Nos. 26-1294, 26-3344

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FERNANDO GOMEZ RUIZ; et al.,

Plaintiffs-Appellees,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; et al.,

v.

Defendants-Appellees,

CORECIVIC, INC.,

Intervenor-Appellant.

On Appeal from the United States District Court
for the Northern District of California,
No. 3:25-cv-09757-MMC
Hon. Maxine M. Chesney

EXCERPTS OF RECORD
VOLUME 2 OF 6

Daniel P. Struck
Nicholas D. Acedo
STRUCK LOVE ACEDO, PLC
3100 West Ray Road, Suite 300
Chandler, Arizona 85226
(480) 420-1600

Attorneys for Appellant CoreCivic, Inc.

Daniel P. Struck, Pro Hac Vice
AZ Bar #012377
Dana M. Keene, CA Bar #324993
Anne M. Orcutt, Pro Hac Vice
AZ Bar #029387
STRUCK LOVE ACEDO, PLC
3100 West Ray Road, Suite 300
Chandler, Arizona 85226
Tel.: (480) 420-1600
Fax: (480) 420-1695
dstruck@strucklove.com
dkeene@strucklove.com
aorcutt@strucklove.com

Nicholas H. Rasmussen, Bar #285736
McCORMICK BARSTOW, LLP
7647 North Fresno Street
Fresno, CA 93720
Tel: (559) 433-1300
Fax: (559) 433-2300
nrasmussen@mccormickbarstow.com

Attorneys for Intervenor CoreCivic, Inc.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ, et al., Plaintiffs, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al., Defendants, CORECIVIC, INC., Intervenor.	Case No. 1:26-CV-02546-JLT-CDB **NOTICE OF APPEAL**

Pursuant to Federal Rule of Appellate Procedure 3(a), Intervenor CoreCivic, Inc. hereby appeals to the United States Court of Appeals for the Ninth Circuit the March 27, 2026 Memorandum of Decision (Dkt. 111) and March 30, 2026 Order Appointing Muthusamy Anandkumar as External Monitor (Dkt. 112). *See* 28 U.S.C. § 1292(a)(1); Fed. R. App. P. 4(a)(1)(B); *see also*, *e.g.*, *Montana Wildlife Fed'n v. Haaland*, 127 F.4th 1, 34 (9th Cir. 2025).

DATED this 22nd day of May 2026.

By /s/ Daniel P. Struck
Daniel P. Struck
Dana M. Keene
Anne M. Orcutt
STRUCK LOVE ACEDO, PLC

Nicholas H. Rasmussen
McCORMICK, BARSTOW, LLP

Attorneys for Intervenor CoreCivic, Inc.

Daniel P. Struck, Pro Hac Vice
AZ Bar #012377
Dana M. Keene, CA Bar #324993
Anne M. Orcutt, Pro Hac Vice
AZ Bar #029387
STRUCK LOVE ACEDO, PLC
3100 West Ray Road, Suite 300
Chandler, Arizona 85226
Tel.: (480) 420-1600
Fax: (480) 420-1695
dstruck@strucklove.com
dkeene@strucklove.com
aorcutt@strucklove.com

Nicholas H. Rasmussen, Bar #285736
McCORMICK BARSTOW, LLP
7647 North Fresno Street
Fresno, CA 93720
Tel: (559) 433-1300
Fax: (559) 433-2300
nrasmussen@mccormickbarstow.com

Attorneys for Intervenor CoreCivic, Inc.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ, et al., Plaintiffs, v. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al., Defendants, CORECIVIC, INC., Intervenor.	Case No. 1:26-CV-02546-JLT-CDB **NOTICE OF APPEAL**

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DATED this 22nd day of May 2026.

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Attorneys for Intervenor CoreCivic, Inc.

Daniel P. Struck, Pro Hac Vice
AZ Bar #012377
Dana M. Keene, CA Bar #324993
Anne M. Orcutt, Pro Hac Vice
AZ Bar #029387
STRUCK LOVE ACEDO, PLC
3100 West Ray Road, Suite 300
Chandler, Arizona 85226
Tel.: (480) 420-1600
Fax: (480) 420-1695
dstruck@strucklove.com
dkeene@strucklove.com
aorcutt@strucklove.com

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7647 North Fresno Street
Fresno, CA 93720
Tel: (559) 433-1300
Fax: (559) 433-2300
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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ, et al.,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.,

Defendants,

CORECIVIC, INC.,

Intervenor.

Case No. 1:26-CV-02546-JLT-CDB

~~**PROPOSED**~~ **ORDER CLARIFYING SCOPE OF INTERVENTION**

Upon review of CoreCivic, Inc.'s Motion for Administrative Relief to Clarify Intervention Order (Doc. 144), and good cause having been shown, the Motion is GRANTED.

CoreCivic may intervene as a defendant for the limited purposes of appealing the February 10, 2026 preliminary class certification and preliminary injunction order, the March 27,

2026 Memorandum of Decision, and the March 30, 2026 Order Appointing Muthusamy Anandkumar as External Monitor.

IT IS SO ORDERED.

Dated: **May 22, 2026**

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ, et al.,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.,

Defendant,

CORECIVIC, INC.,

Applicant-Intervenor.

Case No. 1:26-cv-02546 JLT CDB

ORDER GRANTING MOTION TO INTERVENE

(Doc. 82)

I. INTRODUCTION

Applicant CoreCivic, Inc. moves to intervene (*see* Docs. 82, 108, 135) in this civil rights action challenging conditions of confinement at U.S. Immigration and Customs Enforcement's California City Detention Facility, which CoreCivic owns and operates. (*See generally* Doc. 15, First Amended Complaint (FAC).) Though Plaintiffs vigorously oppose the motion (Docs. 106 and 139), for the reasons set forth below, the Court **GRANTS** the motion.

II. BACKGROUND

Plaintiffs initiated this action in the Northern District of California on November 12, 2025 (Doc. 1) and filed the currently operative FAC shortly thereafter, on November 20, seeking to

represent a class of all persons detained at the Facility as well as a subclass of individuals with disabilities held at the Facility. (FAC, ¶¶ 254–55.) Plaintiffs named ICE and various related federal entities and officials as defendants. (*See generally* FAC.) Plaintiffs' First Claim alleges that Defendants are violating class members' Fifth Amendment due process rights because conditions at California City are similar or more restrictive than those imposed in a prison environment and therefore are improperly punitive, including by limiting outdoor recreation time and visits from loved ones and imposing overly restrictive security policies. (*See* FAC, ¶¶ 269–76.) The Second Claim alleges that Defendants are depriving class members of adequate and necessary health care in violation of their Fifth Amendment rights, including by systemically failing to respond to urgent and non-emergent medical and mental health care needs and failing to ensure continuity of prescription medications. (*Id.*, ¶ 277–78.) The Third Claim alleges Defendants are violating class members' Fifth Amendment right to hire and retain counsel of their own choosing by unreasonably restricting Plaintiffs and the putative Class members from retaining, consulting, and communicating with counsel. (*Id.*, ¶ 279–81.) The Fourth Claim concerns a putative subclass of detainees at California City who have disabilities within the meaning of the Rehabilitation Act, 29 U.S.C. § 794. (*Id.*, ¶¶ 255, 292–93.)

CoreCivic owns the Facility and currently operates it under an agreement with ICE. (FAC, ¶ 3, 20; Doc. 45-1, Jan. 15, 2026 Corrected Declaration of Christopher Chestnut, ¶ 3.) The FAC alleges "CoreCivic facility administration, staff, and other personnel are agents of Defendant ICE," (FAC, ¶ 20), and CoreCivic is specifically referenced numerous times in the Complaint in that capacity. (*Id.*, ¶¶ 3, 20, 25, 26, 27, 28, 29, 30, 32, 33 & nn. 2, 9 16.)

On December 1, 2025, Plaintiffs moved for class certification and a preliminary injunction. (Docs 21, 22.) On December 16, Plaintiffs also moved for a temporary restraining order related to the provision of medical care to two of the named Plaintiffs. (Doc. 27.)

On December 22, 2025, Judge Maxine M. Chesney of the Northern District of California, approved a stipulated temporary restraining order addressing the urgent medical needs of certain named Plaintiffs and set a schedule for the parties to brief the motions for preliminary injunction and class certification. (Doc. 36; *see also* Docs. 21, 22.) On January 2, 2026, Federal Defendants

filed comprehensive oppositions to those motions. (Docs. 38, 39.) In addition, also on January 2, Federal Defendants filed a motion to transfer the case to this District. (Doc. 37). Judge Chesney set all then-pending motions for hearing on February 6, 2026. (*See* Doc. 44.) On that date, Judge Chesney held a lengthy hearing at which she indicated she would transfer the case to this District but nonetheless addressed interim injunctive relief. (*See generally* Doc. 75, 2/5/26 Hng. Tr.)

On February 10, 2026, Judge Chesney issued a written order granting in part Plaintiffs' motions for preliminary injunction and class certification, (Doc. 72), and on March 27, 2026, issued a separate memorandum decision providing additional reasoning in support of the February 10 Order. (Docs. 72, 111 (collectively, "PI Order").) Generally, the PI Order requires Defendants to: "(1) ensure constitutionally adequate medical care ([Doc. 72,] ¶ 1)[1]; (2) provide access to an independent, third-party 'External Monitor' for a period of 120 days (*id*. ¶ 2); (3) ensure that detained individuals have timely and confidential access to attorneys through in-person, contact legal visits and calls (*id*. ¶ 3)[2]; and (4) provide free temperature-appropriate clothing and at least one hour of outdoor recreation time per day (*id*. ¶ 4)." (Doc. 111 at 4.) In addition, on March 30, 2026, Judge Chesney entered an order appointing Muthusamy Anandkumar as an external monitor regarding compliance with the Court's preliminary injunction. (Doc. 112.)

Meanwhile, on March 3, 2023, CoreCivic moved to intervene in this action for the limited purposes of (1) appealing the February 10, March 27, and March 30, 2026 Orders and (2) seeking a

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[1] More specifically regarding medical care, the Court directed Federal Defendants to ensure: adequate health care staffing; comprehensive, documented medical intake screening, performed by a "qualified medical provider" within 12 hours of a person's arrival; thorough Initial Appraisals performed timely by a primary care provider; timely approval and access to medical specialists; timely and responsive emergency services; continuity of medical care upon intake and thereafter, including timely completion of active medical orders, access to scheduled provider appointments, and consistent provision of medication; timely access to prescribed medications; and a responsive "sick call" request system. (Doc. 72 at 3.)

[2] Regarding access to counsel, the Court ordered Federal Defendants to ensure: in-person legal visitation seven days per week from 8:00 a.m. to 8:00 p.m., in private and confidential settings, with each legal visit lasting up to three hours in length; contact attorney visits that do not take place through a pane of glass, absent documented security grounds to deny such contact; scheduling of confidential legal calls with legal representatives of up to 90 minutes each, to take place within two business days of a request; and provision of written information regarding protocols for attorney-client communication to all individuals detained at California City. (Doc. 72 at 4.)

stay of those orders pending appeal. (Doc. 82 at 2; Doc. 135 at 7.) CoreCivic maintains it is entitled to intervene as of right under Federal Rule of Civil Procedure 24(a) and alternatively requests permissive intervention under Rule 24(b). (*See generally* Docs. 82, 135.)

On March 5, CoreCivic noticed its appeal. (Doc. 91, filed Mar. 6, 2026.) On April 13, Federal Defendants also noticed an appeal from the same three orders. (Doc. 127.) A few days later, in a status report filed in this Court on April 17, Federal Defendants clarified that its Notice of Appeal was "protective" while the appropriate division of the Department of Justice continued to consider whether to pursue the appeal. (Doc. 132 at 1–2.) Given those developments, the Court permitted supplemental briefing. (*See* Doc. 133.) For the reasons set forth below, the motion to intervene is **GRANTED**.[3]

III. INTERVENTION AS OF RIGHT

The Ninth Circuit has adopted a four-part test for determining whether an applicant can intervene as of right pursuant to Rule 24(a)(2):

> (1) the motion must be timely; (2) the applicant must claim a "significantly protectable" interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant's interest must be inadequately represented by the parties to the action.

Wilderness Soc. v. U.S. Forest Serv., 630 F.3d 1173, 1177 (9th Cir. 2011) (*en banc*) (internal citation and quotation omitted). A proposed intervenor bears the burden of meeting these elements. *Smith v. Los Angeles Unified Sch. Dist.*, 830 F.3d 843, 853 (9th Cir. 2016). The requirements for intervention are broadly interpreted in favor of intervention. *Id.*, citing *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004).)

A. Timeliness

To determine whether a motion for intervention as of right is timely, a court should consider "the totality of circumstances facing the would-be intervenor, with a focus on three primary factors: '(1) the stage of the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of the delay.'" *W. Watersheds Project*

[3] In the interest of expedience, the Court will issue a separate order on CoreCivic's motion to stay.

v. Haaland, 22 F.4th 828, 835–36 (9th Cir. 2022) (citing *Smith*, 830 F.3d at 854). "When evaluating these factors, courts should be mindful that 'the crucial date for assessing the timeliness of a motion to intervene is when proposed intervenors should have been aware that their interests would not be adequately protected by the existing parties." *Id*. "Timeliness is a flexible concept; its determination is left to the district court's discretion." *Alisal Water*, 370 F.3d at 921.

In analyzing timeliness, a court must also be "mindful of the balance of policies underlying intervention." *Kalbers v. U.S. Dep't of Just*., 22 F.4th 816, 823 (9th Cir. 2021).

> On the one hand, we "discourage premature intervention" that unnecessarily "squander[s] scarce judicial resources and increase[s] litigation costs." *John Doe No. 1 v. Glickman*, 256 F.3d 371, 376–77 (5th Cir. 2001). On the other hand, we favor intervention because it "serves both efficient resolution of issues and broadened access to the courts." *Wilderness Soc'y v. U.S. Forest Serv*., 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc) (citation omitted). Accordingly, while we construe the intervention motions that we receive liberally, *id*., we do not require hasty intervention. *See also John Doe No. 1*, 256 F.3d at 375 ("[T]imeliness is not a tool of retribution to punish the tardy would-be intervener, but rather a guard against prejudicing the original parties by the failure to apply sooner." (quoting *Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994))); *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1250 (10th Cir. 2001) (same); [*United States v.*] *City of Chicago*, 870 F.2d [1256, 1263 (7th Cir. 1989)] ("The purpose of the requirement is to prevent a tardy intervenor from derailing a lawsuit within sight of the terminal." (citation omitted)).

Kalbers, 22 F.3d at 823.

CoreCivic seems to acknowledge that the timeliness analysis may be distinct for its two requests: (1) permission to intervene to appeal the preliminary injunction order and (2) permission to intervene to pursue a motion to stay operation of that order in this Court. (*See* Doc. 82 at 12); *cf. W. Watersheds*, 22 F.4th at 837 ("whether [applicant] should be permitted to intervene in a new, future stage of the litigation involves a different set of considerations than whether it should be permitted to participate in the Phase One appeal"). Thus, in an abundance of caution, the Court will evaluate the requests separately.

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1. Timeliness of Intervention to file Appeal

a. *Stage of the Proceedings*

CoreCivic argues that its request to intervene to file an appeal is timely because it was filed by the respective deadline(s) for filing an appeal from the February 10, 2025 Order. (Doc. 82 at 12.)[4] Generally, "[a] court will consider a post-judgment motion to intervene to be timely if filed within the time limitations for filing an appeal." *U.S. ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 719 (9th Cir. 1994) (discussing this rule in the context of the "stage of the proceedings" factor); *see also W. Watersheds*, 22 F.4th at 836 (same); *U.S. ex rel. McGough v. Covington Techs. Co.*, 967 F.2d 1391, 1394 (9th Cir. 1992) (same).[5] Though the Court can identify no decision that has applied this rule to the exact circumstances presented here, namely an appeal from a preliminary injunction order, the Court sees no reason why an interlocutory appeal from an injunction permitted by 28 U.S.C. §1292(a)(1) would be treated differently than any other appellate process for purposes of this line of authority. However, as Plaintiffs point out, this "general" rule suffices only to satisfy the "stage of the proceeding" factor and does not obviate the need to consider all three timeliness factors. (*See* Doc. 106 at 18, citing *Killingsworth*, 25 F.3d at 715 (assessing prejudice and whether the applicant for intervention offered an acceptable reason for the delay in filing the motion, even though applicant moved to intervene within the time allotted for filing an appeal)).)

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[4] Federal Rule of Civil Procedure 23(f) provides a 45-day period to file a petition for permission to appeal provisional class certification. Federal Rule of Appellate Procedure 4(a)(1)(B) provides 60 days to take an appeal as of right from an order if one of the parties is the United States, which includes appeals from preliminary injunction orders. 28 U.S.C. § 1292(a)(1).

[5] CoreCivic attempts to resist consideration of all three timeliness factors in relation to their request to intervene for purposes of filing an appeal, citing *Alaska v. Suburban Propane Gas Corp*., 123 F.3d 1317, 1320 (9th Cir. 1997). But *Alaska* concerned a party who sought to intervene to bring a post-judgment appeal from denial of class certification. *Id*. The Supreme Court addressed this unique situation in *United Airlines, Inc. v. McDonald*, 432 U.S. 385, 394–95 (1977), finding that a putative class member who was not a named plaintiff could intervene under such circumstances so long as they did so promptly after the entry of final judgment made the adverse class determination appealable. The Supreme Court extensively discussed the fact that the applicant for intervention was a putative class member. *Id*. at 394 ("United can hardly contend that its ability to litigate the issue was unfairly prejudiced simply because an appeal on behalf of putative class members was brought by one of their own, rather than by one of the original named plaintiffs."). The situation presented in *Alaska* and *United Airlines* is distinct from the present posture.

b. *Prejudice/Reason for and Length of Delay*

"Under this factor, the only relevant prejudice is that which flows from a prospective intervenor's failure to intervene after he knew, or reasonably should have known, that his interests were not being adequately represented." *W. Watersheds*, 22 F.4th at 838 (internal quotations and citations omitted). "Stated differently, prejudice does not arise merely from the fact that including another party in the case might make resolution more difficult." *Id.*; *see also Brown v. Google LLC*, 172 F.4th 1128, 1135 (9th Cir. 2026).

Regarding CoreCivic's request to intervene for purposes of pursuing an appeal, it is difficult to discern how CoreCivic could reasonably have known before early February 2026 that Federal Defendants might not pursue an immediate, interlocutory appeal of the preliminary injunction order. Plaintiffs suggest that the possibility of divergence should have become apparent after the Court issued its TRO order on December 22, 2025, (*see* Doc. 106 at 22; *see also* Doc. 36), because Federal Defendants did not appeal or move to stay that order. This argument is not convincing because the more reasonable interpretation of this procedural history is that the very limited stipulated TRO ordered relief that no party or CoreCivic had any reason to object to then or now.[6] The Court is also at a loss to identify any prejudice that could have flowed from the three week delay between February 6 and CoreCivic's March 3, 2026 intervention motion.

As for providing an explanation for the three-week delay, CoreCivic represents that it urged Federal Defendants to appeal the preliminary injunction and to seek an emergency stay pending that appeal. (Doc. 135 at 14.) This is a reasonable explanation for the brief delay between the issuance of injunctive relief and the motion to intervene. CoreCivic's request to intervene for purposes of appeal is timely.

2. Timeliness of Intervention to Pursue Motion to Stay in this Court

The timeliness analysis is not materially different when applied to CoreCivic's related request to intervene for purposes of pursuing a motion to stay in this Court, though it is slightly more layered.

[6] The TRO ordered that one named Plaintiff receive a comprehensive evaluation from a cardiologist; that another receive a comprehensive assessment from a urologist, including a biopsy as necessary; and that both receive timely follow up care. (Doc. 36.)

a. *Stage of the Proceedings*[7]

The "stage of proceeding factor uses a nuanced, pragmatic approach to examine whether the district court has substantively—and substantially—engaged the issues in the case." *Kalbers*, 22 F.4th at 826 (internal quotation and citation omitted). "[S]ubstance prevails over form: Neither the formal stage of the litigation (e.g., the pretrial stage), nor the length of time that has passed since a suit was filed is dispositive." *Id*. (internal quotation and citation omitted).

Courts have found this factor weighs in favor of intervention where only preliminary injunctive proceedings have taken place. *See SFR Invs. Pool 1, LLC v. Newrez LLC*, No. 2:22-CV-00626-GMN-EJY, 2023 WL 3341918, at *2 (D. Nev. May 10, 2023) (collecting cases in which this factor was deemed satisfied, including several cases where the Court had resolved both a motion for preliminary injunction and a motion to dismiss). The cases cited by Plaintiffs (Doc. 106 at 17) are not to the contrary. *See League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1303 (9th Cir. 1997) (where 27 months had passed since complaint was filed, the court had issued a TRO and PI, defendants appealed, four other parties had already intervened, the court provisionally certified a class and denied a motion to dismiss, defendants had answered, the court partially granted a motion for summary judgment, and discovery was well under way); *Roman v. Mayorkas*, No. ED CV 20-00768 TJH, 2021 WL 4621947, at *2 (C.D. Cal. July 7, 2021) (where 15 months had passed since opening of case, the court had entered a PI, the government appealed, the Ninth Circuit stayed the appeal but six months later affirmed and lifted the stay, and then the trial court entered a modified PI and then appointed a special master to monitor compliance).

In addition, Plaintiffs' efforts to distinguish the cases cited by CoreCivic are not persuasive. For example, Plaintiffs suggest that *SFR Investments*, 2023 WL 3341918, is distinguishable because that court had only ruled on "preliminary motions and had not yet engaged substantively in the issues presented." (Doc. 106 at 18). Yet in *SFR Investments*, the District of Nevada issued a written decision on a preliminary injunction motion, in which the court engaged in the case at a level of detail comparable to the March 30, 2026 order issued in

[7] Unlike with intervention for purposes of filing an appeal, the Court has not been presented with authority suggesting it can presume that the stage of the proceedings factor is satisfied for purposes of intervening to request a stay pending appeal.

this case. *See SFR Invs. Pool 1, LLC v. Newrez LLC*, No. 2:22-CV-00626-GMN-EJY, 2022 WL 2788411, at *3 (D. Nev. July 15, 2022). When addressing a motion to intervene filed many months later, the *SFR Investments* court concluded it had not "substantively and substantially engaged the issues in the case" and thus that the stage of the proceedings factor weighed in favor of intervention. *SFR Invs*., 2023 WL 3341918, at *2.

On the one hand, CoreCivic moved to intervene approximately four months after the case was filed. It cannot be denied that the existing parties expended substantial resources briefing the preliminary injunction, class certification, and transfer motions prior to CoreCivic's motion to intervene and that the Court undoubtedly engaged in the substance of the case at least to some extent when it ruled on those motions. Yet that engagement relied on a preliminary record and focused largely on a handful of expert declarations that sampled conditions on the ground and opined as to the existence of systematic constitutional violations. Applying the "pragmatic approach" required by the Ninth Circuit, the Court concludes proceedings remained at a relatively early stage when CoreCivic sought intervention. For all these reasons, the Court concludes that this factor weighs at least slightly in favor of intervention.

b. *Prejudice/Reasons for Delay*

Plaintiffs argue that allowing CoreCivic to intervene at this stage as requested (i.e., so that they may move to stay the preliminary injunction) will significantly prejudice Plaintiffs because they will "lose the time and resources they expended in securing preliminary relief and would face the prospect of having to relitigate . . . the preliminary injunction motion that CoreCivic now seeks to stay and overturn." (Doc. 106 at 16 (internal quotation and citation omitted); *see also id*. at 8 ("[Allowing] CoreCivic to intervene now for the sole purpose of upending the preliminary injunction would severely prejudice Plaintiffs by allowing a non-party to ambush Plaintiffs with arguments that it could and should have proffered before Plaintiffs secured preliminary relief with potentially life saving effects."); *id*. at 17 (suggesting that by seeking to intervene to stay the preliminary injunction orders, CoreCivic seeks to "relitigate the preliminary injunction and stall urgently needed relief, placing Plaintiffs' health and safety at further risk.").)

Plaintiffs are generally correct that prejudice for the purposes of intervention may exist

where a party seeks to re-open decided issues, such as whether injunctive relief is appropriate and/or the scope of that relief. *See, e.g.*, *EEOC v. Ga.-Pac. Corrugated LLC*, 2008 WL 11388687, at *7 (N.D. Cal. Apr. 9, 2008) ("'Prejudice' in the context of a motion to intervene may exist[] where intervention would raise new issues, re-open decided issues, unnecessarily prolong litigation, threaten settlement, or delay remedies."); *Ctr. for Investigative Reporting v. U.S. Dep't of Labor*, 2020 WL 554001, at *2 (N.D. Cal. Feb. 4, 2020) ("The Court is inclined to deny the motion insofar as it seeks intervention to relitigate or reconsider matters decided . . . ."). But this forgets that in this context "prejudice" is relative to when CoreCivic should have become aware that its interests would no longer be protected by the existing parties. *See W. Watersheds*, 22 F.4th at 838; *see also Kalbers*, 22 F.4th at 825, ("[P]rejudice must be connected in some way to the timing of the intervention motion.").

Indeed, CoreCivic should have been aware of the nature of the issues and the potential forms of injunctive relief that might be awarded several months ago, given that the preliminary injunction and class certification motions were extensively briefed beginning on December 1, 2025. (*See, e.g.*, Docs. 21, 22, 38, 39, 40, 46, 48, 49, 51.) But that is not the question.[8] Federal Defendants opposed those motions on January 2, 2026, attaching voluminous exhibits, including declarations from Christopher Chestnut, the Warden of California City, (Doc. 38-1), and Dr. Susan Tiona, CoreCivic's Chief Medical Officer. (Doc. 38-2.) Judge Chesney held a lengthy hearing on both motions, as well as the motion to transfer, on February 6, 2026. (*See* Doc. 75.) At that hearing, Federal Defendants opposed the issuance of the preliminary injunction, arguing,

[8] Plaintiffs appear to be attempting to blur this rule by quoting *Brown* (Doc. 139 at 14), where the Ninth Circuit reasoned that "the appropriate time to move for intervention would have been when they were on notice that their interests *might* be adversely affected by the outcome of the litigation—not when they could be certain of harm." *Brown*, 172 F.4th at 1137. But that quotation is taken out of context. Elsewhere in *Brown*, as Plaintiffs' own brief acknowledges (Doc. 139 at 14), the Ninth Circuit reiterated that the key point in time for the prejudice analysis is when the proposed intervenors should have been aware that its interests diverged from the existing parties. *Brown*, 172 F.4th at 1137. In *Brown* the Ninth Circuit performed alternative timeliness analyses, causing the two questions (the moment of awareness that interests might be impacted at all and the moment of awareness that the existing parties might not protect those interests) to overlap in ways that are not material here. *See id*. at 1137–38. Crucially, nowhere did the Ninth Circuit untether timeliness from the moment the intervenor applicant should have been aware that its interests diverged from the existing parties. To find otherwise would run afoul of *Kalbers*' warning to not apply intervention rules in ways that would encourage premature intervention. *See Kalbers*, 22 F.3d at 823.

among other things, that Plaintiffs had not shown systemic failures, ongoing irreparable harm, or the propriety of the specific relief requested. (*Id*., *passim*.) Over those objections, the Court entered the February 10, 2026 Order setting forth the specific terms of the preliminary injunction, (Doc. 72), and then followed up with the issuance of a memorandum opinion. (Doc. 111.)

Given these facts, as was the case with the decision to intervene for purposes of taking an appeal, the Court concludes that CoreCivic was not on notice that its interests regarding the scope of any injunctive relief imposed might materially diverge from Federal Defendants' until shortly after the February 6, 2006 hearing, at the earliest. CoreCivic's motion to intervene was filed only a few weeks later, on March 3, 2026. (Doc. 82.) The harm of which Plaintiffs object (i.e., the risk of walking back the PI Order) does not flow from this brief, three-week delay. As the Ninth Circuit has noted, in evaluating timeliness, the Court must be "mindful of the balance of policies underlying intervention." *Kalbers*, F.4th at 823. Plaintiffs position—that CoreCivic had to intervene as soon as it had knowledge of the kinds of injunctive remedies the Court might impose—runs contrary to the instruction of *Kalbers* to "discourage premature intervention" which "squanders scarce judicial resources and increases litigation costs." *Id*. (internal citation and quotation omitted).

As for explaining the three week-delay, as mentioned above, CoreCivic reasonably explains that it urged Federal Defendants to seek an emergency stay pending appeal. (Doc. 135 at 14.) Under the totality of the circumstances, CoreCivic's motion to intervene for purposes of moving to stay the PI Order is also timely.

B. Significantly Protectable Interest/Impairment of that Interest

"The requirement of a significantly protectable interest is generally satisfied when the interest is protectable under some law, and that there is a relationship between the legally protected interest and the claims at issue." *Arakaki v. Cayetano*, 324 F.3d 1078, 1084 (9th Cir. 2003) (internal quotation and citation omitted). "[W]hether an applicant for intervention demonstrates sufficient interest in an action is a practical, threshold inquiry. No specific legal or equitable interest need be established." *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001) (internal quotation and citation omitted). A proposed intervenor's interest has

a "relationship" with the pending action "only if the resolution of the plaintiff's claims actually will affect the applicant." *Donnelly v. Glickman*, 159 F.3d 405, 410 (9th Cir. 1998); *see also Wilderness*, 630 F.3d at 1179 ("[A] prospective intervenor has a sufficient interest for intervention purposes if it will suffer a practical impairment of its interests as a result of the pending litigation."). Nonetheless, "intervention as of right does not require an absolute certainty that a party's interest will be impaired." *Citizens for Balanced Use v. Montana Wilderness Ass'n*, 647 F.3d 893, 900 (9th Cir. 2011); *Woods v. Cnty. of Los Angeles*, No. 2:20-CV-04474 AB (MAAx), 2022 WL 19829548, at *6 (C.D. Cal. Mar. 14, 2022). *Constr. Laborers Tr. Funds for S. Cal. Admin. Co. v. H & S Elec. Inc.*, No. CV 19-05347 DDP (EX), 2020 WL 410176, at *2 (C.D. Cal. Jan. 23, 2020) (discussing but ultimately dismissing possible conflict between "actually will affect" language in Donnelly and other authority requiring lesser certainty).

As an initial matter, Plaintiffs suggest that this element cannot be met because the PI Order is "aimed at remedying Defendants' constitutional violations." (Doc. 106 at 13 ("CoreCivic seems to suggest that it has a contractual interest in not being bound by the constitution or by court order—or that it cannot comply with its contract terms if it is so bound.").) But Plaintiffs cite no authority for the proposition that simply because a lawsuit seeks to vindicate constitutional rights, an impacted person or entity has no interest in litigating whether the constitutional provision has been violated in specific circumstances and/or the scope of injunctive relief awarded to remedy any such violation. *San Francisco Baykeeper v. U.S. Fish & Wildlife Service*, 2021 WL 3426961 (N.D. Cal. Aug. 5, 2021), cited by Plaintiffs (*see* Doc. 139 at 17–18), is not to the contrary. In *Baykeeper*, the plaintiff sought to force a federal agency to issue a proposed rule listing a particular fish under the Endangered Species Act. *Id*. at *7. The intervenor applicant claimed a protectable contract-based interest in delivery of water from the Reclamation project that allegedly threatened that fish species. *Id*. The district court found this claimed interest insufficient because, among other things, the proposed relief—an order to issue a *proposed* rule—would merely have initiated a separate administrative process in which the intervenor would have had additional opportunities to participate. *Id*.

Not so here. Among other things, CoreCivic argues that the PI Order requires it to

undertake, at considerable expense, actions that are not otherwise required by applicable detention standards, such as the 2025 National Detention Standards, standards promulgated by the National Commission on Correctional Health Care, and the American Correctional Association. (*See* Doc. 86 at 26–27; Doc. 82 at 16.) For example, Paragraph 1(b) of the PI Order requires a "comprehensive, documented medical intake screening, performed by a qualified medical provider within 12 hours of a person's arrival." (Doc. 72, ¶ 1(b).) As CoreCivic points out, "qualified medical provider" is not defined in the PI Order, but "provider" in this context may be interpreted to mean a Nurse Practitioner, Physician's Assistant, Physician, or a similar level of license, and does not include a Registered Nurse or Licensed Vocational Nurse. (*See* Doc. 82-1, March 2, 2026 Declaration of Christopher Chestnut, ¶¶ 34, 39.) In contrast, pre-existing correctional standards appear to permit such initial screenings to be provided by a broader range of personnel, including "a specially trained detention officer." (*Id*., ¶ 35.) Depending on the level of credential/training required by the Court's PI Order, CoreCivic estimates compliance will cost an additional $901,250 per year. (*Id*., ¶ 47.)

Because it is possible to imagine a situation where such costs would automatically be passed on to the contracting agency, thus minimizing or potentially eliminating CoreCivic's asserted economic interest, the Court requested that CoreCivic reveal pertinent provisions from its contract with ICE. (Doc. 141.) The preset record[9] now indicates the agreement to be an "indefinite delivery indefinite quantity (IDIQ) contract" pursuant to which CoreCivic is compensated a fixed amount for the "Facility Operating Charge," and a per diem rate based on the number of detainees. (Doc. 143-2 at 6–7.) The contract further provides that CoreCivic "shall furnish all personnel, management, equipment, supplies, training, certification, accreditation, and

[9] Plaintiffs protested in their initial opposition brief that CoreCivic failed to disclose its contract with ICE and thus the Court cannot evaluate CoreCivic's contractual rights and duties. (Doc. 106 at 19.) CoreCivic's initial reply provided a link to a publicly available (albeit redacted) copy of their contract with ICE for the California City Facility. (Doc. 108 at 8, n.3.) In its opposition to CoreCivic's supplemental brief, Plaintiffs continued to object that this level of disclosure does not permit Plaintiffs or the Court to evaluate CoreCivic's contractual rights, duties, and alleged liabilities. (Doc. 139 at 18.) In reply, CoreCivic directed the Court's attention to certain additional contractual provisions available in a publicly available Freedom of Information Act disclosure. (*See* Doc. 143-2, ¶¶ 3–4.) The Court takes judicial notice of these documents for their content, *see* Fed. R. Civ. P. 702, and is satisfied that this record permits the analysis required for this motion.

services necessary for performance of all aspects of the contract," and "[u]nless explicitly stated otherwise, [CoreCivic] is responsible for all costs associated with and incurred as part of providing the services outlined in this contract." (Doc. 143-2 at 9.) The agreement also provides:

> Should a change in the applicable standards and laws identified in this contract result in a documentable financial impact on the contractor, the contractor must notify the CO within 30 calendar days of receipt of the change and **both contractor and Government will negotiate best course of action**, either 1) a waiver to the Standards or, 2) negotiate a prospective change in the bed day or other rates. Please note, any change in compensation rate will be prospective, beginning on the date the change is effective.

(*Id*. (emphasis in original))

It is not entirely clear how this contractual provision might apply here, but complete certainty is not required for intervention. At the very least, by providing for a re-negotiation process, rather than indemnification, the provisions present some degree of risk that CoreCivic will not be fully reimbursed for compliance costs incurred.[10] Under these circumstances and given that the inquiry is meant to be a "practical" one, the Court finds CoreCivic has a significant protectable interest that is related to the litigation.

"Generally, after determining that the applicant has a protectable interest, courts have 'little difficulty concluding' that the disposition of the case may affect such interest." *Jackson v. Abercrombie*, 282 F.R.D. 507, 517 (D. Haw. 2012) (quoting *Lockyer v. United States,* 450 F.3d 436, 442 (9th Cir. 2006)). Such is the case here. The interest identified above may be affected by the disposition of this case.

C. Adequacy of Representation

Courts consider three factors when evaluating adequacy of representation: "(1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor's arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect." *Western Watersheds*, 22 F.4th 840–41 (internal citation and quotation omitted). "The burden of showing inadequacy of representation is minimal and satisfied if the

[10] The Court expresses no position on how the contract terms should be interpreted.

applicant can demonstrate that representation of its interests may be inadequate." *Id.* at 840.

"When an applicant for intervention and an existing party have the same ultimate objective, a presumption of adequacy of representation arises." *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003)(internal citation omitted). "If the applicant's interest is identical to that of one of the present parties, a compelling showing should be required to demonstrate inadequate representation." *Id*. (internal citation omitted). Plaintiffs contend that this presumption applies here because "at the core of this litigation [ ] ICE and CoreCivic share precisely the same ultimate objective: defending their operation of California City Detention Facility." (Doc. 106 at 21–22.)

The simple fact that Federal Defendants have not yet committed to pursuing an appeal from the PI Order or a motion to stay is, from a practical perspective, dispositive on this element. *See Fresno Cnty. v. Andrus*, 622 F.2d 436, 439 (9th Cir. 1980) (where applicant for intervention was positioned to make similar arguments as government agency at the trial court level, but the agency did not pursue those arguments on appeal that "unwillingness indicates that the [agency] does not represent [the applicant] fully."). On the present record, this element must be resolved in CoreCivic's favor.

In sum, CoreCivic has satisfied all elements required for the limited intervention as of right they seek. Given the above result, the Court declines to address whether CoreCivic's alternative request for permissive intervention.

IV. CONCLUSION AND ORDER

For the reasons set forth above:

1. CoreCivic's motion to intervene as of right pursuant to Federal Rule of Civil Procedure 24(a) (Doc. 82) is **GRANTED.**

2. CoreCivic may intervene as a defendant for the limited purpose of appealing the February 10, 2026 preliminary class certification and preliminary injunction order and to pursue a motion to stay that order pending the appeal.

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3. This order is without prejudice to reconsideration should Federal Defendants clarify their position on appeal and/or the request for a stay.

IT IS SO ORDERED.

Dated: **May 13, 2026**

UNITED STATES DISTRICT JUDGE

DECLARATION OF CHRISTOPHER CHESTNUT

I, Christopher Chestnut, state the following based upon my personal knowledge.

1. I am over the age of 18 and am competent to testify to the matters set forth in this Declaration.

2. I am currently the Warden at CoreCivic's California City Correctional Facility[1] ("Cal City" or "the facility"), located at 22844 Virginia Boulevard, California City, a position I have held since June 2025.

3. The facility is owned and operated by CoreCivic. The facility currently houses federal immigration detainees pursuant to a contract with Immigration and Customs Enforcement ("ICE").

4. Prior to transferring to Cal City, I was the Warden at Nevada Southern Detention Center and the Assistant Warden at the Northeast Ohio Correctional Center.

5. I have been employed by CoreCivic since 1995 and have more than 30 years of corrections and detention experience, including supervisory positions at multiple facilities utilized by ICE to house civil immigration detainees.

6. I make this Declaration in support of CoreCivic's Reply in Support of Supplemental Brief Regarding Motion to Intervene (Dkt. 82) and Motion to Stay Pending Appeal (Dkt. 86).

7. Prior to the Northern District's February 10, 2026 Order granting in part Plaintiffs' request for injunctive relief, Cal City had four rooms that could be used for contact legal visits. Due to the Order's requirement that in-person legal visits be three hours in duration, it was necessary for CoreCivic to create additional space for contact legal visits.

[1] The facility has also been variously referred to as the California City Correctional Center, California City Immigration Processing Center, and California City Detention Facility.

8. CoreCivic subdivided the four existing legal visitation rooms and installed soundproofing barriers to create a total of eight rooms for contact legal visitation.

9. The original estimate CoreCivic received for this project on February 18, 2026 was **$19,875**, not including electrical work. On March 20, 2026, a change order was issued for an additional **$8,900** to complete the walls, for a total cost of **$28,775**, not including electrical work. The project was completed at the end of March 2026.

10. The electrical work was completed in conjunction with another project for which the electrical contractor was onsite, and I do not currently have a break down of the cost attributable solely to the contact legal visitation room project.

11. We are required to staff the contact visitation area with an additional officer, at an approximate cost of **$104,083.20 per year** due to the need to visually monitor the additional four contact visitation rooms.

12. At the time of the February 10, 2026 Order, the facility had 10 booths for virtual attorney visits ("VAV"), which were all located in one room. Due to the need to separate detainees by classification level and gender, only one classification/gender combination could be scheduled in the VAV area at a time.

13. To accommodate the Order's requirement for 90-minute legal calls, we had to separate the VAV booths into two areas, each with five VAVs, to allow for two different classification/gender combinations to be scheduled for VAVs at a time.

14. We also submitted a project to create two new VAV booths in the female housing unit to allow for additional VAV availability.

15. CoreCivic received an estimate of **$69,395** to complete the two VAV projects. The actual final cost for the VAV projects was **$64,468.33**.

16. The existing booths were separated on March 7, 2026, and the installation of the VAV booths in the female housing area was completed on April 30, 2026.

17. To comply with the Court's Order requiring 90-minute legal calls, we estimated that we would need to staff an additional 2.5 officers at an approximate cost of

$260,208 per year to monitor the two separated VAV areas in the main VAV area and the new VAV booths in the female housing unit. Thus far, we have increased staffing for the VAV area by one additional officer, at an approximate cost of **$104,083.20 per year**, which has sufficed for the Facility's current population level. However, staffing for the VAV areas may need to be further increased when the Facility reaches full capacity.

18. During the upcoming visit to the facility by the Court-appointed monitor, we will have to allocate security staff to accompany him at all times.

19. If the monitor elects to speak with detainees regarding their health care, we will need to allocate security staff to transport the detainees to and from the interview room, as well as remain in the area to provide visual (but not auditory) monitoring during the interviews.

20. The interviews will likely take place in one of the contact legal visitation rooms, preventing that room from being used for in-person attorney visits for the duration of the monitor's three-day inspection.

21. When the monitor interviews health care staff, those individuals will be unable to complete their patient care duties for the duration of the interviews. Likewise, if the monitor interviews health care administrative staff, those individuals will be unable to complete their administrative responsibilities.

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I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on May 11, 2026.

Christopher Chestnut

KEKER, VAN NEST & PETERS LLP
STEVEN P. RAGLAND - # 221076
sragland@keker.com
CODY S. HARRIS - # 255302
charris@keker.com
CARLOS C. MARTINEZ - # 354616
cmartinez@keker.com
LISA C. LU - # 364259
llu@keker.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

CALIFORNIA COLLABORATIVE FOR IMMIGRANT JUSTICE
PRIYA ARVIND PATEL - # 295602
priya@ccijustice.org
MARIEL VILLARREAL - # 317048
mariel@ccijustice.org
1999 Harrison Street #1800
Oakland, California 94612
Tel: (650) 762-8990

PRISON LAW OFFICE
MARGOT MENDELSON - # 268583
mmendelson@prisonlaw.com
TESS BORDEN - MJP # 805022, *pro hac vice*
tess@prisonlaw.com
PATRICK BOOTH - # 328783
patrick@prisonlaw.com
ALISON HARDY - # 135966
ahardy@prisonlaw.com
RANA ANABTAWI - # 267073
rana@prisonlaw.com
1917 Fifth Street
Berkeley, California 94710-1916
Tel.: (510) 280-2621

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
KYLE VIRGIEN - # 278747
kvirgien@aclu.org
FELIPE HERNANDEZ - # 338468
npp_fhernandez@aclu.org
MARISOL DOMINGUEZ-RUIZ - # 345416
mdominguez-ruiz@aclu.org
425 California Street, 7th Floor
San Francisco, CA 94104
Tel.: (415) 343-0770

CARMEN IGUINA GONZALEZ - # 277369
ciguinagonzalez@aclu.org
915 15th Street, NW, 7th Floor
Washington, DC 20005
Tel.: (202) 393-4930

Attorneys for Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, Alejandro Mendiola Escutia and all others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ; FERNANDO VIERA REYES; JOSE RUIZ CANIZALES; YURI ALEXANDER ROQUE CAMPOS; SOKHEAN KEO; GUSTAVO GUEVARA ALARCON; and ALEJANDRO MENDIOLA ESCUTIA, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:25-cv-09757-MMC

[PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION AND CLASS CERTIFICATION

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; SERGIO ALBARRAN, Acting Director of San Francisco Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Defendants.

Having considered Plaintiffs' Motion for Preliminary Injunction, ECF No. 22; Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction, ECF Nos. 38, 40, 45; Plaintiffs' Reply in Support of the Motion for Preliminary Injunction, ECF Nos. 48–49; the declarations and exhibits submitted in support thereof; the Notice of Noncompliance with Court Order Plaintiffs filed on February 5, 2026, ECF Nos. 61–62; Plaintiffs' Motion for Class Certification, ECF No. 21; Defendants' Opposition to Plaintiffs' Motion for Class Certification, ECF Nos. 39–40; Plaintiffs' Reply in Support of the Motion for Class Certification, ECF No. 46; the declarations and exhibits submitted in support thereof; the hearing held on February 6, 2026; and the record in this matter, the Court GRANTED in part Plaintiffs' Motions for Preliminary Injunction and Class Certification and provisionally certified the Class. ECF No. 72 ("February 10 Order"). The Court now enters the following findings of fact and conclusions of law with respect to that ruling.

I. PROCEDURAL BACKGROUND

Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, and Alejandro Mendiola Escutia (collectively, "Plaintiffs") are or have been individuals held in civil detention at the California City Detention Facility ("California City"). On November 12, 2025, Plaintiffs sued U.S. Immigration and Customs Enforcement ("ICE"); ICE officials Todd Lyons and Sergio Albarran; the U.S. Department of Homeland Security; and its then-Secretary, Kristi Noem (collectively, "Defendants"). Plaintiffs challenge the conditions of confinement at California City, asserting, among other things, that the health care system is constitutionally inadequate, that the conditions are unconstitutionally punitive, and that attorney access is insufficient to comport with constitutional standards. *See* ECF Nos. 1, 15. On December 1, 2025, Plaintiffs moved for a preliminary injunction and for provisional class certification. *See* ECF Nos. 21–22. Seeking to represent a class of all persons detained at California City, Plaintiffs requested an order requiring a constitutionally adequate health care system, the appointment of an independent and neutral "External Monitor" to assess and report on that system, certain changes to California City's attorney access policies, and changes to policies relating to allegedly punitive conditions of confinement. *See* ECF No. 22-38 (Plaintiffs' Proposed Order). Defendants opposed the motions and also moved

to transfer the action to the Eastern District of California. *See* ECF Nos. 37–40, 45.

As part of their moving papers, Plaintiffs filed opening and rebuttal expert declarations from Dr. Todd Wilcox, a practicing medical doctor and expert in the field of correctional health care who had reviewed a subset of patient records from California City; opening and rebuttal expert declarations from Dan Pacholke, an expert in the field of adult institutional corrections; more than two dozen sworn declarations from individuals detained at California City; and eleven attorney or paralegal declarations concerning client communications and access. For their part, Defendants submitted declarations from California City's warden, Christopher Chestnut, as well as Dr. Susan Tiona, who is a regional medical director for CoreCivic, the private prison company that operates California City at Defendants' direction. Defendants presented no expert testimony.

Separately but relatedly, Plaintiffs filed a motion for a temporary restraining order ("TRO") on December 16, 2025, seeking urgent medical care for two Named Plaintiffs, Fernando Viera Reyes and Yuri Alexander Roque Campos. ECF No. 27. Mr. Fernando Viera Reyes appeared to be suffering from prostate cancer but had been unable to see a urologist, receive confirmation of a cancer diagnosis, or begin treatment. *Id.* Mr. Roque Campos was suffering from a congenital heart disease that required immediate attention from a cardiologist. *Id.* The Court held an emergency conference on December 17, during which the Court urged the parties to meet and confer in hopes of reaching an acceptable resolution to the urgent issues presented in the TRO motion. The parties presented a stipulated order to the Court requiring prompt treatment for both individuals, and the Court signed and issued the order on December 22. ECF No. 36 ("TRO Order").

On February 5, 2026, Plaintiffs filed a Notice of Noncompliance with Court Order, which asserted that Defendants had failed to comply with the TRO Order with respect to Mr. Viera Reyes, who had still been unable to receive confirmation of his prostate cancer diagnosis or begin treatment. *See* ECF No. 62. Defendants' counsel later confirmed that Mr. Viera Reyes had missed a critical specialty appointment due to an "internal scheduling error" at the facility. Feb. 6, 2026 Hr'g Tr. ("Hr'g Tr.") at 8:14–15.

The Court held a lengthy hearing on February 6, 2026 on the parties' pending motions for preliminary injunctive relief, class certification, and transfer. After reviewing the record and

hearing arguments of counsel, the Court decided to transfer the matter to the Eastern District. Before the transfer, however, the Court decided that it would grant partial relief to Plaintiffs given the urgency of the situation. The Court therefore discussed a proposed order with the parties at the hearing and later modified and issued its Order on February 10, 2026. *See* February 10 Order. As set forth in that February 10 Order, the Court provisionally certified the proposed class and granted Plaintiffs' motion for a preliminary injunction in part, finding that "Plaintiffs have demonstrated that they are likely to prevail on the merits of their claims; that they will suffer irreparable harm if the Court does not issue relief; that the balance of equities tips in their favor; that the public interest lies in issuing a preliminary injunction; and that all the requirements of Rule 23(a) and 23(b)(2) have been satisfied." *Id.* at 1. The Court declined, at that time, to grant Plaintiffs all of the relief sought in their motion, instead holding in abeyance their additional requests for preliminary injunctive relief and class certification until after transfer to the Eastern District. *Id.* at 3. In its February 10 Order, the Court directed Defendants to: (1) ensure constitutionally adequate medical care, *id.* ¶ 1; (2) provide access to an independent, third-party "External Monitor" for a period of 120 days, *id.* ¶ 2; (3) ensure that detained individuals have timely and confidential access to attorneys through in-person, contact legal visits and calls, *id.* ¶ 3; and (4) provide free temperature-appropriate clothing and at least one hour of outdoor recreation time per day, *id.* ¶ 4.

For the reasons set forth herein, the Court's February 10 Order finds ample support in the evidentiary record and legal arguments presented.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: PRELIMINARY INJUNCTION MOTION

A. Findings of Fact

California City is a former California state prison located in the Mojave Desert. ECF No. 45-1, Am. Decl. of Christopher Chestnut ("Chestnut Decl.") ¶¶ 2, 32. The facility houses federal immigration detainees pursuant to a contract between Defendant ICE and CoreCivic. *Id.* ¶ 3. Defendants began housing people at California City in late August 2025. *Id.* ¶ 35. According to Defendants' publicly available statistics, most of the people detained at California City have no criminal record. ECF No. 49-2, Suppl. Decl. of Dan Pacholke ("Suppl. Pacholke Decl.") ¶¶ 34–38.

1. Medical Care at California City

In support of their preliminary injunction motion, Plaintiffs have proffered two declarations from a medical expert, Dr. Todd Wilcox. *See* ECF No. 22-3, Decl. of Dr. Todd Randall Wilcox ("Wilcox Decl."); ECF No. 48-5, Reply Decl. of Dr. Todd Randall Wilcox ("Wilcox Reply Decl."), which were based on Dr. Wilcox's review of Defendants' patient medical records. Dr. Wilcox has more than three decades of experience working as a physician in correctional facilities. Wilcox Decl. ¶ 1. He is the Medical Director of the Salt Lake County Jail System and has served as a consultant for a variety of correctional systems in California, Arizona, Utah, and Washington State. *Id.* Dr. Wilcox served as President of the American College of Correctional Physicians, is a board-certified physician, and holds certifications in correctional health. *Id.* ¶¶ 2–3. Defendants neither challenged Dr. Wilcox's credentials or qualifications, nor did they proffer a medical expert of their own to rebut or refute his opinions or conclusions. Instead, they submitted a declaration from Dr. Susan Tiona, a regional medical director for CoreCivic. Having reviewed the relevant declarations, the Court concludes that Dr. Wilcox's opinions and conclusions are credible and are supported by substantial record evidence, including Defendants' own records, which revealed the deficiencies, omissions, and failures Dr. Wilcox identified and discussed. The Court rejects Defendants' argument that Dr. Wilcox reviewed an insufficient subset of patient records to allow him to reach his conclusions. *See* Wilcox Reply Decl. ¶¶ 10–13; Mar. 5, 2026 Hr'g Tr. at 53:20–22 ("[T]his was not simply a couple of people here or there. It was, [according to Plaintiffs'] expert, across the board, and he made it very clear that the concerns were not simply individual.").

Dr. Wilcox concluded that Defendants "struggle to deliver standard of care for common uncomplicated problems." Wilcox Decl. ¶ 9. The patient intake process is incomplete and haphazard. *Id.* ¶¶ 18, 26–68; Wilcox Reply Decl. ¶ 34–45. Licensed Vocational Nurses typically perform the initial screenings, and referrals to medical providers are delayed, even for urgent medical needs. Wilcox Decl. ¶ 30; Wilcox Reply Decl. ¶ 37; *see also* ECF No. 22-4, Decl. of Esteban Alvarez-Mora ("Alvarez-Mora Decl.") ¶¶ 7–8. Patients who arrive with medications or prescriptions for medications experience dangerous lapses in the provision of that medication. Wilcox Decl. ¶¶ 47, 51; Wilcox Reply Decl. ¶¶ 29, 44.

The "sick call" system that detained persons must use at California City, Chestnut Decl. ¶ 145, suffers from systematic delays and failures, Wilcox Decl. ¶¶ 71–78; Wilcox Reply Decl. ¶¶ 51–56. Medical records show shortages of necessary medications. Wilcox Decl. ¶ 109. When care is provided, it is often deficient. Dr. Wilcox's review of clinical notes revealed multiple instances of "poor clinical judgment," inadequate recordkeeping, and treatment that failed to comport with the prevailing standard of care. *Id.* ¶¶ 49, 63, 81–85, 90; Wilcox Reply Decl. ¶¶ 19–20, 24, 46, 59. Specialty care is all but non-existent at California City; of thirteen orders for specialty care Dr. Wilcox reviewed, none had been completed or authorized other than the two Named Plaintiffs specifically at issue in the TRO Order. Wilcox Decl. ¶ 114; Wilcox Reply Decl. ¶ 75, 79, 82. Given the facility's remote location, the nearest hospital is nearly an hour away, making emergency treatment exceedingly challenging. *Id.* ¶ 127.

Dozens of detained individuals have reported receiving inadequate medical care.[1] Three of the Named Plaintiffs, for example, were suffering from acute medical conditions that required urgent and sustained attention. Mr. Gomez Ruiz was suffering from a foot ulcer that was exhibiting blood and pus, leaving him at risk for gangrene or amputation. Wilcox Decl. ¶ 90. Mr. Viera Reyes was exhibiting symptoms and blood levels consistent with prostate cancer yet could not see a urologist or get a biopsy so he could begin cancer treatment. *Id.* ¶ 116. Even after the Court ordered Defendants to ensure that Mr. Viera Reyes received prompt attention from specialists and necessary

[1] *See* ECF No. 22-6, Decl. of Yuri Alexander Roque Campos ("Roque Campos Decl.") ¶¶ 15-35; ECF No. 22-24, Decl. of Fernando Viera Reyes ("Viera Reyes Decl.") ¶¶ 11-21; ECF No. 22-8, Decl. of Fernando Gomez Ruiz ("Gomez Ruiz Decl.") ¶¶ 5–16; ECF No. 22-13, Decl. of Alfonso Leyva ("Leyva Decl.") ¶¶ 13–29; ECF No. 22-36, Decl. of Masuma Khan ("Khan Decl.") ¶¶ 45–56; Alvarez-Mora Decl. ¶¶ 6-14; ECF No. 22-5, Decl. of Daniel Elias Benavides Zamora ("Benavides Zamora Decl.")¶¶ 12, 17; ECF No. 22-7, Decl. of Gustavo Guevara Alarcon ("Guevara Alarcon Decl.") ¶¶ 19–20, 23–34; ECF No. 22-9, Decl. of Oneil Guthrie ("Guthrie Decl.") ¶¶ 13–25, 28–29; ECF No. 22-10, Decl. of Alejo Juarez Ruiz ¶¶ 6, 9–15; ECF No. 22-12, Decl. of Sokhean Keo ("Keo Decl.") ¶¶ 13, 20–32; ECF No. 22-15, Decl. of Alejandro Mendiola Escutia ("Mendiola Escutia Decl.") ¶ 11, 23; ECF No. 22-16, Decl. of Jonathan Jair Montes-Diaz ("Montes-Diaz Decl.") ¶¶ 15, 21–23; ECF No. 22-17, Decl. of Hilario Montes Regalado ¶¶ 11, 13–19, 21-22; ECF No. 22-18, Decl. of Edgar Giovanni Neri Valdez ("Neri Valdez Decl.") ¶¶ 6–10; ECF No. 22-19, Decl. of Camilo Orejuela Gutierrez ¶¶ 2, 6–10; ECF No. 22-21, Decl. of Jose Ruiz Canizales ¶¶ 51, 61, 65-68; ECF No. 22-22, Decl. of Julio Santos Avalos ¶¶ 10–12; ECF No. 22-23, Decl. of Daler Singh ¶¶ 5–23; ECF No. 22-25, Decl. of Vishal ¶ 8; ECF No. 22-33, Decl. of Julio Armenta ("Armenta Decl.") ¶¶ 9-12; ECF No. 22-37, Decl. of Veronica Garcia Romero ("Garcia Romero Decl.") ¶ 4; ECF No. 49-7, Decl. of "Patient A" ¶¶ 6–16.

follow-up care, Defendants proved unable to comply with that order in a timely fashion. *See* ECF No. 62; Hr'g Tr. at 7:4–9:7. Mr. Roque Campos had a life-threatening congenital heart condition, placing him at risk of sudden cardiac death, yet could not see a cardiologist absent court intervention. Wilcox Decl. ¶¶ 86–89. For all these reasons and others, Dr. Wilcox concluded that "it is not safe to be sick at [] California City." *Id.* ¶ 9.

As noted above, Defendants did not offer their own medical expert to rebut or refute Dr. Wilcox's opinions, leaving his declarations unrebutted. Instead, Defendants' declarant, Dr. Tiona, submitted a declaration that in many ways supported Dr. Wilcox's findings. For example, after reviewing medical records for the same patients Dr. Wilcox had reviewed, Dr. Tiona agreed with several of his observations and made recommendations to improve their care and treatment. ECF No. 40-7, Decl. of Dr. Susan Tiona ("Tiona Decl.") ¶¶ 56–57. Dr. Tiona acknowledged delays in "offsite appointment scheduling" and issues related to renewing medications, adjusting dosing, scheduling follow-up appointments, establishing chronic care appointments, ordering labs, ordering medical diets, and scheduling evaluations for possible accommodations related to eleven patients. *Id.* ¶ 57. As of the date of the hearing, more than a month after her declaration was filed, none of those recommendations had been implemented. Wilcox Reply Decl. ¶¶ 6, 63; Hr'g Tr. at 99:11–17. Dr. Tiona also confirmed substantial delays in patient intake screening at California City, with roughly half of the patients reviewed taking longer than two weeks to receive an initial appraisal from a medical provider. Tiona Decl. ¶ 31. Dr. Tiona identified nursing errors and the need for remedial training in three additional patient cases, *id.* ¶¶ 59, 62, 64, 65, 68, and conceded, systemwide, ongoing "difficulties in scheduling specialty appointments due to the lack of ICE-contracted specialists near the facility," *id.* ¶ 47.

Despite identifying these errors and delays in patient care, Dr. Tiona asserted that none "resulted in adverse patient outcomes." *Id.* ¶ 53. But Dr. Wilcox's response demonstrates that "there have been many adverse outcomes for patients at California City as a result of poor medical care." Wilcox Reply Decl. ¶ 24; *see, e.g.*, *id.* ¶ 25 (dangerously high blood glucose levels), ¶ 28 ("ongoing and progressive organ damage"), ¶¶ 60–61 ("kidney damage"), ¶¶ 72–73 (increased "risk of a stroke"). Although Dr. Tiona attempted to explain or dispute some of Dr. Wilcox's observations

and conclusions with respect to limited issues and four patients, the Court finds those explanations neither persuasive nor credible, and Dr. Wilcox effectively countered Dr. Tiona's observations in his reply declaration. *See* Wilcox Reply Decl. ¶¶ 17, 20, 24–85 & Appx A. The Court further finds Warden Chestnut's declaration as to medical care unpersuasive, as it contains only general assertions regarding medical policies, with no evidence that those policies have been implemented and have resulted in adequate patient care. *See* Chestnut Decl. ¶¶ 51–56.

2. Attorney Access at California City

Given the facility's remote location, many legal visits take place over the phone or through Virtual Attorney Visits ("VAVs"). Chestnut Decl. ¶¶ 187, 190–95. Close to a dozen legal representatives reported difficulties communicating with their clients held at California City.[2] Scheduling proved difficult, with some attorneys waiting weeks to have a call with their clients. *See* Kyle Decl. ¶ 5, Quintero Decl. ¶¶ 6–7, 9. Warden Chestnut conceded that there had been some scheduling issues but claimed to be rolling out an updated system that would address the volume of legal requests coming into the facility. Chestnut Decl. ¶ 195. California City limited the duration of calls to 60 minutes, which many attorneys found too short to allow meaningful consultation with their clients. *Id.* ¶¶ 190–91; Kazim Decl. ¶¶ 16, 19; Kyle Decl. ¶ 12.

Attorneys may also visit their clients in person at the facility. Chestnut Decl. ¶ 189. But all attorney visits took place in a non-contact setting, with attorneys on one side of a pane of glass, the client on the other, and a small opening at the bottom. *See, e.g.*, Goss Decl. ¶ 15, Narayanan Decl. ¶ 8, Valenzuela Decl. ¶ 5. Attorneys reported difficulty hearing and speaking to their clients in this setting. *See, e.g.*, Goss Decl. ¶ 16, Narayanan Decl. ¶ 10; ECF No. 49-1, Decl. of Cody Harris ("Harris Decl.") ¶ 9. Despite the fact that Warden Chestnut said that legal contact visits "may be permitted upon request with facility approval," Chestnut Decl. ¶ 189, all in-person attorney visits had been non-contact, regardless of a detained person's security status, and Defendants indicated

[2] *See, e.g.*, ECF No. 22-26, Decl. of Genesis Fabian ("Fabian Decl."); ECF No. 22-27, Decl. of Lee Ann Felder-Heim ("Felder-Heim Decl."); ECF No. 22-28, Decl. of Nicole Gorney; ECF No. 22-29, Decl. of Sarah Goss; ECF No. 22-30, Decl. of Hannah Kazim ("Kazim Decl."); ECF No. 22-31, Decl. of Hudson Kyle ("Kyle Decl."); ECF No. 22-32, Decl. of Stephanie Quintero ("Quintero Decl."); ECF No. 22-34, Decl. of Madhavi Narayanan ("Narayanan Decl."); ECF No. 22-35, Decl. of Mario Valenzuela (Valenzuela Decl.").

that allowing contact visits would require "changes to existing regulations at the facility." *See* Harris Decl. ¶¶ 10–11.

3. Punitive Conditions at California City

Conditions of confinement at California City are unduly harsh and punitive in many respects, as established by dozens of sworn declarations from detained individuals, as well as Dan Pacholke, Plaintiffs' proffered expert in the field of adult institutional corrections. Mr. Pacholke has more than 35 years of experience in the field, including holding leadership positions in the Washington State Department of Corrections and serving as a consultant and expert on correctional practices in several jurisdictions. ECF No. 22-2, Decl. of Dan Pacholke ("Pacholke Decl.") ¶¶ 1–3. Defendants did not offer their own expert to rebut Mr. Pacholke's findings, relying instead on Warden Chestnut's declaration. Having reviewed the relevant declarations, the Court concludes that Mr. Pacholke's opinions and conclusions are credible and are supported by substantial record evidence.

Detained people reported it being very cold in the facility. *See, e.g.*, Gomez Ruiz Decl. ¶ 17; Garcia Romero Decl. ¶ 5; Benavides Zamora Decl. ¶ 20; Leyva Decl. ¶ 34; Khan Decl. ¶ 63. Some detained people resorted to fashioning their socks into sleeves or beanies to keep warm. Guevara Alarcon Decl. ¶ 8; Garcia Romero Decl. ¶¶ 5, 15; Khan Decl. ¶ 67; ECF No. 49-6, Decl. of Anbhav Mann ("Mann Decl.") ¶ 13. Defendants provided no sweatshirts, sweatpants, or other temperature-appropriate clothing. Chestnut Decl. ¶ 74. Many detainees reported that they could not afford buying sweatshirts at the commissary. Gomez Ruiz Decl. ¶ 17; ECF No. 22-14, Decl. of Yuniel Llufrio ("Llufrio Decl.") ¶ 20. Mr. Pacholke explained that "[w]eather-appropriate clothing should be standard issue, as part of the cost of detaining people," and that requiring "detainees to purchase items to stay warm is inhumane," especially given the "high" prices at California City's commissary. Pacholke Decl. ¶ 22–23.

Warden Chestnut stated that, at some point, the facility began providing "jackets" to detained people. Chestnut Decl. ¶ 73. But these jackets are very thin and provide no warmth. *See* ECF No. 49-5, Suppl. Decl. of Gustavo Guevara Alarcon ("Suppl. Guevara Alarcon Decl.") ¶ 6 ("The windbreakers are very thin, have no hood, and do not retain heat. They do not provide

warmth."); Mann Decl. ¶ 13 ("The jackets are very thin and unlined, have no hood, and do not keep me warm."). Defendants offered no rebuttal to those descriptions.

According to sworn declarations of detained individuals, they have been offered between four and seven hours of outdoor recreation per week. *See* ECF No. 22-20, Decl. of Dennis Rivera-Trigueros ("Rivera-Trigueros Decl.") ¶ 13; Viera Reyes Decl. ¶ 23; Keo Decl. ¶ 8, Armenta Decl. ¶ 14; Llufrio Decl. ¶¶ 13, 20; ECF No. 22-11, Decl. of Julio F.V. ¶19; Garcia Romero Decl. ¶ 11. This is less than incarcerated prisoners regularly receive. Pacholke Decl. ¶ 26. Warden Chestnut confirmed that the facility had needed "to cancel or curtail recreation periods" at various times. Chestnut Decl. ¶ 91. He further stated that the facility's policy was to allow "at least one hour per day, five or more days a week" outdoors, with a "goal of seven days a week weather permitting." *Id.*

B. Conclusions of Law

The Court will grant a preliminary injunction if Plaintiffs establish that (1) they are "likely to succeed on the merits" of their claim; (2) they are "likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in [their] favor"; and (4) "an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). A stronger showing on one element may offset a weaker showing on another. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). Accordingly, if Plaintiffs satisfy the irreparable harm and public interest factors, they need only raise "serious questions going to the merits" and show that the "balance of hardships tips sharply in [their] favor." *Id.* at 1135.

1. Plaintiffs are likely to succeed on their Fifth Amendment claim for inadequate medical care.

Plaintiffs have established that they are likely to succeed on their claim that medical care at California City violates the Fifth Amendment or, at the very least, they have raised serious questions going to the merits of that claim. Federal immigration detainees are entitled to adequate medical care. *Doe v. Kelly*, 878 F.3d 710, 722 (9th Cir. 2017). Because Plaintiffs are civil detainees rather than convicted prisoners, the Fifth Amendment governs the analysis rather than the Eighth Amendment, and the Court employs an objective standard to determine whether medical care is

adequate. *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1120, 1122–25 (9th Cir. 2018). Conduct that would violate the higher Eighth Amendment standard for inadequate medical care necessarily violates the lower Fifth Amendment standard. *See Castro v. Cnty. of L.A.*, 833 F.3d 1060, 1067 (9th Cir. 2016).

Correctional facilities must "provide a system of ready access to adequate medical care," in which patients can alert medical staff to their problems and the staff is competent enough to diagnose and treat those problems or refer the patients "to others who can." *Hoptowit v. Ray*, 682 F.2d 1237, 1253 (9th Cir. 1982). To comply with the constitution, correctional institutions must conduct adequate medical screenings to identify individuals' health needs and risk factors; ensure that their health care systems support continuity of care, including by providing patients with necessary medications and medical devices; timely respond to routine or emergent health care needs; and have adequate and qualified staff to deliver medical services to patients. *See, e.g.*, *Coleman v. Wilson*, 912 F. Supp. 1282, 1298 n.10 (E.D. Cal. 1995) (intake screening); *Madrid v. Gomez*, 889 F. Supp. 1146, 1205 (N.D. Cal. 1995) (intake screening); *Lopez v. Smith*, 203 F.3d 1122, 1132 (9th Cir. 2000) (timely providing medications); *Coleman*, 912 F. Supp. at 1309-10 (timely providing medications); *Hoptowit*, 682 F.2d at 1253 (functional sick call system); *Madrid*, 889 F. Supp. at 1206-07, 1257 (functional sick call system); *Plata v. Schwarzenegger*, 2005 WL 2932253, at *5-12 (N.D. Cal. Oct. 3, 2005) (adequate and qualified staff); *Madrid*, 889 F. Supp. at 1257 (same); *Jensen v. Shinn*, 609 F. Supp. 3d 789, 864 (D. Ariz. 2022) (same). Where the facility's medical staff cannot meet certain medical needs, they must refer patients to those who can on a "reasonably speedy" basis. *Casey v. Lewis*, 834 F. Supp. 1477, 1544 (D. Ariz. 1993).[3]

As set forth above, Plaintiffs are likely to prevail on their claim that Defendants are failing to meet their constitutional obligations at California City. The intake process is deeply flawed and inadequate. Wilcox Decl. ¶¶ 16–68; Wilcox Reply Decl. ¶¶ 7, 18, 29, 34–45; *see also* Roque Campos Decl. ¶¶ 16–17; Viera Reyes Decl. ¶¶ 11–13; Benavides Zamora Decl. ¶¶ 10–12; Montes-

[3] Because the Court finds that California City's medical system violates the Eighth Amendment standard, the Court need not assess it under the more lenient Fifth Amendment standard. But Plaintiffs would meet the four factors courts employ in the civil detention context as well. *See Roman v. Wolf*, 977 F.3d 935 (9th Cir. 2020); *Castro*, 833 F.3d at 1071.

Diaz Decl. ¶¶ 15, 21. Continuity of care is spotty at best and often completely lacking. Wilcox Decl. ¶¶ 10, 14, 28, 73, 96–109; Wilcox Reply Decl. ¶¶ 18, 29 ("This grave mismanagement of an HIV patient's continuity of care by California City, including lapses in critical medications, places Patient A at risk of treatment failure."), 44, 77. The sick-call system is broken and failing to provide timely and responsive care to medical needs. Wilcox Decl. ¶¶ 69–78; Wilcox Reply Decl. ¶¶ 51–56 (describing untimely responses to sick call requests filed by multiple patients, including a patient with uncontrolled diabetes at risk of developing an ulcer). The staff is unable to perform basic functions, and specialist appointments are nearly non-existent. Wilcox Decl. ¶¶ 9, 15, 110–121; Wilcox Reply Decl. ¶¶ 75–85. In short, the Court agrees with Dr. Wilcox's conclusion that "California City is not equipped to handle patients with complex medical care needs," and that medical staff "even struggle to deliver standard of care for common uncomplicated problems." Wilcox Decl. ¶ 9.

As set forth in its February 10 Order, the Court therefore finds that Defendants must provide adequate health care under the Fifth Amendment. The February 10 Order sets out reasonable expectations with which the Defendants can hardly take issue. *See* Hr'g Tr. at 79:7–80:21. The Court further concludes that it would benefit from an independent, third-party monitor to assess the provision of constitutionally adequate health care at the facility and report to the Court on the extent of its failures and potential remedies. Such independent monitors are regularly employed in detention settings. *See, e.g.*, *Hernandez v. Cnty. of Monterey*, 110 F. Supp. 3d 929, 937 (N.D. Cal. 2015); *Cal. Coal. for Women Prisoners v. United States*, 723 F. Supp. 3d 712, 719 (N.D. Cal. 2024); *Jensen v. Thornell*, 2026 WL 472338 at *1 (D. Ariz. Feb. 19, 2026).

2. Plaintiffs are likely to succeed on their First and Fifth Amendment claims regarding attorney access.

Plaintiffs are also likely to succeed on their claim that Defendants' overly restrictive policies regarding attorney visits and legal calls violate their First Amendment rights. Detained individuals retain their First Amendment rights. *See Valdez v. Rosenbaum*, 302 F.3d 1039, 1048 (9th Cir. 2002). These rights include the "right to hire and consult an attorney," *Eng v. Cooley*, 552 F.3d 1062, 1069 (9th Cir. 2009). "[O]verly restrictive" policies that hinder detained people's ability to "hire and

consult with an attorney" violate their First Amendment right to "communicate with the outside world." *Torres v. Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036, 1067–68 (C.D. Cal. 2019).

Defendants employ a blanket policy preventing in-person, contact visits between detained people and their lawyers. *See* ECF No. 49-1 ¶¶ 10–11. There is no justification for such a blanket restriction, which fails to consider individualized security needs. *See* Pacholke Suppl. Decl. ¶¶ 6–11. Attorneys have reported significant difficulties hearing and communicating with their clients across a pane of glass. *See, e.g.*, Goss Decl. ¶ 16; Harris Decl. ¶ 9. Defendants also limited attorney calls to 60 minutes, which several attorneys stated is too short to overcome technical issues on the calls and to advise and counsel their clients. *See* Chestnut Decl. ¶¶ 190–91; Kyle Decl. ¶ 12; Kazim Decl. ¶ 16; Fabian Decl. ¶ 7. Attorneys have also uniformly reported delays and difficulties in scheduling legal calls and conducting in-person legal visits. *See, e.g.*, Fabian Decl. ¶¶ 4–6, Kazim Decl. ¶¶ 6, 11; Quintero Decl. ¶¶ 6, 9; Kyle Decl. ¶ 5; Goss Decl. ¶¶ 4–5, 13. Outgoing calls made from a phone bank are not private or confidential. *See* Chestnut Decl. ¶¶ 167–68; Hr'g Tr. at 126:5–14. These policies are "overly restrictive" and violate Plaintiffs' ability to consult with their lawyers. *Torres*, 411 F. Supp. 3d at 1067. The Court therefore included in its February 10 Order changes to Defendants' attorney access policies, including in-person contact visits, greater availability of legal calls, and longer duration of calls and visits.

3. Plaintiffs are likely to succeed in part on their punitive conditions of confinement claim.

Plaintiffs argue that, in several respects, individuals housed pursuant to civil detention at California City endure harsher conditions of confinement than incarcerated prisoners, and that this violates the Fifth Amendment. With respect to certain of the challenged conduct—namely the lack of temperature-appropriate clothing and meager time outdoors—the Court agrees at this stage. The Court makes no ruling on Plaintiffs' other challenges regarding freedom of movement, the number of daily counts performed, and the policy forbidding all social contact visits.

The parties agree that the individuals detained at California City are subject to civil, rather than criminal, detention. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that immigration detention is civil in nature and must be "nonpunitive in purpose and effect"). Plaintiffs

invoke the presumption set forth in *Jones v. Blanas*, which presumes punitive conditions when a civilly detained person is "confined in conditions identical to, similar to, or more restrictive than, those in which his criminal counterparts are held." 393 F.3d 918, 932 (9th Cir. 2004). Defendants dispute the presumption's applicability, arguing that civil immigration detention is exempt from this presumption. The Court need not settle this dispute at this juncture, however, because Plaintiffs have shown that they are likely to prevail on the two aspects of their claim covered by the Court's order even without relying on the *Jones* presumption. Absent the presumption, a condition of confinement is unconstitutionally punitive where it is "intended to punish," "excessive in relation to its non-punitive purpose," or is "employed to achieve objectives that could be accomplished in so many alternative and less harsh methods." *Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613, 647 (9th Cir. 2021).

Plaintiffs have shown that the lack of temperature-appropriate clothing and insufficient outdoor recreation time are both excessive in relation to any non-punitive purpose and employed to achieve objectives that could be achieved in other, less harsh methods. There is no legitimate, non-punitive reason to deny temperature-appropriate clothing, and other facilities, including other ICE detention facilities, provide sweatshirts and sweatpants free of charge. Pacholke Decl. ¶ 22; Suppl. Pacholke Decl. ¶¶ 21–22; Rivera-Trigueros Decl. ¶ 15; Guevara Alarcon Decl. ¶ 8. Defendants claim that they have provided "jackets," but unrebutted evidence shows that these jackets are paper thin and provide no warmth. *See* Suppl. Guevara Alarcon Decl. ¶ 6; Mann Decl. ¶ 13. As the Court noted during the hearing, this complaint—a request for basic clothing—is easy to solve. *See* Hr'g Tr. at 13:2–5 ("THE COURT: "If somebody says we are getting flimsy jackets, we're not getting good, you know, sweatshirts and it's cold here, . . . that can be remedied with a simple order, give it to them."). The Court also finds that, at a bare minimum, Plaintiffs should receive at least one hour of outdoor recreation time per day, which Defendants stated was their "goal." Chestnut Decl. ¶ 91. The Court notes that this amount of time outdoors is, according to Mr. Pacholke, less than prisoners typically receive. Pacholke Decl. ¶ 26.

4. Plaintiffs have shown that they are suffering irreparable harm.

Based on the factual findings set forth above, the Court concludes that Plaintiffs have

adequately shown that they are suffering irreparable harm at California City. The deprivation of constitutional rights alone "unquestionably constitutes irreparable injury." *Melendres v. Arapaio*, 695 F.3d 990, 1002 (9th Cir. 2012). In addition, the deprivation of adequate medical care in ICE detention facilities constitutes irreparable harm. *See Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017). Several plaintiffs, declarants, and Dr. Wilcox have established that people detained at California City are facing acute medical issues, some with life-threatening implications. Punitive civil detention also irreparably harms Plaintiffs, *see Johnson v. Wetzel*, 209 F. Supp. 3d 766, 781 (M.D. Pa. 2016), as does denial of meaningful access to counsel in light of "the enormity of the interests at stake," *Ardestani v. I.N.S.*, 502 U.S. 129, 138 (1991).

5. The balance of equities and the public interest favor an injunction.

The final two factors of the *Winter* test merge when the government is the opposing party. *See Roe v. Critchfield*, 137 F.4th 912, 922 (9th Cir. 2025). The Court concludes that it serves the public interest to vindicate and protect Plaintiffs' constitutional rights. *See Melendres*, 699 F.3d at 1002. Furthermore, avoiding "preventable human suffering" outweighs any administrative or financial concerns that Defendants may have. *Harris v. Bd. of Supervisors, L.A. Cnty.*, 366 F.3d 754, 766 (9th Cir. 2004). Fundamentally, "[o]ur society as a whole suffers when we neglect" the most vulnerable people in our community, "or when we deprive them of their rights or privileges." *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).

For the foregoing reasons, the Court issued its February 10 Order granting in part Plaintiffs' motion for preliminary injunction.[4]

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: CLASS CERTIFICATION

A. Plaintiffs have satisfied the requirements of Rule 23(a).

First, the proposed class is sufficiently numerous. Fed. R. Civ. P. 23(a)(1). The record

[4] The Court rejects Defendants' argument that 8 U.S.C. § 1252(f)(1) strips the Court of subject matter jurisdiction in this case. *See Jimenez v. U.S. Immigr. & Customs Enf't*, 2024 WL 2306281, at *4 (N.D. Cal. May 20, 2024). The same is true for section 1252(b)(9), as Plaintiffs in no way challenge issues arising from class members' removal proceedings; their claims concern access to counsel for purposes of bond, habeas, and conditions of confinement, which are "collateral to, or independent of, the removal process" and are properly heard in district court. *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016).

demonstrates that, at the time that Plaintiffs filed for class certification, there were at least 800 individuals detained at California City. *See* Pls.' Mot. for Class Cert. at 17; Pls.' Reply Mot. for Class Cert. at 4; *Thakur v. Trump*, 787 F. Supp. 3d 955, 1000 (N.D. Cal. 2025) (holding that "numerosity requirements satisfied when a class includes at least 40 members") (cleaned up). Defendants do not oppose this showing. Accordingly, joinder of all class members would therefore be impracticable.

Second, Plaintiffs have demonstrated commonality. Plaintiffs challenge systemic policies and practices governing conditions of confinement, medical care, and access to counsel at California City that apply to all detainees. *See* Pls.' Mot. for Class Cert. at 9–14. These claims present common questions capable of classwide resolution "in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Plaintiffs submitted numerous declarations by individuals detained at the facility showing that Defendants operate California City in a manner that subjects civil immigration detainees to punitive, prison-like conditions, including insufficient clothing and inadequate, unreasonable, inconsistent outdoor recreation. *See, e.g.*, Rivera-Trigueros Decl. ¶¶ 13, 15; Armenta Decl. ¶ 14; Llufrio Decl. ¶ 13; Mendiola Escutia Decl. ¶ 20; Neri Valdez Decl. ¶ 15; Viera Reyes Decl. ¶ 23; Guthrie Decl. ¶ 31; Moreover, Plaintiffs' expert, Mr. Pacholke, concluded that "many of the security measures undertaken at the facility are unnecessary, excessive, and potentially harmful to the people who are detained there [and that] [t]he practices in many cases are more extreme and restrictive than those employed in prisons, where the population is detained subject to criminal law." Pacholke Decl. ¶ 7. In response, Defendants argue that there are variations in the specific facts that each Named Plaintiff includes in his declaration about their conditions of confinement. Defs' Opp. to Pls.' Mot. for Class Cert (ECF No. 40-5), at 15. But, as the Ninth Circuit explained, individual differences in how the Named Plaintiffs experience the impacts of the challenged policies does not matter, because the "policies and practices are the 'glue' that holds together the putative class." *Parsons v. Ryan*, 754 F.3d 657, 678 (9th Cir. 2014).

With respect to Plaintiffs' challenge to the adequacy of Defendants' policies and practices governing the provision of healthcare, Plaintiffs' expert evidence and detainee declarations describe facility-wide deficiencies in intake screening, continuity of care, specialty care systems, and

staffing that apply to all detainees processed through the same systems. *See* Wilcox Decl. ¶¶ 9–15 (providing a summary of findings); 68 (finding that the medical intake is "dangerously ineffective"), 78 (California City's "sick call system is broken"), 95 (facility "does not provide appropriate medical care to patients with chronic conditions"), 109 (describing inconsistent medication delivery system), 121 (finding a broken specialty care system), 129 (finding inadequate emergency services), 133 (concluding that the medical observation housing does not provide an "elevated level of care"), 141 (finding "inadequate" mental health care); *see also* Chestnut Decl. at ¶¶ 140–51 (describing medical and mental health policies), 152–57 (describing disability accommodation policies). In their opposition, Defendants merely pointed to California City's system-wide policies and procedures confirming that they apply to all detainees. *See* Tiona Decl. ¶¶ 30–51. As the Court noted in the motion hearing, with respect to medical care deficiencies, "what we're dealing with" "is a systemic problem." Hr'g Tr. at 82:2–3 (Feb. 6, 2026); *see also id.* at 90:1–3 (noting that Dr. Wilcox sensibly explained that the cases analyzed were representative); Hr'g Tr. at 53:20–22 (Mar. 5, 2026) ("[T]his was not simply a couple of people here or there. It was, [according to Plaintiffs'] expert, across the board, and he made it very clear that the concerns were not simply individual."). As the Ninth Circuit has held, systemic challenges to deficient medical care present common questions because every detainee faces a substantial risk of harm from constitutionally inadequate policies governing medical, dental, and mental health care. *See Parsons*, 754 F.3d at 678–79; *see also Brown v. Plata*, 563 U.S. 493, 531–32 (2011).

With respect to Plaintiffs' challenge to Defendants' policies governing access to counsel, the record contains ample evidence of delays in scheduling confidential legal calls, frequent technical disruptions, lack of confidential spaces for outgoing legal calls, and requirements that legal visits occur behind glass after lengthy waits. *See* Quintero Decl. ¶¶ 4–6, 9; Fabian Decl. ¶¶ 5–7; Kazim Decl. ¶ 6; Decl. of Hudson Kyle ("Kyle Decl."), ECF No. 22-31, ¶¶ 5, 7; Felder-Heim Decl. ¶ 5; Armenta Decl. ¶ 15; Garcia Romero Decl. ¶ 6; Mann Decl. ¶ 7. Indeed, it does not make sense to this Court "why [] any one detainee be treated differently than another with respect to speaking to counsel[.]" Hr'g Tr. at 113:9–11.

The legality of these policies and practices presents common questions capable of classwide

resolution, including whether Defendants' policies expose detainees to unconstitutional conditions or otherwise violate federal law. This type of case is particularly suited to classwide treatment because "every [putative class member] suffers exactly the same constitutional injury when he is exposed to a single [facility-wide] policy or practice that creates a substantial risk of serious harm." *Parsons*, 754 F.3d at 678.

Third, Plaintiffs have also established typicality. Fed. R. Civ. P. 23(a)(3). Typicality is satisfied where class members "have the same or similar injury," where the claims arise from conduct "not unique to the named plaintiffs," and where the class members "have been injured by the same course of conduct." *Parsons*, 754 F.3d at 685. The injuries need only be similar, not identical. *Id.* at 685–86; *see also Rodriguez v. Hayes*, 591 F.3d 1105, 1124 (9th Cir. 2010); *Armstrong v. Davis*, 275 F.3d 849, 869 (9th Cir. 2001). Here, as the Court has already concluded, the Named Plaintiffs' claims arise from facility-wide policies and practices governing conditions of confinement, medical care, and access to counsel at California City. Like the rest of the class, the Named Plaintiffs are exposed to the same allegedly unlawful policies and to "a substantial risk of serious harm" resulting from those practices. *Parsons*, 754 F.3d at 685. The record further reflects that the Named Plaintiffs experience the same conditions alleged by the class, including restrictive confinement conditions, barriers to adequate medical care, and obstacles to confidential communication with counsel. *See, e.g.*, Roque Campos Decl. ¶¶ 39, 44–48; Mendiola Escutia Decl. ¶¶ 13–17. Accordingly, the Court finds that the Named Plaintiffs' claims are reasonably coextensive with those of the class and arise from the same challenged course of conduct.

Fourth, the Court also finds that the adequacy requirement is satisfied. Plaintiffs have set forth the factual basis supporting adequacy in their motion. *See* ECF No. 21 at 23–25. For this reason, the Court's February 10 Order appointed Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, and Alejandro Mendiola Escutia as the named representatives of the Provisional Class.

Fifth, Defendants do not oppose the adequacy of class counsel. *Id*. The Court finds that counsel will fairly and adequately protect the interests of the class. For this reason, the Court's February 10 Order appointed Plaintiffs' counsel, from the Prison Law Office, Keker, Van Nest &

Peters LLP, the American Civil Liberties Union, and the California Collaborative for Immigrant Justice as counsel for the Provisional Class pursuant to Federal Rule of Civil Procedure 23(g).

B. Plaintiffs have satisfied the requirements of Rule 23(b).

Certification is also appropriate under Rules 23(b)(1) and 23(b)(2). Rule 23(b)(2) applies where plaintiffs seek declaratory or injunctive relief from policies or practices that are generally applicable to the class as a whole. *See Parsons*, 754 F.3d at 688. Here, Plaintiffs challenge facility-wide policies and practices governing conditions of confinement, medical care, and access to counsel at California City. The alleged injuries arise from the same policies affecting all detainees, and those injuries may be addressed through uniform injunctive and declaratory relief directed at Defendants' practices. *See id.* at 689 (explaining that where class members suffer similar injuries from systemic practices, those injuries may be alleviated through uniform changes to policy and practice). Certification is also proper under Rule 23(b)(1), as adjudicating these claims in separate actions would create a significant risk of inconsistent judgments regarding the legality of the same detention policies and practices. *See Ashker v. Governor of Cal.*, 2014 WL 2465191, at *7 (N.D. Cal. June 2, 2014); *Coleman v. Wilson*, 912 F. Supp. 1282, 1293 (E.D. Cal. 1995); *Gray v. Cnty. of Riverside*, 2014 WL 5304915, at *38 (C.D. Cal. Sept. 2, 2014). Because Defendants' alleged conduct is generally applicable to the class and the relief sought is uniform injunctive and declaratory relief, certification under Rules 23(b)(1) and 23(b)(2) is warranted.

Accordingly, as set forth in these findings of fact and conclusions of law, the record and the law support the Court's ruling provisionally certifying the following Class: "All persons who are now, or in the future will be, in the legal custody of U.S. Immigration and Customs Enforcement ("ICE") and detained at California City Detention Facility."

IV. ORDER

For the foregoing reasons and based on the record evidence presented, the Court issued the relief set forth in its February 10 Order. Nothing in the foregoing is intended to alter, expand, or limit the Court's previous ruling.

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Dated:

Hon. Maxine M. Chesney
United States District Judge

KEKER, VAN NEST & PETERS LLP
STEVEN P. RAGLAND - # 221076
sragland@keker.com
CODY S. HARRIS - # 255302
charris@keker.com
CARLOS C. MARTINEZ - # 354616
cmartinez@keker.com
LISA C. LU - # 364259
llu@keker.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

CALIFORNIA COLLABORATIVE FOR IMMIGRANT JUSTICE
PRIYA ARVIND PATEL - # 295602
priya@ccijustice.org
MARIEL VILLARREAL - # 317048
mariel@ccijustice.org
1999 Harrison Street #1800
Oakland, California 94612
Tel: (650) 762-8990

PRISON LAW OFFICE
MARGOT MENDELSON - # 268583
mmendelson@prisonlaw.com
TESS BORDEN - MJP # 805022, *pro hac vice*
tess@prisonlaw.com
PATRICK BOOTH - # 328783
patrick@prisonlaw.com
ALISON HARDY - # 135966
ahardy@prisonlaw.com
RANA ANABTAWI - # 267073
rana@prisonlaw.com
1917 Fifth Street
Berkeley, California 94710-1916
Tel.: (510) 280-2621

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
KYLE VIRGIEN - # 278747
kvirgien@aclu.org
FELIPE HERNANDEZ - # 338468
npp_fhernandez@aclu.org
MARISOL DOMINGUEZ-RUIZ - # 345416
mdominguez-ruiz@aclu.org
425 California Street, 7th Floor
San Francisco, CA 94104
Tel.: (415) 343-0770

CARMEN IGUINA GONZALEZ - # 277369
ciguinagonzalez@aclu.org
915 15th Street, NW, 7th Floor
Washington, DC 20005
Tel.: (202) 393-4930

Attorneys for Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, Alejandro Mendiola Escutia and all others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ; FERNANDO VIERA REYES; JOSE RUIZ CANIZALES; YURI ALEXANDER ROQUE CAMPOS; SOKHEAN KEO; GUSTAVO GUEVARA ALARCON; and ALEJANDRO MENDIOLA ESCUTIA, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:25-cv-09757-MMC

[PROPOSED] ORDER APPOINTING MUTHUSAMY ANANDKUMAR AS COURT EXPERT PURSUANT TO FRE 706

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; SERGIO ALBARRAN, Acting Director of San Francisco Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Defendants.

[PROPOSED] ORDER APPOINTING MUTHUSAMY ANANDKUMAR AS EXTERNAL MONITOR

At a hearing on February 6, 2026, the Court found evidence of systemwide failures in Defendants' delivery of health care services at California City Detention Facility in the areas of health care staffing, intake procedures and assessments, access to medical specialists and emergency services, continuity of care, access to prescribed medications, and the "sick call" system. The Court concluded that Plaintiffs would suffer irreparable harm if the Court did not issue relief, that harm to some of the Named Plaintiffs and putative class members had already occurred, and that the balance of the equities and public interest favored a preliminary injunction. Accordingly, the Court granted in part Plaintiffs' Motion for Preliminary Injunction and provisionally certified the Class. *See* ECF No. 71. On February 10, 2026, the Court enumerated the specific relief ordered, including eight basic components of a functional health care system, and ordered Defendants to provide access to an External Monitor to ensure compliance with those basic components and the provision of constitutionally adequate health care. ECF No. 72 ("February 10 Order"). The February 10 Order required the parties to meet and confer regarding the selection of the External Monitor and to present their proposal(s) to the Court, after which the Court would enter a further Order of appointment. *Id.* Following the parties' status conference regarding the appointment of the monitor on March 5, 2026, the Court appointed Dr. Muthusamy Anandkumar as External Monitor. ECF No. 96. The Court further ordered the parties to meet and confer with respect to the form of the appointment order. *Id.*

The parties have presented their proposals for the form of the appointment order to the Court. Having reviewed those submissions, the Court hereby **ORDERS**:

1. Pursuant to Rule 706 of the Federal Rules of Evidence, Muthusamy Anandkumar, M.D., is appointed as the Court's expert and External Monitor to monitor compliance with the Court's February 10, 2026 Order and the provision of constitutionally adequate health care. Dr. Anandkumar's *curriculum vitae* is attached as Exhibit 1. Dr. Anandkumar's review of patient-specific information described in this Order shall be subject to protective

order.[1]

2. The External Monitor's appointment is for a period of 120 days from the date of this Order (the "Term of Appointment"), subject to renewal by court order.

To ensure the External Monitor can monitor compliance with the February 10 Order and render a complete report to the Court, it is further **ORDERED**:

3. The External Monitor will be granted remote read-only access to California City Detention Facility's electronic health record system ("EHRS") for the full term of appointment. The External Monitor may select up to one team member to assist with medical record reviews. That team member shall be granted remote read-only access to the EHRS, subject to protective order, but shall not be permitted to attend the site visit described below.

4. Upon request at any point during the Term of Appointment, Defendants shall provide the following documents to the External Monitor in electronic format, to the extent such documents exist:

   a. health care policies and procedures;

   b. patient lists related to particular diagnoses, detainees enrolled in chronic care clinics, prescriptions, detainees in medical observation/housing, pending orders, emergency room visits, specialty care visits, and off-site visits and returns;

   c. rosters of health care staff and current schedules, by position;

   d. the facility's medication/drug formulary and documentation of non-formulary requests and approvals/denials;

   e. the tool or criteria used to approve or deny referrals to specialists and utilization management logs or other records documenting approval, denials, and deferrals (including alternative treatment plans);

   f. logs of suicide watch placements, attempted suicides, and self-harm incidents;

[1] If the parties do not stipulate to a protective order in time, the External Monitor and his team member shall indicate assent to the Model Protective Order for Highly Sensitive Confidential Information available on the U.S. District Court for the Northern District of California's website.

g. sick call requests and health care grievances/appeals, and the facility's responses, including tablet and paper submissions, for all patients during a 30-day period, and for specific patients, upon the External Monitor's request, when the relevant documents are not in the EHRS; and,

h. any other documents or information that the External Monitor determines in his expertise he needs to assess compliance, which he shall jointly identify for the parties. If there is a dispute about his entitlement to records, the parties shall meet and confer in an attempt to resolve the dispute and then seek the Court's assistance as needed.

5. The External Monitor shall be permitted one in-person inspection lasting up to three full days at the facility, to be scheduled on business days (Monday through Friday) with at least one week's notice. Counsel for the parties and/or intervenors or proposed intervenors may not attend the site visit. On site, the External Monitor shall be permitted to:

a. inspect any area of the facility and grounds related to the provision of health care;

b. observe pill call and the collection of sick call slips in up to four housing pods of his selection;

c. interview custody and medical staff, whether full-time or contract employees. If key health care staff are not available on the date(s) of the site visit, they will be made available to the External Monitor via videoconferencing within two weeks of the site visit's conclusion, subject to availability due to scheduled leave;

d. interview patients of his choosing, provided they and class counsel consent, in a confidential room with sound privacy from any facility staff. Should the External Monitor wish and the facility approve it based on safety and security, the room shall allow for contact, *i.e.* not include a glass partition. Defendants will compensate an in-person Spanish language interpreter to accompany the External Monitor for patient interviews and will facilitate access to an external phone line for patient interviews that require interpretation for other languages. All interpreters will be subject to protective order.

e. review and receive a demonstration of the facility's health care scheduling system and relevant electronic databases or dashboards, including but not limited to system(s) that display pending appointments for specialists and clinic operations;

f. review any facility video relevant to health care, including but not limited to emergency responses, unless upon review by the Warden or his designee, disclosure of the video would implicate safety or security concerns, and any business, budgetary, and/or operational documents relevant to health care; and,

g. bring necessary materials and equipment into the facility, including one laptop, but the External Monitor may not take photographs or make audio or video recordings given safety and security concerns. Should the External Monitor wish to have photographs or video recordings taken, a designated staff member will take the photograph and/or video recording requested by the External Monitor using a facility camera and confirm with the External Monitor that the photograph or video recording captures the intended subject(s). Any photographs or video recordings taken during the inspection will be subject to a security review, and all photographs and video recordings approved for disclosure will be provided to the External Monitor.

6. The External Monitor shall be permitted to communicate *ex parte* with counsel for the parties as needed to perform his duties.

7. By the conclusion of the Term of Appointment, the External Monitor shall produce a report assessing Defendants' compliance with the February 10 Order and the provision of constitutionally adequate health care and making recommendations for remedial actions. The report shall be filed on the docket but shall contain no personal identifiers of patients. Individual patients shall be identified in a separate confidential appendix provided to counsel for the parties and to the Court under seal. Before filing, the External Monitor shall serve the parties with the report and appendix, copying all parties, and the parties shall have 14 days from the date of service to submit written comments to the External Monitor, with all parties copied. In his discretion, the External Monitor may modify the

report in any manner suggested by a party before filing it with the Court.

8. The External Monitor and his team member shall be paid at a rate of $425/hour. They shall submit their reasonable fees and expenses to the Court and shall be paid by Defendants upon order of the Court.

Defendants shall provide access to items requested by the External Monitor within seven days of the request. The External Monitor shall jointly alert the parties to issues in the timely provision of such items. The External Monitor and/or the parties may bring any concerns about access to the Court's attention. An undue delay in compliance with any portion of this Order, to the extent it prevents the External Monitor from timely or effectively completing his work, may be cause to extend the term of appointment.

IT IS SO ORDERED.

Dated:

Hon. Maxine M. Chesney
United States District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Maxine M. Chesney, District Judge

RUIZ, et al.,

Plaintiffs,

vs.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.,

Defendants.

No. C 25-09757-MMC

San Francisco, California
Thursday, March 5, 2026

TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND RECORDING 2:01 - 4:41 = 2 HOURS 40 MINUTES

APPEARANCES:

For Plaintiffs:

Keker, Van Nest & Peters, LLP
633 Battery Street
San Francisco, California
94111
BY: STEVEN P. RAGLAND, ESQ.

Prison Law Office
1917 Fifth Street
Berkeley, California 94710
BY: MARGOT K. MENDELSON, ESQ.

(APPEARANCES CONTINUED ON NEXT PAGE)

For Defendants:

United States Attorney's Office
450 Golden Gate Avenue
Ninth Floor, Box 36055
San Francisco, California 94102
BY: SAVITH IYENGAR, ESQ.

Transcribed by:

Echo Reporting, Inc
Contracted Court Reporter/ Transcriber
echoreporting@yahoo.com

Thursday, March 5, 2026 2:01 p.m.

P-R-O-C-E-E-D-I-N-G-S

--oOo--

THE CLERK: Now calling 25-9757, Ruiz, et al. versus U.S. Immigration and Customs enforcement, et al.

Counsel, if you could please state your appearances, beginning with the Plaintiffs.

MS. MENDELSON (via Zoom): Margot Mendelson for the Plaintiffs. Good afternoon.

THE COURT: Good afternoon, Ms. Mendelson.

MR. RAGLAND (via Zoom): Good afternoon, your Honor. Steven Ragland with Keker, Van Nest and Peters, also on behalf of the Plaintiffs.

THE COURT: Thank you.

And then for the Defendant.

MR. IYENGAR (via Zoom): Good afternoon, your Honor. Savith Iyengar, Assistant U.S. Attorney for the Federal Defendants, and I understand, your Honor, that counsel for the proposed Intervenor, CoreCivic, is also present.

THE COURT: Yes, but not being promoted into the hearing because they are not a party to the case, although they've apparently decided they would appeal the preliminary injunction order that was issued earlier, and I'm kind of curious about their standing to do that. I haven't ruled on

their motion to intervene yet. I didn't feel that, given that they must have known for a long time that this case was pending and that there was a monitor perhaps requested and everything else, that at the last minute, they were endeavoring to jump in feet first, and I just didn't feel they had made an adequate showing. And, therefore, they are not part of the case. They're certainly welcome as part of the public to listen in if they like.

So, there we are. Now, what I have is an unfortunate circumstance of the parties not agreeing with respect to the naming of a monitor, and I had said, as you know, Mr. Iyengar, at the last calling of the case that I understand that -- that Defendants strongly oppose both an injunction and any monitor being incorporated into it, but that once that order was made, that I felt you should have an opportunity to weigh in on who -- who you're going to be stuck with, and not to consider that cooperative effort as in any way an indication of a waiver of the position that your client took earlier. And it looks like you gave it a shot.

The problem is that the Plaintiff is proposing three people, two who have had monitor experience as kind of the lead and one who was on a team, and the Defendant, according to the Plaintiff, is proposing people who have been expert witnesses for the Defendant.

Now, if that is the situation, I think the Plaintiff has the better position but primarily because they've proposed people that have experience being a monitor. I'm not making any finding as to whether the people on the Defendants' list would be more likely or not to participate as a monitor open mindedly or -- and fairly, but, rather, that they apparently haven't had experience as a monitor. If any of them have and I have misunderstood that, Mr. Iyengar, could you just let me know? Have any of them had experiences being a monitor?

MR. IYENGAR: Yes, your Honor. So, we tried to touch upon that in our -- in our papers. So, if we don't mention experience as a monitor in our summaries, I think that indicates that that particular expert hasn't been a monitor specifically. I think with respect to Dr. Thomas, Dr. Thomas has extensive experience as a monitor.

THE COURT: All right.

MR. IYENGAR: Doctor --

THE COURT: I can go to them then and see, because which of them and see, because -- which of them has been a monitor? You say Dr. Thomas, correct?

MR. IYENGAR: That's correct, your Honor.

THE COURT: Yes. And you said that he served as the District Court appointed monitor in a case Southern Property Law Center v. Department of Homeland Security. All

right. And then also, let's see. I think that may be the one, though. I may be incorrect in that. So, we can take a look, and I'm sorry for lumping them all together. That was unfair.

Okay. Now, I don't think that Dr. Keldy (phonetic) has monitor experience. But, again, I want to double check to make sure I did not overlook that. He's been a consultant, and these people have a lot of experience in, you know, the field they practice in. I don't --

MR. IYENGAR: I --

THE COURT: I'm sorry, but I don't think Dr. Stoltz (phonetic) has been a monitor yet. But go ahead.

MR. IYENGAR: So, with respect to Dr. Stoltz, your Honor, we note that he is a physician surveyor for the National Commission on Correctional Healthcare's Accreditation Program. He's been doing that for about 12 years. And in that role, he evaluates and monitors jails and prisons. But I think your Honor is -- is right that we didn't specifically cite experience as a court-appointed monitor, although he does have broad experience in correctional healthcare and in -- in performing monitoring of jails and prisons pursuant to his role as a physician surveyor.

THE COURT: It may be that more than just that one particular proposed individual in whatever work they do may

do work that is -- you could call it similar to being a monitor, and I may not have absorbed that particularly to the extent that you may want to elaborate on it because these are fairly brief bios. So, you can come back to those, the ones that you feel have done something that is either the equivalent of being a monitor or otherwise.

But --

MR. IYENGAR: Okay.

THE COURT: -- now we're up to -- let's see. So, that was -- who did we just talk about, Dr. Keldy or Dr. Stoltz? I had gone on --

MR. IYENGAR: Dr. Stoltz, your Honor.

THE COURT: All right. So, now we're on Dr. Mathis (phonetic). And, again, I don't think he, likewise, has had experience, but let me go to the last for a moment.

What do you understand external monitor to mean?

MR. IYENGAR: Your Honor, we --

THE COURT: In other words, you said that Dr. Mathis -- well, you're just proposing that -- that he be an external monitor I understand, what -- what do -- what does external monitor mean to you?

MR. IYENGAR: Your Honor, we are guided by the Court's order defining the term "external monitor", and, so, that's -- that was our focus in --

THE COURT: Oh. Well, okay.

MR. IYENGAR: -- selecting a potential monitor -- external monitor. I think that was defined in paragraph two, a qualified independent third party who will be qualified to ensure compliance with paragraph one of the Court's order, who would be independent of either party, who is not one of the parties --

THE COURT: Yes.

MR. IYENGAR: -- and who would be capable of conducting the review of medical records, capable of connecting (Zoom glitch) and inspection and interviews with patients and staff. And, so, certainly someone who is qualified to do that and someone who has experience doing those types of things, reviewing medical records, conducting an on-site inspection of a facility or having experience within, you know, facilities and interviewing patients and interviewing staff in an independent fashion.

THE COURT: Okay. I did not use that term, though, did I?

MR. IYENGAR: You did, your Honor. I'm just reading from the --

THE COURT: Where was -- oh, if I used it, fine. I just want to double check my order. Okay. So, that's what I used. All right. I don't know why I used it, but, anyway, I did.

Okay. Let's go on to -- all right. Thank you. All

right. That is -- well, I've got to keep going because we're just running through them. But he has not -- Dr. Mathis I don't think has served as a monitor.

So, all right. Then we're going to -- and -- and that's it. So --

MR. IYENGAR: Oh, I think we skipped over a could of them, your Honor.

THE COURT: Who?

MR. IYENGAR: I think we skipped over Dr. Leonardson (phonetic) and --

THE COURT: Oh, I'm sorry. Jane Leonardson. Who's the other one that I skipped over?

MR. IYENGAR: So, we -- we addressed Dr. Thomas. He has experience as a monitor.

THE COURT: Right.

MR. IYENGAR: Dr. Leonardson and Dr. Keldy, we didn't specifically discuss Dr. --

THE COURT: Well, we --

MR. IYENGAR: -- Keldy.

THE COURT: You know, I thought we did discuss Dr. Keldy, but let's do them back again just to make sure.

Dr. -- I did skip over Dr. Leonardson. I think my finger stuck on the page. So, going back to Dr. Leonardson, you say, you know, she's been a consultant to the State of Illinois Department of Corrections, but not that she has

been a monitor, right? Just yes or no on that, and then we'll go back to why, nonetheless, it doesn't matter if that's true. But I just want to do -- she has not yet been appointed as a monitor?

MR. IYENGAR: Correct, your Honor.

THE COURT: Okay. Thank you.

Now -- now we'll go to Dr. Keldy, and I -- I don't know. I thought I did Dr. Keldy, but I don't know. Maybe I didn't. So, and this has been a really long day already. I'm very sorry to tell you.

Okay. Now, Dr. Keldy, like the other doctors, has a lot of experience in the general field, but I don't think that Dr. Keldy has been a monitor. I'm pretty sure I talked about him already.

So, has he been?

MR. IYENGAR: I -- I think that's right, your Honor. And when I say they don't have experience, they don't have experience as far as I know and that I put into his submission. So --

THE COURT: Fair enough. Fair enough. So that what we have -- and I'm sorry. I did leave out Dr. Stoltz has served as a -- I'm sorry. Dr. Thomas has served as a monitor. And then the other medical professionals have perhaps experience that you would say is just as good as being a court-appointed monitor but have not yet been so

appointed.

So, I did, and I'm sorry I left out Dr. Thomas who had the particular appointment. And, so, if you want to say why you feel that having the other experience and one of these other people would still make them well qualified to compete against people who have already been appointed multiple times to be monitors, then that would be the time to maybe launch into that speech now.

MR. IYENGAR: Okay. Well, your Honor, I -- I don't think -- I don't think I have a whole lot to add beyond what's in our submission. I do think that not all experience as -- as a monitor is good experience, and I think I would certainly like to share our views on why we think some of Plaintiffs' proposed candidates with experience as monitors are inappropriate here.

But I think that, you know, with respect to Dr. Leonardson, Dr. Leonardson has, you know, extensive experience in leadership roles within prison systems, is well aware of the functioning of -- of prison systems, is qualified to conduct a review of medical records with decades of experience practicing medicine in correctional -- in correctional settings, including a more than 10,000-bed jail and conducting interviews with patients and staff. So -- so, we think that that extensive experience possessed by Dr. Leonardson, her leadership roles in -- as a chief

medical information officer, her understanding of the electronic health record, quality and safety icons, how things are documented, drafting clinical care guidelines and shaping the guidelines of medical staff working in major prison systems makes her, you know, very well placed to conduct a similar form of analysis and provide a report and recommendation that would be tremendously helpful to the extent a monitor is appropriate in general.

THE COURT: Okay.

MR. IYENGAR: So -- so, we think that Dr. Leonardson is a very -- very well qualified candidate to serve as a -- as a monitor, and we're not -- you know, we don't think that Plaintiffs really have meaningfully disputed Dr. Leonardson's background. They reference "several errors", but the full quote is "several errors in Dr. Murray's chart reviews," a completely different doctor, not Dr. Leonardson. And the other case they cite says nothing at all about the quality of her service as an expert in that case.

So, we think Dr. Leonardson is -- is very well positioned to serve as an expert. And Dr. Keldy, your Honor, has an even more extensive background as a physician. He served as a correctional healthcare consultant for over a decade. And, so, providing correctional healthcare consulting is tremendously valuable when we're thinking of

an independent monitor who can evaluate and provide in good faith their views about the circumstances within a -- a prison or a facility, and he also provided services for inmates at a prison with client duties. And, so, he understands how the facilities operate. He's familiar with the facilities themselves. He directed patient care in multiple prisons in Maine and other locations, and he knows how to communicate with facility staff and detainees and evaluate medical records as -- as the Court has previously ordered the monitor would do. And, you know, he's also -- and at the end of our summary, we explained how he's developed and deployed IT applications in correctional care medicine for almost two decades and has deployed the Meaningful Use Stage 2 Certified BHR, which is a very important electronic health record platform, and he's been able to deploy that in, you know, many many hospitals, he said more than 80. And, so, those hospitals are all relying on a methodology that he -- he was able to deploy.

So, we think that's a, you know, important and valuable and relevant experience for purposes of this case.

THE COURT: Okay. If you had to pick, you know, your top one or two out of your list, who would you -- who would you select?

MR. IYENGAR: I would pick number one and number two, your Honor.

THE COURT: As listed? You mean --

MR. IYENGAR: Yeah. Dr. Thomas and Dr. Leonardson.

THE COURT: Okay. Maybe we -- we focus a bit in that regard. You know, I don't know why -- I guess I use the term "external monitor" because that's what when Plaintiffs gave me a proposed order, they used external monitor. But it just sounds weird to me. I don't know why. Maybe that's the traditional term. Anyway, I used it because there was no reason not to except when I look at it, it just seems strange to me.

Okay. So, to go for a moment, then, to the Plaintiffs' proposed, and then we'll -- we'll see where we are. Hang on. I want to put a couple of different things that have happened out of the way for a minute but that I want to get back to because there's always something developing in this case.

All right. So, the Plaintiff, I think their preference, because they use this name in a proposed order, was Dr. Stern (phonetic), who they say has had extensive experience, they say, as the special master and court-appointed monitor.

Does extensive apply to court-appointed monitor as well, Mr. -- well, who -- who's taking the lead here, Ms. Mendelson or Mr. Ragland?

MS. MENDELSON: I am, your Honor, and yes --

THE COURT: Yeah.

MS. MENDELSON: -- Dr. Stern has been appointed by four different District Courts as a neutral monitor to assess medical care in a correctional setting.

THE COURT: All right. Apparently there was some very laudatory remark made about him. I don't remember if that was by Judge Silver or someone and --

MS. MENDELSON: That's correct, your Honor. In an order just last week where she described him as a revered expert who offers factually well supported reliable opinions --

THE COURT: All right.

MS. MENDELSON: -- and thorough, amply supported reports.

THE COURT: All right. I know Ros Silver. I guess she doesn't ordinarily wax poetic about people. So, perhaps she did really feel that.

As far as -- let's say that's your first choice and we focus on Dr. Stern for a moment. There was, I think -- was there a criticism in particular, Mr. Iyengar, where you were saying that someone had criticized Dr. Stern? I want to go back to which of them that applied to for a minute.

MR. IYENGAR: Yes, your Honor. I think we reserved most of our criticisms for Dr. Stern. I think with

respect to this -- what your Honor was just discussing with my -- my colleague.

The Court didn't refer to Dr. Stern as a "revered expert". The Court said that the defendants in that case had considered him that.

THE COURT: Oh.

MR. IYENGAR: And, you know --

THE COURT: Well, if they're the defendants, that's, you know, kind of the other side if you want to say it. I don't know.

MR. IYENGAR: That's -- that's true.

THE COURT: Not just --

MR. IYENGAR: And, your Honor --

THE COURT: -- the mother or father, for example, but --

MR. IYENGAR: You're correct.

THE COURT: -- so, in a month when we're critical -- okay. Keep going.

MR. IYENGAR: No, that's -- that's right, your Honor. And, you know, to the -- Plaintiffs' filing has a capital D for Defendants in that case, strongly recommending him. I want to make clear that they were -- that case involved none of the same defendants as we have in our case. So, none of our Defendants here have viewed him as a revered expert. And, also, the Court there wasn't referring to Dr.

Stern's work by himself but the collective work of five monitors, plural.

But we do have, you know, significant concerns with Dr. Stern's history of creating and applying his own methodology that's untethered to the National Detention Standards. The case that we cited is the Dockery (phonetic) case where the Southern District of Mississippi said that he did precisely that and also essentially cherry picked which records to review, only picking the sickest inmates at -- in order to base facility-wide findings.

And the reason why we're worried that this is sort of a history of creating and applying his own methodology is because he -- he did that again in the Jensen (phonetic) case in the District of Arizona. In that case, as we noted in our -- in our filing, Dr. Stern created and applied this brand new model and used it to impose performance metrics that exceed the National Detention Standards.

And, so, I think that raises concerns about selecting an expert with, you know, a history of setting unpredictable goalposts as opposed to simply confirming compliance with the National Detention Standards. And any sort of creep like that is worrisome because it feels inconsistent with the short-term focus of this Court in setting this 120-day term. There should really be a defined standard, and here we have that in the National Detention Standards.

THE COURT: Let me ask. You're referring to Dockery v. Hall?

MR. IYENGAR: That's right, your Honor.

THE COURT: Out of the Southern District of Mississippi, correct?

MR. IYENGAR: That's correct, your Honor.

THE COURT: All right. Yeah.

Well, let's go back for a moment. There's a question about what standards apply I guess to these people. Now, we're talking about the detention standards that have been set up, and your concern is that Dr. Stern is not really applying those but some more strict standards, if you will. Is -- would that be correct?

MR. IYENGAR: That's -- that's correct, your Honor.

THE COURT: All right.

MR. IYENGAR: When -- when paragraph one of the complaint uses terms like adequate or timely, you know, our understanding is that that is -- that is -- that is with respect to the National Detention Center. It's adequate under the National Detention Center for timely, and if -- if a monitor comes in and says, Well, I have a different view of adequacy, I think that becomes challenging.

THE COURT: Let's see if we can get a clarification of what Plaintiffs are thinking the order

means, and then we'll see what it should mean if there's a dispute about it. Okay.

MS. MENDELSON: Thank you, your Honor. I think the Court is correct to emphasize the distinct rule of the monitor here and the importance of experience in that distinct function.

(Simultaneous speaking.)

THE COURT: -- for a minute. No, no, no, no. First, we just have the question of whether or not you were in accord on behalf of the Plaintiffs that the standards that should be used against which a particular conduct of a facility should be judged are the National Detention Standards or if there is some other standard that you are of the belief should be applicable.

MS. MENDELSON: Your Honor, this is a constitutional case. It's about the standards set forth and interpreted in the Constitution as is the Jensen case, which my office is also counsel on which Mr. Iyengar is --

THE COURT: Okay.

MS. MENDELSON: -- representing.

THE COURT: So, the answer is you don't feel the National Standards are what governs?

MS. MENDELSON: That's correct, and that's true as well in the Jensen case which I would like to address because I think it was a misleading characterization of

what's happening in that case and would be useful for the Court's information.

THE COURT: Okay. And I'm going to let you do that in a second. I think that what Mr. Iyengar has raised is the potential for a dispute as if a monitor is appointed, the potential for a dispute when the monitor starts reporting certain conditions and it's not being "adequate" as to whether or not he's -- he or she is correct in that regard, because a lot will depend on what that monitor is using as a guideline, and then whether the Court accepts that guideline or a different one.

If --

MS. MENDELSON: Your Honor, the February -- your February 10th order describes the components of constitutionally adequate care and directs the monitor to assess the constitutional adequacy of care in paragraph two. That --

THE COURT: Yes, but

MS. MENDELSON: -- standard --

THE COURT: You say that standard, though, is different than what has been published. In --

MS. MENDELSON: That standard is independent --

THE COURT: Excuse me. Otherwise I'm going to have everybody come in in person, all right. This is one reason I don't conduct the contested hearings by Zoom,

because everybody just thinks they're essentially at home, which you're not. And, furthermore, because -- I'm doing this because of the time constraints. All right. And, so, it's harder for you all to just come -- drop everything and come in here to the building, but, nonetheless.

Now, in referring to my having determined what the adequate -- or what the applicable, if you will, standard is, just taking a look -- and you can point me to the particular paragraph -- I want to make sure it really is clear in that regard. And, if it isn't, then it needs to be.

MS. MENDELSON: I'm looking at paragraph two on the February 10th order.

THE COURT: Um-hmm.

MS. MENDELSON: Paragraph one describes the components of an adequate healthcare system in a correctional setting.

Paragraph two says to ensure complaints with paragraph one and the provision of constitutionally adequate healthcare.

THE COURT: All right. So, let's go back. They are ordered -- here was -- this is what's concerning Mr. Iyengar, and I don't, you know, fault him for that at all. Item (a) under what has to be ensured is adequate healthcare staffing.

Now, I do not know whether the Plaintiffs are disagreeing with the National Standard as to staffing. I don't know if anybody's put in front of me at this point -- because I don't remember -- whether there's some number, so many per or whether, again, this is some gut reaction that adequate means you get the work done.

What's your understanding of that, Ms. Mendelson?

MS. MENDELSON: The standards for staffing under the National Detention Standards have not been put into the record. I think that the assessment that this expert, any expert, reaches here will be doing is the same as they do in all the correctional cases that we oversee and are involved with, which is looking at the outcomes, are people getting what they need and can that be traced to staffing. There is no specific ratio that gets assessed.

THE COURT: All right. So, that is not an objective standard in the typical sense. In other words, somebody gets X number of hours with doing whatever or particular diet or what have you. All right.

So, again, going to be essentially if people are getting what somebody thinks they need, fine. And if somebody doesn't think they need -- you know, they're not getting what somebody thinks they need, then there's going to be a discussion about that.

All right. Um --

MR. IYENGAR: Your Honor, may I note one thing? I'll just note very quickly, your Honor, that the National Detention Standards are now in the record in ECF-82-1, the declaration that CoreCivic submitted in support of their motion to intervene. It's a --

THE COURT: Right.

MR. IYENGAR: -- from Warden Chestnut.

THE COURT: Well, that's fine that I have not yet reviewed their motion in any depth given the timing of its filing. So, I don't have that in front of me, and I can look at it, and I might have somebody go get it. But at the moment I don't have it immediately in front of me because neither of you gave it to me.

So, just looking at what I've got in front of me on this particular record, then, again, there's a certain amount of -- there's a number of adjectives, all right, that are just simply going to create in all likelihood some dispute, all right.

The next one is in (b). It's comprehensive. So, the main idea there is people get screened within a limited amount of time after they get there. The concern that was reflected in the record is that they really aren't getting screened within a reasonable amount of time and in some instances really not screened at all.

And then here's the problem. They've got some

significant number of really sick people walking in the front door. And, as I mentioned before at the hearing, this is atypical of a prison setting. So, this is a unique population, one that has unique issues, if you will, and that one can't just apply the prison model because it doesn't quite fit.

So, then the next one is that -- here's another one. All right. Okay. Here's another adjective, thorough. Thorough initial -- initial appraisals performed timely -- we can call that a fourth adjective and possible dispute -- by a primary care provider.

Now, what is being shown at least before we got to today's point was things that were pretty far removed from the average person's understanding of adequate, comprehensive, timely or thorough. Okay. But when things get closer, it may present some problems. But, as you know, we even still with a court order on an agreed upon plan for two very very sick people who were -- I think one's going to die, and the only question is whether it's because he did not get adequate care to begin with, and that's the gentleman who I think has prostate cancer.

And even when ordered on an agreement by counsel as to what would be reasonable for him to get care, he wasn't delivered to his follow-up appointment. He wasn't given the biopsy report, and these are things that are so remote from

adequate that I -- I think in some of these instances -- now, you can say they're odd situations. It isn't what's going on throughout the system. But the only way to avoid people like this dying while they're at the detention center who otherwise may well not have -- and I don't know enough about his condition to know if there's any causation here by delay. I'm just saying that to avoid the concerns that have been raised, you do need to screen things -- people at the beginning so you can find the people that really need the care, and then you've got to get them into a doctor. And the folks at -- at the detention center aren't specialists. They have to get into specialists. They don't have a common cold or the flu, and those people may or may not be suffering also, and -- but the first concern was being able to avoid these very very sick people not getting care.

So, procedures have to be set up for everybody so that they can be treated properly.

All right. Then there's timely approval and access to medical specialists. All right. Timely, we've said is up for grabs, timely again and responsive emergency services. They had timely completion of active medical orders.

And if somebody says you're supposed to get a particular prescription or you're supposed to get a device or you're supposed to come back or you're supposed to get a test and weeks go by, nobody is going to call that timely.

Again, we had essentially I guess situations that were so far removed from the adjectives that it wasn't a hard call, but it could get more difficult. I understand that.

Any of these particular elements like (g), timely access -- well, we covered that.

Okay. (h), a responsive sick call request system. Now, that's pretty much generic. Okay. And, so, I do not know whether -- do you happen to recall having looked at it maybe in the motion to intervene, Mr. Iyengar, whether the National standards do provide for any kind of specifics as to this last one and any of the others that we were talking about other than the first one that you said does not have a number?

MR. IYENGAR: Yes, your Honor. In fact, they speak to I think all of these items with respect to sic call, MDS, 2025 Standard --

THE COURT: Well, one at a --

MR. IYENGAR: -- four point --

THE COURT: -- time. You gave up the first one. You didn't give it up. You just said there's no number. All right. It isn't how many staff you have. It's whether they get the work done.

Then (b) was an intake screening within -- I ordered 12 hours. Is the manual different?

MR. IYENGAR: There -- this particular element,

your Honor, combines two standards. So, Standard 4.3(2)(d) requires that within 12 hours of arrival, new arrivals receive "an initial medical, dental and mental health screening and be asked for information regarding any known acute, emergent or pertinent past or chronic medical conditions, including history of mental illness, particularly prior suicide attempts or current suicidal/homicidal ideation," and so forth.

THE COURT: Okay. Let's cut it off there for a minute. It's got the 12 hours. It just says medical professional. Now, one of the concerns that was raised at the last calling of the case is that someone who's not really qualified to make a particular determination was assigned to make those initial determinations, and so that could be a concern. In other words, medical professionals run the gamut. They're working in the medical field.

So, let's say you take someone who is a LVN, which I think was perhaps being used on occasion then at the facility in question here, and the argument was an LVN really isn't qualified to make the determinations that would be required. And, as you've described, there's a very detailed list of them. If that is going to be a dispute coming up afterwards -- I had essentially found that they weren't good enough to do it, all right, that you needed a -- you needed an RN to -- to make the determination, you

know, not an MRI person, whatever, but someone who has general knowledge about general problems.

So, all right. But that -- all right. That may come up as being a dispute.

What about (c), that initial appraisals performed timely by a primary care provider and thorough initial appraisals?

I'm going to ask Ms. Mendelson to remark on where she thinks this particular element goes astray or is in accord with what the National Standard is.

MS. MENDELSON: Your Honor, the National Detention Standards are Defendants' document of standards which they believe -- which they wish to guide their practices. It has not been found to be a constitutional proxy. I'm not myself familiar with every line of --

THE COURT: Oh, okay.

MS. MENDELSON: -- them. Neither do I think they govern this case.

There will be medical judgment involved no matter what standard we employ, of course -- words like thorough and timely -- will require medical judgment. In our view, that's why people with track -- proven track records of serving as neutrals are appropriate to make those assessments.

THE COURT: Okay.

MS. MENDELSON: Most --

THE COURT: That's fine. How about thorough initials appraisals performed by a primary care provider? Just to get clear, primary care provider as you proposed it to me is?

MS. MENDELSON: That's correct. It's somebody which -- somebody who is a doctor or a nurse practitioner and is trained to provide primary care.

THE COURT: All right. Could it be also a physician assistant?

MS. MENDELSON: I don't know the -- yes, it is a physician assistant or a DO. Both can be.

THE COURT: All right. But, now, initial appraisals, is that everybody or just somebody who comes in with a problem and reports it?

MS. MENDELSON: CoreCivic's own -- the Defendants' own policies here require that everybody receive an initial appraisal. Now, whether that is required from a constitutional perspective is a different question, but it is the policy in place at this facility.

THE COURT: Okay. So, then the real question is whether it is done well, thoroughly.

All right. So, again, I see why Mr. Iyengar has concerns, but I do too to the extent that I don't want to saddle the Eastern District with a bunch of disputes, and I

agreed to consider a preliminary injunction, and I did actually consider it, although, frankly, the order I signed doesn't have all the reasoning in it certainly, but -- and I didn't sum it up at the end, as CoreCivic has pointed out. But I spent a lot of time talking about the various aspects of what was going on there, including the medical care being everybody's primary concern, also, attorney services and access and some of the other matters. But others I did not rule on at all because I did not feel that I had enough information to make a determination as to whether Plaintiff likely had the better position on that and was likely to prevail.

Clearly, if somebody doesn't get whatever the various items were -- and using medical as an exemplar -- and you've got injury and that injury is far more important than whatever the facility could argue against it essentially, that they're going to continue on irrespective of whether it causes injury.

Okay. So, then we have this idea of continuity of just keeping track of these folks. We already have seen exemplars of losing track of them, and conceded by one of the professionals at the facility and saying, Okay, now that loophole's been plugged in some way, but -- I hope it has been, but there was no showing of it in specifics.

And then getting the prescribed medication, people were

without medication. Some of these people are on what are really maintenance doses. They have to get them or they start going downhill. And, so, really, what it means is that there can't be gaps in their taking the medication, and also, if it is a new prescription, that they get it pretty quickly. I mean, if you're out of that facility, you get it that day or the next day, not weeks later.

And then --

MS. MENDELSON: And, your Honor, if I may -- oh, sorry.

THE COURT: Yeah?

MS. MENDELSON: Just to offer that these questions that you're outlining are critical, as you point out, and also common to every correctional setting. So, this issue comes up frequently in many different correctional settings, Well, did the critical HIV meds come soon enough? And these experts who've been proposed are used to looking at that exact question, did they come timely enough, did they come -- and this is the function in this environment but also in the environment that these court-appointed neutrals have functioned in as appointed by other District Courts.

THE COURT: Right. But you interrupted me.

All right. We're on responsive sick call request system, and for that particular one, the concern was people kept putting slips in, and they sat there. Nobody responded

to them. And, so, again, it seemed like that was kind of falling down on -- on the job basically.

So, what -- I want to get back because I -- I do understand some of these concerns Mr. Iyengar has, and what he's particularly concerned about is if someone holds the facility to a standard higher than the law requires.

All right. And the response is that the law may require more than the Defendant thinks it requires, and then Mr. Iyengar can say, Yeah, but not as much as you think it does, and then everybody can fight about that.

Okay. So, then really I do feel it important to have someone who's at least had some experience in this area. Now, it seemed like that Dr. Stern had the most, but if there are particular concerns about him that may not apply to a different proposed Plaintiffs' expert, I also -- or a proposed monitor, rather, I want to get to that. So, just give me a second here.

Then we had -- is it Anand Kumar (phonetic)? I'm not sure how it's pronounced.

MS. MENDELSON: That's -- that's correct, your Honor.

THE COURT: All right. And, so, Dr. Anand Kumar, it says that -- has extensive experience, medical monitor in immigration detention facilities and state prisons and county jails and was a medical expert for the Department of

Homeland Security and -- in connection with detention centers. And then it says he's monitored more than 30 Immigration Detention Centers across the country and evaluated the medical care.

And I just want to focus on Dr. Anand Kumar and then also Dr. Stern as maybe what floated up to the top of the Court's kind of potential candidates, much as Dr. Thomas did, because of experience on the Defendants' side.

And do you have equal concerns about Dr. Anand Kumar, Mr. Iyengar, that you want to put on the record?

MR. IYENGAR: Not equal, your Honor. If we were forced to choose between the two, I think we would have fewer concerns about Dr. Anand Kumar. You know, we -- we specified some of those in our filing, but we could --

THE COURT: Um-hmm.

MR. IYENGAR: On our own, we could only identify somewhat limited experience compared to some of our proposed candidates, and we were also concerned that he served lengthy terms as the monitor in cases where the systems were never brought into compliance. And, so, that raised concerns to us that this short-term basis monitor is somewhat inconsistent with his past experience. And, of course --

THE COURT: Okay.

MR. IYENGAR: -- we have concerns, just like

Plaintiffs have concerns about ours, including Dr. Anand Kumar (phonetic), are generally retained by plaintiffs or against government defendants. But -- but, certainly, to answer your question, your Honor, no, I don't think we have the same concerns. We have fewer concerns about Dr. Anand Kumar.

THE COURT: Okay. Thank you.

Is there anyone who the two of you thought split their time pretty much equally between who was hiring them or proposing them or is it pretty typical that, you know, people come in on one side or the other?

MS. MENDELSON: I would like to offer that Dr. Stern, for what it's worth, has been adverse to me in litigation in the Eastern District and has represented Florida DOC as a defense expert, Cook County Jail as a defense expert, and has worked for the Defendant in this case.

So, I -- I -- and the statements about his apparent views that are in the briefing that have no citation are unfamiliar to me, and I see no basis for. I also want to offer that he has worked in a for-profit prison healthcare vendor as a medical director before. We view him as highly neutral, but most of the work that has done has been as a neutral for the courts in this very particular role called for here.

THE COURT: All right. Okay. Going back to Dr. Kumar --

MS. MENDELSON: I would like to point out one error in the record which is that there is this statement that Dr. Kumar worked for the ACLU in the Duval (phonetic) case. That -- let me just pull that up right here -- is not accurate. He was a court-appointed expert in the Duval case, not an expert for the ACLU. And, in fact, both parties agreed to his appointment in that case.

THE COURT: All right. Now, when you're thinking about distinguishing between someone who is just appointed by the Court because, essentially, if I choose someone, I'm going to be appointing them in effect, but they're coming to me recommended by one side or the other.

Is this going to always be the case when you say that somebody's court appointed?

MS. MENDELSON: It is not our experience that we're unable to agreement, to be frank, your Honor. We frequently go through this process of selecting a monitor, and we have a robust conversation about it.

Dr. Corrico (phonetic), who's one of the three that proposed, actually came to our attention because the defendant in one of our active cases proposed her as a court monitor. She's now been accepted by both sides as of today. We didn't know who she was until defendant said, How about

this person? She'll help us, and offered a good faith option. When we -- in this case -- We're very used to a robust conversation with defendants. In this case, we're informed that all conversation would have to happen by email and not in -- and not in live conversation. And we -- I actually have not had the experience before when seeking a court expert where all of the actions are people whose overwhelming experience is supplying justifications for defendants in correctional healthcare cases.

THE COURT: Okay. Dr. Corrico of the three on the Plaintiffs' list, has the -- the least experience, if you will. I think she's probably just younger and has -- she's been working in the area. It doesn't look like she's been the monitor yet, and given how difficult this particular job is compared to another one, I'm not sure, but it sounds like it might be pretty difficult.

Now, you -- you didn't agree on Dr. Corrico. You were --

MS. MENDELSON: We agreed in our other case on Dr. Corrico. It's just how we learned of Dr. Corrico. In --

THE COURT: Oh, oh. Got it.

MS. MENDELSON: -- fact, I expect she will be appointed. I cannot cite anything at this stage, but I expect she will be appointed in short order in another active litigation case. But, no, Defense Counsel here and

Plaintiffs' Counsel did not agree on Dr. Corrico, though we stand by her as an excellent option.

THE COURT: Okay. So, there's really no one that you were able to just settle on where someone could say, Okay, it's not my first choice, but if you like them, all right, let's everybody feel comfortable with the monitor and you couldn't come to any kind of agreement in that respect. So --

MS. MENDELSON: That's right.

THE COURT: -- essentially, I have to choose one in -- in this instance. Okay. Um --

MR. IYENGAR: And, your Honor, I -- I'm sorry. With respect to your Honor's point about whether this has occurred before where the parties can't agree to a monitor and the Court has to pick one, and either way, the Court is picking a person that a party proposed. And, so, that does create some -- some concerns.

I do think that that makes it, you know, doubly important that the proposed order that the Court enter not include a lot of extraneous additional powers, including one of the powers that Plaintiffs have proposed, which would allow the monitor to communicate ex parte with counsel for Plaintiffs or, you know, so --

THE COURT: Let's not get to the order yet.

MR. IYENGAR: Okay. Okay. Thank you, your Honor.

THE COURT: That's a whole other subject that I am perfectly happy to go into and prepared to go into, but first we get the person. All right. And I want to pick someone -- and this is what's disturbing.

Let's say that people are going to go for a settlement conference somewhere, all right, and somebody says, I want to go to so and so, and the other person says, I had a bad experience. No, let's go to them. No, you can't do that because the case will never settle.

Whoever you choose for that job as a neutral has to be someone that both sides feel comfortable with, and I was hoping that you would arrive with someone that, once there was going to be a monitor and knowing the Government opposed a monitor as a general principal, but then if they're going to have to have a monitor in there, who do they think would be the best and yet to just one side go, We want this person and the other side go, We want this person, and there you're stuck. It's likely to create problems because whoever didn't vote for that person is going to be far more likely to complain about whatever reports they make or whatever decisions they come to as opposed to it being a person that somebody could say, You know, yeah, we've worked with them before. Yeah, we really want a monitor, but this person is essentially pretty much balanced. They're not going to go overboard either way, and they recognize you got an

institution. It isn't the same as concierge medicine, but -- and go on from there. But if you -- if you've got like an immediate dislike about a monitor the Court picks, it really really is difficult, and I'm -- I'm wondering whether there's any chance you could perhaps give it one more shot. I -- I can pick someone. You know, it's not hard for me to just say, Okay, I'll pick one of these people. These are all people that are experienced in the medical field, and they know something about institutional medical care, et cetera, et cetera. But I'd rather have at least some confidence in the person to be fair, not to always agree with them. That's -- you know, that's a given, that people never totally agree with whoever, but is there any chance -- I mean, if your only conversation was emails, that's not conducive to any kind of real accord, but are you limited to that, Mr. Iyengar? You know, are you only allowed to do this by email so it's documented so to speak, whatever your position is or could you actually talk to someone about it person to person?

MR. IYENGAR: Your Honor, I -- I'm -- it's our strong preference to do it by email so everything is documented, your Honor. And in this case, you know, they proposed one candidate. We proposed five. They proposed three more, and then they dropped one --

THE COURT: Well, I'm just asking the simple

question if you're stuck with emails like you may be stuck with other things, then fine. Then there's no point in telling you to talk to anybody. But I don't want you to get into trouble with anyone. I'm just trying to see whether or not you would be, you know, averse to -- to talking as opposed to writing back and forth.

MR. IYENGAR: You know, I'm -- I'm somewhat stuck there, your Honor, but I think it's -- it's very productive to send a list to -- you know, even if it's for a potential mediator, a list --

THE COURT: Okay. I've --

MR. IYENGAR: -- of five --

THE COURT: -- got the point.

MR. IYENGAR: -- folks.

THE COURT: Yep, you answered the question. Okay. Thank you.

Ms. Mendelson, you wanted to weigh in on this in some way beyond that?

MS. MENDELSON: Just to say that it is our strong preference and our past practice to agree on medical monitors. In this case, none of the people provided here have ever served as a medical monitor. Dr. Thomas served as a monitor for a short period of time over attorney access in a jail system in D.C., during which the court struck out large components of his court report -- report to the court

because it had improper legal conclusions. Unfortunately, we are very familiar with that doctor during our long running case in this District before Judge Henderson. He testified that it was appropriate to provide medical care in a men's restroom in a prison. He testified that there was no connection between a state of emergency and overcrowding and medical harm. And Judge Henderson found him wholly uncredible. That was in a long stream of court findings.

We can't agree with that. We don't believe somebody like that has what it takes to be --

THE COURT: All right. I got it. And the other people have not actually been appointed as monitors.

So, if I want someone who's been a monitor, that doesn't have to really come up to speed about being a monitor, then I'm -- I'm really looking at the Plaintiffs' list in the main because those -- although I, you know, left Dr. Thomas out, he hadn't done medical monitoring. This is monitoring in a particular field specific, and then -- all right. So, we have three.

The last person is kind of newer to the field if I were just looking at the Plaintiffs'.

And, as I say, Mr. Iyengar, I am going to give you more chance, come up with someone else. But under the circumstances, if you are limited essentially to keeping a record if you will -- and I -- I understand that's a

legitimate concern -- it does make it a little harder to come to an accord because nobody's really, you know, kind of person to person. And, so, I'm -- I'm thinking that -- I'm looking more at the Plaintiffs' list to be honest because of their experience and -- in that regard.

Now, of the three, it sounds like Mr. Iyengar prefers Dr. Anand Kumar, and I'm -- I'm not sure if -- that might be the -- the better way to go just so that the Defendant does not feel that I have put someone in that they feel as strongly about as you feel with Dr. Thomas.

You know, it does seem like that particular candidate is qualified and has got enough letters after his name to take you half hour to spell them all out. And, you know, maybe that's the safest way to proceed in the idea of trying to find someone that at least is closest to -- not in accord but at least not abject discord, and that is probably what I would do then.

Now, I will say I want to go to the proposed order because this is giving Mr. Iyengar concerns, and I certainly looked at it when it came in because he said, Gee, you know, it's certainly going well beyond whatever you put in your preliminary injunction, and yes. And I want to talk about it before you folks weigh in. But let's picture now that if I appoint -- and I'm inclined to do so, but I'll do it with all a wrap-up at the end here.

I do feel that Dr. Anand Kumar is qualified and experienced, and there is no real showing that this particular individual, you know, comes in with -- with an agenda that they're going to comply with, you know, irrespective of what they find there. They will, I think, from what's been said, be a fair arbiter of what's going on on the ground.

The order goes, of course, well well beyond the very brief statement that I made before -- let me just get it in front of me -- about what the purpose of the monitor would be.

(Pause.)

THE COURT: And I want to look at the rate and some other things there, all right. But my -- my order did say the Defendant would pay the fee, and give me just a second. Just one minute.

(Pause.)

THE COURT: It's very very general. It says:

"To ensure compliance with paragraph one and the provision of constitutionally adequate healthcare, Defendants are ordered to provide access to a qualified independent third party monitor (external monitor)" -- thank you -- "for a period of 120 days subject to

renewal by the Court."

Now -- and then it says:

"The external monitor will ensure compliance with this order and will monitor its implementation, including through review of medical records and on-site inspection and interviews with patients and staff."

Now, will that in -- in the language used be enough to avoid the following? Dr. Anand Kumar shows up there, he asks for something, and the response is, We don't have to give it to you or, You're not entitled to it or Our -- our laws preclude us from giving it to you or whatever the answer is boiling down to no?

And the last thing, again, that I want to see is that the Eastern District is then in a situation where Plaintiffs come back and say the guy's trying to do his job and they won't let him do it and we have another, you know, big discussion about it.

Would it be helpful to say some of the things that he would be entitled to? Yes. But is it going to be that we're going to have a very very detailed discussion and dispute essentially among counsel as to whether somebody should be entitled to this?

But it wouldn't be a bad idea to take a look and get a

preview at a minimum of the coming attractions and see if we can resolve any of it at the outset. I could stick with let him look at the record, let him talk to people and, you know, the staff and the patients and see where we are or maybe something more detailed. I'm just going to take them one at a time as numbered here, and then each of you can have a chance to weigh in on it.

But, all right, so, the first one is pursuant to 706 of the Federal Rules of Evidence he's appointed, all right, as the Court's expert and external monitor -- I wish they had called them something else, but anyway, external monitor in compliance with the Court's February 10 order, and then attaching his CV.

And then his review of patient-specific information is subject to a protective order. I think -- is the thought there any reports he makes get filed under seal or only those -- I would say only the portions that single out particular patients because it should be more or less a matter of public record what's going on, how well they're doing, how well they're not doing. And then if we get to people who are named and their condition discussed as exemplars of whatever somebody's position is, that those are ultimately the parts that are filed under seal.

As you know, under -- well, under Northern District's rule -- I don't know what's going to happen if you get down

to Eastern District. Here you file under seal and ask if it can be -- continue to remain under seal. Used to be here that you gave the Court documents that hadn't been filed at all and asked that they be placed under seal, and then the Court would make the order there. I'm not sure what they've settled on in the Eastern District.

All right. So, the first one that is not really subject to dispute, and neither is the second one that just has the 120 days. Plaintiffs wanted them in there for longer, Defendants slightly shorter or not at all obviously, but at least, if there less, and I didn't just split it. I thought that -- I was going to go with the lower number of days until Plaintiffs pointed out that it's hard to get there and that it takes a while for someone to, you know, get into the system.

All right. So, the first one then would be three, right? Now, number three we're going to read.

> "The external monitor will be granted remote read only access to California City detention facilities' Electronic Health Record System, EHRS, for the full term of appointment. The external monitor may select up to one team member to assist with medical record reviews. That team member shall

be granted remote read only access to the EHRS subject to protective order but shall not be permitted to attend the site visit described below."

Now, was the thought just number four is the only exclusion or -- because there are other inspections that com up after that. But you intended the word "visit" to be singular, Ms. Mendelson?

MS. MENDELSON: That's correct. We anticipate just one visit to minimize burden during that period, and the experts when we talked to them felt that that was reasonable. I do want to emphasize that we are open to discussion about this proposed order. We had hoped to do so on the phone, and that didn't happen. And -- and I understand that we all have our limitations.

The -- the thing I want to flag that in this whole order almost important thing is this item because the ability to review patient records remotely and have access to the system is essential for the monitor to understand patient care. And in this case, in particular, Defendants' declarant expounded at length about the difficulty of reviewing paper or PDF records and how error prone it is in response to some of Dr. Wilcox's findings.

So, it is both entirely standard -- we don't have a single case here where they don't have that access -- and of

particular importance here and I think really necessary to call out given the ongoing challenges we've had and the fact that there'll be a new court and a new order that we'll be dealing with to ensure that the monitor can do their job.

THE COURT: All right. In other words, that the monitor doesn't have to go to the facility and start flipping through records?

MS. MENDELSON: Precisely that, your Honor

THE COURT: All right. And that one helper could help with that. Okay.

Well, all right. I'm just going to go through these, and then this is something I was going to suggest. If -- if I then appointed a monitor, would it be worth counsel discussing amongst themselves before coming back to me what they think might be a workable set of instructions? I don't mean these to be so much that I'm -- I'm trying to make it harder for the facility. I'm trying to see if there's a way just to avoid them being put in a position of objecting to certain things that then have to come back to the Court and delay and then -- then you're going to get this. All right. The Court only appointed the monitor for four months, but, as it turns out, every time they turned around, somebody objected it's something they needed and now they need more time to be there. So, if you want to get him in and out essentially, the fewest objections and fights that you have

over it, the better.

But let me just quickly run through these, and then I'll just ask Defendants' counsel whether he thinks it would be something he could engage in some fashion of communication with Plaintiffs' counsel about if I thought it was helpful to at least make something more specific than what is in item two on the earlier, could -- would there be certain things that you would not find terribly problematic or you -- your client wouldn't.

So, I'm just -- but I'm going to run through them --

MR. IYENGAR: Yes.

THE COURT: -- to see --

MR. IYENGAR: Your Honor, I can -- oh, sorry, your Honor.

THE COURT: No. Do you think you could do that?

MR. IYENGAR: Yes. And I -- and I'm prepared to opine on particular portions right now and -- and why they're problematic.

THE COURT: Um-hmm.

MR. IYENGAR: And I think we skipped over the intro paragraph, your Honor, but nothing in that paragraph is supported by the Court's findings during the hearing. So, we would at --

THE COURT: Okay.

MR. IYENGAR: We don't think any of the intro at

the very top --

THE COURT: Oh, at the very beginning?

MR. IYENGAR: At the very beginning.

THE COURT: All right. So, it's -- well, it's not necessary. In other words, it could start the Court having in its prior order ordered that a monitor would be selected to do whatever, the Court hereby, you know, orders the following, what else? You know, you -- you'd come up with something more neutral that was perhaps less, you know, accusatory, if you will. But let me look at it again just to see.

MR. IYENGAR: Thank you, your Honor. We would -- we would note that the --

THE COURT: Give me a second. Then keep talking after I just look at it for a minute.

(Pause.)

THE COURT: What part of the introduction are you particularly concerned about, that system-wide failures -- yeah, of course, I did in the sense that if it was just sporadic or idiosyncratic, then one could just look at those individuals and say fix up their problem and carry on. But, as it turned out, it didn't quite go that way. But let me just go on and see.

(Pause.)

THE COURT: I sort of did find those things. So

-- okay. Let me just keep going.

(Pause.)

THE COURT: I don't know if it's -- if it's incorrect. It may be unnecessary, but where -- where would you say it goes beyond whatever I've found?

MR. IYENGAR: Your Honor, having -- you know, having a tentative and reviewed the transcript, there is nothing during the hearing suggesting that the Court found evidence of system-wide failures in the delivery of healthcare services, in other words, to all detainees in these specific ways. There -- you know, and backing up, your Honor, I think that to the extent that Plaintiffs are asking the Court to correct, you know, potential omissions from the prior order by adding more language, we think that would be -- you know, they would need to file a motion for leave to move for reconsideration under Rule 60 and Local Rule 7-9.

So, really, I think having this additional extraneous language that we don't think is reflected in the Court's order or in the transcript, including, you know, that the Court found irreparable harm, some harm had already occurred, balance favored an injunction and this notion of eight basic components of a functional healthcare system, like that -- none of that language was used during the hearing, and I think it's all problematic for that reason,

and I think, you know, we would -- we submitted a proposed order that I think would be a great place to start rather than starting with Plaintiffs' proposed order. Ours simply says this is the person and, as set forth in the order, Defendants will provide access, using the precise terms the Court used. And then the parties can certainly, as the monitor begins its process, discuss what it means to review the medical records, what it means to conduct on-site inspection, and those are very simple terms, your Honor. You know, the review of medical records, Plaintiffs are pushing for remote-only access. And, as you can imagine, the facility and my client would say the monitor should be restricted to reviewing records at a facility computer, not remote-only access, because there are network security issues. There's issues with disclosure of records relating to asylum seekers whose identity and location are prohibited to be disclosed under federal law. You know, there's -- you know, the team member that they select has to be identified in advance. It can't be associated with counsel for either party. And, you know --

THE COURT: Okay. Let's stop for a minute. All right. There's no question that the Court should have summed up at the end of the hearing all of the findings in -- in detail, which I did not do, and part of it is because I essentially launched into this entire inquiry at the

request of Plaintiffs' counsel, having found that I was going to transfer the matter, at which point they said, Oh, but all these people are going to be suffering in the interim while the case gets transferred, and I said, What is most important to you? And then they went into that, and they pared down their, you know, injunctive relief request, and I pared it down farther than what they pared it down to.

No, I did not articulate or maybe I did, but if you say I (Zoom glitch), fine. I can understand where I did not tick off at the end of the hearing, Accordingly, the Court finds that, and spell it all out neatly and cleanly, which I certainly would have done if I was relying on the hearing and planned to make some type of order before I got out there.

But I think the record clearly supports the Court's summary finding that the Plaintiff was likely to prevail on the record as to their position that the detainees, as a group, were not getting adequate medical care as required by the Constitution or, frankly, really anybody else's test and that this was not simply a couple of people here or there. It was, by their expert, across the board, and he made it very clear that the concerns were not simply individual. He understood that could be a criticism of any finding he made, and that was Dr. Wilcox, and he went on in great detail. And, certainly, the Court did rely on that in making the

findings that the Court did.

And once you find that people are not getting decent medical care who really really need it, you then end up with it's certainly not a no harm, no foul situation. It is that they are suffering the most immediate kind of personal injury and that that would go on unless somebody said fix this up.

So, essentially, that was the prime focus, but there was also evidence to support the other elements of the Court's order in the injunctive relief. And, for example, declaration that the worst prisoners get more time outside than these folks would get.

All right. Things that you could use to say they -- they're just not getting it as a group and that they weren't getting the legal advice they needed, and these are people that may any minute get deported and they couldn't contact their lawyers, again, because the system wasn't set up well enough to deal with the volume and the nature of the population, two things, volume and nature.

And, so, all of those items are in the record. Did I point them out at that time? No, I didn't. And I should have. And if I had to, then somebody on appeal is going to say there's a real problem with this order. If the record speaks to report what I found in shorthand form in the order that I did sign, then it's okay because it's all there. The

only question is whether I had to spell it out. And I agree with you I didn't. Certainly, we've got 18 references to the record by -- even more -- by the proposed interviewer. I didn't read their whole papers yet. I haven't had time to, but I did see that they were, you know, delving into the greater in great length.

So, that's a question. If Plaintiffs have any concern about it, I don't think it can be simply fixed up by a little bit more of a summary. So, if you feel that something more needs to be particularly articulated, I can consider issuing some type of memorandum in that regard.

But let's get to the items, okay. Mr. Iyengar has just raised a concern about whether -- one a security concern, cyber security, and, two, a concern about disclosures that the facility is not allowed to make.

Do you have any comment about that?

MS. MENDELSON: This is the first we're hearing of it, despite having provided a --

THE COURT: Okay.

MS. MENDELSON: But I will say that the Federal Government frequently provides access -- read only access to electronic health records. It happens in a case in this District called California Coalition of Women Prisoners. BOP provides access. There is oversight over other CoreCivic facilities that use the same medical record

system, and remote access is available there. I'm unable to evaluate that because I'm receiving it only now, but --

THE COURT: Okay.

MS. MENDELSON: -- it is -- it is -- would be extraordinarily unusual in my 15 years of experience for there to be a legitimate concern to preclude a monitor from having remote access subject to a protective order and other security provisions which the monitor would gladly submit to.

THE COURT: Okay. So, what -- the facilities you did mention, Ms. Mendelson, were not detention facilities. Thereby, this group may well have a number of asylum seekers or other people who for one reason or another should not be identified to third parties. I do not know enough about the particular legislation that's being relied on by Mr. Iyengar, but it would seem to me that if there are concerns, that it may be a way that counsel could provide protections so that it's clear that material wouldn't be used or would not be accessed if it's only certain things. But I'm not sure. I certainly understand that it would be hard if you had to go out there because it's in the middle of nowhere. So --

MS. MENDELSON: Well, we remain very open to being flexible about many of these terms. I cannot emphasize enough that this is absolutely essential for the monitor to

do their job, and they told us that, I can do it, but I cannot do it if I cannot check medical records remotely. So, I feel compelled to convey that to the Court.

THE COURT: Okay. That's fine, and it may be that when we get through with this discussion, that you -- I would give you a brief amount of time to see if you can come to any accord on any of this stuff, but I'm not terribly optimistic about it. Okay.

MR. IYENGAR: And -- and, your Honor, we would -- we would request to have CoreCivic involved in those discussions or counsel for CoreCivic, since they know about their electronic health record system and, you know, the particular contours and security issues and network concerns and so forth.

THE COURT: Well, I'm not going to say they can. I think this is a question of who wants to talk to whom, all right. And if for any reason Ms. Mendelson chooses not to speak to them, I mean, if she's happy to have them involved in it, fine. But, if not, then get as much information on the particular objection that's being made from them and convey it to -- back and forth as to in conduit.

All right. Now, the next one, let's see. Now -- now we're on four. Okay. All right:

"At any point during the term of appointment, upon request, Defendants

shall provide the following documents to the external monitor in electronic format."

Okay. And I'm just looking. I just want to mention a couple of these in particular.

(Pause.)

THE COURT: Okay. With the exception of -- well, even policies and procedures I would say would be records in effect. These -- this really boils down to all of your other records, all right. The first one is we -- we want to get remote access to your medical records and then, if we ask for it, you have to give us in electronic format all your other records.

Now, that's a summary, and there may be particular items there that are more problematic than otherwise. Also, the idea upon request at any point. Of course, that could be upon reasonable request or something, you want to throw an adjective in there. We're already having to deal with a lot of them.

So, but, now, the distinction here, which doesn't say remote access, what's your understanding there, Ms. Mendelson?

MS. MENDELSON: This is typically a document request, frankly. And our goal here is just to minimize -- as you say, your Honor, just be --

THE COURT: All right. All right. In electronic format versus remote.

MS. MENDELSON: We typically get -- we make a document request. The monitor makes a document request and gets a bunch of PDF's. So, it's just an email, frankly. But it's to provide the specific -- we laid out here what the monitors told us they absolutely needed to do the job, and I would like to -- some of these could go into a catch all that says reasonable documents. But I will say one that they flagged for us was (b).

THE COURT: Um-hmm. Detainee list.

MS. MENDELSON: Because what happens, your Honor, is that once they have the medical record access, they need to know whose records to look at. If they're trying to assess specialty care, they need to know who's waiting for a specialty care appointment. And if they -- or if they're trying to assess HIV medication continuity, they need to know who takes those medications. So, what the experts communicated to us is they can do without a lot. They've worked in a lot of environments, but it's absolutely essential to know which records to look at to assess the areas of care that the Court has directed them to assess.

THE COURT: Well, I can see why you might want a list of everybody who's there, but then it goes on to what sounds like overlaps with your medical request, the medical

record request, because it says the detainee list, including but not limited to full population list. And then it says with relevant health information and patient list related to particular diagnoses. This is -- instead of just looking at the records individually, do you think they keep lists, you know, that they've collected up, the names of the people and put their diagnoses next to it?

MS. MENDELSON: We do think that, and they've said as much, that they have systems for addressing chronic care that look systematically.

And, also, just to clarify -- I understand the -- the lack of clarity here. The access to the medical record system allows you to log in and pull up a given patient and look at their full record in a reliable manner. What the patient list does is tell you who to look at because you can get in there, but if you don't know who has this chronic condition or who's waiting for a specialty, you don't know who to look for. So, the patient list is just a list of people, so the -- who have this condition or are waiting for specialty care appointments.

THE COURT: Okay.

MS. MENDELSON: So that then you can plug it in and do the record -- the according record review.

THE COURT: All right. So, you understand that they actually keep; a record of not only the name of the

person who's there but whatever their particular medical and housing needs are?

MS. MENDELSON: Yes, and we would be happy to stipulate to language, something like to the extent these documents exist, and we don't need anybody to produce or commit to producing documents that don't exist. But, certainly, so far as they do, they would guide the expert in its essential --

THE COURT: All right. What about you, Mr. Iyengar? Have you got a problem with that or you want that reworded or taken out entirely? What's your position?

MR. IYENGAR: Our position, your Honor, is that all of the other records beneath the first one should be taken out. These are not medical records, and the Court's order permitted the monitor to review medical records.

You know, to the extent that Plaintiffs are arguing that this is a form of a document request, that's sort of an end run around the Courts stay on discovery. And, to the extent that Plaintiffs are arguing that detainee lists help a monitor decide specific records to look at, I think that's not an appropriate way a monitor should conduct its evaluation. They should review a random sample of patients and avoid picking patients -- only those patients with issues, and the monitor's report should reflect the method of sampling these. So, providing a detainee list is not a

medical record, and it's also I think problematic for that additional reason, and we'd feel the same way about staffing lists, you know, suicide watch logs, you know, utilization management logs, all the rest, healthcare grievances, appeals, all other documents. We think all of the rest of these are -- go beyond the scope of what we thought was a pretty straightforward simple order that permitted review of "medical records".

THE COURT: And if I understand what you're saying, a monitor would get in there, and they won't get anything except, You want to look at the records? Okay. Here they are, medical records. That's all you're getting. All right. That just does not seem appropriate because they have to be looking at what are the staffing lists, how people are assigned, what their hours are, how many people are there. It's -- it's a whole, you know, series of things going on that they are on medical.

And, so, I think that the -- the dispute here is putting out the need for detail, I'm sorry to say.

MR. IYENGAR: But they do. They are permitted an on-site inspection, your Honor, and interviews with --

THE COURT: Okay. I'm sorry. This --

MR. IYENGAR: -- patient and staff --

THE COURT: -- is not just a conversation. It's a hearing, and you're not speaking right now. I am. Okay.

Okay. So, going on -- all right. And you can keep -- at the end, I'll give both of you a chance, but at this point I think I'm just going to be cutting people off.

The next one is, all right, the medication, drug formulary. I'm skipping over staffing because I already talked about it, and this is what -- what drugs they will provide? Is that it? Because this isn't a question of like, you know, somebody's health insurance is it or do people get to use their personal health insurance there or how does it work?

MS. MENDELSON: You're right, your Honor. It is a list of -- formulary is a list of what drugs are provided to the detainee population and what's in stock at that time, and this is -- and what the process is for requesting nonstandard medication. And, so, this came up --

(Zoom glitch.)

MS. MENDELSON: I think we've lost the Judge.

MR. IYENGAR: I think so too.

MS. MENDELSON: Okay. I won't keep talking then. We'll wait.

(Pause.)

THE COURT: I don't know what happened, but all of a sudden everybody disappeared, and there was some website up that wasn't this one.

Okay. What criteria to use? This is, again, if

documents exist that spell these things out.

MS. MENDELSON: Yes, your Honor.

THE COURT: All right.

(Pause.)

THE COURT: Okay. To the extent that you envision that this list may not cover everything that the monitor feels that he might need, then he needs to let counsel know, and then counsel will try and figure out how to deal with it and, if necessary, get back to the Court.

So, there was a -- we were on the formulary, and I was just not sure I totally understood what that was. What -- what do you intend that to mean, Ms. Mendelson?

MS. MENDELSON: Yes, your Honor. It's information about which medications are readily available at the facility and what the process is for requesting ones that are not readily available.

This comes up with patients like Patient A who came on on the optimal HIV medication for him, experienced a long delay and then got moved to a sub-optimal medication. The monitor would be looking at do you have the right medications on stock to keep people alive here, and that's a review of the formulary.

THE COURT: Okay. All right. Criteria used to either approval referrals or deny referrals to specialists. And then what is this utilization management logs? What's

that?

MS. MENDELSON: It's a term of art. I'm learning it too. It means it's the logs they have for all the requests and denials of specialty care which, as your Honor knows, is critical here because access to specialty care has been at the heart of the concerns about healthcare. So, what it would allow the monitor to do is quickly access the manner in which they are approving or denying specialty care to assess whether it's consistent with health standards and patient safety.

(Pause.)

THE COURT: Okay. And then just kind of the sick call idea, who asks for what, what -- did anybody see them, if they did, when, that kind of thing.

MS. MENDELSON: Yes. And the reason it's called out here is for two reasons. One is the -- a grievance, though it has a different name. It's just a document you file if you don't get a request to the sick call. So, that's why we named it. It may not be obvious. The expert is directed -- the monitor is directed to assess the health of the sick call system. That involves a review of the grievance because that's what you and the other reason we named it here is that our understanding is that at California City, some sick call requests get logged immediately into the patient health record, but some do not,

the ones made via tablet. So, it may require -- they're logs. They're -- we're told they're kept, but it may be a separate request. So, we named it here in an effort to reduce disputes in the future because we know they're going to need that to do their job.

MR. IYENGAR: Your Honor, may I just speak to the sick call request?

THE COURT: Sure.

MR. IYENGAR: I just want to note that there are concerns that gathering paper sick call requests would be extremely burdensome, and the monitor can review those within individual charts. So, that's just something that I would flag.

MS. MENDELSON: And happily -- oh, excuse me.

THE COURT: Oh, no. Go, ahead, Ms. Mendelson.

MS. MENDELSON: Happily, the paper ones are already in the patient record. The ones that are not in the patient record are those entered via tablet which just live in another electronic document. So, I anticipate that this would be not burdensome at all. It's just two different electric documents to provide to the monitor.

THE COURT: Okay. There's been five talks about inspecting the facility, and, in that regard, it says that one inspection -- now, that's all they need, one -- one inspection?

MS. MENDELSON: Your Honor, their review was to reduce costs, make this efficient, going there at one time, one visit, one involving travel, is sufficient so long as they have access to the documents and the electric records and the --

THE COURT: All right.

MS. MENDELSON: -- electronic records, then --

THE COURT: Now, it says one in-person inspection lasting up to three days at the facility where you schedule on at least 48 hours' notice. Now, maybe the -- we don't include all the parties get to show up there, but maybe counsel will all want to be there.

If you don't -- well, it wouldn't be you, Mr. Iyengar, but if your counterpart doesn't really want to go and doesn't want Plaintiffs' counsel kind of mucking around in whatever's going on, then it would be -- you know, would be bipartisan here. And, so, what -- what's your position on counsel being there?

MR. IYENGAR: Your Honor, to maintain neutrality, we think it should be an unaccompanied visit without counsel for either of the parties present.

THE COURT: Okay. I'll buy that. No, that's okay.

Let's go back to the three days that -- now, do I understand it's just you're going to have like kind of a

long weekend or three days anyway, all in one shot, though, not -- because it just says one visit. So, the idea is they could be there for three days.

Let me just ask you as question. Let's say they go and they find this, that and the other that's not up to snuff and they convey that hopefully to the facility who either says one of two things, We think it's fine or, We'll fix it. All right. Let's say they say, Okay, we weren't aware of that. We're going to fix it. Give us X amount of time. Then what do you do? How does -- how does the monitor get back to take a look at it?

MS. MENDELSON: I think that we have two options here. It would be fine to allow for the possibility of another visit, even at Defendants' request. Also, I will say that we deal in a lot of these monitoring reports. They are necessarily a snapshot. And they often do say we're told that these are -- there are these plans to fix it at the time of my review. It had not been done. That is one of those sort of realistic limitations or realities of these reports. They usually document defendants' plans even if they are not yet in action. So that -- you know, conditions always change. That's the nature of the beast, but these experts know how to -- these monitors know how to capture them such as they are and also acknowledge plans for change in the future.

THE COURT: And then what's the Court's role once they get a report that says these things are not right but they're promising to fix them?

MS. MENDELSON: I think the Court could direct another review if they're wondering about something in particular. There may be particular issues in dispute at that moment or not, but we would defer to the Court to decide how to do that and how to use the monitor, as well as obviously fact finding also and discovery remain available to the parties as the case proceeds as well.

THE COURT: All right. Now let's say the monitor is there for the three-day stay, and it says here they should be permitted to inspect the area, you have to take a look around, interview staff, and if they're not around on site, that they will be made available via video conferencing within a week of its conclusion. What conclusion?

MS. MENDELSON: The inspection. Often because there are vacations or other limitations, not every -- the doctor may be out that week --

THE COURT: I just wondered what conclusion referred to because there's no it that really helps here.

MS. MENDELSON: You're --

THE COURT: All right.

MS. MENDELSON: You are absolutely right, and we

should say within a week of the conclusion of the inspection.

THE COURT: All right. Then we've got interview patients that they want to talk to, assuming the patient wants to talk to the monitor somewhere in a confidential environment so that it can't be eavesdropped on, and -- and that the monitor be allowed contact, in other words, not separated by some kind of barrier, plexiglass or whatever, and it says that essentially the facility should provide an interpreter if needed and at their own cost, the -- you know, the facility's.

So, is that pretty typical too that along with footing the bill for the monitor, the Defendant also pays for interpreters?

MS. MENDELSON: It is standard in these cases because they so frequently need interpreters. I -- we can't say how many patients they plan to talk to or what their English proficiency will be. I also do not know what Dr. Anand Kumar's language proficiencies are, but I think it is standard to facilitate that communication.

THE COURT: Okay. All right. Let me keep going here. There's not too too many more.

This one is review a scheduling system for healthcare that displays pending appointments for specialists and clinic operations.

So, as I gather, other than these medical records that they want to see -- be able to see remotely, any other kind of documentation that may bear on the care, then they're just going to get PDF's of this stuff, is that right?

MS. MENDELSON: Yes. In this case, I think it actually contemplates a demonstration, which could happen by Zoom or in person. In truth, usually Defendants want to provide this because it shows how their system works. They're usually proud to show this is how we're doing it. So, actually, I think this meets both parties' requests, but -- and, frankly, if it's -- you know, but I do think it would be helpful for the expert to be as informed as possible in reporting to the Court about the provision of care.

(Pause.)

THE COURT: (e) sounds like -- what is facility video? This is video that California City has?

MS. MENDELSON: Yes. It tends to be video of emergency response, your Honor. One of the components that the monitor is -- is going to be monitoring is the provision of timely and responsive emergency services.

Often facilities have video that shows the nature of emergency response when somebody has a critical incident, and the request is to view that. Again, if this facility doesn't, we're very happy to have language that says to the

extent it exists.

THE COURT: All right. Then -- then this one. Let's say that they're just having their meetings and programs and stuff and they don't want some outsider there. This one says, Oh, they ought to be ale to show up and listen to what everybody's saying. Is this something that's really necessary? I think everybody would just clam up.

MS. MENDELSON: No, your Honor. We can -- we can live without this, and --

THE COURT: All right.

MS. MENDELSON: -- they could -- or they could make a request and they may well -- honestly, often defendants like to show this because they think they have healthy systems for reviewing critical incidents or addressing custody and medical collaboration. But we can live without that provision.

THE COURT: All right. Then it says the monitor should be allowed to bring necessary materials and equipment into the facility, including a cell phone and a laptop. Well, that sounds reasonable and doesn't sound like it's going to interfere with security.

But going back to what has been expressed as a security concern at one point or another is the need to, you know, use glass partitions and things of that nature, and it seemed like it really isn't necessary if somebody's going to

lock the room with the detainee. They're not going to be able to run out and, you know, you want to pat the monitor down, pat the monitor down.

But what about that particular one, Mr. Iyengar? Anything you wanted to say about that, like that the monitor should be able to talk to people in person in a private room and not have a glass partition between them and the individual?

MR. IYENGAR: I think that your Honor identified a concern about that specific provision because it would allow contact interviews regardless of security concerns. And, so, I think that's something that would need to be accounted for.

THE COURT: Okay.

MR. IYENGAR: We do have thoughts about the other ones, your Honor, but we'll wait until your Honor's read for it.

THE COURT: All right. Why don't you -- the ones we've already done, if you haven't had a chance to say those concerns, why don't you say those now. This would be a good time. Okay.

MR. IYENGAR: Okay. Thank you, your Honor.

With respect to bringing in materials, like things that are otherwise prohibited, cell phones, we think that the order should instruct that the monitor is not permitted to

take photos or make audio or video recordings using that equipment for security reasons.

With respect to observing the meetings -- and we removed that one.

With respect to reviewing facility video relevant to healthcare, I think that's probably okay if it's strictly limited to healthcare, but the warden should be able to limit -- or his designee limit access if there are legitimate security concerns associated with providing that video because of what it -- what it reflects.

With respect to inspecting any areas, the order -- proposed order is not limited to medical areas, and we think that it should be -- to the extent that the Court is inclined to order access, it should be just to the medical areas, not every single area in the facility.

And then with respect to any counsel attending, again, I think we covered that point.

Oh, with respect to the advanced notice, my understanding is that it will be challenging to schedule it with only 48 hours' notice. So, we would ask for a week of notice to the facility and that the visit take place on -- on weekdays.

THE COURT: Okay. If we could go back for just a second, there -- I can see why they may have to look -- when you say just the medical, in other words, I -- I don't know.

There may be a doctor who has an office and a nurse who has an office and some room that sick people are held in and -- and super sick people held somewhere else to transfer them to in, I don't know, an ambulance or something. But there may be other aspects of the facility that -- that may impinge on someone's health. I'm not sure, and let me give Ms. Mendelson a chance to -- to just elaborate on that as to why they feel a broader definition than just like "healthcare facility".

MS. MENDELSON: California City Medication Administration and also medical interactions between medical staff and patients happen in housing units throughout the facility. So, one critical function that a monitor does is evaluate pill call, and that's how a person gets their meds. That's happening in every part of the facility and essential for the monitor. I've never been -- I've never seen a monitor not take a very careful look at that. So, I think that restriction would unduly impede their ability to do their job.

THE COURT: I might suggest that one of the concerns, because it is essentially a locked facility, is that before I sign any order of this nature -- and I do think it's important to have it, if just to protect everybody in terms of not having to deal with what can be done and can't be done and given and not given, that you do

confer with government counsel and that if there are places that you may be able to insert something about the security, you know, then, unless constituting a security concern or, you know, a -- I don't know. But we want to be careful that as a result, they just don't lock everything out and you don't get anything because everything's a concern.

So, it would have to be fairly limited in where whatever it is gets put and also how it's framed. If that would help at all, that -- that might be a good idea.

Now, it says that -- all right. For example, where Mr. Iyengar was saying, Well, they shouldn't be able to do certain things with a cell phone, that could be in some way suggested language by him through -- you know, obtained through whatever communication he has with the client, and then that could possibly be built in. So, it isn't like you bring it in and you take pictures and you do this and that.

Now, should he be allowed to take pictures?

MS. MENDELSON: The monitor requested the ability to take photos because it is part of communicating with the Court their findings. Often their concerns do relate to physical plant. So, it is a typical -- in our cases, the monitors can and do take photos. They're often subject to a security review before produced to make sure they're not showing a lock or something that might produce security concerns.

THE COURT: Maybe there's something that could be elaborated on if -- if they want to take photos. Certainly photos, it seems, may well be important in certain instances. I don't know. All right.

You know, we had the blind guy in the top bunk, whatever. You know, someone who may be in fragile health not getting a sweatshirt or warm enough clothes, whatever. I don't know enough about what this place looks like, but it sure doesn't look like home I'm sure.

All right. Now, the external monitor -- this is number six -- shall be permitted to communicate ex parte with counsel for the parties as needed to perform his duties.

Now, do you have a problem with that in any way, Mr. Iyengar?

MR. IYENGAR: Yes, your Honor. I think we have a big problem with that. We think that that would destroy the independence and neutrality of the monitor and should absolutely be prohibited. And your Honor pointed to the fact that, either way, one party's monitor is going to get picked, and I think allowing ex parte communications with any monitor, whether it's ours that your Honor picks or Plaintiffs', would be highly problematic. And I'd point out, your Honor, that that ex parte communications with counsel was expressly disallowed in the case that Plaintiffs relied on during our hearing on February 6th for the

appointment of a monitor, the Hernandez case. In that case, the proposed order said, conversely, that the monitors shall not engage in ex parte communications, verbal or written, with counsel for either party. All written communications, emails, and document productions to or from the monitors shall be copied to counsel for all parties, and we think that that is what, you know, is appropriate in this case well.

THE COURT: All right. So --

MR. IYENGAR: No ex parte.

THE COURT: I'm sorry. So, the procedure that in lieu of what's being proposed here, you would say that if the monitor wanted to talk or had a question or wanted to talk to counsel, let's say, it should be to both counsel? In other words, just here's my question, not posed to lawyer A or lawyer B, and then -- and then what would -- what would be done with those? Was that by a filed document of some sort and you're like the monitor hereby requests or what?

MR. IYENGAR: No, your Honor. I think -- so, this would just be for counsel, of course, as your Honor identified, not obviously the detainees or the staff and stuff.

THE COURT: Um-hmm.

MR. IYENGAR: But it would be through -- if an email needs to be sent or a communication needs to be made

to counsel specifically, which I'm, you know, trying to think of a scenario where the monitor would ever need to talk to me or talk to my replacement as opposed to talking to the actual boots on the ground there, but say there was something they wanted to clarify, they would have to include everyone on that communication. They didn't have to go through the Court, but they could send an email copying everyone --

THE COURT: Okay.

MR. IYENGAR: -- and not, you know, just one side or making a phone call for one side. That wouldn't be appropriate either.

THE COURT: Okay. It may be then in cases where everybody says, Okay, this monitor is great. They've been on your side. They've been on my side, you know, if they need to talk to you or me, let's just make it easy. And in situations more like we have here which is not quite as agreeable, if you will, or agreed to, that it would be preferable not to have ex parte communication, but if there's something in particular you had in mind, Ms. Mendelson, as an example or otherwise, you can point it out.

MS. MENDELSON: This would be extraordinarily unusual. I list eight cases in my declaration, all pending right now with court-appointed monitors in which ex parte communication is permitted. It is unusual. I don't dispute

that Hernandez may have imposed that, but it would be an outlier. It is very standard to have ex parte communication.

Generally it's viewed that that allows Defendants to be more candid about areas of improvement, things that they want the monitor to look at that they may not want Plaintiffs' counsel to hear for Plaintiffs. It allows us to refer patient cases and not worry about retaliation to -- and -- and, so, it is very standard for a court-appointed monitor to be able to talk to both sides and we think it's productive and useful for the case and for the fact finding.

THE COURT: I'm not sure I'm totally following. So, let me go back for a second. This is not the facility talking to anybody. It is the monitor who might want to -- let's use your first example -- talk to defense counsel about something?

MS. MENDELSON: Yeah. I went yesterday, and here's the thing I'm looking at now. Can you give me more information about this? Defense counsel tends in these cases to be quite involved and to say, Oh, take a look at this. You may not have seen this. I spoke to the healthcare director. You should call them again.

And what plaintiffs do -- and I can speak from personal experience here -- is say, Here's five patients who don't -- I don't have the fear of retaliation, but they would be

people for you to look at because we've got concerns about sick call collection in their unit, and it enhances access to information.

THE COURT: I don't know. Why couldn't -- why couldn't someone -- there's nobody at the facility itself that they would feel comfortable conveying these particular concerns to I gather.

MS. MENDELSON: It has been an ongoing problem in this case more than any I've done before, the tremendous fear of retaliation, pervasive. It has been a true struggle to get information out because of the fear of retaliation by ICE.

THE COURT: Hmm.

MR. IYENGAR: (Indiscernible.)

THE COURT: -- have to rule on just without any particular agreement of counsel one way or the other.

Yes, Mr. Iyengar?

MR. IYENGAR: I mean, I think the difference here is that one side -- versus the other cases is one side is getting a monitor proposed by the other side. So, that's a meaningful distinction.

And also, your Honor, I -- I can't imagine a phone call with me about anything other than, you know, maybe one -- something a provision means, and that's just not an appropriate phone call to have with an independent monitor

outside of, you know, my colleague on the other side explaining their interpretation if it's different.

So, I -- I just can't imagine a context where this would be helpful. And if they're doing it for our sake, for Defendants' sake, then, you know, we -- we can disabuse the notion that this is valuable to Defendants here. I think it would be better to have it be very clear that there's no ex parte communications on one side.

THE COURT: Okay. Well, I -- the first point you made I've already pointed out of why the -- you know, that in the cases in which the ex parte was allowed, it may be because everybody had agreed on the monitor and that this case may be different in that regard, and I will keep that in mind.

Okay. Now we have -- because I want to be really careful that nobody accuses this monitor of being influenced improperly by anybody outside of just the monitor making their own determination.

Now, the last is by the conclusion of the term, then the monitor is to prepare a report and filed on the docket but contain no personal identifiers of patients.

So, what was the monitor supposed to do in that regard, code numbers of some sort or what?

MS. MENDELSON: That's typical, and that is what happened in Dr. Wilcox's -- well, in Dr. Wilcox's case, we

had permission, which is unusual. But filing a confidential sealed appendix makes a lot of sense in that case and is the standard practice.

THE COURT: Okay. So, the appendix goes under seal, and the rest goes in the public record?

MS. MENDELSON: Precisely.

THE COURT: All right.

(Pause.)

THE COURT: Okay. How about the rate, Mr. Iyengar, since that charge is going to go on your client's, you know, invoice? Is this a reasonable rate?

MR. IYENGAR: Oh, your Honor, we had a -- I had a comment on paragraph seven, the idea that the monitor will submit the report to the parties. Do you mind could I address that very quickly?

THE COURT: Yes. Yeah.

MR. IYENGAR: You know, I think that our view is absolutely that the initial report should be filed and the parties can file comments, and the monitor can respond. But the idea that the report can be sent to the parties ahead of time to comment on the report is a -- is a huge problem for us. In the Jensen case, there was some issues there in a declaration that was filed that I reviewed. In the Jensen case, that was permitted, that the report could be submitted to counsel ahead of time and -- and there the monitor was

Dr. Stern, and he changed a significant finding. He had found originally that Defendants were compliant on over, you know, 500 performance metrics, and after communicating with Plaintiffs' counsel -- after submitting the report to Plaintiffs' counsel, changed that and, so, the declaration in that case describing opposing counsel's conversation with him about why he changed it. But, to avoid that, the initial report should simply be filed rather than having any sort of opportunity to try to influence the monitor before it's filed.

THE COURT: Let's say then that it's filed. Just let's take your proposal on this. So, the monitor files the report. Then counsel could have an opportunity to request changes or suggestions could be made other than just in the context of some hearing on the report?

MR. IYENGAR: That would be fine. I think the most important thing is the first piece, that it's -- it's filed before any sort of communications with the parties about its -- about what -- you know, what's in the final report. Here they are saying that it should be submitted to them in final form rather than -- you know, and I think that's what you want to avoid, that it should be filed. And, thereafter, if the Court wants to permit parties to comment on it, that can be filed too, and then the monitor can respond to the comments.

THE COURT: Certainly, if the Court gets a report that says -- if the Court got a report that said when I first got there, this is what it looked like. They tell me they've done X, Y, and Z. Of course, I haven't been back to find that out because I only was given one visit. But, anyway, then the Court looks at that, and I don't know what they do. Maybe they say go back and look at again or they don't or whatever. But -- or maybe the monitor says it doesn't look like they're going to do it, and then you get the report and you've been, let's say, as counsel for the Defendant, advised that this has been done. All right. It's all been fixed up.

I'm not sure. You know, maybe you make some comment about it or maybe it's just the report gets filed and then ordinarily, if the Court doesn't -- if the Court has a hearing on it, then obviously any comments can be made, and there can be all kinds of things done or not done in light of the comments themselves. But if the Court doesn't have a hearing, then the report kind of sits there. So, there'd have to be some provision for counsel to be able to comment on it independent of a hearing, if you will.

Right now, the format is kind of like the criminal probation report, let's you in a criminal case, and then Probation prepares a report. It's shown to the parties before it's shown to the Court. The parties, if they have

objections or corrections, propose those to the Probation Officer who either makes them and the report just goes out without, you know, showing whatever the correction is because it's been corrected or if the Probation Officer doesn't agree with whatever, they -- they report the objection and then say, Okay, they objected to me including whatever in the report, and this is why I did it, and I think they're wrong that it has to be out, and then the Court can do what it wants with it.

And, so, here if you are worried that we are not dealing with a Probation Officer in the typical sense but a Probation Officer that was appointed by the Prosecution, then, all right. I can see why you might have a concern. So, I might change that part then.

Do folks want to talk about that as one of the items -- not this second, but to take a look at it and see if there's a way that you could make it work out? There may be some things that are a little different than ordinarily done because of the way that this monitor's getting chosen, you know. It -- it starts with an aberration, and it may produce aberrations. Okay.

MS. MENDELSON: Your Honor, I will just say that the experts often -- the monitors often request this. It's not a benefit to Plaintiffs, but they prefer to have an opportunity for small errors to get corrected before they

submit to the Court, and there often are very small errors, somebody clarifies one thing. I don't feel strongly about this, but I'm speaking here having spoken to many monitors. They feel this is important and equally beneficial to both parties to give an opportunity to clean up their product if they made a mistake or misheard something without it going and filing multiple corrected reports and having objections. And this is not ex parte or considered to be. All parties have an opportunity to participate, and everyone sees each other's proposed corrections.

THE COURT: Are these written and proposals?

MS. MENDELSON: They are, yes.

THE COURT: Well, that may make a little bit of a difference, Mr. Iyengar. Assuming these are not ex parte communications that everybody knows, a little bit like when there's an objection made to a pre-sentence report, it, I believe, is conveyed to -- if it's made by one side or the other to the other side. So, but even if not, there's a way that maybe you can deal with this so that you don't run into, Okay, now that I've seen that, I've got to do an amended report and what have you.

MS. MENDELSON: Exactly.

MR. IYENGAR: And here the -- the comments are simply submitted directly to the external monitor. And, so, I think, again, we would just recommend deleting those last

two sentences and changing it to, you know, after filing they should --

THE COURT: I heard that. All right. But what Ms. Mendelson said is that the monitors have asked and -- and the understanding that they may have made some mistakes, primarily more of a -- I don't want to call it a clerical error, but something that they have either misquoted, misdescribed or something, not so much substantive in -- in that regard, something that could be easily subject to correction, and if the comments are -- are made not ex parte but in some way submitted to everybody so that it's not like, Gee, I don't think you did a good enough job saying how bad of a job they're doing there but something more like you put a number down and you said 500 and it's really 50 or something like that where everybody can see it. They're really more concerned I think with small things, not overarching changes of their opinion. But I -- I would like you to just speak briefly to -- you know, when I give you this time to do it -- we're just doing a preview of what's going on here so we get some idea the magnitude of whatever the task is I give you, if I give it to you.

Okay. And what about the $500?

MR. IYENGAR: Your Honor, we -- I don't have any specific comments on that --

THE COURT: Okay.

MR. IYENGAR: -- that one.

THE COURT: All right.

MS. MENDELSON: I would like to offer that Dr. Anand Kumar's rate is a little bit lower. It's $425. We (Zoom glitch) at Dr. Stern's rate, but I just want to make sure the parties --

THE COURT: All right.

MS. MENDELSON: -- were informed about the lower rate.

THE COURT: Okay. You're getting a bargain.

MS. MENDELSON: Exactly.

THE COURT: All right. You're getting a bargain here because that can add up. Seventy-five dollars can add up, you know.

All right. I think that, again, Mr. Iyengar would prefer just stick with the generic. Let him in to have some reasonable access and make his report, and I do think it is important to lay out a little more clearly what he should be entitled to get, and under those circumstances, to try to avoid further disputes. I am going to issue some type of order beyond the one that I issued earlier on -- on what the rights and obligations are, if you will, both of the monitor, and I would give you whatever time -- I don't know what's going on in your respective offices, but whatever time you might need to discuss how there may be some

modifications that would work just to resolve certain concerns that really weren't intended to be presented by -- by the language used right now.

So, do you want to say a week? Do you want to say two weeks? What -- where are you?

MS. MENDELSON: Your Honor, I would implore the Court to make it a shorter period of time in light of the harm. I got an email this morning about someone with brain cancer who I'm interacting with trying to get to the doctor.

THE COURT: All right.

MS. MENDELSON: We believe the stakes are high here.

THE COURT: All right. Let me ask you a question, by the way, apropos of that. I received -- now, it's been filed on the 26th. So, I've gotten -- I know you saw it also, Mr. Iyengar -- a second notice of noncompliance regarding this one patient who really is very ill. And, so, the question I -- I just want to ask -- this was a little bit of a shot -- warning shot over the bow. We're going to have to come back if they don't get him in to see who he's supposed to see and get his results.

What happened? Anybody know?

MR. RAGLAND: Your Honor, Steven Ragland on behalf of the -- the Plaintiffs. It hasn't been resolved, your Honor. Mr. Viera Reyes has gotten -- finally got a biopsy

on January 7th. They didn't deliver him the results of that until more than a month later, February 12th. That showed a very severe cancer with Gleason Scores of 8 or 9. And he -- the urologist said he needs a PET scan. That was back in January. He still hasn't gotten one. And, you know, nothing has happened until we filed these notices. The Government is in contempt of your Honor's order. We really don't want to have to do another briefing cycle on that. We hope there's some movement. There's been minor movements since we brought our notice. We exchanged messages with Mr. Iyengar today. There's still no PET scan being scheduled -- that's been scheduled as far as we're -- as far as we know. And that's necessary, of course, so that Mr. Viera Reyes can begin treatment for his very serious cancer. And he's in -- he's in horrible pain. I mean, it's agony. It's torture, your Honor.

And, so, I'm not really sure what to do with this. We could file -- I really don't want to brief -- I mean, I'm just hoping that there -- this will get some attention. And, as Ms. Mendelson mentioned, this is sadly we don't think an isolated case. And, so, I think the faster that we get -- to that point, the faster we can get the monitor appointed and get this process going and move the case forward, that way I think probably the better. I think we'd be prepared by Monday to provide a revised form of order. I

would suggest that we speak live to Mr. Iyengar if he's in any way permitted. Maybe the Court could order an in -- a live meet and confer, and if -- if the Government can agree to some modifications, we'll be as flexible as we can on what absolutely needs to be done and take into account your Honor's direction in this -- and thoughts at this hearing, but we would ask that we submit that on Monday, because it is pretty dire, your Honor.

THE COURT: Well, I'm just -- frankly, this -- this order that you are seeking is not going to get him the speed of care that he needs.

MR. RAGLAND: We understand.

THE COURT: This order is to put a monitor in place who's got to get down there, and then what is he going to do when he finds this patient? Pick him up and carry him to the specialist himself?

I mean, at this point, something of a more immediate nature sounds like it's needed, not to mention I'm transferring the case, as I've said, and I've bought myself, you know, a lot of headaches here with all of you by being, you know, essentially implored to do something.

But I don't think that issuing this order is going to get him the care he needs in the time he needs it, and --

MR. IYENGAR: Your Honor --

THE COURT: -- so -- excuse me. Don't interrupt,

and then you can speak, all right. So, I -- I could give greater time a little bit, but I understand you don't want it to be on the long end to meet and confer.

All right. Now, Defendants' counsel.

MR. IYENGAR: Your Honor, I just -- you know, I wanted to vehemently disagree. The reason why this isn't part of the order, I believe, is because of how hard I'm working and the client is working to respond immediately to each of these concerns. The attempts were being made to schedule the next neurology appointment, the PET scans, dating back from before they filed the notice of noncompliance. The moment they sent -- in fact, even before -- but the moment they sent me an email identifying these issues, I wrote back. I wrote back again that -- they asked for a response within a few hours, but I couldn't give them a date and dates within a few hours, and I wrote back late that night saying I'm still working on this. But that night at 10 p.m., they filed a notice of noncompliance. The next day I immediately responded, not just on M. Viera Reyes, but on the other detainee that they had questions about who they didn't file a notice of noncompliance about.

And, so, it's not the notice of noncompliance that's moving us. We addressed both detainees, regardless of what was filed. And, to be clear, the neurology appointment was scheduled for March 3rd. There's a difference in

understanding. We've reviewed the notes that the facility has from Kern Medical which reflects that the individual had said, I want to wait until I make a decision on an oncology referral until my March 3rd appointment, which happened two days ago. Despite those notes, the facility -- ICE instructed the facility to go ahead and schedule the oncology appointment.

So, a lot of steps have been taken to really --

THE COURT: (Zoom glitch.)

MR. IYENGAR: -- move this case forward.

THE COURT: Okay. Nobody's trying to hold you in contempt, Mr. Iyengar. All right. The question is whether your client has followed the Court's orders or not, and there was an order for him to have a follow up that he was not taken to. And then from then on, things have not really moved along speedily.

Now, we are past March 3. Did this individual get taken to a medical specialist on March 3?

MR. IYENGAR: Yes, your Honor.

THE COURT: All right.

MR. RAGLAND: Your Honor, if I could clarify, he was taken to a urologist, not an oncologist. He has no PET scan --

THE COURT: And briefly --

MR. RAGLAND: -- the current schedule.

THE COURT: -- let me just do one thing at a time here.

MR. RAGLAND: Sorry, your Honor.

THE COURT: This is why I probably won't have a hearing like this again. Just plan to be here. Okay.

So, he did go, Mr. Iyengar, to a urologist, not an oncologist. How, he had seen a urologist for his first appointment I believe, and then was that a recommendation to see an oncologist or not?

MR. IYENGAR: The notes reflect, your Honor, that during the February 12th urology appointment, the individual -- the patient told the urologist -- this is occurring at Kern Medical -- that he wanted to wait to decide what treatment to pursue for his condition, and he would revisit it during the March 3rd appointment.

THE COURT: All right.

MR. IYENGAR: That is what the notes reflect.

THE COURT: Okay. All right.

MR. IYENGAR: That is what the notes reflect. The March 3rd appointment proceeded, your Honor, and --

THE COURT: Okay. All right. Let's not have, you know, the War and Peace version of everything if we can avoid it. I just think, you know, short novelette.

All right. Now, so, what -- what I'm looking at here is someone who let's say saw a urologist and I don't know

what options were given to him actually, but let us say for the moment that he thought he'd like to wait until early March.

So, then early March, he goes back to the urologist. And what was the up shot of that appointment, Mr. Iyengar, as you understand it since you've been following this?

MR. IYENGAR: At the appointment, the urologist ordered a STAT PET scan. It's outsourced. So, Kern Medical doesn't do PET scans. So, that has taken time to schedule. So, the STAT PET scan will occur -- we've told the facility to keep us -- excuse me -- told Kern Medical to keep us updated in realtime when you schedule the PET scan so we can convey that information, and there's a follow-up appointment with urology on April 7. The oncology appointment is also being scheduled. And, so, we're waiting to find out the specific dates.

THE COURT: Okay. Is this prostate cancer that he has?

MR. RAGLAND: Yes, your Honor.

THE COURT: All right. And there's a real question about it having already spread. And I do not know what treatment options are even available to him at this time. It doesn't sound like the kinds of treatments when something is just contained, you know, to the prostate, whether they do those radiation pellets or other things that

are focused very narrowly on the condition. If it's already out there, I don't know if he's a candidate for chemotherapy or whatever. But the concern is where he's being held while all this is going on. Ordinarily, if he weren't in this detention center, he could go to the doctor. He could get his appointments. They'd get him in where he needed to be, and he wouldn't be out in the middle of the desert somewhere. So, but he does have these biopsy results. It took quite a bit of time for him to get those results himself, and I'm not sure if ordinarily the doctors do give those until you come to the appointment or how that works.

But let us say that things are being done now. They were precipitated by the original failure. And, so, I guess I'll leave you to look into it further as needed, Mr. Ragland, if you have to. But Mr. Iyengar has an update on -- on what happened, all right, and that I did not have before, and perhaps you did not either. I don't know. I brought it up because all I had was the original February 26. Plaintiffs' counsel didn't bring it up.

THE COURT: All right now --

MR. RAGLAND: Thank you, your Honor.

THE COURT: All right. Then, Mr. Iyengar, as far as if you want to weigh in on the content of this particular proposed order once again having objected to an order of this sort being proposed at all or at least issued, do you

have a time frame that you would propose? Counsel is asking that you get together sometime in the next day or two and that by Monday you -- you've talked and the Plaintiff will submit a revised or not proposed order regarding the parties' respective rights and obligations with respect to the monitor.

MR. IYENGAR: Your Honor, knowing the process involved on our end, we would request -- I know your Honor said one or two weeks. We'd request a week as sort of the short -- on the shorter end given that a lot of these are very fact specific, and I'll have to communicate not just with my client with the proposed intervenor as well --

THE COURT: Um-hmm

MR. IYENGAR: -- to understand what --

THE COURT: Okay.

MR. IYENGAR: -- what can work.

THE COURT: All right. Let me think about it for a minute or two. I'm just going through the order again in terms of where the individual monitor is appointed. Well, let's see. This is Defendants.

(Pause.)

THE COURT: Give me a minute.

(Pause.)

THE COURT: All right. In item one, right now it says I'm appointing Mark Stern, M.D., and that would be

changed now. I will -- I will state that the Court finds that the second of the three proposed monitors in the Plaintiffs' Document Number 77, the Court finds is extremely well qualified to take on the obligations and the position of monitor.

I do appoint Dr. Muthasami Anand Kumar as the monitor, and his duties will be spelled out in greater detail in an order to be forthcoming.

As far as that particular order would be submitted, today is the 5th of March, and I am going to order the parties to meet and confer, and I -- I won't necessarily pick the modality of that conferring because if Mr. Iyengar doesn't feel comfortable with whatever I order, you will get less out of him than if you do it the other way.

So, I would say that that meet and confer is to be conducted no later than the end of the business day on March -- let's see -- 12th. That's a week off -- and that you on behalf of the Plaintiffs submit to the Court any revised proposed order with respect to what we've been talking about in terms of the rights and obligations of the monitor, and, likewise, you, Mr. Iyengar. And I guess those ought to be submitted to me no later than the 6th I would say, so that if they come in late on the 6th, I may not be able to issue them till the following Monday.

MR. IYENGAR: The 13th, your Honor? Did you mean

the 13th? The 6th is tomorrow, your Honor.

THE COURT: Oh, I'm sorry. I -- yes, you're right. By the 13th. Thank you very much.

And, so, the 12th and the 13th is what we're talking about. Wrap it up by the end of the business day on the 12th, and -- to submit no later than 4 o'clock on the 13th the respective proposals if you are revising your proposals.

I, Mr. Iyengar, you're not really proposing an order of this sort, you can figure out what you do want to say, whether it's by way of just objections, continued or otherwise, because your proposal is really just, you know, to stick with the original -- the original order. So, I'll leave you to how you want to handle that, but it would be by 4 on the 13th.

And then, depending on what I -- I need to do, it will need to go out shortly thereafter or on the following Monday, but that would be pretty much the latest I think.

And then if there are concerns about any individual Plaintiffs, I know that Mr. Iyengar has worked with you before in making efforts to get care for people that need it. And, so, I hope that he can continue to do that. I have already said when I transfer the case, I'll be sorry to see him go. But he's not going with it. It's going to go to somebody else in his office.

So, I think that I've covered everything I can at the

moment.

Yes, Mr. Ragland?

MR. RAGLAND: Thank you, your Honor. Two -- two minor things. One is we believe that the Court's preliminary injunction motion -- I'm sorry -- preliminary injunction order is fully supported by the record, and we believe that your Honor was relying no that record in its order. Earlier in this hearing, however, your Honor suggested perhaps you would consider a form memorandum of opinion to supplement the -- the written record, and I just wanted to follow up on that. We'd be pleased to submit one if your Honor is open to it, but we don't want -- you know, we take your direction at that.

THE COURT: Well, I wouldn't necessarily turn you off on that. If I were going to do it totally from scratch, for example, I have to go back to the record and find all of the matters that it's possible you have more quickly at hand, but I've -- I've kind of summarized them again on the record --

MR. RAGLAND: Yeah.

THE COURT: -- here, but I'm not -- I don't want to just rely on what I'm saying essentially without sitting there really planning it out. It just seemed to me that some of what you presented was so extremely clear that this is just not right and that it would be in violation and,

therefore, likely that you would prevail at least on the claims that clearly relying on things that were presented to me.

And, so -- and then the harm was just so obvious, and there's no real counterbalance to that, and the public certainly doesn't have an interest in people not getting humane treatment. So, but I did not because really I -- and it's clear that I wasn't planning on doing that. And, so, I was working off of the -- the circumstances presented, and I did want to help if I could to get things rolling because --

MR. RAGLAND: Well, we can -- we can submit, your Honor, within a week of today a proposed form of memorandum opinion that your Honor can -- the Court can take and adapt, can throw away, whatever the Court would like, as long as the Court would welcome that submission.

THE COURT: I -- I'd be happy to receive it.

MR. RAGLAND: Thank you. And then the last thing, your Honor, as -- as the Court noted, nonparty CoreCivic moved to intervene in the case and simultaneously moved to stay the case. So, as it stands, the briefing for both of those motions is in the same cycle.

I mean, this is -- I don't believe that any nonparty has standing to move for substantive relief such as a stay unless they're actually a party to the case. So, I would ask that we stagger those and that the motion to stay

briefing be held in abeyance until the Court's decision on the motion to intervene.

THE COURT: Okay. Let me take what I did get from CoreCivic. They have -- everything's called emergency motion. All right. Whether there is a cognizable emergency or not I haven't ruled on.

All right. They have an emergency motion to intervene and -- and they have an emergency motion to stay pending appeal. But, of course, as you point out, they're not a party at the moment to the case. Now, that hasn't stopped them from appealing. They have --

MR. RAGLAND: I noticed that, your Honor.

THE COURT: -- filed an appeal. So, but currently, the -- the emergency motion to intervene is scheduled for April 10, and the -- you're suggesting the motion to stay be held in abeyance until I rule on the motion to intervene.

Well, I don't really want to open this hearing up to an issue that directly affects CoreCivic, all right, because then I've got CoreCivic in this hearing, which I had not planned to have them in this hearing, though they certainly have a right to, you know, be heard on their respective motions.

So, it may well be that I do not rule as just a practical matter on the motion to stay unless and until I

grant intervention.

Now, the way things are stacking up, they wanted to avoid my appointing a monitor, adding any further description to what the monitors could do, et cetera, and wanted to lay a role in that today, which I did not feel was appropriate to start getting emergency expedited briefing on all this.

So, the intervention motion may be one of some interest. But, in any event, I'm going to hear it in the ordinary course not on short-term briefing. If they -- now, looking at where we are, this case may be actually transferred by the time that this motion would come up, and then I'm not sure what would happen if it goes forward with the case to the Eastern District. The Eastern District certainly can consider it, decide whether CoreCivic should intervene if I have not yet ruled on that. And then at that point, if they want to hear why no monitor should have been appointed and no injunction should have been, you know, issued and that CoreCivic didn't have a chance to weigh in on any of that, then they can go back and decide whether things should be reconsidered.

MR. RAGLAND: Understood, your Honor. And --

THE COURT: All right.

MR. RAGLAND: I'm sorry. I didn't mean to interrupt your Honor.

THE COURT: Well, yes. So, for now, though, I am not going to take any action with respect to the motion to intervene or the motion to stay other than what I've already taken in ruling on the one matter.

MR. RAGLAND: That's fine, your Honor. We'll just brief them together. That's all. I was trying to avoid simultaneous briefing, but that's fine. We can brief them together, your Honor.

THE COURT: Well, what you can do is you -- if you prefer, is you can file a written request of some sort if you feel that's appropriate. CoreCivic could then have a chance to weigh in on it, and maybe they understand that maybe it's better to just do them one at a time. It may be easier for them. That's up to you folks. But, for now, I'm not ruling on it ex parte, and I'm not bringing them on this hearing --

MR. RAGLAND: Understood.

THE COURT: -- because then --

MR. IYENGAR: Your Honor, may --

(Simultaneous speaking.)

MR. RAGLAND: Understood, your Honor.

THE COURT: Okay.

MR. IYENGAR: May I just address one of the points that Plaintiffs' counsel raised, your Honor, not related to this issue but the submission of the additional proposed

memorandum opinion?

THE COURT: Oh, sure.

MR. IYENGAR: I just wanted to let you know, your Honor, that, you know, the Court's prior order already needs to be read in conjunction with your Honor's oral rulings. So, you know, there's no need for Plaintiffs to submit an additional opinion. The Court would still need to cross-reference it against the transcript. I'm not sure how it saves any time, and I also just want to flag a procedural issue because technically I think now that an appeal has been filed of that order, there might be an issue of obtaining the Appellate Court's leave to modify that order.

And, so, I think the fact that we have the Court's order and our five-hour hearing transcript is sufficient to establish the record of what the Court ordered on February 6th, and submitting an additional memorandum and proposed memorandum opinion to the Court is unnecessary, and it would generate a lot of work in reviewing that against the transcript and ensuring that it actually says what the Court said, rather than simply relying on the transcript and the Court's order.

THE COURT: Well, it would not necessarily be simply parroting what the Court said. It would be essentially drawing conclusions that were not articulated directly during the course of the hearing. All right. If

they were already articulated and CoreCivic is simply not correct in whatever the record reflects when they said, You didn't find anything, all right. Then if they weren't articulated, then the idea of the supplemental memorandum, if you will, or whatever you want to call it, the memorandum of decision, would be essentially adding those findings having been based on the record, though, all right, but not somebody saying, And, as I said back then, because I didn't say it in all likelihood in as clean and tidy a way as would have avoided the particular commentary being made. That doesn't mean that the record doesn't support the very short findings that I made in the order that was given to me at the time, and if that is adequate to actually support, then it's not necessary that I say anything else.

All right. So --

MR. IYENGAR: I think -- I think, your Honor, that --

THE COURT: Wait. Aren't you interrupting again? Wasn't I talking?

MR. IYENGAR: I'm sorry, your Honor.

THE COURT: All right. So, just keep quiet for a minute. All right.

So, in any event, if -- if that isn't what you meant, fine. The point is that there's an appeal that probably the appellant doesn't have standing to bring. But whether or

not an appeal of that nature would preclude any further action on the case is a very good point. All right. And, so, it may be that I'll just suggest, Mr. Ragland, that you'll look into it if you want and decide what you want to do with that essentially.

This would be the equivalent of a written order before that actually makes the ruling if he were doing it, not simply saying, As I said, in case anybody missed it. Nobody's missing anything in the record.

All right. Now, if I didn't cover whatever your concern is, tell me now. This is your last word.

MR. IYENGAR: Last word, your Honor. To the extent the Court is correcting alleged omissions in a prior order, that has to go to the motion for leave to file reconsideration process under Rule 60 and Local Rule 7-9. That's all I'll say on that, your Honor.

THE COURT: Yeah. I -- I disagree. Okay. That's my last word on that.

So, we will now see where we are, but the main point is that the easiest way is to let the matter go forward with the actual appellants, if they're going to be real appellants instead of another appellant, if it goes forward with the Government appealing, for example, then I can go forward on the record if Plaintiffs are satisfied that the Court didn't have to say what was clearly implied. All

right.

If the Court has to articulate it as opposed to it being the -- the implicit basis of the Court's ruling, then there may be a problem here. If the Court did not say it word by word, then we're fine, all right, because I think the record does support what I found.

Okay. And, so, that will be all I'm going to say on that matter, and maybe it's not worth the effort, Mr. Ragland, unless and until at least you are of the view that action can be taken despite the appeal that's been filed.

MR. RAGLAND: Understood, your Honor. And I would never be presumptuous that the Court would ever do anything other than enter its own order based on full consideration. So --

THE COURT: No, I understand.

MR. RAGLAND: Thank you, your Honor.

THE COURT: Okay. So, I think at this point we may just call this particular matter over, and we'll be in recess for the rest of whatever's left of the day. Thank you.

MR. RAGLAND: It's 5 o'clock somewhere, your Honor. Thank you.

THE COURT: Oh, it always is. 5 o'clock doesn't do me much good. I'll be here a lot longer than that, and you'll probably be at your offices longer than that as well.

Wherever you are, have a nice evening.

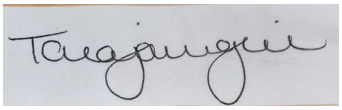
We're in recess. Thank you.

(Proceedings adjourned at 4:41 p.m.)

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



Echo Reporting, Inc., Transcriber

Thursday, March 12, 2026

Daniel P. Struck, Pro Hac Vice
AZ Bar #012377
Dana M. Keene, CA Bar #324993
Shannon L. Knorr, CA Bar #300399
STRUCK LOVE ACEDO, PLC
3100 West Ray Road, Suite 300
Chandler, Arizona 85226
Tel.: (480) 420-1600
Fax: (480) 420-1695
dstruck@strucklove.com
dkeene@strucklove.com
sknorr@strucklove.com

Nicholas H. Rasmussen, Bar #285736
McCORMICK, BARSTOW, SHEPPARD, WAYTE & SMITH, LLP
7647 North Fresno Street
Fresno, CA 93720
Tel: (559) 433-1300
Fax: (559) 433-2300
nrasmussen@mccormickbarstow.com

Attorneys for Intervenor CoreCivic, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

FERNANDO GOMEZ RUIZ, et al.,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.,

Defendants.

CORECIVIC, INC.,

Intervenor

Case No. 3:25-cv-09757-MMC

NOTICE OF APPEAL

Pursuant to Federal Rule of Appellate Procedure 3(a), proposed Intervenor CoreCivic, Inc. hereby appeals to the United States Court of Appeals for the Ninth Circuit the Court's February 10, 2026 Order granting in part Plaintiffs' Motions for Preliminary Injunction and Class Certification. (Dkt. 72). *See* 28 U.S.C. § 1292(a)(1); Fed. R. App. P. 4(a)(1)(B); *see also, e.g.*, *Montana Wildlife Fed'n v. Haaland,* 127 F.4th 1, 34 (9th Cir. 2025).

DATED this 4th day of March 2026.

STRUCK LOVE ACEDO, PLC

By /s/ Daniel P. Struck
Daniel P. Struck
Dana M. Keene
Shannon L. Knorr

Nicholas H. Rasmussen
McCORMICK, BARSTOW, SHEPPARD, WAYTE & CARRUTH LLP

Attorneys for Intervenor CoreCivic, Inc.

DECLARATION OF CHRISTOPHER CHESTNUT

I, Christopher Chestnut, state the following based upon my personal knowledge.

1. I am over the age of 18 and am competent to testify to the matters set forth in this Declaration.

2. I am currently the Warden at CoreCivic's California City Correctional Facility[1] ("Cal City" or "the facility"), located at 22844 Virginia Boulevard, California City, a position I have held since June 2025.

3. The facility is owned and operated by CoreCivic. The facility currently houses federal immigration detainees pursuant to a contract with Immigration and Customs Enforcement ("ICE").

4. Prior to transferring to Cal City, I was the Warden at Nevada Southern Detention Center and the Assistant Warden at the Northeast Ohio Correctional Center.

5. I have been employed by CoreCivic since 1995 and have more than 27 years of corrections and detention experience, including supervisory positions at multiple facilities utilized by ICE to house civil immigration detainees.

6. I make this Declaration in response to the Court's Order Granting in Part Plaintiffs' Motions for Preliminary Injunction and Class Certification (Dkt. 72) in the matter of *Fernando Gomez Ruiz, et al. v. U.S. Immigration and Customs Enforcement, et al.*, Case No. 3:25-cv-09757-MMC, in the Northern District of California.

7. Although the operations of the Cal City facility will be significantly impacted by the Court's Order, the Court did not have the benefit of my perspective on the current status of medical care, recreation, or access to counsel at Cal City when granting the relief requested by Plaintiffs.

[1] The facility has also been variously referred to as the California City Correctional Center, California City Immigration Processing Center, and California City Detention Facility.

8. There have been significant changes and improvements at Cal City in the six months since it reopened, but these are not reflected in the evidence presented by Plaintiffs.

Experience with ICE Detainee Populations

9. It is my understanding that the Court made several remarks during the February 6, 2026 hearing that CoreCivic and its employees do not have experience with managing ICE detainee populations. This is not accurate.

10. CoreCivic was founded in 1983 as Corrections Corporation of America ("CCA").[2] CCA's first contract was to house Immigration and Naturalization Service ("INS") detainees.[3] In the more than 40 years since that first contract, CCA and CoreCivic have continued to house civil immigration detainees.

11. Since 2008, CCA and CoreCivic have housed ICE detainees at 28 of their facilities nationwide. During that time frame, there were more than 1 million ICE detainees booked into CCA and CoreCivic facilities.

12. Currently, CoreCivic houses ICE detainees at Adams County Correctional Facility ("Adams"), Cal City, Central Arizona Florence Complex, Cibola County Correctional Center, Eden Detention Facility, Elizabeth Detention Center, Eloy Detention Center, Houston Processing Center, Laredo Processing Center, Nevada Southern Detention Center ("Nevada Southern"), Northeast Ohio Correctional Center, Otay Mesa Detention Center, South Texas Family Residential Center, Stewart Detention Center, T. Don Hutto, Torrance County Detention Center, Webb County Detention Center, West Tennessee Detention Facility, Cimarron, Farmville, and Diamondback.

13. Including Cal City, CoreCivic currently has a design capacity of more than 20,000 beds at facilities with ICE as its primary partner.

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[2] CCA changed its name to CoreCivic in 2016.

[3] INS oversaw immigration until its functions were transferred to the Department of Homeland Security.

14. This is not the first time Cal City has had an ICE detainee population. Prior to leasing the facility to the California Department of Corrections and Rehabilitation, CCA housed nearly 10,000 ICE detainees at Cal City.

15. I personally have held supervisory positions at multiple CoreCivic facilities housing ICE detainees, including Adams, Nevada Southern, and Cal City. I was the Assistant Warden at Adams when we transitioned from a Bureau of Prisons population to ICE.

16. In my experience, a civil immigration detainee population is not significantly different from a typical pre-trial detainee population (e.g., United States Marshals Service detainees) or sentenced prison inmate population with respect to their need for health care services. However, the level of acuity is higher with this detainee population, which is reflected in our designation as a level III medical and level III mental health facility in the contract with ICE, as well as in our staffing pattern.

Medical and Mental Health Care

17. CoreCivic's contract with ICE for Cal City requires us to comply with the ICE 2025 National Detention Standards ("NDS 2025"), including with respect to health care.

18. CoreCivic's contract also sets a required staffing pattern, including for health care and health services administration positions.

19. ICE regularly monitors our compliance with the NDS 2025 and the contractually required health care staffing pattern.

20. CoreCivic's policies with respect to health care at Cal City are tailored to comply with applicable NDS 2025 standards, as well as applicable standards promulgated by the National Commission on Correctional Health Care ("NCCHC") and the American

Correctional Association ("ACA"), the two most widely recognized standards and accreditation bodies for detention and correctional settings.[4]

21. CoreCivic's policies were submitted to ICE for review and approval at the beginning of the contract at Cal City, and proposed policy revisions are also subject to review and approval by ICE.

22. Paragraph 1 of the Court's Order does not provide objective timeframes in which the listed healthcare tasks must be completed, which makes it impossible for us to evaluate whether we are in compliance. Likewise, the use of adjectives such as "adequate" and "responsive" are highly subjective and fail to provide us with any guideposts for demonstrating compliance.

23. An external monitor working off the Court's Order, which does not define "timely," "adequate," or "responsive," will have unfettered discretion to come up with their own standards, which are likely to conflict with or exceed the NDS 2025 and CoreCivic policies that we are required to follow.

24. The following NDS 2025 standards, which are objective and measurable, are applicable to Paragraph 1 of the Court's Order.

25. NDS 2025 Standard 4.3(II)(D) requires that within **12 hours** of arrival, new arrivals receive "an initial medical, dental, and mental health screening and be asked for information regarding any known acute, emergent, or pertinent past or chronic medical conditions, including history of mental illness, particularly prior suicide attempts or current suicidal/homicidal ideation or intent, and any disabilities or impairments affecting major life activities." The standard further states that a "detainee responding in the affirmative shall be sent for evaluation to a qualified, licensed health care practitioner as quickly as possible, but no later than **two working days**."[5]

[4] CoreCivic intends to seek NCCHC and ACA accreditation at Cal City.

[5] CoreCivic Policy 13-50: Initial Intake Screening at Cal City includes identical requirements.

26. NDS 2025 Standard 4.3(II)(E) requires the facility to "conduct and document a comprehensive health assessment, including a physical examination and mental health screening, on each detainee within **14 days** of the detainee's arrival at the facility." The standard provides that the comprehensive health assessment "shall be performed by a physician, physician assistant, nurse practitioner, registered nurse (RN) (with documented initial and annual training provided by a physician), or other health care practitioner, as permitted by law," but if the assessment is performed by an RN, it must be reviewed by a provider.

27. NDS 2025 Standard 4.3(II)(H) requires the facility to perform an initial dental screening exam within **14 days** of a detainee's arrival.

28. NDS 2025 Standard 4.3(I) governs sick call and requires that the facility "have procedures to ensure that all request slips are received and triaged by the medical staff within **24 hours** of receipt of the request." The standard further provides that a "health care practitioner" must "review the request and determine when the detainee will be seen based on the acuity of the problem."

29. NDS 2025 Standard 4.3(J) requires that the facility "have a written plan[6] for the delivery of 24-hour emergency medical and mental health care when no medical personnel are on duty at the facility, or when immediate outside medical attention is otherwise required."

30. NDS 2025 Standard 4.3(II)(K) requires that detention and health care staff "be trained to respond to health-related emergencies within a **4-minute** response time." The training must include "recognition of signs of potential health emergencies and the required response"; "administration of first aid and cardiopulmonary resuscitation (CPR)"; "recognition of signs and symptoms of mental illness"; and "[t]he facility's established

[6] Our plan provides that the medical department is staffed on-site 24/7. We contract with Hall Ambulance for emergency medical services, emergency medical transports, and medical evacuations. There are two helicopter landing areas on-site for medical evacuations.

plan and procedures for providing emergency medical care including, when required, the safe and secure transfer of detainees for appropriate hospital or other medical services."

31. NDS 2025 Standard 4.3(II)(S)(2) requires that "[a]ny detainee referred for mental health treatment shall be triaged for any emergency needs and receive an evaluation by a qualified mental health provider no later than **seven days** after the referral."

32. NDS 2025 Standard 4.5(II)(C) requires that all detainees "receive an initial mental health screening within **12 hours** of admission by a health care practitioner or a specially trained detention officer." Standard 4.5(II)(D) further provides that "[d]etainees identified as at risk for suicide or self-harm shall be immediately referred to a mental health provider" and "[a]n evaluation shall take place within **24 hours**."

33. In addition to the Court's Order not providing any objective metrics for compliance, it also exceeds all applicable detention standards (NDS 2025, NCCHC, and ACA) with respect to the level and credentials of personnel permitted to perform initial intake screenings.

34. The Court's Order requires a "comprehensive, documented medical intake screening, performed by a qualified medical provider within 12 hours of a person's arrival." (Dkt. 72, Paragraph 1(b.) (Emphasis added.) "Qualified medical provider" is not defined in the Order, but typically "provider" means a Nurse Practitioner, Physician's Assistant, Physician, or a similar level of license, and does not include a Registered Nurse ("RN") or Licensed Vocational Nurse ("LVN").

35. NDS 2025 Standard 4.3 Section (II)(D) provides that the initial intake screening may be completed by "a **health care practitioner or a specially trained detention officer**." NDS 2025 Standard 4.3 Section (II)(C) defines "health care practitioner" as "an individual who is licensed, certified, or credentialed by a state, territory, or other appropriate body to provide health care services within the scope and skills of the respective health care profession."

36. The NCCHC issues two sets of standards—the NCCHC Standards for Health Services in Jails, which apply to jails and detention facilities, and the NCCHC Standards for Health Services in Prisons. The Jail standards are applicable to detention facilities, such as Cal City.

37. Initial intake screenings, such those contemplated in the Court's Order at Paragraph 1(b), are discussed in NCCHC Standard J-E-02: Receiving Screening, which states: "Screening is performed on all inmates upon arrival at the intake facility to ensure that emergent and urgent health needs are met." J-E-02 provides that a receiving screening is intended to "fulfill four purposes:

> a. Identify and meet any urgent health needs of those being admitted
> b. Identify and meet any known or easily identifiable health needs that require medical intervention
> c. Identify and isolate inmates who appear potentially contagious
> d. Obtain a medical clearance when necessary.

With respect to the individuals permitted to perform the screening, J-E-02 states, "[i]n all facilities **where health staff are available, it is expected that they conduct the initial screening**. However, this standard allows receiving screening to be conducted by health-trained correctional staff members when health staff are not on duty."

38. Initial Appraisals referenced in Paragraph 1(c) of the Court's Order correspond to NCCHC Standard J-E-04: Initial Health Assessment. Like the NDS 2025, J-E-04 requires the completion of an initial health assessment **within 14 days**. J-E-04 provides that initial health assessments include:

> a. A qualified health care professional collecting additional data to complete the medical, dental, and mental health histories, including any follow-up from abnormal findings obtained during the receiving screening and subsequent encounters
> b. A qualified health care professional recording of vital signs (including height and weight)

> c. A *physical examination* (as indicated by the patient's gender, age, and risk factors) performed by a **physician, physician assistant, nurse practitioner, or RN**
> d. A screening test for latent tuberculosis (e.g., PPD, chest X-ray, laboratory test), unless completed prior to the initial health assessment

39. The NCCHC defines "qualified health care professional to include "physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for patients."

40. Attachment A is a true and correct excerpt of the NCCHC Standards for Health Services in Jails, 2018.[7]

41. The ACA Performance-Based Standards and Expected Practices for Adult Local Detention Facilities (5th ed.) applies to jails and detention facilities. The ACA also has a separate set of standards for prisons.

42. ACA Standard 5-ALDF-4C-23: Health Screens covers intake health screenings, which correspond to the screenings contemplated in Paragraph 1(b) of the Court's Order. Standard 5-ALDF-4C-23 states: "Intake health screening for inmates commences upon the inmate's arrival at the facility and is performed by **health-trained or qualified health care personnel**. All findings are recorded on a screening form approved by the health authority."

43. ACA Standard 5-ALDF-4C-25 – Health Appraisal covers comprehensive health appraisals, which correspond to the health appraisals contemplated in Paragraph 1(c) of the Court's Order. Standard 5-ALDF-4C-23 states in part: "A comprehensive health appraisal for each inmate is completed by **qualified health care personnel** within 14 days after arrival at the facility.

[7] The 2018 version was in effect at the time this lawsuit was filed.

44. The ACA defines "qualified health care personnel" as encompassing "Health care professional OR Professional Staff or health care practitioner/provider." A "Health care professional" means "staff who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional's scope of training and applicable licensing, registration, certification, and regulatory requirements." "Professional staff" means "social workers, probation officers, and other staff assigned to juvenile and adult offender cases. These individuals generally possess bachelor's degrees and advanced training in the social or behavioral sciences." "Health care practitioner/provider" means "clinicians trained to diagnose and treat patients, such as physicians, dentists, psychologists, licensed professional counselors, licensed social workers, podiatrists, optometrists, nurse practitioners, and physician assistants.

45. Attachment B is a true and correct excerpt of the ACA Performance-Based Standards and Expected Practices for Adult Local Detention Facilities, 5th ed.

46. At Cal City, RNs and LVNs perform the initial intake screenings, while NPs and Physicians perform the comprehensive health appraisals. We do not use detention officers to perform initial intake screenings or comprehensive health appraisals.

47. If we are required to have NPs or above perform the initial intake screenings at Cal City, which goes well beyond any of the above detention standards, we will have to hire at least five additional NPs above the approved contractual staffing plan, at an approximate cost of **$901,250 per year** to CoreCivic. This would allow for 24/7 shift coverage with a relief factor. This is assuming that we are able to recruit that many additional NPs who are willing to work at an ICE detention facility in California City, which is highly speculative.

48. Even if we were able to recruit five additional NPs, they would still have to complete background clearances performed by DHS and credentialling, which would likely take at least four to five months, before they would be eligible to work at the facility.

They would then have to complete on-site training, which takes approximately three to four weeks, before they would be able to see patients. Thus, even if we were able to immediately secure five additional NPs, they would not be in place prior to the expiration of the 120-day monitoring period in the Court's Order. To comply with the Court's Order in the interim, we would have to attempt to fill those positions through overtime assignments, at an even greater cost to CoreCivic. There is also the potential that CoreCivic could undertake the hiring, credentialing, and training of these individuals only to have the goal posts moved due to the subject nature of the Court's Order.

49. In addition to the cost of hiring five NPs to comply with the requirement in Paragraph 1(b) to have initial intake screenings be performed by a provider, Paragraph 1(a) of the Court's Order requiring "adequate health care staff" is likely to lead to additional staffing costs because it will be based on the subjective opinion of a monitor.

Recreation

50. We have been consistently offering outdoor recreation for one hour a day, seven days a week prior to the Court's Order.

51. This is more than required by the NDS 2025. Standard 5.2 Section II(A)(1) states: "If outdoor recreation is available at the facility, it shall be offered at a reasonable time of day. Weather permitting, each detainee shall have access for at least one hour per day, five days per week; or, six or more hours per week, at least four days per week." Section (A)(2) states: "If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light."

52. Male and female detainees are not permitted to recreate together. The female detainees go to recreation on a yard adjacent to their housing unit, while the male detainees go to recreation on the main recreation yard.

53. In addition to the outdoor recreation yards, we also have an indoor gym with cardiovascular exercise equipment.

54. Prior to the Court's Order, we offered female detainees the choice whether to participate in recreation in the indoor gym or the outdoor recreation yard, and they generally preferred to use the indoor gym. After issuance of the Court's Order requiring outdoor recreation, however, to comply with the Order, we are no longer offering detainees the option of recreation in the indoor gym.

Access to Counsel

55. NDS 2025 Standard 5.5 Section (II)(G)(2) states: "The facility shall permit legal visitation seven days a week, including holidays. It shall permit legal visits for a minimum of eight hours per day on regular business days, and a minimum of four hours per day on weekends and holidays."

56. Prior to the Court's Order, our legal visitation hours were already 8:00 am to 8:00 pm daily, which exceeds the NDS 2025 requirements.

57. In early February 2026, Cal City went live with an online scheduling system called Detention Facility Appointment Scheduler ("DFAS"), which was created by ICE to fulfill a Congressional mandate to create an online system for scheduling and managing legal visitation at detention facilities. DFAS is used by ICE at more than 30 detention centers throughout the United States to schedule legal visits, virtual attorney visits ("VAVs"), and legal calls. *See* https://www.ice.gov/eroefile/dfas.

58. To access DFAS, attorneys register for an account through ERO eFile, submit a G-28 Notice of Entry of Appearance as Attorney or Accredited Representative, and then log in to DFAS to select an available time slot for an in-person legal visit, VAV, or legal call.

59. DFAS is available to attorneys 24/7 for scheduling in-person legal visits, VAVs, and legal calls.

60. Instructions for scheduling in-person legal visits, VAVs, and legal calls at Cal City are available at https://www.ice.gov/detain/detention-facilities/california-city-

detention-facility under the "Hours of Visitation" tab. That page also includes a link to ERO eFile.

61. The Cal City "Hours of Visitation" page has been updated to reflect the requirements in the Court's Order for three-hour, contact legal visits and 90-minute VAV sessions and facilitated legal calls at Cal City.

62. DFAS has been reconfigured by ICE for three-hour blocks for in-person legal visits and 90-minute blocks for VAVs and facilitated legal calls at the facility.

63. Cal City currently has four rooms that can be used for contact legal visits. Due to the Court's Order requiring that in-person legal visits be three hours in duration, only four in-person legal visits can be scheduled per room per day.

64. We have submitted a proposal to subdivide the four legal visitation rooms and install soundproofing barriers, which will create a total of eight rooms for contact legal visitation.

65. This project is anticipated to cost CoreCivic approximately **$19,875**, not including electrical work, which is anticipated to be another **$5,000-7,000**.

66. Once the project is complete, we will be required to staff the area with an additional officer, at an approximate cost of **$104,083.20 per year** due to the need to visually monitor the additional four contact visitation rooms.

67. Due to the need to keep detainees separated by custody level and gender for safety and security reasons,[8] we have a weekly schedule that allocates the rooms in blocks by classification/gender combination. Each classification/gender combination is allocated at least one block per day. We rotate the blocks across a seven-day period so that attorneys will have equal access to various time slots.

[8] There are four classification/gender combinations at Cal City: low male (LM), high male (HM), low female (LF), and high female (HF). Each must be kept separate from the other three at all times.

68. Below is a seven-day schedule for the Cal City VAV area. We provide the schedule to ICE for configuring DFAS.

Day 1

0800 - 0930	LM	1400 - 1530	HM	
1000 - 1130	LM	1600 - 1730	LF	1
1200 - 1330	LM	1800 – 1930	HF	

Day 2

0800 - 0930	HM	1400 - 1530	LM	
1000 - 1130	LF	1600 - 1730	LM	2
1200 - 1330	HF	1800 – 1930	LM	

Day 3

0800 - 0930	LM	1400 - 1530	HF	
1000 - 1130	LM	1600 - 1730	HM	3
1200 - 1330	LM	1800 – 1930	LF	

Day 4

0800 - 0930	HF	1400 - 1530	LM	
1000 - 1130	HM	1600 - 1730	LM	4
1200 - 1330	LF	1800 – 1930	LM	

Day 5

0800 - 0930	LM	1400 - 1530	LF	
1000 - 1130	LM	1600 - 1730	HF	5
1200 - 1330	LM	1800 – 1930	HM	

Day 6

0800 - 0930	LF	1400 - 1530	LM	
1000 - 1130	HF	1600 - 1730	LM	6
1200 - 1330	HM	1800 – 1930	LM	

Day 7

0800 - 0930	LM	1400 - 1530	LF	
1000 - 1130	LM	1600 - 1730	HF	5
1200 - 1330	LM	1800 – 1930	HM	

69. The Court's Order required us to reallocate the legal visitation schedule, and DFAS had to be reconfigured by ICE accordingly. Reallocating the legal visitation schedule to comply with the Court's Order was a complicated undertaking, which took one of my staff approximately eight man hours, time that could have been allocated toward supervision of staff and detainees.

70. The requirement that in-person legal visits be three hours in duration also means that an attorney can have legal visits with at most only four detainees per day.

71. We have already received complaints from two attorneys who wish to visit more detainees than the Court's Order allows for. Given the long distance many of the attorneys must travel from their offices to the facility, those who have multiple clients in the facility often prefer to see all of their clients in a single visit, but following the Court's Order, they will no longer be able to do so.

72. We have also already had an attorney attempt to circumvent the system by trying to book multiple contact visitation rooms at the same time to allow him to move from room to room to see multiple detainees back-to-back instead of a single detainee for 90 minutes.

73. The facility currently has 10 VAV booths which are installed in one room. Due to the need to separate detainees by classification level and gender, only one classification/gender combination can be scheduled in the VAV area at a time.

74. We have submitted a project to separate the VAV booths into two areas, each with five VAVs, to allow for two different classification/gender combinations to be scheduled for VAVs at a time. We have also submitted a project to create two new VAV booths in the female housing unit, which will allow for additional VAV availability. These projects are expected to cost CoreCivic approximately **$69,395**.

75. To comply with the Court's Order requiring 90-minute legal calls, we will have to staff an additional 2.5 officers at an approximate cost of **$260,208 per year** to monitor the two separated VAV areas in the main VAV area and the new VAV booths in the female housing unit.

76. The Cal City population is currently exclusively ICE civil immigration detainees. However, the facility will also begin housing United States Marshal Service ("USMS") pre-trial detainees.

77. ICE and USMS detainees must be kept separate at all times. Once the USMS population arrives, the VAV booths will also be used for USMS detainees, which will impact scheduling blocks.

78. Due to the lack of a physical location for a detainee to have a facilitated private legal call, the VAV rooms are also used for facilitated legal calls.

79. Detainees are still able to place unmonitored legal calls using the detainee telephone system if their attorneys register to receive unmonitored calls.

80. CoreCivic is concerned that an increase in contact visits may facilitate the introduction of contraband, which poses safety and security risks to detainees and staff.

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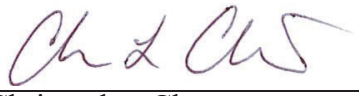
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

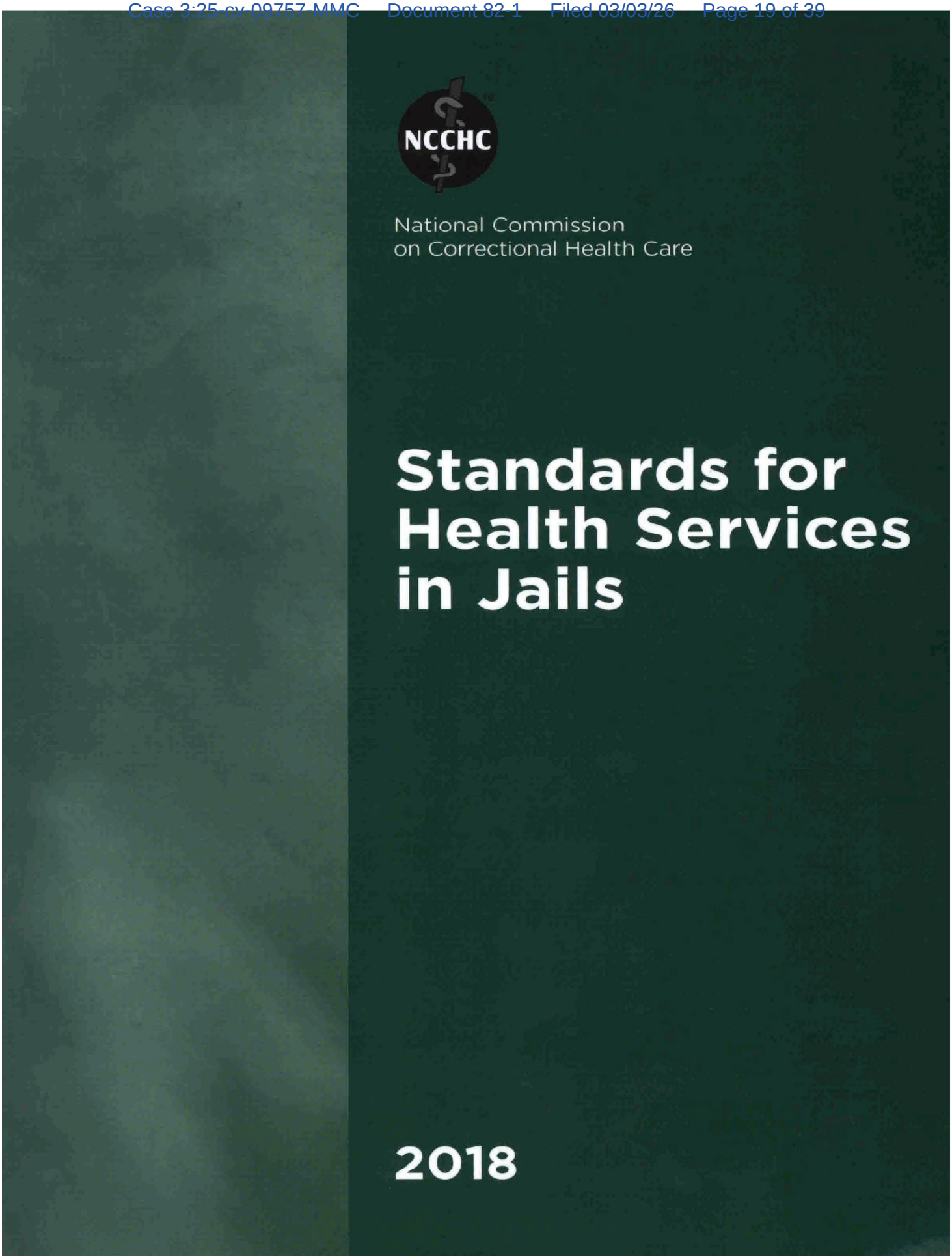
Executed on March 02, 2026.



Christopher Chestnut

ATTACHMENT A

ATTACHMENT A


NCCHC
National Commission
on Correctional Health Care
Standards for
Health Services
in Jails
2018

J-E-02 RECEIVING SCREENING

essential

Standard

Screening is performed on all inmates upon arrival at the intake facility to ensure that emergent and urgent health needs are met.

Compliance Indicators

1. Reception personnel ensure that persons who are unconscious, semiconscious, bleeding, mentally unstable, severely intoxicated, exhibiting symptoms of alcohol or drug withdrawal, or otherwise urgently in need of medical attention are referred immediately for care and *medical clearance* into the facility.
   a. If they are referred to a community hospital and then returned, admission to the facility is predicated on written medical clearance from the hospital.
2. A *receiving screening* takes place as soon as possible upon acceptance into custody.
3. The receiving screening form is approved by the responsible health authority and inquires as to the inmate's:
   a. Current and past illnesses, health conditions, or special health requirements (e.g., hearing impairment, visual impairment, wheelchair, walker, sleep apnea machine)
   b. Past infectious disease
   c. Recent communicable illness symptoms (e.g., chronic cough, coughing up blood, lethargy, weakness, weight loss, loss of appetite, fever, night sweats)
   d. Past or current mental illness, including hospitalizations
   e. History of or current suicidal ideation
   f. Dental problems (decay, gum disease, abscess)
   g. Allergies
   h. Dietary needs
   i. Prescription medications (including type, amount, and time of last use)
   j. Legal and illegal drug use (including type, amount, and time of last use)
   k. Current or prior withdrawal symptoms
   l. Possible, current, or recent pregnancy
   m. Other health problems as specified by the responsible physician
4. The form also records reception personnel's observations of the inmate's:
   a. Appearance (e.g., sweating, tremors, anxious, disheveled)
   b. Behavior (e.g., disorderly, appropriate, insensible)
   c. State of consciousness (e.g., alert, responsive, lethargic)
   d. Ease of movement (e.g., body deformities, gait)
   e. Breathing (e.g., persistent cough, hyperventilation)
   f. Skin (including lesions, jaundice, rashes, infestations, bruises, scars, tattoos, and needle marks or other indications of drug abuse)
5. The disposition of the inmate (e.g., immediate referral to an appropriate health care service, placement in the general population) is appropriate to the findings of the receiving screening and is indicated on the receiving screening form.
6. Receiving screening forms are dated and timed immediately on completion and

include the name, signature, and title of the person completing the form.
7. All immediate health needs are identified through the screening and properly addressed by qualified health care professionals.
8. Potentially infectious inmates are isolated from the general inmate population.
9. If a woman is pregnant, an opiate history is obtained.
10. If a woman reports current opiate use, she is immediately offered a test for pregnancy to avoid opiate withdrawal risks to fetus.
11. When health-trained correctional personnel perform the receiving screening, they have documented training by the responsible physician or designee in early recognition of medical, dental, and mental health conditions requiring clinical attention.
12. Health staff regularly monitor receiving screenings to determine the safety and effectiveness of this process.
13. All aspects of the standard are addressed by written policy and defined procedures.

Definitions

Medical clearance is a documented clinical assessment of medical, dental, and mental status before an individual is admitted into the facility. The medical clearance may come from on-site health staff or may require sending the individual to the hospital emergency room.

Receiving screening is a process of structured inquiry and observation intended to identify potential emergency situations among new arrivals and to ensure that patients with known illnesses and those on medications are identified for further assessment and continued treatment.

Medication-assisted treatment is the use of medications in combination with counseling and behavioral therapies to provide a "whole patient" approach to the treatment of substance use disorders.

Discussion

Receiving screening is to fulfill four purposes:
a. Identify and meet any urgent health needs of those being admitted
b. Identify and meet any known or easily identifiable health needs that require medical intervention
c. Identify and isolate inmates who appear potentially contagious
d. Obtain a medical clearance when necessary

In all facilities where health staff are available, it is expected that they conduct the initial screening. However, this standard allows receiving screening to be conducted by health-trained correctional staff members when health staff are not on duty. The training for correctional officers depends on the role they are expected to play in the receiving screening process. At a minimum, they receive instruction on how to take a medical history; make the required medical, dental, and mental health observations;

determine the appropriate disposition of an inmate based on responses to questions and observations; and document their findings on the receiving screening form. Training is based on a curriculum approved by the responsible physician.

Receiving screenings must be conducted as soon as possible and without unnecessary delay. The standard recognizes that at times correctional facilities receive newly arriving inmates in large groups, making it impossible to screen each inmate immediately. In such cases, reception personnel should quickly perform a medical clearance to determine who may be too ill to wait for receiving screening or be admitted. Receiving screening personnel meet with each person until all are processed. Individuals should not be released from the intake area until the receiving screening is completed.

Facilities that do not routinely act as intake/receiving facilities must perform a receiving screening for newly arrived probation and/or parole violators.

Receiving screening should be conducted using a form and language fully understood by the inmate, who may not speak English or may have a physical (e.g., speech, hearing, sight) or mental disability. Screeners are to make adequate efforts to explore the potential for suicide. The screener should review with the inmate any history of suicidal behavior and visually observes the inmate's behavior (delusions, hallucinations, communication difficulties, speech, posture, impaired consciousness, disorganization, memory defects, depression, or evidence of self-mutilation). In addition, the screener must look for symptoms of withdrawal from alcohol and other drugs. These approaches, coupled with training in aspects of mental health and chemical dependency, enable staff to intervene early to treat withdrawal and to prevent most suicides (see B-05 Suicide Prevention and Intervention and F-04 Medically Supervised Withdrawal and Treatment).

Attention is to be paid to signs of trauma or a reported history of trauma. Inmates arriving with signs of recent trauma are referred immediately for medical observation and treatment. Staff members have a responsibility to report suspected abuse of persons in custody to the authorities. A history of trauma may warrant follow-up care by mental health professionals.

Inmates with mental disorders are often unable to give complete or accurate information in response to health status inquiries. Therefore, it is good practice for mental health staff to be involved in training staff who do the intake screening.

When inmates indicate they are under treatment for a medical, dental, mental health, or substance use problem, health staff should initiate a request for a health summary from community prescribers after receiving a signed release from the inmate. This will help ensure that health records are present at the time of the health assessment and verify needed medications.

For patients enrolled in a community substance abuse program, consideration should be given to continuing *medication-assisted treatment*.

J-E-04 INITIAL HEALTH ASSESSMENT

essential

Standard

Inmates receive initial *health assessments*.

There are two options for implementing and demonstrating compliance with this standard. The "full population assessment" option involves performing assessments on 100% of inmates. The "individual assessment when clinically indicated" option involves performing assessments on only those determined to be at high risk for significant health problems.

Compliance Indicators: Full Population Assessment (1-9)

1. Receiving screening results are reviewed within 14 days.
2. All inmates receive an initial health assessment as soon as possible, but no later than 14 calendar days after admission.
3. If the health assessment is deferred because of a documented health assessment within the last 12 months, documentation in the health record must confirm that the new receiving screening shows no change in health status.
   a. If the receiving screening shows a change in health status, the initial health assessment is repeated.
4. The responsible physician determines the components of an initial health assessment.
5. Initial health assessments include, at a minimum:
   a. A qualified health care professional collecting additional data to complete the medical, dental, and mental health histories, including any follow-up from abnormal findings obtained during the receiving screening and subsequent encounters
   b. A qualified health care professional recording of vital signs (including height and weight)
   c. A *physical examination* (as indicated by the patient's gender, age, and risk factors) performed by a physician, physician assistant, nurse practitioner, or RN
   d. A screening test for latent tuberculosis (e.g., PPD, chest X-ray, laboratory test), unless completed prior to the initial health assessment
6. All abnormal findings (i.e., history and physical, screening, and laboratory) are reviewed by the provider.
7. Specific problems are integrated into an initial problem list.
8. Diagnostic and therapeutic plans for each problem are developed as clinically indicated.
9. All aspects of the standard are addressed by written policy and defined procedures.

Compliance Indicators: Individual Assessment When Clinically Indicated (10-16)

10. Inmates identified with *clinically significant findings* as the result of a comprehensive receiving screening receive an initial health assessment as soon as possible, but no later than 2 working days after admission. To qualify for this option, a facility:
    a. Has 24-hour, 7-day on-site health staff coverage
    b. Allows only licensed health care personnel to conduct a comprehensive receiving screening on inmates
    c. Includes in its comprehensive receiving screening all elements of the receiving screening standard plus:
        i. Further inquiry into past medical history and symptoms of chronic diseases
        ii. Finger stick on individuals with diabetes
        iii. Vital signs (including pulse, respirations, blood pressure, and temperature)
        iv. Further inquiry into medication and dosages where possible
        v. A screening test for latent tuberculosis (e.g., PPD, chest X-ray, laboratory test)
11. If the health assessment is deferred because of a documented health assessment within the last 12 months, documentation must confirm that the new receiving screening shows no change in health status.
    a. If the comprehensive receiving screening shows a change in health status, the initial health assessment is repeated.
12. The responsible physician determines the components of an initial health assessment.
13. Individual health assessments include, at a minimum:
    a. A review of comprehensive receiving screening results
    b. A qualified health care professional collecting additional data to complete the medical, dental, and mental health histories, including any follow-up from abnormal findings obtained during the comprehensive receiving screening and subsequent encounters
    c. A qualified health care professional recording of vital signs (including height and weight)
    d. A physical examination (as indicated by the patient's gender, age, and risk factors) performed by a provider
    e. Laboratory and/or diagnostic tests for disease, such as peak flow for asthma patients and blood work for diabetes patients
14. Specific problems are integrated into an initial problem list.
15. Diagnostic and therapeutic plans for each problem are developed as clinically indicated.
16. All aspects of the standard are addressed by written policy and defined procedures.

Definitions

The *health assessment* is the process whereby an individual's health status is evaluated, including questioning the patient about symptoms. The extent of the health assessment is defined by the responsible physician but should include at least the steps noted in this standard.

A *physical examination* is an objective, hands-on evaluation of an individual. It involves the inspection, palpation, auscultation, and/or percussion of a patient's body to determine the presence or absence of physical signs of illness.

Clinically significant findings are any deviation from the normal that significantly impacts the health and safety of the patient.

Discussion

The responsible health authority ensures that qualified health care professionals identify a patient's health needs and establish a plan for meeting those needs.

There are two options for accomplishing this. Each has advantages and disadvantages. The choice should be based on data regarding the general health status of the admitting population, available staff, and where resources should be committed.

The full population health assessment commits resources on the back end of the process. All arriving inmates are screened and an initial health assessment is completed as soon as possible, but no later than 14 calendar days after admission. It is appropriate to complete the assessment much earlier for acutely ill or much more complex patients (e.g., those with type 1 diabetes). The full population health assessment provides an excellent opportunity to initiate preventive medicine practices and provide health education.

The individual health assessment option, which focuses staff energy and time on those who have chronic or acute health needs, makes sense in a high-risk, high-volume setting. This option requires that resources are committed to receiving screening (front end) to identify those in need of the health assessment, and that the individual health assessment is performed within 2 days of arrival. Staff can concentrate their efforts to detect health problems early in the process. Another advantage is that correctional health services administrators and health staff can organize their limited resources in a way that yields the best return. The disadvantage of this option is that some individuals may be released without receiving a health assessment. Of course, this method does not mean to imply that health assessments could not be done on more inmates than those found to have problems during receiving screening.

The responsible physician should determine the content of the initial health assessment based on the evaluation of the needs of the facility's or community's population. In some instances, a history could include current or past history of carcinoma, chronic diseases, communicable diseases, and so forth. The physical exam and treatments ordered should be based on the patient's history.

It is important to review past health records, including those from community medical, mental health, and substance abuse treatment providers. If these records have not been received at the time of the initial health assessment, they should be requested after receiving a signed release from the inmate.

When various parts of the assessment are done by different health staff, the responsible physician should establish a procedure to ensure that the patient evaluations are integrated.

Oral screening and mental health screening, if completed at the same time as the initial health assessment, must be done with every admission, including when initial health assessments are deferred.

Glossary

ACCESS TO CARE means that, in a timely manner, a patient is seen by a qualified health care professional, is rendered a clinical judgment, and receives care that is ordered.

ACTIVITIES OF DAILY LIVING (ADL) generally refers to ambulation, bathing, dressing, feeding, and toileting.

ADMINISTRATIVE REVIEW is an assessment of correctional and emergency response actions surrounding an inmate's death.

ADVANCE DIRECTIVES are expressions of the patient's wishes as to how future care should be delivered or declined, including decisions that must be made when the patient is not capable of expressing those wishes. Advance directives are useful for terminally ill patients but can be used by any inmate regardless of health status.

ADVERSE CLINICAL EVENT is an injury or death caused by medical management rather than by the patient's disease or condition.

AIDS TO REDUCE EFFECTS OF IMPAIRMENT include, but are not limited to, eyeglasses, hearing aids, canes, crutches, sleep apnea machines, and wheelchairs.

CLINICAL ENCOUNTERS are interactions between patients and health staff that involve an assessment, examination, treatment, and/or an exchange of protected health information.

CLINICAL MORTALITY REVIEW is an assessment of the clinical care provided and the circumstances leading up to a death.

CLINICAL PERFORMANCE ENHANCEMENT is the process of having a health professional's clinical work reviewed by another professional of at least equal training in the same general discipline, such as the review of the facility's physicians by the responsible physician.

CLINICAL SECLUSION is a therapeutic intervention initiated by medical or mental health staff to use rooms designed to safely limit a patient's mobility. Communicable disease isolation is not considered seclusion for the purpose of this standard.

CLINICAL SETTING refers to an examination or treatment room appropriately supplied and equipped to address the patient's health care needs.

CLINICALLY ORDERED RESTRAINT is a therapeutic intervention initiated by medical or mental health staff to use devices designed to safely limit a patient's mobility.

PROVIDER is defined as a nurse practitioner, physician assistant, or physician.

PSYCHOLOGICAL AUTOPSY, sometimes referred to as a psychological reconstruction or postmortem, is a written reconstruction of an individual's life with an emphasis on factors that led up to and may have contributed to the death. It is usually conducted by a psychologist or other qualified mental health professional.

QUALIFIED HEALTH CARE PROFESSIONALS include physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for patients.

QUALIFIED MENTAL HEALTH PROFESSIONALS include psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, and others who by their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients.

QUALITY IMPROVEMENT COMMITTEE consists of health staff from various disciplines (e.g., medicine, nursing, mental health, dentistry, health records, pharmacy, laboratory, custody staff). The committee designs quality improvement monitoring activities, discusses the results, and implements corrective action. Additional participants may be included, depending on the issues being addressed.

QUALITY IMPROVEMENT STUDIES

OUTCOME QUALITY IMPROVEMENT STUDIES examine whether expected outcomes of patient care were achieved by (1) identifying a patient clinical care problem (e.g., poor asthma control, poor diabetes control, high volume of off-site visits), (2) determining a threshold based on the problem identified (3) conducting a baseline study, (4) developing and implementing a clinical corrective plan, and (5) restudying the problem to assess the effectiveness of the corrective action plan.

PROCESS QUALITY IMPROVEMENT STUDIES examine the effectiveness of the health care delivery process by (1) identifying a health system concern (e.g., delayed sick-call appointments, discontinuity of medications, lack of follow-up on abnormal lab values), (2) conducting a baseline study (e.g., task analysis, root cause, staffing plan), (3) developing and implementing a corrective plan, and (4) restudying the problem to assess the effectiveness of the corrective action plan.

REASONABLE SUPPLY includes a combination of medications and prescriptions to allow the patient time to arrange for follow-up in the community.

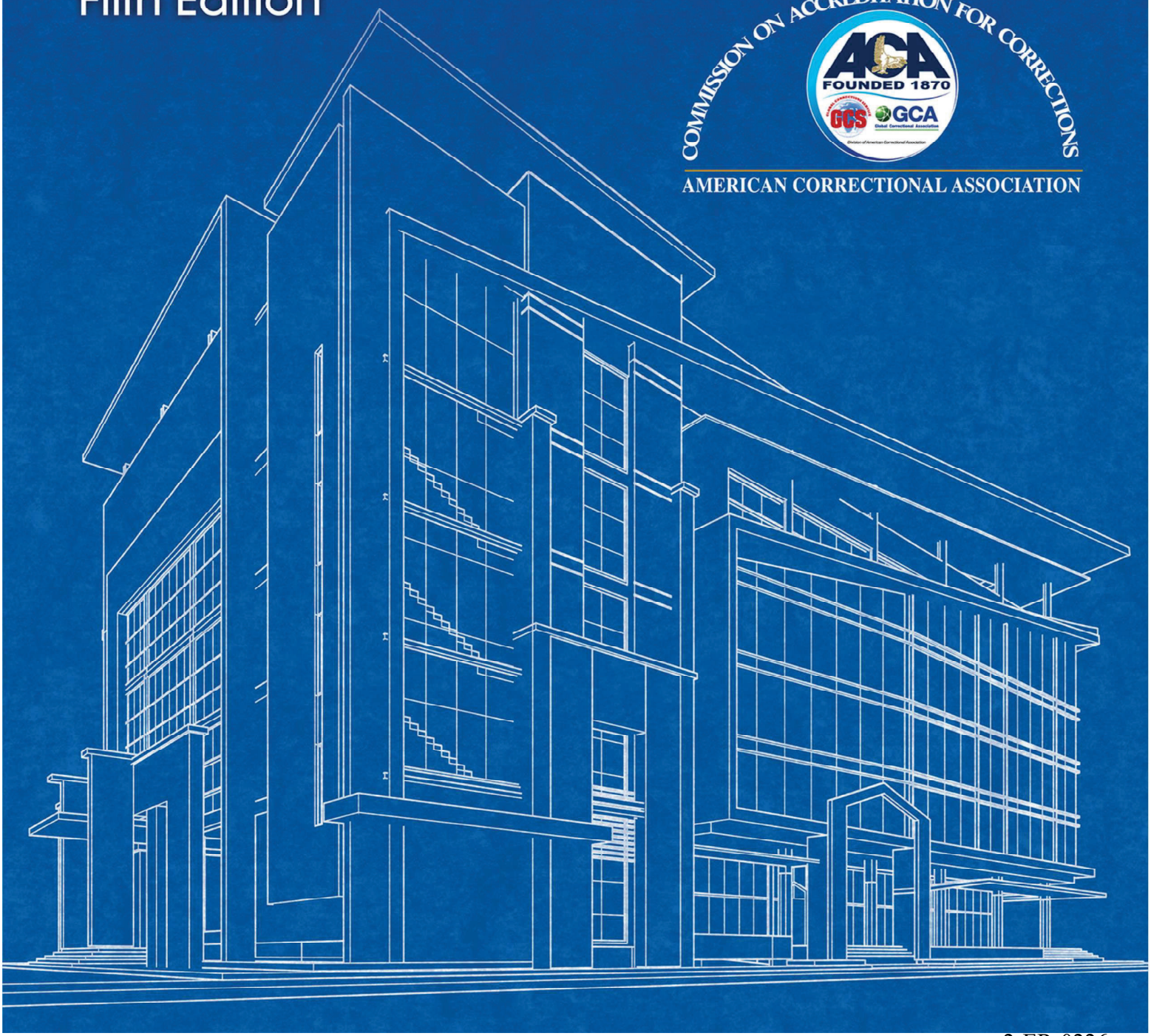
RECEIVING SCREENING is a process of structured inquiry and observation intended to identify potential emergency situations among new arrivals and to ensure that patients with known illnesses and those on medications are identified for further assessment and continued treatment.

ATTACHMENT B

ATTACHMENT B

Performance-Based Standards and Expected Practices for Adult Local Detention Facilities

Fifth Edition



- **Consultation and referral to appropriate specialists is provided when medically necessary.**

Comment: Emergent—life threatening.
Urgent—interfere with normal daily activities (toothache).
Routine—not of immediate attention.
Agency policy and procedures should be consistent with the American Dental Association.

Protocols: Written policy and procedure. Dental screening and examination forms.

Process Indicators: Dental records. Admission logs. Referral and consultation records. Dental request forms. Staff interviews.

Health Education

5-ALDF-4C-22 (Ref. 4-ALDF-4C-21) **Health education and wellness information is provided to all inmates.**

Comment: Health education and wellness topics may include but are not to be limited to information on access to health care services, dangers of self-medication, personal hygiene and dental care, prevention of communicable diseases, education, smoking cessation, family planning, self-care for chronic conditions, self-examination, relapse prevention regarding mental illness, coping with mental illness, healthy lifestyle choices and the benefits of physical fitness.

Protocols: Written policy and procedure.

Process Indicators: Documentation of program availability. Program and class schedules. Attendance rosters. Interviews. Curriculum and lesson plans. Examples of pamphlets, brochures, or other written handouts.

Health Screens

5-ALDF-4C-23 (Ref. 4-ALDF-4C-22) **(MANDATORY) Intake health screening for inmates commences upon the inmate's arrival at the facility and is performed by health-trained or qualified health care personnel. All findings are recorded on a screening form approved by the health authority. The screening includes at least the following:**

Inquiry into:
- **Any past history of serious infectious or communicable illness, and any treatment or symptoms and medications.**
- **Current illness and health problems, including communicable diseases and mental illness.**
- **Dental problems.**
- **Use of alcohol and other drugs, including type(s) of drugs used, mode of use, amounts used, frequency used, date or time of last use, and history of any problems that may have occurred after ceasing use.**
- **The possibility of pregnancy.**
- **History of problem.**

- **Other health problems designated by the responsible physician.**
- **Any past history of mental illness, thoughts of suicide or self-injurious behavior attempts.**

Observation of the following:
- **Behavior, including state of consciousness, mental status, appearance, conduct, tremor, and sweating.**
- **Body deformities and other physical abnormalities.**
- **Ease of movement.**
- **Condition of the skin, including trauma markings, bruises, lesions, jaundice, rashes, and infestations, recent tattoos, and needle marks or other indications of drug abuse.**

Medical disposition of the inmate:
- **Refusal of admission until inmate is medically cleared.**
- **Cleared for general population.**
- **Cleared for general population with prompt referral to appropriate health care service.**
- **Referral to appropriate health care service for emergency treatment.**

Inmates, who are unconscious, semiconscious, bleeding, or otherwise obviously in need of immediate medical attention, are referred. When they are referred to an emergency department, their admission or return to the facility is predicated on written medical clearance. When screening is conducted by trained custody staff, a subsequent review of positive findings by the licensed health care staff is required. The responsible physician, in cooperation with the facility manager, establishes protocols.

Facilities that have reception and diagnostic units or a holding room conduct receiving screening on all inmates on their arrival at the facility as part of the admission procedures.

Comment: Health screening is a system of structured inquiry and observation to prevent newly arrived inmates who pose a health or safety threat to themselves or others from being admitted to the general population and to identify inmates who require immediate medical attention. Receiving screening can be performed at the time of admission by health care personnel or by a health trained correctional officer. Examples of symptoms of serious, infectious or communicable diseases include a chronic cough, lethargy, weakness, weight loss, loss of appetite, fever, or night sweats that are suggestive of such illness.

Protocols: Written policy and procedure. Screening protocols.

Process Indicators: Health records. Completed screening forms. Transfer logs. Interviews.

5-ALDF-4C-24 (Ref. 4-ALDF-4C-23) **(MANDATORY) All intrasystem transfer inmates receive a health screening by health-trained or qualified health care personnel, which commences on their arrival at the facility. All findings are recorded on a screening form approved by the health authority. At a minimum, the screening includes the following:**

Inquiry into:
- **Whether the inmate is being treated for a medical or dental problem.**
- **Whether the inmate is presently on medication.**
- **Whether the inmate has a current medical or dental complaint.**

Observation of:
- **General appearance and behavior.**
- **Physical deformities.**
- **Evidence of abuse or trauma.**

Medical disposition of inmates:
- **Cleared for general population.**
- **Cleared for general population with appropriate referral to health care service.**
- **Referral to appropriate health care service for emergency treatment.**

Comment: Health screening of intrasystem transfers is necessary to detect inmates who pose a health or safety threat to themselves or others and who may require immediate health care.

Protocols: Written policy and procedure. Screening form.

Process Indicators: Health records. Completed screening forms. Transfer logs. Interviews.

Health Appraisal

5-ALDF-4C-25 (Ref: 4-ALDF-4C-24) **(MANDATORY) A comprehensive health appraisal for each inmate is completed by qualified health care personnel within 14 days after arrival at the facility. If there is documented evidence of a health appraisal and evidence of review by qualified staff within the previous 90 days, a new health appraisal is not required except as determined by the designated health authority. Health appraisal data collection and recording includes the following:**

1. **A uniform process as determined by the health authority.**
2. **Documentation of review of the earlier receiving screening.**
3. **Recording of height, weight, pulse, blood pressure, and temperature by health-trained or qualified health personnel.**
4. **Collection of additional data to complete the medical, dental, mental health, and immunization histories by health-trained or qualified health personnel.**
5. **Medical examination, including review of mental and dental status by qualified health personnel.**
6. **Laboratory and/or diagnostic tests to detect communicable disease, including sexually transmitted disease and tuberculosis.**

7. **Other tests and examinations as appropriate.**
8. **Development and implementation of treatment plan, including recommendations concerning housing, job assignment, and program participation.**
9. **Initiation of therapy, when appropriate.**
10. **Review of the results of the medical examination, tests, and identification of problems by a physician or mid-level practitioner, as allowed by law.**

Comment: Test results, particularly for communicable diseases, should be received and evaluated before an inmate is assigned to housing in the general population. Information regarding the inmate's physical and mental status also may dictate housing and activity assignments. When appropriate, additional investigation should be conducted into alcohol and drug abuse and other related problems.

Protocols: Written policy and procedure. Health appraisal form.

Process Indicators: Health records. Completed health appraisal forms. Transfer logs. Interviews.

Interpretation: The criterion for testing for venereal diseases is at the discretion of the agency's/facility's health authority.

Periodic Examinations

5-ALDF-4C-26 (Ref. 4-ALDF-4C-26) **The health authority determines the conditions for periodic health examinations for inmates.**

Comment: Inmates incarcerated for more than 12 months should be placed on a schedule for periodic health exams and should be examined prior to release to protect both the inmate and the public.

Protocols: Written policy and procedure.

Process Indicators: Health records. Completed annual health appraisal forms. Interviews.

Mental Health Program

5-ALDF-4C-27 (Ref. 4-ALDF-4C-27) **(MANDATORY) Mental health services include at a minimum:**

1. **Mental health services and activities are approved by the appropriate mental health authority.**
2. **Crisis intervention and the management of acute psychiatric episodes.**
3. **Stabilization of the mentally ill and the prevention of psychiatric deterioration in the correctional setting.**
4. **Referral to outpatient services for the detection, diagnosis, and treatment of mental illness.**
5. **Referral and admission to licensed mental health facilities for inmates whose psychiatric needs exceed the treatment capability of the facility.**
6. **Obtaining and documenting informed consent.**

Personnel Qualifications

5-ALDF-4D-03 (Ref. 4-ALDF-4D-03) **(MANDATORY) If the facility provides health care services, they are provided by qualified health care personnel whose duties and responsibilities are governed by job descriptions that include qualifications and specific duties and responsibilities. Job descriptions are on file in the facility and are approved by the health authority. If inmates are treated at the facility by health care personnel other than a licensed provider, the care is provided pursuant to written standing or direct orders by personnel authorized by law to give such orders.**

Comment: Standing medical orders are for the definitive treatment of identified conditions and for the on-site emergency treatment of any person having such condition. Direct orders are those written specifically for the treatment of one person's particular condition.

Protocols: Written policy and procedures. Job descriptions. Standing orders.

Process Indicators: Copies of credentials or licensure. Documentation of compliance with standing orders. Health record entries. Interviews.

5-ALDF-4D-04 (Ref. 4-ALDF-4D-04) **A health-trained staff member coordinates the health delivery services under the joint supervision of the responsible health authority and facility administrator, when qualified health care personnel are not on duty.**

Comment: Duties may include reviewing receiving screening forms for needed follow-up, readying inmates and their records for sick call, and assisting in carrying out orders regarding such matters as diets, housing, and work assignments.

Protocols: Written policy and procedures. Job description for health-trained personnel. Training curriculum.

Process Indicators: Health records. Observation. Interviews. Training records.

Credentials

5-ALDF-4D-05 (Ref. 4-ALDF-4D-05) **(MANDATORY) All professional staff comply with applicable state and federal licensure, certification, or registration requirements. Verification of current credentials is on file in the facility.**

Comment: None.

Protocols: Written policy and procedure. Copies of licensure requirements.

Process Indicators: Personnel records. Documentation of licensure, certification, or registration. Documentation of current credentials.

Glossary

Absconder – an individual who fails to report for probation, parole, or aftercare supervision or leaves supervision of correctional or assigned staff.

Access to Care – offender seen in a timely manner by health care professional and professional care using clinical judgment**.**

Accreditation cycle – the three-year cycle between audits.

Accreditation manager – an agency employee designated by the agency administrator to supervise the planning and implementation of accreditation activities in the agency. He/she has comprehensive knowledge of the agency and sufficient authority within the agency to design and administer a successful accreditation strategy.

Accreditation panel – the subunit of the Commission on Accreditation for Corrections empowered to review applications and make final decisions on agency accreditation.

Accredited status – the three-year period during which the agency maintains and improves upon its standards compliance levels that were achieved at the time of the accreditation award.

Acute Psychiatric Episode – a brief, short term episode of mental illness lasting for approximately one month or less. This may be due to experiencing a stressful event.

Adjudicatory hearing – a hearing to determine whether the allegations of a petition are supported by the evidence beyond a reasonable doubt or by the preponderance of the evidence.

Administrative status – a form of separation from the general population administered by the classification committee or other authorized group when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff, or other inmates or to the security or orderly running of the institution. Inmates pending investigation for trial on a criminal act or pending transfer also can be included. (See Protective custody, disciplinary detention.)

Administrator – *see* Program director.

Administrator of field services – the individual directly responsible for directing and controlling the operations of the adult probation and/or parole field services program. This person may be a division head in a large correctional agency, a chief probation officer answering to a judge, or the administrative officer of a court or parole authority with responsibility for the field services program.

Admission – the process of entry into a program. During admission processing, the juvenile or adult offender receives an orientation to program goals, rules, and regulations. Assignment to living quarters and to appropriate staff also is completed at this time.

Health agency – an organization that provides health care services to an institution or a system of institutions.

Health Appraisal – a health assessment that includes a review of previous health records, collection of data including any laboratory results or diagnostic tests, vital signs and other information necessary to provide care.

Health authority – the health administrator, or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority.

Health care – a system of preventative and therapeutic services that provide for the physical and mental well-being of a population. It includes, but is not limited to: medical services, dental services, behavioral health services, nursing services, pharmaceutical services, personal hygiene, dietary services, and environmental conditions.

Health Care Administration – s*ee* Health Authority.

Health care personnel – individuals whose primary duty is to provide health services to juveniles or adult inmates in keeping with their respective levels of health care training, licensure, or experience.

Health care practitioner/provider – clinicians trained to diagnose and treat patients, such as physicians, dentists, psychologists, licensed professional counselors, licensed social workers, podiatrists, optometrists, nurse practitioners, and physician assistants.

Health care professional – staff who perform clinical duties, such as health care practitioners, nurses, licensed professional counselors, social workers, and emergency medical technicians in accordance with each health care professional's scope of training and applicable licensing, registration, certification, and regulatory requirements.

Health care provider – an individual licensed in the delivery of health care.

Health care services – a system of preventative and therapeutic services that provide for the physical and mental well-being of a population. Includes, but not limited to: medical services, dental services, behavioral health services, nursing services, pharmaceutical services, personal hygiene, dietary services, and environmental conditions.

Health Care Staff – see Health Care Personnel.

Health Care Supervision – health care services provided to an individual who needs health care treatment.

Health/medical screen – a structured inquiry and observation to prevent offenders who pose a health or safety threat to themselves or others from being admitted to the general population and to identify offenders who require immediate medical attention. The screen can be initiated at the time of admission, at scheduled intervals, or other times as appropriate, by health care personnel or by a health-trained correctional officer.

Health-trained personnel/Medically trained personnel – correctional officers or other correctional personnel who may be trained and appropriately supervised to carry out specific duties with regard to the administration of health care.

Placing authority – agency or body with the authority to order a juvenile into a specific dispositional placement. This may be the juvenile court, the probation department, or another duly constituted and authorized placement agency.

Policy – course or line of action adopted and pursued by an agency that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the personnel must operate. They are statements of guiding principles that should be followed in directing activities toward the attainment of objectives. Attainment may lead to compliance with standards and compliance with the overall goals of the agency or system.

Population center – geographical area containing at least 10,000 people, along with public safety services, professional services, employment and educational opportunities, and cultural/recreational opportunities.

Preliminary hearing – hearing to determine whether probable cause exists to support an allegation of parole violation pending a revocation hearing by the parole authority.

Pretrial release – procedure whereby an accused individual who had been taken into custody is allowed to be released before and during his or her trial.

Preventive maintenance – a system designed to enhance the longevity and or usefulness of buildings or equipment in accordance with a planned schedule.

Private agency – the contracting agency of the governing authority that has direct responsibility for the operation of a corrections program.

Probation – court-ordered disposition alternative through which a convicted adult offender or an adjudicated delinquent is placed under the control, supervision, and care of a probation field staff member.

Probationary period – a period of time designated to evaluate and test an employee to ascertain fitness for the job.

Procedure – detailed and sequential actions that must be executed to ensure that a policy is fully implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs action in a particular situation to perform a specific task within the guidelines of policy.

Process indicators – documentation and other evidence that can be examined periodically and continuously to determine that practices are being properly implemented.

Professional association – collective body of individuals engaged in a particular profession or vocation.

Professional staff – social workers, probation officers, and other staff assigned to juvenile and adult offender cases. These individuals generally possess bachelor's degrees and advanced training in the social or behavioral sciences.

Program – plan or system through which a correctional agency works to meet its goals. This program may require a distinct physical setting, such as a correctional institution, community residential facility, group home, or foster home.

Program Administrator – *see* Program Director.

Program director – individual directly in charge of the program.

Prosthesis – functional or cosmetic artificial device that substitutes for a missing body part such as an arm, leg, eye, or tooth.

Protective custody – form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The inmate's status is reviewed periodically by the classification committee or other designated group. (See Administrative status; Disciplinary detention.)

Protocols – written instructions that guide implementation of expected practices, such as policies and procedures, training curriculum, offender handbooks, diagrams, and internal forms and logs.

Psychological Autopsy – a reconstructive psychological profile of the decedent based on the evaluation of risk factors and motivational analysis for the purpose of determining the mode of death. It should be completed by a psychologist, or in their absence, another qualified mental health professional. It is sometimes referred to as a psychological reconstruction or post mortem.

Psychotropic medication – medications that are used to treat diagnosed mental disorders.

Public agency – the governing authority that has direct responsibility for the operation of a corrections program.

Qualified Health Care Personnel – *see* Health care professional or Professional staff or Health care practitioner/provider.

Qualified Health Care Professional – see Health care Professional or Professional staff or Health care practitioner/provider.

Qualified Health Care Provider – see Health care professional or Professional Staff or Health care practitioner/provider.

Qualified Health Care Staff – *see* Health care professional or Professional staff or Health care practitioner/provider.

Qualified medical person – *see* Health care professional.

Qualified mental health person – *see* Mental health care practitioner/provider/professional.

Qualified Mental Health Professional – *see* Mental Health Care Practitioner/Provider/Professional

Quality assurance – formal, internal monitoring program that uses standardized criteria to insure quality and consistency. The program identifies opportunities for improvement, develops improvement strategies, and monitors effectiveness.

Quality Assurance Program – *see* Quality assurance.

KEKER, VAN NEST & PETERS LLP
STEVEN P. RAGLAND - # 221076
sragland@keker.com
CODY S. HARRIS - # 255302
charris@keker.com
CARLOS C. MARTINEZ - # 354616
cmartinez@keker.com
LISA C. LU - # 364259
llu@keker.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

CALIFORNIA COLLABORATIVE FOR IMMIGRANT JUSTICE
PRIYA ARVIND PATEL - # 295602
priya@ccijustice.org
MARIEL VILLARREAL - # 317048
mariel@ccijustice.org
1999 Harrison Street #1800
Oakland, California 94612
Tel: (650) 762-8990

PRISON LAW OFFICE
MARGOT MENDELSON - # 268583
mmendelson@prisonlaw.com
TESS BORDEN - MJP # 805022, *pro hac vice*
tess@prisonlaw.com
PATRICK BOOTH - # 328783
patrick@prisonlaw.com
ALISON HARDY - # 135966
ahardy@prisonlaw.com
RANA ANABTAWI - # 267073
rana@prisonlaw.com
1917 Fifth Street
Berkeley, California 94710-1916
Tel.: (510) 280-2621

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
KYLE VIRGIEN - # 278747
kvirgien@aclu.org
FELIPE HERNANDEZ - # 338468
npp_fhernandez@aclu.org
MARISOL DOMINGUEZ-RUIZ - # 345416
mdominguez-ruiz@aclu.org
425 California Street, 7th Floor
San Francisco, CA 94104
Tel.: (415) 343-0770

CARMEN IGUINA GONZALEZ - # 277369
ciguinagonzalez@aclu.org
915 15th Street, NW, 7th Floor
Washington, DC 20005
Tel.: (202) 393-4930

Attorneys for Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, Alejandro Mendiola Escutia and all others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

FERNANDO GOMEZ RUIZ; FERNANDO VIERA REYES; JOSE RUIZ CANIZALES; YURI ALEXANDER ROQUE CAMPOS; SOKHEAN KEO; GUSTAVO GUEVARA ALARCON; and ALEJANDRO MENDIOLA ESCUTIA, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 3:25-cv-09757-MMC

[PROPOSED] ORDER GRANTING IN PART PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION AND CLASS CERTIFICATION

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; SERGIO ALBARRAN, Acting Director of San Francisco Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Defendants.

[PROPOSED] ORDER GRANTING IN PART MOTIONS FOR PRELIMINARY INJUNCTION AND CLASS CERTIFICATION

Pursuant to Federal Rules of Civil Procedure 65 and 23, and having reviewed the Parties' filings and the argument of counsel, the Court finds that Plaintiffs have demonstrated that they are likely to prevail on the merits of their claims; that they will suffer irreparable harm if the Court does not issue relief; that the balance of equities tips in their favor; that the public interest lies in issuing a preliminary injunction; and that all the requirements of Rule 23(a) and 23(b)(2) have been satisfied.

Accordingly, Plaintiffs' Motion for Preliminary Injunction is **GRANTED IN PART**, as follows:

1) Defendants are ordered to ensure the following:

   a. adequate health care staffing;

   b. comprehensive, documented medical intake screening, performed by a qualified medical provider within 12 hours of a person's arrival;

   c. thorough Initial Appraisals performed timely by a primary care provider;

   d. timely approval and access to medical specialists;

   e. timely and responsive emergency services;

   f. continuity of medical care upon intake and thereafter, including timely completion of active medical orders, access to scheduled provider appointments, and consistent provision of medication;

   g. timely access to prescribed medications; and

   h. a responsive "sick call" request system.

2) To ensure compliance with Paragraph (1) and the provision of constitutionally adequate health care, Defendants are ordered to provide access to a qualified, independent, third-party monitor ("External Monitor") for a period of 120 days, subject to renewal by court order. The External Monitor will ensure compliance with this Order and will monitor its implementation, including through review of medical records and on-site inspection and interviews with patients and staff. The

parties will meet and confer regarding the selection of the External Monitor and will present their proposal(s) to the Court within 14 days of this Order. If the Parties are unable to agree upon the selection, the Court will resolve the dispute and appoint the External Monitor. Defendants are ordered to pay the External Monitor's reasonable rate.

3) Defendants are ordered to ensure that detained individuals have timely and confidential access to attorneys, including but not limited to by allowing:

a. in-person legal visitation seven days per week from 8:00 a.m. to 8:00 p.m., in private and confidential settings, with each legal visit lasting up to three (3) hours in length;

b. contact attorney visits that do not take place through a pane of glass, absent documented security grounds to deny such contact;

c. scheduling of confidential legal calls with legal representatives of up to 90 minutes each, to take place within two (2) business days of a request; and

d. provision of written information regarding protocols for attorney-client communication to all individuals detained at California City.

4) Defendants are further ordered to ensure that detained individuals are provided with the following, with exceptions only where necessary for individualized, documented security concerns:

a. Temperature-appropriate clothing and blankets free of charge;

b. Reasonable, consistent, and adequate access to adequate outdoor recreation spaces, for at least 1 hour per day, 7 days per week.

5) The bond requirement of Federal Rule of Civil Procedure 65(c) is waived.

Plaintiffs' Motion for Class Certification (ECF No. 21) is **PROVISIONALLY GRANTED** as to the Class, and the Provisional Class is defined as: All persons who are now, or in the future will be, in the legal custody of U.S. Immigration and Customs Enforcement ("ICE") and detained at California City Detention Facility ("California City"). The Provisional Class is certified as to the practices and relief identified in this Order. It is further **ORDERED** that

Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, and Alejandro Mendiola Escutia are hereby appointed to be the named representatives of the Provisional Class. It is further **ORDERED** that Plaintiffs' counsel, from the Prison Law Office, Keker, Van Nest & Peters LLP, the American Civil Liberties Union, and the California Collaborative for Immigrant Justice are hereby appointed as counsel for the Provisional Class.

All relief sought by Plaintiffs but not addressed in this Order is held in abeyance pending further Court order.

The March 6, 2026 Case Management Conference is vacated and taken off calendar. The parties shall proceed with their Rule 26(f) conference and file the ADR Certification by February 13, 2026. The February 27, 2026 deadline to exchange initial disclosures and file a joint case management statement is vacated.

IT IS SO ORDERED.

Dated:

Hon. Maxine M. Chesney
United States District Judge