

1 XAVIER BECERRA
Attorney General of California
2 MONICA N. ANDERSON
Senior Assistant Attorney General
3 DAMON G. MCCLAIN - 209508
Supervising Deputy Attorney General
4 NASSTARAN RUHPARWAR - 263293
Deputy Attorney General
5 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
6 Telephone: (415) 703-5500
Facsimile: (415) 703-3035
7 Email: Nasstaran.Ruhparwar@doj.ca.gov
Attorneys for Defendants

HANSON BRIDGETT LLP
PAUL B. MELLO - 179755
SAMANTHA D. WOLFF - 240280
KAYLEN KADOTANI - 294114
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777--3200
Facsimile: (415) 541-9366
pmello@hansonbridgett.com

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 MARCIANO PLATA, et al.,
14 Plaintiffs,
15 v.
16 GAVIN NEWSOM, et al.,
17 Defendants.

CASE NO. 01-1351 JST

**DECLARATION OF RALPH DIAZ IN
SUPPORT OF DEFENDANTS'
RESPONSE TO ORDER RE:
QUARANTINE AND ISOLATION SPACE**

Judge: Hon. Jon S. Tigar

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20 I, Ralph Diaz, declare:

21 1. I am the Secretary of the California Department of Corrections and Rehabilitation
22 (CDCR). I was appointed by Governor Gavin Newsom as CDCR's Secretary on March 27, 2019.
23 Before my appointment as Secretary, I served in several positions at CDCR's headquarters,
24 including Undersecretary of Operations, Deputy Director of Facility Operations, and Associate
25 Director of High Security Institutions. And before I worked at CDCR's headquarters, I served as
26 a prison Warden, Correctional Counselor Supervisor, and Correctional Counselor, after starting
27 my career as a Correctional Officer in 1991. I submit this declaration to support Defendants'
28 response to the Court's order regarding quarantine and isolation spaces.

1 2. On Friday, July 10, 2020, CDCR announced additional actions to reduce the prison
2 population and maximize space systemwide to address COVID-19. Even before CDCR
3 announced the new measures, which are described below, CDCR's previous decompression
4 efforts in response to the pandemic had already reduced its prison population by about 10,000
5 inmates since mid-March, 2020. CDCR now plans to build on its previous efforts. CDCR
6 estimates that the new measures will result in the prison population reducing by at least another
7 8,000 between now and September.

8 3. CDCR modified the criteria for its plan to release inmates who are scheduled for
9 release within 180 days (180 Day Plan). Under the modified criteria, more inmates will be
10 released and the releases will happen quicker. With these modifications, approximately 4,800
11 inmates will be released under the 180 Day Plan by the end of July 2020. And inmates will
12 thereafter continue to be released under the 180 Day Plan on a rolling basis until the plan is no
13 longer necessary.

14 4. CDCR is also implementing a new plan to release certain inmates who are within
15 one year of their release dates (One Year Plan). The One Year Plan focusses on eight specific
16 prisons that were selected based on several factors, including, but not limited to, the size of the
17 population of high-risk inmates and the physical plant layout: San Quentin, Central California
18 Women's Facility, California Health Care Facility, California Institution for Men, California
19 Institution for Women, California Medical Facility, Folsom State Prison, and Richard J. Donovan
20 Correctional Facility. Under the One Year Plan, about 700 inmates age thirty or over will become
21 immediately eligible for release and should be released before the end of July 2020, and about 300
22 additional inmates who are under age 30 will be considered for release on a case-by-case basis.
23 The One Year Plan will also continue on a rolling basis until it is no longer necessary, and it may
24 be expanded to other locations.

25 5. CDCR has also implemented a new plan to award twelve weeks of positive
26 programming credits to all inmates except inmates who are serving a life sentence without the
27 possibility of parole, inmates who are condemned to death, and inmates who received a serious
28 rules violation between March 1 and July 5, 2020 (Credit Plan). CDCR estimates that about

1 108,000 inmates will be awarded the credits and that the Credit Plan will result in approximately
2 2,100 additional releases between July and the end of August 2020. And the impact of the Credit
3 Plan will continue indefinitely because it will advance the release dates or parole-consideration
4 dates for every inmate who is awarded the credits.

5 6. CDCR has also established criteria for releasing medically high-risk inmates who
6 will be evaluated for release on a case-by-case basis (High Risk Medical Plan). Because of the
7 nature of the High Risk Medical Plan, CDCR is currently unable to estimate the number of
8 releases that will result from its implementation.

9 7. Additionally, CDCR is reviewing potential release protocols for incarcerated
10 persons who are in hospice or pregnant because they are considered at high risk for COVID-19
11 complications. And CDCR will be expediting the release of incarcerated persons who have been
12 found suitable for parole by the Board of Parole Hearings and Governor, but who have not yet
13 been released from prison.

14 8. I understand that the Court is concerned about the institutions' preparedness for
15 significant outbreaks. CDCR shares those concerns, which is why on July 2, 2020, CDCR ordered
16 the activation of Incident Command Posts at each institution. A true copy of this directive is
17 attached to this declaration as Exhibit A. The purpose of that order was to enhance each
18 institution's ability to mitigate, prepare, respond, and recover from COVID-19 outbreaks in
19 accordance with the Department All-Hazards Emergency Operations Plan. All CDCR institutions
20 have now activated an Incident Command Post in response to the pandemic and have submitted
21 strategic plans for dealing with outbreaks.

22 9. The objectives of the Incident Command Posts include, among many other things,
23 the following:

- 24 • Identifying logistical needs and resource deployments;
- 25 • Identifying potential challenges in responding to outbreaks;
- 26 • Conducting advance planning;
- 27 • Managing COVID-19 testing; and
- 28 • Identifying new or potential COVID-19 cases.

EXHIBIT A

Memorandum

Date: July 2, 2020

To: CDCR Institutions Wardens
CDCR CCHCS CEOs
DJJ Superintendents

Subject: IMMEDIATE ACTIVATION OF INSTITUTIONAL INCIDENT COMMAND POSTS

The purpose of this directive is to enhance the facility's ability to mitigate, prepare, respond, and recover from COVID-19 declared disaster involving California Department of Corrections and Rehabilitation (CDCR) sites in accordance with the Department All-Hazards Emergency Operations Plan. All CDCR institutions shall activate an Incident Command Post (ICP) in response to the COVID-19 pandemic. All ICPs shall utilize the Incident Command System (ICS) and the appropriate ICS Forms for documentation purposes.

Incident Command Post Management Objectives

Wardens and California Correctional Health Care Services (CCHCS) Chief Executive Officers (CEO) shall reference their respective institution's Emergency Operations Plan (EOP) and establish a Unified Command (UC) structure. The ICP's functions for preparing and responding to emergencies include, but are not limited to the following:

- Conducting advanced planning
- Managing COVID-19 testing
- Identifying new or potential COVID-19 cases
- Identifying logistical needs and resource deployments
- Managing external affairs
- Daily tracking and reporting of incidents
- Daily Unified Command Objectives Meeting (including weekends if applicable)
- Identify trends and anticipate challenges relative to potential outbreak concerns

ICP staff shall adhere to existing policies and guidelines for protective masking and social distancing.

Incident Command Post Minimum Staffing

ICP positions shall include, at minimum, the following staffing:

- Co-Incident Commanders from Division of Adult Institutions (DAI) and CCHCS
- Co-Planning Chief
- Co-Operations Chief
- Co-Logistics Chief

CDCR Institutions Wardens
CDCR CCHCS CEOs
Division of Juvenile Justice Superintendents
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- Finance Chief
- Public Information Officer
- CDCR COVID-19 DOC Liaison

ICs may establish additional positions based on operational need.

Incident Command Post Strategic Objectives

The ICP roles and responsibilities shall include, but not be limited to the following:

- Provide a current assessment and situational awareness report of all areas within the institution as related to COVID-19 mitigation efforts
- Develop contingency plans and countermeasures to address identified needs
- Identify and address logistical and resource needs
- Prepare and submit an internal daily situation report from the ICP to the CDCR COVID-19 DOC, no later than 1000 hours (See attachment A)
- Prepare an external situation report to be shared with local stakeholders to include Emergency Medical Services teams (EMS), county public health agencies, local hospitals, local law enforcement partners (i.e., Police, Probation, Sheriff), and local government representatives (See attachment B)
- Create and maintain a daily Incident Action Plan (IAP) to include management and strategic objectives comprised of ICS forms (i.e. ICS 202, ICS 203, ICS 205A, ICS 207, ICS 208, ICS 209, ICS 213, and ICS 214)
- Track COVID-19 related expenditures
- Enhanced communications with public health, local hospitals, and healthcare providers will be essential in the event of significant changes in circumstances
- Extend an invitation to local Public Health officials to participate in their ICP operation in the event an outbreak occurs
- Establish a dedicated CDCR COVID-19 DOC liaison and include their contact information with every prepared report submitted to the CDCR COVID-19 DOC (Name, telephone number, email)
- ICs shall participate in the DOC's daily conference call that will provide a daily operational briefing to the ICPs. This call will occur Monday through Friday at 1400 hours
- Ensure all staff assigned to the ICP complete ICS Form 214 daily
- All resource request shall be submitted with a completed ICS Form 213, through the CDCR COVID-19 DOC electronic email at DOCCOVID19@cdcr.ca.gov.

Please email the CDCR COVID-19 DOC at DOCCOVID19@cdcr.ca.gov with any questions or concerns.

CDCR COVID-19 Department Operations Center