with no realistic opportunity to
22 establish independent living in the community, in violation of the ADA and of the
23 principles set forth in *Olmstead L.C. ex. Rel. Zimring*, 527 U.S. 581 (1999)." *Id.* at 12.

24 Plaintiffs have sent Defendants correspondence regarding multiple class members
25 nearing parole who had not had their Social Security and other benefit applications started
26 in a timely fashion, many of whom were concerned about being homeless on parole as a
27 result. Plaintiffs have also requested discovery related to this issue, including a list of all
28 community programs that house parolees under contract with CDCR, along with

1 information about which ones are wheelchair accessible, and contracts and correspondence
2 between CDCR and the University of California, San Diego (UCSD), which provides the
3 social workers who are responsible for assisting prisoners in this transition to parole.
4 Based upon a review of documents produced thus far, Plaintiffs believe that there are
5 inadequate resources allocated to assisting parolees to apply for benefits while in prison
6 and no statewide system for identifying accessible parole placements.

7 The parties agreed to work together in a smaller group which is meeting on
8 March 29, 2017, with the assistance of Mr. Swanson, to address these concerns.

9 *Defendants' Statement*

10 Defendants offer pre-parole planning services to all prisoners before release from
11 prison, including assistance with medical benefits and oftentimes, assistance with locating
12 housing. Defendants contract with third-party private entities to provide community
13 housing for eligible parolees, and these third-party entities are contracted to provide
14 housing and programming in accordance with the ADA and the state and federal laws. In
15 addition, Defendants provide referral services and assistance connecting parolees with
16 non-CDCR funded community resources to obtain housing and other needed services.
17 Defendants are gathering information necessary to respond to Plaintiffs' October 10, 2016
18 letter. Defendants will continue to work with Plaintiffs' counsel and Mr. Swanson to
19 address these concerns. Additionally, as provided in the response to Plaintiffs' counsel's
20 correspondence regarding individual class members, Defendants are actively working with
21 the class members to address their individualized needs.

22 **D. Accountability**

23 In January 2016, Plaintiffs outlined their concerns of ongoing problems with
24 Defendants' accountability process, including the failure to: (1) detect patterns of non-
25 compliance; (2) identify systemic failures occurring across multiple prisons; (3) rectify
26 problems that are repeatedly reported at some prisons; and (4) deter violations by ensuring
27 consequences for staff members who are found to be in violation. In response to Plaintiffs'
28 concerns, Defendants developed and presented to Plaintiffs in March 2016, a five-step plan

1 to address these concerns and improve operations related to staff accountability. The plan
2 includes: (1) standardization of the inquiry process; (2) automation of the tracking of data
3 and logs; (3) enhanced focus on the quality of inquiries; (4) a Non-Compliance Review
4 Committee for quality control; and (5) the inclusion of headquarters level accountability to
5 ensure that someone is held responsible when an institution fails to address serious and
6 repeatedly reported problems. Defendants have circulated memoranda and conducted
7 training regarding the new inquiry and reporting process. Defendants conducted the first
8 Review Committee meeting in September 2016, and reportedly continue to hold these
9 meetings at headquarters. Defendants began work with an information technology
10 contractor in October 2016 to create an automated system to track and log the
11 accountability process. Defendants anticipate rolling out the new system in the next few
12 months.

13 Plaintiffs remain concerned that Defendants' plan does not go far enough in
14 requiring staff to go beyond the individual violations recorded on the logs and audited by
15 the Non-Compliance Review Committee, to determine whether individual violations are
16 indicative of a potentially larger systemic problem. The parties continue to meet and
17 confer with the assistance of Mr. Swanson to develop a sustainable and meaningful
18 accountability system that identifies problematic institutions and staff, and that promptly
19 remedies violations of the ADA and *Armstrong* Remedial Plan. The parties met on
20 March 13, 2017, and Plaintiffs and the court expert observed a Review Committee meeting
21 on that day.

22 **E. Training of Staff on the ADA, ARP, and Disabilities**

23 Plaintiffs believe that inadequate training of staff on ADA issues is a contributing
24 factor to the cultural problems uncovered at multiple institutions, as well as the failure to
25 provide accommodations that has been documented systematically in tour reports of
26 institutions from across the state. Furthermore, during monitoring tours, Plaintiffs' counsel
27 has discovered that there are problems with the database previously used to track which
28 staff require *Armstrong* training.

1 Defendants report that the information technology specialists are in the process of
2 updating database systems, so that information regarding which staff members have
3 received training can be tracked and monitored easily. Additionally, CDCR is drafting
4 new training modules, with the goal of revamping and overhauling the *Armstrong* training.
5 Plaintiffs reiterate their willingness to be involved in developing content for the training.
6 Revisions to the training will encourage staff understanding of disabilities and lessen
7 problems of culture and failures to provide accommodations that have been identified. The
8 parties will work together on changes to current training. Defendants have agreed to
9 provide drafts of these modules to Plaintiffs and Mr. Swanson as they are updated over the
10 next few months.

11 **F. Joint Monitoring Audit Tool**

12 The parties continue to work together on drafting a joint audit tool for measuring
13 compliance in this case. Five trial implementations of five draft sections of the tool have
14 been conducted at California Medical Facility, Salinas Valley State Prison, California State
15 Prison Los Angeles, California Health Care Facility, and Mule Creek State Prison. A
16 “mini” trial implementation to test a revised Inmate Interview worksheet was completed on
17 February 28, 2017, and another “mini” trial implementation is scheduled for March 21,
18 2017, to test the revised Effective Communication questions. The parties will also
19 schedule “mini” trial implementations to test the remaining sections of the tool.

20 The parties met on January 18, 2017 with Mr. Swanson to discuss the core
21 components of the case—“big picture” items—that should and should not be included in
22 the audit tool. The parties will continue to meet to revise the tool as needed.

23 Once the tool and trial implementations are complete and joint monitoring begins,
24 Defendants believe that Plaintiffs’ individual monitoring should end. Plaintiffs disagree
25 that their individual monitoring should end, but will continue to work in good faith
26 towards completion of an adequate joint monitoring tool.

27 **G. Alleged Discrimination in Program Assignments**

28 Through letters and monitoring tour reports, Plaintiffs allege that prisoners with

1 disabilities impacting placement are denied equal access to program assignments.
2 Plaintiffs' counsel also reported, based on class member allegations, that prisoners with
3 disabilities impacting placement do not receive equal access to the most desirable program
4 assignments, including paid program assignments. Defendants assert that inmates are not
5 legally entitled to paid program assignments. Plaintiffs requested, and Defendants
6 produced, informal data showing the numbers of prisoners with program assignments at
7 each prison. Plaintiffs' counsel notified Defendants in early May 2016 that their analysis
8 of CDCR's data shows that prisoners with disabilities impacting placement are not
9 receiving equal access to program assignments when compared to prisoners without
10 disabilities. Plaintiffs are also concerned that there is a disparity in paid positions received
11 by people with disabilities impacting placement. Defendants disagree with Plaintiffs'
12 interpretation of the data and maintain that any disparity in the data alone is not evidence
13 of discrimination. Nonetheless, Defendants agreed to a standardized policy or training
14 with uniform procedures for assigning inmates on job assignment wait lists and the
15 interactive process of reevaluating and providing reasonable accommodations needed to
16 perform a particular job assignment.

17 The parties exchanged letter briefs on January 25, 2017, and met with Mr. Swanson
18 on February 6, 2017, in an effort to resolve this issue. On February 13, 2017,
19 Mr. Swanson produced his preliminary thoughts and presented additional questions for the
20 parties to answer in writing on March 6, 2017, and the parties met again on March 9, 2017.

21 **H. Accommodations for Prisoners with Learning Disabilities**

22 In late March 2016, Plaintiffs' counsel notified Defendants of widespread failures to
23 identify and accommodate prisoners with learning disabilities. As a result, Plaintiffs'
24 counsel allege that these prisoners are serving longer sentences because they are unable to
25 reach educational and vocational "milestones" that are necessary to earn credits to reduce
26 their sentence, or that the Board of Parole Hearings wants them to achieve before granting
27 parole. Defendants contend that the Board of Parole Hearings sometimes recommends
28 inmates participate in education and vocational programming to assist the inmate to

1 succeed when they parole, but does not make this a requirement for parole. Plaintiffs also
2 believe that some Career Technical Educational and Prison Industries Authority training
3 programs have blanket exclusions for people who fall below certain reading levels, without
4 any exceptions or accommodations for prisoners with learning disabilities.

5 The parties have met and conferred multiple times on this issue. Defendants have
6 agreed to make changes through the Office of Correctional Education to improve the
7 process for requesting school records and verifying people who allege a learning disability.
8 The Office of Correctional Education revised the school transcript request form to include
9 a special request for Individualized Education Plan and Special Education records. The
10 Office of Correctional Education also prepared a form, which will be available to
11 institutional staff, to document verified and non-verified learning disabilities, and
12 requested accommodations related to the learning disability. Defendants are in the process
13 of improving the 1824 process for people who allege learning disabilities. Finally,
14 Defendants agreed to address potential barriers to program access for prisoners with
15 learning disabilities.

16 On January 24, 2017, Plaintiffs provided comments regarding Defendants' draft
17 policy. Defendants anticipate presenting a new draft in the next few days. The parties
18 continue to work together on these issues.

19 **I. Video Remote Interpreting**

20 The *Plata* Receiver's office has installed video remote interpreting (VRI)
21 equipment in all clinics in prisons that house deaf prisoners, and health care staff were
22 trained on its use and the process for scheduling a sign language interpreter (SLI) from a
23 different prison to provide interpretation services via the VRI equipment. The Receiver's
24 office audits this process and will continue to share the results of their internal audits with
25 the parties.

26 CDCR is in the process of implementing VRI technology in educational, vocational,
27 and substance abuse programing at prisons that house deaf class members. CDCR has
28 signed a contract for VRI interpretation services, and equipment has been installed at

1 SATF, RJD, CIM, and CMF. Staff members and teachers at the four institutions were
2 trained on how to use the equipment. The equipment is currently being utilized at these
3 institutions. Counsel for Plaintiffs have expressed concern about the failure to install the
4 interpreting equipment at the other prisons housing deaf class members, especially Central
5 California Women's Facility and North Kern State Prison, which often house deaf
6 prisoners. Defendants reported that they will evaluate Plaintiffs' counsel's
7 recommendation to install interpreting equipment at CCWF, and noted that North Kern
8 State Prison, which houses deaf prisoners, is a reception center that does not provide
9 programs and education. Defendants will update the parties regarding Central California
10 Women's Facility and will continue to provide class members with accommodations to
11 allow access to these programs.

12 Defendants also stated that they do not intend to expand VRI to other programs
13 such as volunteer and Division of Rehabilitative Programs offerings. Plaintiffs assert that
14 these programs fall under the Education department and are therefore covered by existing
15 court orders which require Defendants to provide equal access and effective
16 communication to education, substance abuse and vocational programs. See Doc. 1045 at
17 3 (citing Defendants' failure to provide SLIs in education, work, and other programming);
18 Doc. 1661 at 2 ("Plaintiffs have demonstrated that Defendants have violated the rights of
19 prisoners with disabilities under the ADA and Section 504 by ... denying sign language
20 interpreters to prisoners who need them in educational and substance abuse programs.");
21 Doc. 1700 at 5 ("Defendants continue to deny deaf inmates access to adequate sign
22 language interpretation in educational programs" and "sign language interpretation may
23 not be adequate in Defendants' substance abuse programs."); Doc. 2345 at 23 (finding
24 Defendants in violation of previous court orders for failing to provide SLI services during
25 education and vocational classes). Defendants have agreed to provide a complete list of
26 programs including those offered by the Division of Rehabilitative Programs.

27 **J. ADA Workers**

28 CDCR utilizes ADA workers to provide reasonable accommodations to prisoners

1 with disabilities. ADA workers perform services including pushing prisoners in
2 wheelchairs to medical appointments or helping prisoners with visual impairments to read
3 or write. Plaintiffs contend that there are problems with the ADA worker program,
4 including the training and supervision provided to ADA workers, the number of workers,
5 and the pay scale for ADA workers. The parties have reached an agreement regarding
6 revisions to CDCR's ADA worker program, governing memoranda, and training
7 requirements. CDCR issued a new ADA worker memorandum to the institutions on
8 December 12, 2016, but the portions of the memorandum relating to training and
9 supervision of the workers by custody officers was postponed pending additional labor
10 negotiations between CDCR and California Correctional Peace Officers Association. In
11 the interim, ADA Associate Wardens are training and supervising ADA workers pending
12 resolution of the labor issue. Plaintiffs also have raised the issue of CDCR not having
13 ADA Worker programs in place at the Reception Centers across the state. The parties will
14 continue to discuss this matter to identify a way to accommodate prisoners with disabilities
15 at the Reception Centers. Plaintiffs will continue to monitor if the ADA worker program
16 adequately serves class members' needs at institutions across the state.

17 **K. Medically Unassigned Prisoners**

18 The parties agreed to amend California Code of Regulations, Title 15 to allow
19 medically unassigned prisoners to receive an annual four-point reduction in classification
20 points if they are totally medically disabled and incapable of performing an assignment.
21 Defendants adopted the amendments and reported that amendments would begin to take
22 effect on February 21, 2017.

23 **L. ADA Structural Barriers and Master Planning Process**

24 Construction is well underway at several of the designated institutions. Former
25 Class Action Management Unit Director Mike Knowles is overseeing the process,
26 confirming agreed-upon changes, and reporting on construction progress and anticipated
27 timeframes in monthly reports produced to Plaintiffs.
28

M. Parolees and Out to Court Prisoners with Disabilities on Parole and in County Jails

Plaintiffs have notified Defendants regarding their concerns about the provision of sign language interpretation services to deaf parolees, following a comprehensive review by Plaintiffs' counsel of parole field files. Plaintiffs allege that these parolee files show that deaf parolees are repeatedly denied access to programs and services and are not able to effectively communicate with their parole agents during due process encounters because of failures to arrange for sign language interpretation services.

Defendants agreed to improve their sign language contracts by centralizing contracts on a statewide level and recently executed new contracts for 2017 through 2018. Defendants provided Plaintiffs' counsel with a copy of the completed contracts on January 9, 2017. Plaintiffs' counsel believes that the contracts do not eliminate multiple problems identified in prior contracts—specifically, the new contracts offer lower rates of pay for SLI services and fail to compensate SLIs for travel. Plaintiffs' counsel contends that these contract deficiencies will only make it more difficult to entice desperately needed interpreters for parole services. Plaintiffs provided Defendants with a letter outlining deficiencies in the new statewide contract on February 27, 2017. Plaintiffs' counsel contends that only significant changes to the statewide sign language contract will remedy the repeated violations of ADA rights. Defendants are reviewing Plaintiffs' February 27, 2017 letter and will provide a response soon.

To assist parole agents in providing accommodations to parolees requiring sign language, Defendants have committed to installing webcams for video remote interpreter services in all 113 parole units. Defendants reported that equipment has been delivered to all parole offices, but training and labor issues will delay implementation until at least the second quarter of 2017. Plaintiffs do not consider webcams a sufficient solution.

Defendants created a videotape of the *Armstrong* training for parole agents. Plaintiffs provided their comments after receiving the video and are awaiting an updated version.

1 In response to Plaintiffs' concern that out-to-court prisoners in county jails are not
2 provided with the postcards to receive the forms (2275-CJ) to request accommodations,
3 Defendants agreed to meet with out-to-court prisoner class members within three business
4 days of their arrival at the county jail, provide those class members with a 2275-CJ form,
5 and offer assistance in completing the form. Defendants plan to amend their Out-to-Court
6 Memorandum accordingly.

7 Plaintiffs' counsel alleges that Defendants are taking uncounseled admissions from
8 parolees with developmental disabilities who are facing parole revocation. In letters from
9 Jenny Yelin to Patrick Jones dated December 9, 2016 and December 14, 2016, and the
10 January 6, 2017, Sacramento Jail Report, Plaintiffs detail these allegations regarding one
11 class member. Plaintiffs assert that CDCR Form 1527 Voluntary Statement of Admission
12 should not be signed without counsel present if there will be a loss of liberty as a result of
13 the signing. In addition, the current form does not include a place to indicate how effective
14 communication occurred. Defendants contend the class member's parole was not revoked
15 solely on the basis of his signing the form, but that other factors contributed to his parole
16 revocation. Defendants also assert that the parolee is represented by counsel at the parole
17 revocation hearing. The parties plan to meet on March 29, 2017 to discuss these issues
18 further.

19 **N. Investigation of Los Angeles and San Diego County Jails**

20 Letters from Plaintiffs' counsel dating back to 2014 allege a pattern at the Los
21 Angeles and San Diego County Jails of denying disability accommodations to class
22 members. Most recently, in a February 1, 2017 letter, Plaintiffs detailed allegations from
23 multiple class members at these jails that they are without their required mobility
24 accommodations. Plaintiffs detailed prisoners who were identified by CDCR as requiring
25 accommodations and yet who are reporting they do not have canes, walkers, wheelchairs
26 or other required accommodations in the jails. Plaintiffs allege that the failure of these
27 jails to ensure that class members have their required disability accommodations evidences
28 a problematic pattern at these jails. Plaintiffs, in their July 25th letter, and during the

1 August 18, 2016 meet-and-confer, requested that Defendants investigate. Under the
2 County Jail Plan, “Each Regional ADA Parole Administrator shall review CDCR 1824
3 grievances and determine if there is a pattern of denials of disability accommodations ... at
4 a particular county jail facility. If a pattern is discovered, the Regional ADA Parole
5 Administrator must write to the County’s legal counsel (or designee) within five days of
6 discovery and provide the evidence alleged.” County Jail Plan at 7, June 21, 2012. In
7 addition, “[t]he Regional ADA Parole Administrator shall assign one of their Parole Agent
8 Supervisors to investigate the alleged deficiencies at the specific county jail.” *Id.*

9 With respect to Los Angeles County Jail, Defendants continue to maintain that
10 because the county fails to respond to Defendants’ request for information regarding
11 allegations of denials of accommodations for individual class members, they are without
12 sufficient information to determine the existence of a pattern of denial. Defendants claim
13 that because they have not discovered a pattern of denials in Los Angeles County, they are
14 not required under the Court’s order to conduct an investigation. With respect to San
15 Diego County Jail, Defendants maintain that a pattern of denials does not exist because
16 information provided by the county, which was also provided to Plaintiffs’ counsel in the
17 form responses to tour reports, shows that county medical staff determined that class
18 members did not need the requested accommodations within the county jail.

19 Plaintiffs maintain that a pattern of denials of disability accommodations exists in
20 the two jails. Plaintiffs conducted additional discovery, including depositions of Los
21 Angeles county staff members, and believe that the depositions confirm serious problems.
22 Plaintiffs will detail these concerns in a letter once deposition transcripts have been
23 obtained and may request the Court’s assistance if Defendants continue to refuse to
24 investigate. Defendants assert that they will continue to comply with the requirements of
25 the Court’s August 20, 2012 order and County Jail Plan.

1 DATED: March 15, 2017

Respectfully submitted,

2 ROSEN BIEN GALVAN & GRUNFELD LLP

3 By: /s/Penny Godbold

4 Penny Godbold

5 Attorneys for Plaintiffs

6
7 DATED: March 15, 2017

XAVIER BECERRA

Attorney General of the State of California

8 By: /s/Sharon A. Garske

9 Sharon A. Garske

10 Deputy Attorney General

11 Attorneys for Defendants

12
13 As required by Local Rule 5-1, I, Penny Godbold, attest that I obtained concurrence
14 in the filing of this document from Sharon A. Garske and that I have maintained records to
15 support this concurrence.

16 DATED: March 15, 2017

/s/Penny Godbold

17 Penny Godbold