

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

WILLIAM MATHIS and KENNEDY DAVIS,
*individually and on behalf of all others similarly
situated,*

Plaintiffs,

v.

U.S. PAROLE COMMISSION, et al.,

Defendants.

Case No. 1:24-01312 (TNM)

**PLAINTIFFS' RESPONSE TO DEFENDANTS'
STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

Pursuant to Local Civil Rule 7(h), Plaintiffs respond to Defendants' Statement of Undisputed Material Facts as follows.

Background on the Supervision Process

1. Defendant USPC is responsible for setting the general conditions of supervision for D.C. Code offenders released on parole or supervised release as well as any special conditions that may be appropriate. National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. No. 105-33, § 11231, 111 Stat. 712, 745; 28 C.F.R. §§ 2.70, 2.85; *id.* §§ 2.200, 2.202(a), 2.204; Commission Dep. At 42:7-9, 123:11-17, 131:6-12; CSOSA Dep. at 132:14-17.

Response: Plaintiffs admit this statement in part. Plaintiffs admit that USPC is responsible for setting general and special conditions of supervision. However, the special conditions can only be imposed if they are “reasonably related to the nature and circumstances of [the] offense or [the

defendant's] history and characteristics, and at least one of the [listed] purposes of criminal sentencing.” 28 C.F.R. § 2.85(b).

2. The Commission generally imposes conditions of supervision for soon-to-be supervised releasees without a hearing process. *See* 28 C.F.R. § 2.202(a).

Response: Plaintiffs admit this statement.

3. In contrast, most parole-eligible prisoners (except for those released by the Bureau of Prisons (BOP) on a mandatory release basis rather than being paroled by the Commission) are given a hearing prior to their release, at which point they can discuss the proposed conditions of supervision with the Commission's hearing examiner. *See* 28 C.F.R. §§ 2.71, 2.72, 2.87.

Response: Plaintiffs deny this statement. Parole hearing examiners do not provide individuals being considered for parole an opportunity to discuss their proposed conditions of supervision. Rather, as the regulations cited by Defendants reflect, parole grant hearings are exclusively focused on the recommendation of whether or not to grant parole. *See* 28 C.F.R. § 2.72. Indeed, the final decision of whether or not to grant parole does not even occur at the parole grant hearing, but is made by USPC after the hearing and communicated via a notice of action. *See* 28 C.F.R. § 2.72(f). Moreover, as Defendants admit, neither the person on supervision nor their attorney is present when the Commission imposes conditions. Pls.' SUMF ¶ 10 (citing Pls.' Ex. 4, Deposition of Oscar Vela, Individually and as a Designated Representative of the United States Parole Commission (Dec. 17, 2025) at 119:12-19)).

4. Defendant CSOSA carries out the day-to-day tasks of supervision, setting the more granular requirements for carrying out the general and special conditions of supervision that the Commission imposed. CSOSA Dep. at 47:4-7; CSOSA Operations Manual (2018)) at ch. II, pp. 11-13, ch. III, pp. 11-14.

Response: Plaintiffs admit this statement.

5. When a parolee's or supervised releasee's Community Supervision Officer (CSO) at CSOSA believes that the parolee or supervised releasee (collectively "supervisee") has violated a condition of supervision, the CSO can submit an Alleged Violation Report (AVR) to the Commission. Forsha Dep. at 187:3-188:12; Vela Dep. at 145:11-15; CSOSA Operations Manual (2018)) at ch. II, p.5.

Response: Plaintiffs admit this statement.

6. The Commission considers each AVR to determine what action should be taken, if any, which can include taking no action, holding a community-based hearing, issuing a Letter of Reprimand, or issuing a warrant for the parolee or supervised releasee's arrest. *See* 28 C.F.R. §§ 2.98, 2.211; Vela Dep. at 146:13-22, 147:1-149:18. *See also* Commission Rules and Procedures at 93, 237 (ECF No. 3-15).

Response: Plaintiffs deny that the Commission currently holds community-based hearings. *See* Pls.' SUMF ¶¶ 20, 24 (citing Pls.' Ex. 4 (Commission Dep.) at 166:7-167:1; 28 C.F.R. §§ 2.214(d)(2), 2.215(f)) (Defendants admit that people are jailed while awaiting their revocation hearings); *see also* Declaration of Bernard M. Desrosiers ¶ 12, *Hagans v. U.S. Parole Comm'n*, No. 25-cv-1671 (D.D.C. June 30, 2025), ECF No. 14-2 (community hearings in 5 of 2,862 instances). Plaintiffs otherwise admit this statement.

7. Where the Commission issues a warrant, once that warrant is executed, the Commission typically holds a probable cause hearing, unless one is deemed unnecessary in light of the circumstances (for example, where a new criminal conviction is one of the alleged violations). *See* 28 C.F.R. §§ 2.101(h), 2.214(h); Vela Dep. at 108:2-7, 149:19-150:1. The

supervisee is represented by counsel at a probable cause hearing unless he or she waives it. 28 C.F.R. §§ 2.101(b), 2.214(b).

Response: Plaintiffs admit this statement.

8. When the Commission finds probable cause, it then decides what next step to take, which could include releasing and reinstating notwithstanding that finding, releasing and suspending the revocation process to trail a pending criminal case, temporarily suspending the revocation process to allow time for Residential Substance Abuse Treatment Program (RSAT) completion which would then end the revocation process, or holding for a revocation hearing. *See* 28 C.F.R. §§ 2.101(g), 2.214(g); Vela Dep. at 150:12-151:4.

Response: Plaintiffs admit this statement.

9. When the Commission holds a revocation hearing for a parolee or supervised releasee, it hears testimony and gives the parolee or supervised releasee the opportunity to present their case before the hearing examiner makes a recommendation on whether to revoke parole or supervised release. 28 C.F.R. §§ 2.103, 2.105, 2.216, 2.218; Vela Dep. at 159:21-160:17. The parolee or supervised releasee is also entitled to representation by counsel at a revocation hearing. 28 C.F.R. §§ 2.103(e), 2.216(f).

Response: Plaintiffs admit this statement.

10. A Commissioner makes the final determination of whether to revoke supervision and, if so, what sanction to impose, which can include ordering a period of incarceration (referred to as a violation term). 28 C.F.R. §§ 2.105, 2.218.

Response: Plaintiffs admit this statement in part. The regulations allow one Commissioner to make a revocation decision, but require the “concurrence of two Commissioners” to “override

an examiner panel recommendation.” 28 C.F.R. § 2.105(c). The Commission currently has only one Commissioner. See <https://www.justice.gov/uspc/staff-profile/charles-t-massarone>.

11. Thus, the Commission makes the final decisions regarding continuation, revocation or termination of supervision. 28 C.F.R. §§ 2.70, 2.200.

Response: Plaintiffs admit this statement.

12. The Commission can modify a parolee or supervised releasee’s general or special conditions at any time, including following a revocation hearing, and it documents those modifications on Notice of Action forms, which are shared with CSOSA. 28 C.F.R. §§ 2.85(c), 2.204(c); Vela Dep. at 139:12-140:3, 174:3-11.

Response: Plaintiffs admit this statement.

13. CSOSA can modify a parolee or supervised releasee’s day-to-day supervision requirements that it imposes. The Commission does not modify these requirements. See Vela Dep. 137:17-138:21, 157:15-158:15.

Response: Plaintiffs admit this statement.

Plaintiffs and Other Parolees or Supervised Releasees Plaintiffs Have Highlighted

Supervisee 1 ([REDACTED])

14. Supervisee 1 began a three-year term of supervised release on July 19, 2019 for Unlawful Possession of a Firearm. Exhibit 1, Alleged Violation Report for [REDACTED] (Feb. 4, 2022) at 2. On July 31, 2019, a SCSO visited Supervisee 1’s place of residence to check in, but he was not home. Plf.s’ Ex. 22, MATHIS-LW-CSOSA-013361. During this encounter, Supervisee 1’s mother stated that Supervisee 1’s *brother* “suffers from memory loss so she has to do a lot of stuff for him.” See *id.*, MATHIS-L W-CSOSA-013362.

Response: With respect to the first sentence, a supervisee's underlying conviction is immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities once they have been placed on supervision; Plaintiffs otherwise admit. With respect to the second sentence, Plaintiffs deny that the referenced visit occurred on July 31, 2019; rather, it occurred on July 30, 2019. *See* Pls.' Ex. 22, MATHIS-LW-CSOSA-013361. Plaintiffs otherwise do not dispute the remaining statements; however, Plaintiffs deny that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 1. *See* Pls.' SUMF ¶¶ 51-57.

15. Supervisee 1 telephoned his CSO on September 28, 2021, noting that he had been in the hospital after being shot last week and that was why he hadn't been in contact. Plf.'s Ex. 21, MATHIS-L W-CSOSA-013306. The CSO instructed Supervisee 1 to report in person that day. *Id.* Supervisee 1 then called the CSO back and informed him he wouldn't be able to make the visit, so the in-person contact was rescheduled for two days later. *Id.* The CSO asked if Supervisee 1 was okay and he stated that he would be fine. *Id.*

Response: Plaintiffs admit this statement. Responding further, the CSO did not offer a home or telephonic visit that day. *See* Pls.' SUMF ¶ 54. Further, two days later the CSO "observed [Supervisee 1] limping" due to the gunshot wound but offered no accommodation to address his mobility limitations. *Id.* ¶ 55.

16. On February 1, 2022, Supervisee 1 was re-arrested for Assault With a Deadly Weapon and therefore his CSO filed an AVR and recommended a warrant be issued for his arrest. Ex. 1 at 2.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities

on supervision. As this Court explained, “the Government errs by focusing on the immediate cause of [supervisees’] downstream harms (like a positive marijuana test or a missed call). The Rehabilitation Act puts the focus on ‘discrimination’ itself, not the consequences it causes.” ECF No. 31 at 11-12; *see* Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit the statement.

17. The Commission issued a warrant and executed it on April 9, 2022. Ex. 2, MATHIS-USPC-00001448-52, at -00001448. Supervisee 1 accepted an Expedited Revocation Offer from the Commission, in which the Commission imposed a new term of imprisonment of ten months for the violations of Failure to Report to Supervising Officer as Directed and Possession of a Prohibited Weapon (Conviction). *Id.*

Response: This assertions in this paragraph are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement. Responding further, the Commission provided no accommodations for Supervisee 1’s known disability-related barriers. *See* Pls.’ SUMF ¶¶ 51-57.

Supervisee 2 ([REDACTED])

18. Supervisee 2 began a life-term of supervised release on November August 27, 2017 for Attempted First Degree Child Sex Abuse and Unauthorized Use of a Vehicle. Ex. 3. at 2.

Response: Supervisee 2’s underlying convictions are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities once they have been placed on supervision. Plaintiffs deny that Supervisee 2’s term began on “November August 27, 2017.” Rather, the life-term of supervised release began August 27, 2017. Defs.’ Ex. 3 at 2. Plaintiffs otherwise admit this statement; however, Plaintiffs deny that

Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 2. *See* Pls.' SUMF ¶¶ 58-69.

19. On September 5, 2017, an AVR was filed by Supervisee 2's CSO for getting rearrested and charged with Unlawful Entry, testing positive for PCP, marijuana, and alcohol, and providing CSOSA with a false address. Ex. 3 at 2.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement; responding further, with respect to the re-arrest, Supervisee 2 "was released later that day from custody and no papers were issued." Defs.' Ex. 3 at 2.

20. On May 12, 2018, Supervisee 2 was arrested for Fail to Register as a Sex Offender and an AVR issued. Ex. 4 at 2. On June 22, 2018, he began a one-year term of unsupervised probation for Failing to Register as a Sex Offender. Ex. 5 at 2.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

21. The Commission issued a warrant and, on February 1, 2023, Supervisee 2 was arrested on the Commission's warrant, for alleged violations of Failure to Submit to Drug Testing, Failure to Comply with Graduated Sanction (GPS), Failure to Comply with Graduated Sanction (Halfway Back Residential Sanction Program), and Failure to Report Change in Residence. Ex. 6, MATHIS-USPC-0000290-98, at -00002191-96.

Response: Plaintiffs admit this statement.

22. At the probable cause hearing, defense counsel explained Supervisee 2's four-year absence by stating that Supervisee had suffered a stroke in 2019, after which he was in a coma for 36 days and hospitalized for six months and became a loss of contact with CSOSA. *Id.* at MATHIS-USPC-00002197.

Response: Plaintiffs admit this statement, but the statement is incomplete. Supervisee 2 suffered two strokes, one in 2018 and one in 2019. *See* Defs.' Ex. 6 at MATHIS-USPC-00002197.

23. Supervisee 2 indicated that after he recovered from the stroke, he did not remember that he was on supervision. *Id.* He added that his mobility was impaired, and the hearing examiner noted that he entered the room using a cane. *Id.* Defense Counsel represented that Supervisee 2 "can get rides to supervision and can comply even though his mobility isn't great." *Id.*

Response: Plaintiffs admit first two sentences. With respect to the third sentence, Plaintiffs dispute the characterization that he, in fact, "can comply" with supervision. Supervisee 2's attorney made this representation in the context of a hearing where Supervisee 2 was incarcerated, and the Commission was deciding whether or not he should be released to supervision conditions. *See* Pls.' Ex. 4 (Commission Dep.) at 190:17-20; *see also id.* at 167:2-22; **Pls.' Ex. 54**, Additional Excerpts of Commission Deposition, at 168:1-11. As Oscar Vela, the Commission's designated representative admitted, if he "believe[s] that someone's not going to comply with their conditions of supervision," he'd "be less likely to put them back on supervision." Pls.' Ex. 54 (Additional Commission Dep. Excerpts) at 168:4-11.

24. The Hearing Examiner noted that the Commission had only partial verification of the medical issues alleged, which did not include any verification of the strokes or the time in the hospital. *Id.* Nevertheless, he recommended release and reinstatement to the life term of

supervision, and he instructed Supervisee 2 to submit full medical records to CSOSA and the Commission. *Id.*

Response: Plaintiffs admit these statements, but the assertions are incomplete. The verification of the medical issues included Supervisee 2's presence in the medical unit at CTF, walking with a cane, and verbal and memory problems displayed at the hearing. Pls.' Ex. 25. Further, the Hearing Examiner acknowledged that "[m]edical issues resulted in [Supervisee 2's] inability to report. Stroke/accident/coma." Pls.' Ex. 26 at -00002194. Responding further, upon issuing his recommendation, the Hearing Examiner stated that "[Supervisee 2] was instructed to report in person to CSOSA or risk getting a new warrant issued." Pls.' Ex. 25.

25. The Commission ultimately decided to revoke supervise release and ordered Supervisee 2 to serve a term of imprisonment of 6 months, and upon release he would have no additional term of supervised release. Plf.'s Ex. 27 at MATHIS-USPC-00002201.

Response: Plaintiffs admit this statement. Responding further, the Commission did not mention Supervisee 2's disabilities or related limitations on the form that overturned the Hearing Examiner's recommendation and revoked his supervision and ordered incarceration. *See id.*; Pls.' Ex. 4 (Commission Dep.) at 198:20-22, 200:18-21.

Supervisee 3 [REDACTED]

26. Supervisee 3's CSO filed an AVR for failing to comply with a GPS sanction, failure to submit to drug testing, and failure to report to the CSO. The CSO then supplemented the AVR to include law violation charges of Threats, Disorderly Conduct, and Obstructing an Officer. *See* Ex. 7, MATHIS-USPC-00000346-50, at -00000346-47.

Response: Plaintiffs admit the first statement. Responding further, Supervisee 3 was charged with failure to report for the period in which he was admitted to a psychiatric hospital for his anxiety.

Pls.’ SUMF ¶¶ 70-72. Plaintiffs deny the second statement; as Mr. Vela acknowledged, Supervisee 3 was charged with “solely administrative [i.e., technical] violations[.]” Pls.’ Ex. 4 (Commission Dep.) at 175:12-14. Further, the record citation states, “The Commission does not have any further information, as such, the Examiner chose *not to supplement the warrant* at PC.” Defs.’ Ex. 7 at MATHIS-USPC-0000350 (emphasis added). Moreover, Plaintiffs deny that Defendants’ characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 3. *See* Pls.’ SUMF ¶¶ 70-76.

27. The Commission issued a warrant and executed it on August 25, 2022. *Id.* at MATHIS-USPC-00000346.

Response: Plaintiffs admit this statement.

28. At the probable cause hearing, the hearing examiner made a finding of probable cause but recommended release and reinstatement. *Id.* at MATHIS-USPC-00000350.

Response: Plaintiffs admit this statement.

29. The Commission, however, denied release and held Supervisee 3 in custody to schedule a revocation hearing. Ex. 8, MATHIS-USPC-00000351-52 at -00000351.

Response: Plaintiffs admit this statement.

30. On September 12, 2022, Supervisee 3’s attorney requested release bed-to-bed to [REDACTED], citing Supervisee 3’s mental health issues and homelessness. Ex. 9, Email from Supervisee 3’s Counsel (Sept. 12, 2022).

Response: Plaintiffs admit this statement.

31. The Commission granted that request on September 20, 2022, releasing Supervisee 3 to [REDACTED], terminating the revocation process, and reinstating him to supervision. Plfs.’ Ex. 30, MATHIS-USPC-00000353.

Response: Plaintiffs admit this statement. Responding further, Supervisee had spent nearly one month in jail by the time he was reinstated to supervision, and the Commission reinstated him to supervision without modifying any conditions to accommodate his disability-related barriers. Pls.' SUMF ¶¶ 75-76.

32. Supervisee 3's CSO filed an AVR alleging failure to submit to drug testing and law violation of Simple Assault and Attempted Armed Robbery. *See* Ex. 10, MATHIS-USPC-00000355-60.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement. Responding further, the state did not prosecute as an Attempted Armed Robbery. *See* Defs.' Ex. 10 at MATHIS-USPC-00000357.

33. The Commission executed a warrant and found probable cause for the first two charges and noted a conviction for Second Degree Assault as to the third charge. *Id.* at MATHIS-USPC-00000355-57.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

34. At the probable cause hearing, [REDACTED]'s counsel requested release and reinstatement and argued that [REDACTED] had been going through a mental health crisis at the time of his two arrests. Counsel added that [REDACTED] had been diagnosed with PTSD, Bipolar,

Depression, ADHD, and Schizophrenia, and that he was receiving mental health treatment. *Id.* at MATHIS-USPC-00000359.

Response: Plaintiffs admit these statements. Further, Plaintiffs will refer to this supervisee as “Supervisee 3” in alignment with the parties’ sealing and redaction protocol.

35. The hearing examiner recommended release and suspension of revocation proceedings pending the outcome of the criminal case, *id.* at MATHIS-USPC-00000360, but the Commission denied release and held [REDACTED] in custody for a local revocation hearing, Ex. 11, MATHIS-USPC-00000361-62, at - 00000361.

Response: Plaintiffs admit this statement. Responding further, the hearing examiner recommended release and stated that Supervisee 3 “can benefit from release back to his mental health treatment.” Defs.’ Ex. 10, at MATHIS-USPC-00000360. Nevertheless, the Commission denied release and held Supervisee 3 in jail for “approximately 7 months” pending his revocation hearing. Defs.’ Ex. 12, at MATHIS-USPC-00000364.

36. At the revocation hearing, the hearing examiner noted [REDACTED]’s mental health struggles and indicated that they could be at least partially to blame for his violation behavior. The hearing examiner recommended revocation with deferral of a further decision up to 60 days for possible treatment options. Ex. 12, MATHIS-USPC-00000363-66, at -00000365-66.

Response: Plaintiffs admit these statements. Responding further, the recommendation does not contain any recommended accommodations for Supervisee 3’s disabilities. Defs.’ Ex. 12, at MATHIS-USPC-00000366. Mandated treatment, alone, is not an accommodation. *See* Pls.’ Summary Judgment Cross-Op/Reply at 16-17.

37. The Commission implemented this recommendation via a Notice of Action dated October 11, 2023. Ex. 13, MATHIS-USPC-00000367. The Commission stated that a decision

below the guideline range was warranted “[b]ased on the mental health nature of the arrests” and this being [REDACTED]’s first revocation. MATHIS-USPC-00000368. The Commission deferred its decision pending [REDACTED]’s entry into and successful completion of the RSAT program and stated that “[f]urther decisions regarding the length of any term of imprisonment w[ould] be made after the update from the RSAT program.” *Id.*

Response: Plaintiffs admit these statements. Responding further, the Commission did not make any accommodations for Supervisee 3’s known disabilities. Neither imposing a below-guidelines sentence nor mandating treatment, alone, are accommodations. *See* Pls.’ Summary Judgment Cross-Op/Reply at 16-17.

38. In November 2023, the Commission ultimately imposed a violation term of seven months. Ex. 14, MATHIS-USPC-00000372.

Response: Plaintiffs admit this statement. Responding further, the Commission did not make any accommodations.

Supervisee 4 ([REDACTED])

39. On September 5, 2018, Supervisee 4’s CSO submitted an AVR alleging violations of failure to report for supervision as directed, failure to report for treatment as directed, failure to report for drug testing (on 40 occasions, spanning from August 2016 to August 2018), illegal use of illicit substances, and failure to comply with the GPS monitoring condition. *See* Ex. 15 at 1-3.

Response: Plaintiffs admit these statements, but they are incomplete. Supervisee 4’s CSO initially filed the AVR on August 24, 2018, at 9:48 a.m.—just hours after the CSO learned that Supervisee 4 “was threatening to commit suicide.” Pls.’ Ex. 31 at MATHIS-LW-CSOSA-026237 (8/24/2018 7:08 AM running record entry stating CSO learned of Supervisee 4’s suicide threats); *id.* at -26236 (8/24/18 9:48 AM entry stating “AVR completed and uploaded on this date; AVR

cites the offender for all supervision infractions since being placed in 2016”). Further, the AVR concerned “all supervision infractions since being placed” on supervision in 2016. *Id.* at -26236. The CSO then amended the AVR and resubmitted it on or about September 5, 2018. **Pls.’ Ex. 52**, MATHIS-LW-CSOSA-26234 (reflecting “AVR AMENDED, UPLOADED, AND RESUBMITTED” on September 6, 2018); *see also* Defs.’ Ex. 15 (amended AVR). Neither version of the AVR mentions Supervisee 4’s mental health crisis. *See id.*; Pls.’ Ex. 31 at MATHIS-LW-CSOSA-026236. Moreover, Plaintiffs deny that Defendants’ characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 4. *See* Pls.’ SUMF ¶¶ 77-83.

40. The Commission issued a warrant but did not execute it until September 2022. The Commission released Supervisee 4 from the custody of the warrant on September 8, 2022. Ex. 16, MATHIS-USPC-00001853.

Response: The assertions in this paragraph are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement. Responding further, the Commission provided no accommodations for Supervisee 4’s known disability-related barriers.

Supervisee 6 ([REDACTED])

41. The Commission issued a warrant and executed it on August 15, 2024, after Supervisee 6’s completion of a new criminal sentence for Using, Carrying, Possessing, and Brandishing a Firearm During and In Relation to a Crime of Violence, a crime he committed while on supervised release. Ex. 17, MATHIS-USPC-00002545-54, at -00002546, -00002548.

Response: The assertions in this paragraph are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities

on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement; however, Plaintiffs deny that Defendants’ characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 6. *See* Pls.’ SUMF ¶¶ 87-90.

42. At the revocation hearing, Supervisee 6’s case manager indicated that Supervisee 6 had been diagnosed with Major Depressive Disorder with psychotic features and antisocial personality disorder, but that a recent assessment indicated that he was able to function adequately, was participating in groups to address his diagnosis, and was taking prescribed medication. *Id.* at MATHIS-USPC-00002547.

Response: Plaintiffs admit these statements; however, the record is ambiguous as to whether the assessment indicated that Supervisee 6 “was participating in groups to address his diagnosis, and was taking prescribed medication” or whether the hearing examiner independently reached those conclusions. *See* Defs.’ Ex. 17 at -2547.

43. The hearing examiner noted the mental health challenges “that could have caused a hindrance to [Supervisee 6’s] hindrance to his adjustment to supervision.” Defs.’ Ex. 17 at MATHIS-USPC-00002548. The hearing examiner also discussed the serious new criminal offense and the twenty-four new disciplinary infractions Supervisee 6 incurred while incarcerated for that criminal offense. *Id.* The hearing examiner stated that, “[a]lthough there may be a correlation between [Supervisee 6]’s mental health diagnosis and the negative institutional conduct, it is concerning that he is acting out in a violent way which may reflect his likelihood of committing a new crime once released and his risk of being a danger to the community.” *Id.* The hearing examiner recommended a new term of imprisonment of 56 months from the date the warrant was

executed, which fell below the middle of the guideline range, and did not impose an additional term of supervised release. *Id.*

Response: The assertions regarding criminal convictions are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit these statements. Responding further, the hearing examiner did not document Supervisee 6's disability-related needs or recommend any accommodations.

44. The Commission implemented this recommendation. *Id.* at MATHIS-USPC-00002550.

Response: Plaintiffs admit this statement. Responding further, the Commission did not provide accommodations for Supervisee 6's known disability-related barriers. *See* Defs.' Ex. 17 at MATHIS-USPC-00002550.

Supervisee 7 ([REDACTED])

45. The Commission issued a warrant for Supervisee 7's arrest and executed it on June 18, 2019, based on alleged violations of Failure to Submit to Drug Testing and Failure to Report to Supervising Officer as Directed. *See* Ex. 18, [REDACTED] AVR (June 14, 2019); Ex. 19, [REDACTED] P.C. Digest (July 23, 2019).

Response: Plaintiffs admit this statement, but it is incomplete. The AVR included failure to comply with mental health aftercare. *See* Defs.' Ex. 18 at 2. The CSO included that alleged violation even though, multiple times over the preceding month, Supervisee 7 had told his CSO that "his mental health is still off" and that he "wants a new mental health place because [his current provider] isn't helping." Pls.' SUMF ¶ 96; *see also id.* ¶¶ 91-95, 97-99. Further, Plaintiffs deny

that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 7. *Id.* ¶¶ 91-99.

46. The Commission found probable cause but released Supervisee 7 notwithstanding that finding, terminated the revocation process, and reinstated him to supervision. Ex. 20, [REDACTED] Notice of Action.

Response: Plaintiffs admit this statement. Responding further, the Commission reinstated Supervisee 7 to supervision without any acknowledgement of his disabilities or accommodations for his disability barriers. *See id.*

Supervisee 8 ([REDACTED])

47. Supervisee 8 began a 36-month term of supervised release on September 3, 2020 for a conviction of Robbery. *See* Plfs.' Ex. 35, MATHIS-LW-CSOSA-017018-20, -017057-58, -017061, -017081).

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities once they have been placed on supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement; however, Plaintiffs deny that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 8. *See* Pls.' SUMF ¶¶ 100-03.

48. Supervisee 8's CSO submitted an AVR to the Commission on September 29, 2020, alleging a law violation based on a recent arrest for Lewd, Indecent, and Obscene Behavior. *See id.*

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities

on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

49. The CSO asked the Commission to “[p]lease be advised that [Supervisee 8] has a history of chronic long[-]standing mental health concerns that have led to criminality[.]” including a “history of not taking his psychotropic medication for a Schizophrenia diagnosis.” The CSO indicated that he had not succeeded in convincing Supervisee 8 to “secure a mental health assessment.” The CSO indicated his intent to request a modification of Supervisee 8’s conditions of supervision to add a special condition of Mental Health Assessment and Treatment, among others. *See id.* at -017018-20.

Response: Plaintiffs admit this statement. Responding further, despite recognizing his “long-standing m[ental] h[earth] concerns,” the CSO characterized Supervisee 8’s conduct as a “blatant lack of respect for the rules and regulations of supervised release.” Pls.’ SUMF ¶ 103. Additionally, mandatory mental health treatment conditions are not, in and of themselves, accommodations. *See* Pls.’ Summary Judgment Cross-Op/Reply at 16-17. Responding further, Supervisee 8’s CSO directed Supervisee 8 to obtain mental health assessments and navigate the treatment system on his own, without providing accommodations to facilitate assessment and access to appropriate treatment. *See* Pls.’ SUMF ¶ 102.

50. In light of Supervisee 8’s recent assault of his roommate and aggression towards staff at his transition home and his arrest for exposing himself in public, the CSO believed that Supervisee 8 posed a high risk for community supervision. *See id.*

Response: The assertions in this paragraph are immaterial to Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on

supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

51. On October 7, 2020, in response to a request from Supervisee 8’s CSO, the Commission imposed a special condition of a mental health assessment and, if appropriate, mental health treatment. Ex. 21, [REDACTED] Notice of Action (Oct. 7, 2020).

Response: Plaintiffs admit this statement. Responding further, the Commission did not provide any accommodations for his known disability-related barriers. *See* Defs.’ Ex. 21; Pls.’ SUMF ¶¶ 100-03. Mandating mental health treatment, alone, is not an accommodation. *See* Pls.’ Summary Judgment Cross-Op/Reply at 16-17.

52. The Commission also issued and executed a warrant. The Commission found probable cause, but released and a reinstated Supervisee 8 to supervision to trail his pending court case. Ex. 22, [REDACTED] P.C. Digest; Ex. 23, [REDACTED] Notice of Action.

Response: Plaintiffs admit this statement. Responding further, the Commission reinstated Supervisee 8 to supervision without mentioning his disabilities or providing accommodations. *See* Defs.’ Ex. 23.

Supervisee 9 ([REDACTED])

53. The Commission issued a warrant for Supervisee 9 based on alleged violations of Use of Dangerous and Habit Forming Drugs, Failure to Comply with Graduated Sanction: Re-Entry and Sanctions Center (RSC), Failure to Comply with Graduated Sanction (GPS), Failure to Report Change in Residence, and Failure to Report to Supervision Officer as Directed. Ex. 24, MATHIS-USPC-00003429.

Response: Plaintiffs admit this statement; however, Plaintiffs deny that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 9. *See* Pls.' SUMF ¶¶ 104-11.

54. At the time of the execution of the Commission's warrant, Supervisee 9 had five prior warrants, which had resulted in four reinstatements and one revocation. *Id.* at MATHIS-USPC-00003419, -3422, -3437.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

55. At Supervisee 9's revocation hearing, the hearing examiner noted her diagnoses of Depression and Mood Swings. *Id.* at MATHIS-USPC-00003437. The hearing examiner did not, however, make any indication that he believed Supervisee 9's violation behavior was attributable to her mental health diagnoses. MATHIS-USPC-00003437. Nor is there evidence that Supervisee 9's counsel made such an argument. MATHIS-USPC-00003436-37.

Response: Plaintiffs admit that the hearing examiner noted Supervisee 9's diagnoses of Depression and Mood Swings. However, Plaintiffs deny that the hearing examiner "did not, however, make any indication that he believed Supervisee 9's violation behavior was attributable to her mental health diagnoses." Rather, the hearing examiner stated that Supervisee 9 "has never been able to adhere to the conditions of supervision" and that "could be" because of her disabilities. Pls.' SUMF ¶¶ 106-07. Moreover, Plaintiffs deny that there is no "evidence that Supervisee 9's counsel made such an argument." Supervisee 9's counsel explained that she "is active in treatment at Preventative Measures"; "was "traumatized" after "a friend of hers got killed just minutes after

leaving her (subject's) house" and "took a trauma class" that "helped her understand how to better cope" and "that she "gets one on one treatment every week and medication" at [REDACTED], which "really helps." Defs.' Ex. 24 at MATHIS-USPC-00003436-3437. In any event, Plaintiffs need not establish that the downstream harm (violation proceedings) was attributable to their disabilities. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11.

56. Instead, Supervisee 9's counsel explained the violation behavior as "life events and stressors derail[ing]" her. *Id.* at MATHIS-USPC-00003436.

Response: Plaintiffs admit this statement, but it is incomplete. Supervisee 9's counsel further explained that Supervisee 9 was "traumatized" after "a friend of hers got killed just minutes after leaving her (subject's) house"; that she "took a trauma class" that "helped her understand how to better cope"; and "that she "gets one on one treatment every week and medication" at [REDACTED], which "really helps." Defs.' Ex. 24 at MATHIS-USPC-00003436-3437. Further, Plaintiffs need not establish that the downstream harm (violation proceedings) was attributable to their disabilities. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11.

57. Supervisee 9 gave specific explanations for each of her violations, none of which were related to her mental health diagnoses. For the Use of Dangerous and Habit Forming Drugs violation, she explained that a friend had been killed and she used PCP to cope with the trauma but had since learned better coping techniques. *Id.*

Response: Whether a disability was the immediate cause of the downstream harm (violation proceedings) is immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities during the course of their supervision. *See* ECF No. 31 at 11-12; Pls.' Summary Judgment Cross-Op/Reply at 9-11.

Responding further, Plaintiffs deny that Supervisee 9 did not give explanations related to her mental health conditions. Trauma is associated with mental health conditions. *See* Pls.’ Ex. 14 at 10.

58. For the Failure to Comply with RSC charge, she explained that she chose not to go so that she could spend the holidays with her family and be present for the birth of her grandchild. For the Failure to Report Change in Residence violation, she explained that her mother did not want the Marshals going to her house, so she told them her daughter did not live there. *Id.*

Response: Whether a disability was the immediate cause of the downstream harm (violation proceedings) is immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

59. And for the Failure to Report to Supervision Officer as Directed violation, she admitted that she did not report because she was scared that she would be arrested. *Id.* at MATHIS-USPC-00003436-37.

Response: Whether a disability was the immediate cause of the downstream harm (violation proceedings) is immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Plaintiffs otherwise admit this statement.

60. When questioned in his deposition in this litigation regarding this revocation hearing, the hearing examiner was asked if he believed that Supervisee 9’s “difficulty or her lack of success on supervision could be related to the disabilities that [he] documented” in his hearing summary, Commission Dep. at 215:2-5, to which he responded “[c]ould be,” *id.* at 215:6.

Response: Plaintiffs admit this statement.

61. The Commission ultimately imposed a violation term of 14 months, which was within the applicable guideline range. Ex. 24 at MATHIS-USPC-00003439.

Response: Plaintiffs admit this statement. Responding further, the Commission's decision did not mention any accommodations for Supervisee 9's disabilities. *See* Defs.' Ex. 24 at MATHIS-USPC-00003439-42.

Supervisee 10 ([REDACTED])

62. Supervisee 10 began a twelve-and-a-half year term of parole on February 3, 2014. Ex. 25, [REDACTED] Pre-Hearing Assessment (March 6, 2020) at 1.

Response: Plaintiffs admit this statement; however, Plaintiffs deny that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Supervisee 10. *See* Pls.' SUMF ¶¶ 112-19.

63. Supervisee 10's CSO submitted an AVR alleging law violations of Stalking, Cyberstalking, and Harassing Phone Calls. The Commission issued and executed a warrant. It revoked Supervisee 10's parole and imposed a violation term of 60 months. *Id.* at 2.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

64. While Supervisee 10 was serving his violation term, his parole date was rescinded, and 48 additional months were added, after he incurred multiple DHO infractions, including two assaults. *Id.*; Ex. 26, Notice of Action (May 21, 2020). Supervisee 10's new anticipated parole release date was October 6, 2023. Ex. 26.

Response: The assertions in this paragraph are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls’ Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

65. On December 8, 2021, Supervisee 10 was granted compassionate release by D.C. Superior Court for health reasons. Ex. 27, [REDACTED] Compassionate Release Notice. He was released the next day and began a two-year probation term. *Id.*

Response: Plaintiffs admit that on December 8, 2021, Supervisee 10 was granted compassionate release. The remaining assertions are not supported by the record citation.

66. Supervisee 10’s probation was revoked on April 24, 2023 for a new criminal conviction of Assault on a Female, in which he had located a victim of his 1995 crimes and attempted to run her off the road with his truck. Ex. 28, [REDACTED] Pre-Hearing Assessment (May 30, 2024).

Response: The assertions in this paragraph are immaterial to this Court’s decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 9-11. Further, the assertions in this paragraph should be disregarded because the cited document was never disclosed to Plaintiffs during discovery. *See* Fed. R. Civ. P. 26(e)(1)(A); LCvR 26.2(a) (requirement to supplement discovery productions); Fed. R. Civ. P. 37(c)(1) (Defendants are “not allowed to use [non-disclosed] information . . . to supply evidence on a motion.”); *Elion v. Jackson*, 544 F. Supp. 2d 1, 5 (D.D.C. 2008) (sanction is “self-executing”); *Beachner v. Howard Univ.*, No. 23-494, 2025 WL 915573, at *7 & n.4 (D.D.C. Mar. 25, 2025) (excluding undisclosed evidence at summary judgment), *appeal docketed* (Apr. 25, 2025). Plaintiffs otherwise admit that

Supervisee 10 was charged with assault, but respond further that the conviction was a misdemeanor. *See State of North Carolina v. [REDACTED]*.

67. Supervisee 10 was released to a roughly four-and-a-half-year term of parole on May 4, 2023. *Id.*

Response: Plaintiffs admit this statement. Responding further, the Commission provided no accommodations. *See* Defs.’ Ex. 28.

68. On Supervisee 10’s CSO submitted an AVR, alleging Failure to Report for Supervision. *See* Ex. 29, MATHIS-USPC-00009986-97, at -00009987.

Response: Plaintiffs admit this statement.

69. The Commission issued and executed a warrant. *Id.* at MATHIS-USPC-9986.

Response: Plaintiffs admit this statement.

70. At the probable cause hearing, Supervisee 10 and his counsel indicated that Supervisee 10 had been diagnosed with late-stage liver cancer. *Id.* at MATHIS-USPC-00009989.

Response: Plaintiffs admit this statement. Responding further, Supervisee 10’s counsel stated that he has 3-5 years to live and has been in chemotherapy for months. Pls.’ SUMF ¶ 112.

71. He testified, however, that he “had no problem reporting.” *Id.* He simply had not reported because, he said “his attorney told him he was not on probation anymore so he stopped reporting.” *Id.*

Response: Plaintiffs admit that Supervisee 10 made those statements, but dispute the characterization that he, in fact, did not have trouble reporting. As Mr. Vela, the hearing examiner during that revocation proceeding, acknowledged, Supervisee 10 made those statements “in a hearing where [the hearing officer is] deciding whether or not he should be released or not on his supervision conditions.” Pls.’ Ex. 4 (Vela Dep.) at 190:7-20. Further, Mr. Vela stated that he

“obviously” thought that liver cancer and chemotherapy would “have an effect on compliance with supervision conditions.” Pls.’ SUMF ¶ 115 (quoting Pls.’ Ex. 4 (Vela Dep.) at 189:1-10).

72. The hearing examiner recommended release and reinstatement to supervision, *id.* at MATHIS-USPC-00009990, but the Commission denied release and held Supervisee 10 in custody for a revocation hearing, MATHIS-USPC-00009991.

Response: Plaintiffs admit this statement. Responding further, the Commission did not mention Supervisee 10’s medical conditions. Pls.’ SUMF ¶ 118.

73. At the revocation hearing, Supervisee 10 and his counsel again argued that the failure to report was due to confusion and thinking that Supervisee 10 was no longer on supervision. *Id.* at MATHIS-USPC-00009992. They noted that his stage 4 cancer had spread to his lungs and that he was scheduled for more treatment in the community. MATHIS-USPC-00009992-93. Supervisee 10’s CSO did not appear at the hearing due to a conflict, and the hearing examiner made a no-finding on that basis. MATHIS-USPC-00009993.

Response: Plaintiffs admit this statement.

74. The Commission made no finding of violation and released and reinstated Supervisee 10 to supervision on June 26, 2024. MATHIS-USPC-00009995.

Response: Plaintiffs admit this statement. Responding further, Supervisee 10 spent about two months in jail before the Commission reinstated him. Pls.’ SUMF ¶ 119. The Commission did not make any accommodations when it reinstated him to supervision. *Id.*

Plaintiff Kennedy Davis

75. Plaintiff Kennedy Davis began a life term of parole on July 31, 2011.

Response: This assertion fails to comply with Local Civil Rule 7(h) because there is no supporting record citation and thus no response is required. Plaintiffs admit that Plaintiff Kennedy

Davis began a life term of parole in 2011. Pls. Exhibit 11 (K. Davis Dec.) ¶ 4. Further, Plaintiffs deny that Defendants' characterization presents a complete or accurate picture of the circumstances surrounding Mr. Davis. *See* Pls.' SUMF ¶¶ 120-51.

76. Prior to 2022, Davis had two AVRs that led to warrants by the Commission, after which he was ultimately released and reinstated without serving a violation term. *See* Ex. 30, MATHIS-USPC-00006741-42.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

77. Davis's CSO submitted an AVR alleging Use of Dangerous and Habit Forming Drugs; Failure to Comply with Graduated Sanction (Substance Abuse Treatment Evaluation); a law violation for charges of Unlawful Possession of Ammunition and Contempt of Civil Protection Order/Temporary Protection Order; a law violation for a charge of Destruction of Property; Failure to Report to Supervising Officer as Directed; law violations for dismissed charges of Kidnapping while Armed and First Degree Sexual Abuse and a conviction of Contempt – Condition of Release Violation; and law violations for dismissed charges of Simple Assault, Attempted Possession of a Prohibited Weapon, and Attempted Threats to do Bodily Harm, and a conviction of Contempt – Conditions of Release Violation. *See id.* at MATHIS-USPC-00006714-17.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

78. The Commission issued a warrant, which it executed on January 3, 2023. *Id.* at MATHIS-USPC-00006714.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

79. The Commission found probable cause on most of the charges. *Id.* at MATHIS-USPC-00006720.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

80. It did not find probable cause, however, for the Failure to Report to Supervising Officer as Directed charge, because the failure to report had occurred during a time that Davis was hospitalized for treatment for third degree burns. *Id.* at MATHIS-USPC-00006716-17.

Response: Plaintiffs admit this statement.

81. The hearing examiner recommended release and reinstatement, and the Commission implemented this recommendation. *Id.* at MATHIS-USPC-00006720, -00006722.

Response: Plaintiffs admit this statement. Responding further, neither the hearing examiner nor the Commission provided accommodations for Mr. Davis's disability-related barriers. *See* Defs.' Ex. 30 at MATHIS-USPC-00006720, -00006722.

82. On Davis's CSO submitted an AVR alleging Use of Dangerous and Habit Forming Drugs, Failure to Submit to Drug Testing, Failure to Report to Supervising Officer as Directed, and Failure to Comply with Graduated Sanction (RSC). *Id.* at MATHIS-USPC-00006726-28.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement.

83. The Commission issued a warrant, which it executed on June 30, 2023. MATHIS-USPC-6726. Notwithstanding a finding of probable cause, the Commission released Davis and reinstated him to supervision on July 10, 2023. MATHIS-USPC-0006735.

Response: The assertions in this paragraph are immaterial to this Court's decision regarding whether Defendants are systematically failing to accommodate people with disabilities on supervision. *See* ECF No. 31 at 11-12; Pls' Summary Judgment Cross-Op/Reply at 9-10. Plaintiffs otherwise admit this statement. Responding further, neither the hearing examiner nor the Commission acknowledged Mr. Davis's disabilities or provided accommodations. *See* Defs.' Ex. 30 at MATHIS-USPC-0006735.

84. On Davis's CSO submitted an AVR alleging Failure to Report to Supervising Officer as Directed. *See id.* at MATHIS-USPC-00006737.

Response: Plaintiffs admit this statement. Responding further, Mr. Davis was required to report to his CSO by phone, but he did not have a working phone. Pls.' SUMF ¶ 139. He was "very anxious and scared" about the fact that he could not meet this requirement. *Id.* ¶ 140. His mental health conditions make it difficult for him to trust new people and ask for help. *Id.* ¶ 141. Due to his anxiety and PTSD, Mr. Davis experienced "tunnel vision," meaning he focused exclusively on

one solution—contacting his mental health advocate at ULS for help. *Id.* ¶ 142. When that did not work, he was not able to consider an alternative solution. *Id.* After eleven days without Mr. Davis contacting his CSO, his CSO submitted an AVR for failing to contact his CSO via phone. *Id.* ¶ 143. His CSO pursued revocation even though, during that same period, Mr. Davis was reporting for drug testing on all required occasions and tested negative each time. *Id.* ¶ 144.

85. The Commission issued a warrant, which it executed on August 3, 2023. MATHIS-USPC-00006737. The Commission found probable cause and held Davis in custody for a local revocation hearing. MATHIS-USPC-00006742, -00006744.

Response: Plaintiffs admit this statement. Responding further, he spent two months in jail before his revocation hearing. Pls.’ SUMF ¶ 145.

86. Despite Plaintiffs’ argument that being held in custody in August 2023 pending a revocation hearing caused Davis to miss a scheduled surgery to treat third degree burns, *see* Plfs.’ Statement of Undisputed Material Facts ¶ 146, there is no evidence that Davis and his counsel ever mentioned his scheduled surgery or his third degree burns to the hearing examiner at the probable cause hearing on August 3, 2023. MATHIS-USPC-00006737, -00006741-42; *see also* Plfs.’ Ex. 39, Defs.’ Objections and Responses to Plfs.’ First Set of Requests for Admission (Apr. 30, 2025), at 2.

Response: Plaintiffs admit that neither Davis nor his counsel mentioned the scheduled surgery or his burns during the August 3, 2023, hearing specifically. However, both CSOSA and the Commission knew that Mr. Davis had disabilities, including that he needed multiple surgeries for his burns. *See* Pls.’ SUMF ¶¶ 122-26 (CSOSA knowledge of Davis’s mental health needs); ¶¶ 127-28 (CSOSA knowledge of Davis’s multiple scheduled surgeries and mobility limitations); ¶ 129 (Commission knowledge Davis needed treatment for his burns); ¶ 130 (Commission

knowledge of Davis's mental health needs). Further, as a matter of law, Mr. Davis was not required to establish that Defendants were on notice of his accommodation needs. *See* Pls.' Summary Judgment Cross-Op/Reply at 19-21.

87. Despite the disabilities he now mentions, Davis and his counsel did not raise any disabilities as a cause for or mitigating circumstance of the alleged violation behavior at issue in his October 4, 2023 revocation hearing. Ex. 30 at MATHIS-USPC-00006745-50. Nor did they bring up the need for any future procedures to treat his third-degree burns. *See id.*

Response: Plaintiffs admit that neither Davis nor his counsel mentioned his disabilities as related to the alleged violations during the August 3, 2023, hearing specifically. However, both CSOSA and the Commission knew that Mr. Davis had disabilities, including that he needed multiple surgeries for his burns. *See* Pls.' SUMF ¶¶ 122-26 (CSOSA knowledge of Davis's mental health needs); ¶¶ 127-28 (CSOSA knowledge of Davis's multiple scheduled surgeries and mobility limitations); ¶ 129 (Commission knowledge Davis needed treatment for his burns); ¶ 130 (Commission knowledge of Davis's mental health needs). Further, as a matter of law, Mr. Davis was not required to establish that Defendants were on notice of his accommodation needs. *See* Pls.' Summary Judgment Cross-Op/Reply at 19-21.

88. On October 26, 2023, the Commission revoked Davis's parole and imposed a violation term of twelve months. MATHIS-USPC-00006752.

Response: Plaintiffs admit this statement.

89. Davis and his counsel did not mention disabilities whatsoever in his appeal of the Commission's October 26, 2023 revocation decision to the National Appeals Board. *See* MATHIS-USPC-00006756-57.

Response: Plaintiffs admit this statement; however, both CSOSA and the Commission knew that Mr. Davis had disabilities. *See* Pls.’ SUMF ¶¶ 122-26 (CSOSA knowledge of Davis’s mental health needs); ¶¶ 127-28 (CSOSA knowledge of Davis’s multiple scheduled surgeries and mobility limitations); ¶ 129 (Commission knowledge Davis needed treatment for his burns); ¶ 130 (Commission knowledge of Davis’s mental health needs). As a matter of law, Mr. Davis was not required to establish that Defendants were on notice of his accommodation needs. *See* Pls.’ Summary Judgment Cross-Op/Reply at 19-21.

Plaintiff William Mathis

90. Plaintiff William Mathis began a life term of parole on September 27, 2006.

Response: This paragraph fails to comply with Local Civil Rule 7(h) because there is no supporting record citation and thus no response is required. Plaintiffs admit that Plaintiff William Mathis began a life term of parole in 2006. Pls.’ Ex. 40 (W. Mathis Dec.) ¶ 3. Further, Plaintiffs deny that Defendants’ characterization presents a complete or accurate picture of the circumstances surrounding Mr. Mathis. *See* Pls.’ SUMF ¶¶ 152-66.

91. Mathis’s CSO submitted an AVR alleging Use of Dangerous and Habit Forming Drugs, Failure to Submit to Drug Testing, and Failure to Report to Supervising Officer as Directed. *See* Ex. 31, Mathis P.C. Digest (Jan. 23, 2024) at 1-2. The Commission issued a warrant and executed it on January 22, 2024. *Id.* at 1. It held a probable cause hearing the next day, at which the examiner found probable cause but recommended that Mathis be released and reinstated so that he could have a serious medical procedure. *Id.* at 1-5.

Response: Plaintiffs admit this statement.

92. The Commission instead held Mathis pending a local revocation hearing. Ex. 32, Mathis Notice of Action (Jan. 24, 2024).

Response: Plaintiffs admit this statement, but it is incomplete. The Commission rejected the hearing examiner’s recommendation and required Mr. Mathis to stay in jail. As a result, Mr. Mathis missed his medical appointment—which Defendants knew about—to get a defibrillator that would have treated his congestive heart failure. Pls.’ SUMF ¶¶ 163-64.

93. On January 26, 2024, Mathis’s counsel submitted a request for reconsideration in which he detailed Mathis’s medical conditions. Ex. 33, Mathis Correspondence.

Response: Plaintiffs admit this statement.

94. On January 30, 2024, the Commission ordered Mathis to be released and reinstated based on his medical needs. Ex. 34, Mathis Notice of Action (Jan. 30, 2024).

Response: Plaintiffs admit that the Commission ordered that Mathis be released on January 30, 2024. However, the Commission did not specify the basis for its reasoning. Responding further, the Commission released Mr. Mathis back to parole on substantially the same conditions that his known disability made it hard to follow in the first place, without any accommodations. Pls.’ SUMF ¶ 165.

Current Processes for Addressing Disabilities and Reasonable Accommodations

95. CSOSA has historically used an informal process to assess whether an individual has a disability before or during a period of supervision. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at Attachment 1 at 1.

Response: Plaintiffs deny that CSOSA has historically used an informal process that is systemic, reliable, or consistent. CSOs do not “ask supervisees if they need accommodations for their disability” when “setting the requirements” for supervision or “[o]ver the course of supervision.” Pls.’ SUMF ¶ 215. Further, CSOSA admits it does not provide training on how to “assess if a person has disabilities” or “how to determine what accommodations are appropriate

for disabilities.” *Id.* ¶¶ 214, 243(b). Moreover, CSOSA’s intake process does not reliably or consistently identify disabilities, as explained *infra* ¶ 96. Plaintiffs’ expert thus concluded that Defendants “do not have any of the key features of a system to provide reasonable accommodations in a systematic and consistent manner.” Pls.’ SUMF ¶¶ 179-80.

96. This process involves collecting data at the time of intake both through self-reporting by the supervisee and through observations of CSOSA intake staff. *Id.* Any information observed or reported concerning a disability is entered into CSOSA’s electronic system as well as the supervisee’s running record. *Id.* at 2. CSOSA verifies disabilities based on input from the supervisee, other relevant agencies, and any relevant documentation. *See id.* at 2-3. CSOSA is in the process of formalizing its practices to support its staff in identifying and assessing disabilities. *Id.* at 1.

Response: Plaintiffs deny that these asserted practices are systemic, reliable, or consistent. Defendants do not notify supervisees of their rights under the Rehabilitation Act, including their rights to reasonable accommodations for their disabilities. *See* Pls.’ SUMF ¶¶ 220-22. Thus, supervisees do not know that they should tell CSOSA about their disabilities. *See id.* ¶ 218. Moreover, CSOSA does not provide training on how to assess if a person has disabilities nor specific questions for CSOs to ask to make such determinations. *Supra* ¶ 95. With respect to documentation of disabilities, CSOSA’s case management system has a “disability flag” feature; however, CSOSA does not train or require CSOs to check the disability box or fill out its narrative portion. Pls.’ SUMF ¶¶ 256-57. Further, the disability flag “does not indicate” what kind of disability an individual has or whether the individual is receiving accommodations. *Id.* ¶ 258. Indeed, in her post-discovery, summary-judgment declaration, Kaitlin Forsha, CSOSA’s designated 30(b)(6) representative, admits that CSOSA’s supervisee intake form “[does] not have

significant space for the individual to elaborate on their disability nor their needs as they relate to health” and thus CSOSA “[r]ecogniz[ed] the limitations of this process.” ECF No. 76-3 (Forsha Decl.) ¶ 6.¹ Further, CSOSA admits that it does not require CSOs to document disabilities or accommodations in the running record, train them on how to do so, or provide any consistent keywords or purpose codes to do so. Pls.’ SUMF ¶ 256. CSOSA’s statement that it is “in the process of formalizing its practices” is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently* accommodate people with disabilities on supervision. *See Anglers Conservation Network v. Pritzker*, 139 F. Supp. 3d 102, 111-12 (D.D.C. 2015) (“[I]t is well established that promises of future compliance with the law cannot satisfy the Government’s current legal obligation.”); Pls.’ Summary Judgment Cross-Op/Reply at 32.

97. CSOSA currently has no formal, official, or standardized system or process for individuals with Disabilities to request reasonable accommodations, but supervisees are always able to raise such requests with CSOSA at any time. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 9.

Response: Plaintiffs deny that supervisees are, as a practical matter, able to request accommodations at any time. CSOSA admits that it provides no training on “the process for supervisees to request accommodations.” Pls.’ SUMF ¶ 243(f). Further, Defendants do not notify supervisees of their rights under the Rehabilitation Act, including their rights to reasonable

¹ Ms. Forsha’s declaration misleadingly refers to CSOSA’s current intake form in the past tense, suggesting that it is no longer in use. *See* ECF No. 76-3 (Forsha Decl.) ¶ 6. To be clear: CSOSA’s current intake form is still in use. CSOSA’s proposed *revised* intake form, the “Disability Data Collection Form,” has not been approved or implemented. *See id.* (“The Disability Data Collection Form has been provided to the Office of General Counsel (OGC) for review and approval.”); (there “is no identified delivery date”); *id.* (“Once the pending policy and the Disability Data Collection Forms have been approved, OCSIS will update the pending written guidance . . .”).

accommodations for their disabilities. *See id.* ¶¶ 220-22. As Plaintiffs’ expert explained, without notice of their rights, “many supervisees will not have the knowledge to advocate for themselves [or] access necessary accommodations.” *Id.* ¶ 218. Likewise, forcing individuals to rely on “informal, inconsistent, or discretionary” methods of requesting accommodations “contribute[s] to preventable supervision failures.” *Id.* ¶ 224.

98. Additionally, CSOSA is in the process of formalizing guidance on reasonable accommodations for disabilities, which will include requiring that CSOSA staff specifically ask the supervisee about any new disabilities that may have arisen. *Id.* at 9-10.

Response: Plaintiffs admit that CSOSA asserted that it “has drafted” such guidance, *id.* at 9, however, this assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently* accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

99. CSOs develop individualized case plans and address potential obstacles to successfully completing supervision requirements by using the Risk-Needs-Responsivity Principle. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at Attachment 2 at 1.

Response: The record citation has not been entered into evidence as an exhibit, and thus the assertion should be disregarded. Plaintiffs otherwise admit this statement.

100. CSOs consider potential reasonable accommodations of disabilities using this framework. *Id.* Where a reasonable accommodation is beyond the CSO’s purview, the CSO may recommend modification of the supervisee’s sentence or special conditions of supervision as an accommodation. *Id.* at 11.

Response: The record citation has not been entered into evidence as an exhibit, and thus the assertion should be disregarded. Responding further, Plaintiffs deny that CSOs systemically, reliably, or consistently consider potential reasonable accommodations using the Risk-Needs-Responsivity Principle. The Risk-Needs-Responsivity Principle “is not specific to disability” and does not provide any “guidance on how to craft reasonable accommodations.” Pls.’ SUMF ¶ 244. Plaintiffs admit that a CSO may recommend modification of a supervisee’s sentence or special conditions of supervision as an accommodation; however, Plaintiffs deny that, as a matter of practice, CSOs do so in a systemic, reliable, or consistent manner.

101. Recommendations to the releasing authority to make such accommodations are required to be formally documented in memoranda. *Id.* at 12.

Response: The record citation has not been entered into evidence as an exhibit, and thus the assertion should be disregarded. Further, this assertion is immaterial, as the record citation refers to language in “draft” “Reasonable Accommodation guidance that is under review” and has not been implemented. *See id.* Hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently* accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

102. CSOSA is in the process of formalizing guidance regarding reasonable accommodations. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 11-12, Attachment 2 at 1.

Response: The record citation has not been entered into evidence as an exhibit, and thus the assertion should be disregarded. This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently*

accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

103. This guidance includes examples of reasonable accommodations, including scheduling appointments around verified doctor’s visits, reducing the supervisee’s supervision level, and replacing office visits with field visits in which the CSO goes to the supervisee’s location. *Id.* Attachment 2 at 2.

Response: The record citation has not been entered into evidence as an exhibit, and thus the assertion should be disregarded. This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently* accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

104. CSOs often provide reasonable accommodations with minimal formality, as they have the authority to grant many reasonable accommodation-related requests without approval from their supervisors. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 11.

Response: Plaintiffs deny that CSOs “often provide reasonable accommodations” in practice. CSOSA has submitted no evidence that CSOs “often provide reasonable accommodations.” Indeed, when asked for “[a]ll Documents to support CSOSA’s contention that it ‘has used informal practices to identify, document, and address reasonable accommodations,’” CSOSA responded “there are no responsive records as the practices referenced are, by CSOSA’s own contention, ‘informal,’ provided on a case-by-case basis, and not searchable.” Pls.’ SUMF ¶ 267. Meanwhile, Plaintiffs have adduced evidence of numerous cases where CSOs did not provide reasonable accommodations despite supervisees’ documented disability-related

limitations. *See id.* ¶¶ 51-178. Plaintiffs admit that CSOs *have the authority* to grant many reasonable accommodation-related requests without approval from their supervisors.

105. When the Commission becomes aware of a parolee or supervised releasee’s potential disability, it assesses the existence of such a disability based on input from the supervisee, the supervisee’s CSO, and any relevant records. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 2.

Response: Plaintiffs deny that the Commission “assesses the existence of” disabilities on any systemic, consistent, or reliable basis. The Commission offers no training on “how to assess if a person has disabilities” or “is facing barriers to follow supervision rules due to their disabilities and may need accommodations.” Pls.’ SUMF ¶ 245(b)-(c). Further, the Commission has no “standard screening tool” to identify people on supervision with disabilities. *Id.* ¶ 205. And it has “no guidance on how to “[e]valuat[e] whether people on parole or supervised released need reasonable accommodations” or how to “[p]rovid[e]” such accommodations if needed.” *Id.* ¶ 191.

106. The Commission currently has no formal, official, or standardized system or process for individuals with Disabilities to request reasonable accommodations, but supervisees are always able to raise such requests with the Commission at any time. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 4-5.

Response: Plaintiffs admit that the Commission currently has no formal, official, or standardized process for individuals with Disabilities to request reasonable accommodations. Plaintiffs deny that “supervisees are always able to raise [accommodation] requests with the Commission at any time.” The Commission does not have a “direct point of contact” for supervisees to request disability accommodations during supervision. Pls.’ SUMF ¶ 229. While the Commission has a general email address on its website that “anybody can submit anything to,”

supervisees are not informed that they can use this email as a way to request a disability accommodation. *Id.* ¶ 230. Moreover, the Commission does not notify supervisees of their rights to accommodations. *Id.* ¶¶ 219, 221-22. As Plaintiffs’ expert explained, without notice of their rights, “many supervisees will not have the knowledge to advocate for themselves [or] access necessary accommodations[.]” *Id.* ¶ 218. Additionally, forcing individuals to rely on “informal, inconsistent, or discretionary” methods of requesting accommodations “contribute[s] to preventable supervision failures.” *Id.* ¶ 224.

107. When it appears possible that a supervisee will have or is having difficulty meeting the conditions of supervision due to a disability, either through the Commission’s own observations or through the self-reporting of the supervisee, the Commission assesses whether this is, indeed, the case and, if so, it considers whether any reasonable accommodation is available and within the Commission’s authority to provide. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 3-4.

Response: Plaintiffs deny that the Commission assesses supervisees’ difficulty meeting supervision conditions due to a disability and whether any reasonable accommodations are available and within the Commission’s authority to provide on any systemic, consistent, or reliable basis. The Commission admits it has “not put in place any guidance, instructions, or policies” regarding disabilities—including guidance/instructions/policies “requiring assessing people’s disability-related accommodation needs when initially setting supervision requirements” or “requiring provision of reasonable accommodations for people’s disabilities as they become known[.]” Pls.’ SUMF ¶ 190; *see also id.* ¶ 194. Further, the Commission offers no training on topics including “how to assess if a person has disabilities”; “how to determine if a person is facing barriers to follow supervision rules due to their disabilities and may need accommodations”; “how

to determine what disability accommodations are appropriate”; or “how to provide disability accommodations.” *Id.* ¶ 245(a)-(d), (f).

108. Where a reasonable accommodation would not be within the Commission’s authority to enforce, the Commission may recommend that CSOSA work with the supervisee to develop an appropriate reasonable accommodation. *Id.* at 4.

Response: Plaintiffs admit that the Commission may recommend that CSOSA work with the supervisee to develop an appropriate reasonable accommodation, but deny that the Commission does so on a systemic, reliable, or consistent basis. The Commission admitted that it “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA any request for a reasonable accommodation,” “any accommodations provided,” “or any other documentation related to the Disability of such an individual.” Pls.’ SUMF ¶ 262. Further, when asked, “Does the Commission communicate directly with CSOSA regarding individual supervisee’s disabilities,” Mr. Vela responded, “No.” Pls.’ Ex. 4 (Commission Dep.) at 154:19-155:3. In response to the same question, Ms. Forsha responded, “Not to my knowledge.” Pls.’ Ex. 3 (CSOSA Dep.) at 210:15-18.

109. The Commission currently has no formal, official, or standardized system or process for providing reasonable accommodations to supervisees with disabilities, but it does provide reasonable accommodations to supervisees with disabilities where appropriate. Defs.’ Objections and Responses to Plfs.’ First Set of Interrogatories at 5.

Response: Plaintiffs admit that the Commission currently has no formal, official, or standardized system or process for providing reasonable accommodations to supervisees with disabilities. Plaintiffs deny that the Commission does, in fact, provide reasonable accommodations to supervisees with disabilities where appropriate on a systemic, reliable, or consistent basis. The

Commission has no “written policy” on “providing accommodations for disabilities”, Pls.’ SUMF ¶ 194; provides no training on topics including “how to determine if a person is facing barriers to follow supervision rules due to their disabilities and may need accommodations”; “how to determine what disability accommodations are appropriate”; “how to provide disability accommodations”; and “how to modify general or special conditions of supervision to accommodate disabilities”, *id.* ¶ 244; and has no processes for tracking disabilities or accommodations, or communicating information about disabilities or accommodations to CSOSA, *id.* ¶¶ 258-61. Further, in response to a request for “all [d]ocuments to support the Commission’s contention” that it assesses disabilities and “provide[s] reasonable accommodations where appropriate,” the Commission [] responded that “it has no way of identifying such individuals as accommodations are assessed and provided on a case-by-case basis and are not searchable.” *Id.* ¶ 268. To the contrary, Plaintiffs have adduced evidence of multiple cases where the Commission failed to accommodate known disability-related limitations. *See, e.g., id.* ¶¶ 58-69 (Commission failed to accommodate Supervisee 2 even though hearing examiner acknowledged “medical issues resulted in [Supervisee 2’s] inability to report”); *id.* ¶¶ 70-76 (Commission failed to accommodate Supervisee 3 during revocation proceeding for failure to report while he was in a psychiatric hospital); *id.* ¶¶ 104-11 (Commission failed to accommodate Supervisee 9 despite recognizing she “never has been able to adhere to the conditions of supervision” which “could be” because of her mental health disabilities); *id.* ¶¶ 112-19 (Commission failed to accommodate Supervisee 10 even though hearing examiner “obviously” thought that liver cancer and chemotherapy would “have an effect on compliance with supervision conditions”).

110. Reasonable accommodations for disabilities can include reinstating an individual to supervision rather than imposing a term of incarceration where the Commission finds that a disability caused the violation behavior or modifying a condition of supervision. *Id.* at 5-6.

Response: Plaintiffs deny that reinstating an individual to supervision, alone, is an accommodation. The Commission regularly reinstates people to supervision *under the very same conditions* they could not follow due to their disability-related barriers, absent accommodations. *See, e.g.,* Pls.’ SUMF ¶¶ 75-76; 118-19, 165. Further, as Defendants admit, supervisees are always incarcerated pending revocation proceedings, for up to 65 days—even if they are ultimately reinstated to supervision. *See* Defs.’ Resp to Pls.’ SUMF ¶¶ 20, 24; *see also* Pls.’ Summary Judgment Cross-Op/Reply at 18-19. Plaintiffs admit that modifying a condition of supervision can be a reasonable accommodation, but deny that the Commission systemically, consistently, or reliably modifies supervision conditions as reasonable accommodations.

111. Since Plaintiffs filed this case to address offenders with disabilities on Supervised Release, CSOSA has strengthened its ability to identify and flag supervisee disabilities, to receive and track reasonable accommodation requests and approvals through the creation of better data collection tools, and to fold staff accountable for compliance through formalization of policy on the matter. Forsha Dec. ¶ 6.

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendant *currently* accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32. While Ms. Forsha’s declaration uses the present tense to describe proposed changes, her declaration explains that the proposals have been “drafted”; are pending “review and

approval”; and have not yet been implemented. ECF No. 76-3 (Forsha Dec.) ¶ 6. Indeed, “[t]here is no identified delivery date at this time.” *Id.*

112. The policy, which has been drafted and is currently under final review, documents the Agency’s commitment to:

- a. Implementing the accommodation program to assess and document supervisee’s disabilities and medical conditions to determine accommodation needs throughout their supervision periods;
- b. Provide accommodation to supervisees with disabilities and ongoing and recurring medical conditions, so they are afforded an equal opportunity to succeed in supervision;
- c. Individually assess the supervision conditions of all supervisees currently on supervision in the community and determine which supervisees may require accommodation due to their disabilities; and
- d. Provide accommodation that is based on the individual supervisee’s needs. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants *currently* accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

113. The pending policy formally identifies the roles and responsibilities of 1) Reception and Processing (RAP) staff, 2) Community Supervision Officers (CSOs), 3) Supervisory Community Supervision Officers (SCSOs), 4) Office of Behavioral Intervention (OBI) staff, 5) Branch Chiefs (BCs), 6) the Associate Director (AD) of OCSIS, and 7) the Agency Director. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people

with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

114. Anyone at CSOSA who identifies or becomes aware of a disability or medical condition of a supervisee at any point must document the information in SMART21’s enhanced disability screen. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32. While Ms. Forsha’s declaration uses the present tense, she then explains that the “enhanced disability screen” (which she also refers as the “enhanced disability module”) has not been implemented yet: It is “in the queue for implementation” but “[t]here is no identified delivery date at this time.” ECF No. 76-3 (Forsha Dec.) ¶ 6.

115. CSOSA now formally asks, and documents the supervisee’s response, the following question: Do you believe that your impairment/disability will interfere with your ability to successfully meet supervision obligations? It also formally captures the supervisee’s request for accommodation and advises the individual that the right to request accommodation at a later date remains, regardless of whether accommodation is requested at that time. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32. While Ms. Forsha’s declaration uses the present tense, she discusses these questions in the context of the draft “Disability Data Collection Form” which she explains has not been implemented yet. Rather, it “has been provided to the Office of General Counsel (OGC) for

review and approval” but “[t]here is no identified delivery date at this time.” ECF No. 76-3 (Forsha Dec.) ¶ 6.

116. This data collection form also allows the supervisee with disabilities to document medical treatment information. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32. While Ms. Forsha’s declaration uses the present tense, the draft “Disability Data Collection Form” has not been implemented yet. Rather, it “has been provided to the Office of General Counsel (OGC) for review and approval.” but “[t]here is no identified delivery date at this time.” ECF No. 76-3 (Forsha Dec.) ¶ 6.

117. All information obtained on the Disability Data Collection Form will then be entered into an enhanced disability module in SMART21. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32. While Ms. Forsha’s declaration uses the present tense, the draft “Disability Data Collection Form” has not been implemented yet. Rather, it “has been provided to the Office of General Counsel (OGC) for review and approval.” but “[t]here is no identified delivery date at this time.” ECF No. 76-3 (Forsha Dec.) ¶ 6.

118. This documentation in CSOSA’s case management system will allow the Agency to run reports that determine 1) how many individuals under CSOSA supervision have identified

disabilities, 2) how many supervisees with disabilities have requested accommodation, and 3) how many requests for accommodation have been approved. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

119. When the module is completed, CSOSA will also be able to track timelines of requests for accommodation and approvals, denials, and appeals. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

120. If a supervisee disagrees with the approved accommodation or wishes to challenge an accommodation denial, he or she can start an appeals process with the assigned CSO. The appeal process is documented in the pending policy. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

121. CSOSA’s Office of Information Technology (OIT) has already added a flag on the supervisee’s profile page to alert users that the individual has an identified disability. *Id.*

Response: Plaintiffs admit to the extent the “flag” refers to the “disability flag” feature referenced in Ms. Forsha’s deposition. *See Pls.’ SUMF ¶ 256.* However, Plaintiffs deny to the

extent that Defendants infer that this “flag” adequately alerts users that a supervisee has an identified disability. The disability flag “does not indicate” what kind of disability an individual has or whether the individual is receiving accommodations; the flag could indicate an individual is “high risk,” has “special needs,” or has “referrals outstanding.” *Id.* ¶ 258. Further, CSOSA does not train or require CSOs to check the disability box or fill out its narrative field. *Id.* ¶ 257. To the extent this “flag” refers to a flag not discussed in Ms. Forsha’s deposition, Plaintiffs lack sufficient information to confirm or deny this statement. To the extent this “flag” refers to a change that has not yet been implemented, it is immaterial because hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

122. When the flag appears, staff know that they are to review the record for additional information. All additional system requirements to build the enhanced disability module in SMART21 have been provided by OCSIS to CSOSA’s OIT. *Id.*

Response: Plaintiffs deny that “[w]hen the flag appears, staff know they are to review the record for additional information.” Ms. Forsha admitted that “[t]here’s no formal policy” requiring CSOs to look for the presence of disabilities or accommodation needs when taking on a case, and there is no “specific training” regarding on how to review a person’s records for the presence of disabilities or accommodation needs. Pls.’ Ex. 3 (CSOSA Dep.) 209:9-210:12. The second statement is immaterial because it refers to hypothetical, future policies, which have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.’ Summary Judgment Cross-Op/Reply at 32.

123. The requirements have been reviewed and confirmed by the OIT and are in the queue for implementation. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32.

124. There is no identified delivery date at this time. The Disability Data Collection Form has been provided to the Office of General Counsel (OGC) for review and approval. If approved prior to completion of OIT's work, its use will be implemented when the disability module is released. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. As Defendants admit, "[t]here is no identified delivery date at this time." *Id.*; *see Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32.

125. Once the pending policy and the Disability Data Collection Forms have been approved, OCSIS will update the pending written guidance to include implementation of the Disability Data Collection Form and the disability module in SMART. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32.

126. Upon issuance of the written guidance, it will be presented to the OCSIS Leadership Team first at a scheduled Manager's Meeting, which currently occur monthly. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32.

127. The guidance will then be provided to all OCSIS and OBI staff with the expectation that the supervisors will review the policies and procedures with line staff at a team-level meeting. This information will be included in all future CSO academies to ensure understanding of the guidance. *Id.*

Response: This assertion is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32.

128. Additional training will be provided to reinforce expectations regarding CSOSA's collaboration with the United States Parole Commission (USPC). When CSOs assigned to the TIPS Unit, conduct pre-release investigations, they are required to review all available documentation from internal and external sources as they develop an appropriate release plan with recommendations to the USPC for supervision conditions of release. *Id.*

Response: The first statement is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32. With respect to the second statement, Plaintiffs admit that the agencies

could function this way, but deny that they systematically, consistently, or reliably do so in practice. The Commission admits that it “sets the same ‘general’ conditions for all supervisees.” Pls.’ SUMF ¶ 8. The Commission “may then impose *additional heightened* ‘special’ conditions, such as requiring participation in drug treatment.” *Id.* ¶ 9. Further, the Commission “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA . . . any [] documentation related to the Disability of [] an individual.” *Id.* ¶ 261. Likewise, CSOSA has “no formal directive” for CSOs to communicate to the Commission that a supervisee needs accommodations. *Id.* ¶ 262.

129. As part of this process, TIPS CSOs investigate and research the supervisee’s risks, needs, and abilities and propose release conditions to the USPC that align with information obtained during their investigations. *Id.*

Response: Plaintiffs admit that the agencies could function this way, but deny that they systematically, consistently, or reliably do so in practice. The Commission admits that it “sets the same ‘general’ conditions for all supervisees.” Pls.’ SUMF ¶ 8. The Commission “may then impose *additional heightened* ‘special’ conditions, such as requiring participation in drug treatment.” *Id.* ¶ 9. Further, the Commission “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA . . . any [] documentation related to the Disability of [] an individual.” *Id.* ¶ 261. Likewise, CSOSA has “no formal directive” for CSOs to communicate to the Commission that a supervisee needs accommodations. *Id.* ¶ 262.

130. The USPC then considers the recommendations and decides which conditions of release the supervisee will be required to complete during their period of supervision. *Id.*

Response: Plaintiffs admit that the Commission could function this way, but deny that it systematically, consistently, or reliably does so in practice. The Commission admits that it “sets

the same ‘general’ conditions for all supervisees.’” Pls.’ SUMF ¶ 8. The Commission “may then impose *additional heightened* ‘special’ conditions, such as requiring participation in drug treatment.” *Id.* ¶ 9. Further, the Commission “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA . . . any [] documentation related to the Disability of [] an individual.” *Id.* ¶ 261. Likewise, CSOSA has “no formal directive” for CSOs to communicate to the Commission that a supervisee needs accommodations. *Id.* ¶ 262.

131. Through use of the USPC’s F-1 modification form, supervision CSOs can request the addition, removal, or modification of special conditions for individuals under Parole and Supervised Release. This form is accompanied by a memorandum that documents the basis for the requested recommendation. *Id.* Tailoring a release plan to a disabled supervisee would be one such basis for submitting an F-1 form to recommend the modification of a supervisee’s release conditions. *Id.*

Response: Plaintiffs admit the first two sentences. Plaintiffs admit that CSOSA *could* use the F-1 form to tailor a release plan to a disabled supervisee, but deny that they systematically, consistently, or reliably do so in practice. Responding further, the F-1 form does not say anything specifically about disabilities. Pls.’ Ex. 3 (CSOSA Dep.) at 115:20-22.

132. Information regarding disability-related barriers also may be conveyed to the USPC through the submission of Alleged Violation Reports (AVR) and Annual Progress Reports. AVRs document supervisee’s non-compliance with release conditions, despite responsivity considerations, reasonable accommodations, and implementation of effective responses. Annual Progress Reports are provided to the USPC, regardless of compliance, to update the USPC on an individual’s performance and progress under supervision. If accommodations have been made to

remove barriers to supervision, the CSO will report that information on the Annual Progress Report. *Id.*

Response: Plaintiffs admit that information regarding disability-related barriers *could* be documented in AVRs and Annual Progress Reports, but deny that Defendants systematically, consistently, or reliably do so. CSOs are not required to document disabilities or accommodations in Annual Progress Reports. Pls.’ Ex. 3 (CSOSA Dep.) at 110:19-111:13. Further, “[t]here’s no specific sections that says disabilities or accommodations” on the AVR form. Pls.’ Ex. 4 (Commission Dep.) at 145:16-146:12. And the Commission offers no training on “how to consider a person’s disability-related barrier when assessing an AVR” or “deciding whether to hold a revocation hearing.” *Id.* at 102:6-16. Moreover, AVRs typically do not contain disability-related information. *See* Pls.’ SUMF ¶¶ 62, 72, 83, 90, 98, 105, 114, 143.

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