**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 3 OF 6

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Maxine M. Chesney, Judge

| | | |
|---|---|---|
| FERNANDO GOMEZ RUIZ, et al, Plaintiffs, | ) | |
| vs. | ) | **NO. 3:25-cv-09757-MMC** |
| U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, et al, Defendants. | ) | |

San Francisco, California
Friday, February 6th, 2026

**TRANSCRIPT OF MOTION HEARING**

**APPEARANCES:**

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Official United States Reporter

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**Friday, February 6th, 2026** **9:02 a.m.**

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

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**COURTROOM DEPUTY:** Calling civil case number 25-9757, Fernando Gomez Ruiz, et al, vs. U.S. Immigration & Custom Enforcement, et al.

Will counsel please step forward and state your appearances for the record.

**MR. RAGLAND:** Good morning, Your Honor. Steven Ragland and Cody Harris of Keker Van Nest and Peters on behalf of the plaintiffs. We're joined by everyone, co-counsel Margo Mendelson and Tess Borden of the Prison Law Office and Kyle Virgien of the American Civil Liberties Union.

**THE COURT:** Okay. Just a minute. Who is going to be taking the lead then on arguing the various matters?

**MR. RAGLAND:** Your Honor, I will be handling the transfer motion. Mr. Harris will address the preliminary injunction motion, and Mr. Virgien, the class certification.

**THE COURT:** Okay. Now there are a lot of motions on, whether we get to all of them depends on a number of different things. Unfortunately, the way this all came about is that you had your motion for preliminary injunction and class certification, and after that, we get the motion to transfer. That if I had had the motion to transfer first, obviously, then I would have heard that as an individual motion before we got

to the other matters that you're already substantively briefing and no one really asked me to change the schedule. But I considered doing it unilaterally and then I thought, you know, I guess they know what they're doing so here we are all.

There are a number of people in the courtroom. Did you bring those people here? Or are they for something else?

**MR. RAGLAND:** I didn't bring the people, Your Honor, I think it's just an indication of the interest in the case.

And I'll thank Your Honor for not continuing the hearing. When we filed our PI motion and class certification motion, we had no idea there would be a motion to transfer. After it was filed, we did not want the hearing moved because of the urgent relief we are here for.

I don't know what the Court's schedule is, but could be available all day at the Court's convenience.

**THE COURT:** Well, it's -- let's take it one step at a time. Let's get defendants' appearance.

It looks like you're kind of ganged up on here.

**MR. IYENGAR:** Good morning, Your Honor. Savith Iyengar, Assistant U.S. Attorney on behalf of the Government.

**THE COURT:** All right. You did not bring any lawyers with you this morning.

**MR. IYENGAR:** I did not, Your Honor. I'm handling all three motions.

**THE COURT:** Okay. So we got one or over, two over

here, large number of people in the courtroom. And I don't want to disappoint people by perhaps not getting to everything but we have to start with, in my view, the motion to transfer.

But before I get to it, I want to address a couple of things that have come to my attention recently and then one thing that's been around for a while that I didn't address and maybe I can take it up while we're here. Just the other day, I did sign an order granting the plaintiff's request to file certain documents under seal. And those particular documents all concerned medical matters.

The defendant also has a motion to seal and that motion includes medical matters but it also includes, I guess, detainee classification or categorization for purposes of a security matters but that's okay, in the Court's view, to fall under seal along with the medical. But there was something that caught my attention that I just wanted to take up, which is another group of entries, if you will, or material in which the ream of the couple of computer programs that are used to track medical matters is named and -- anyway, you named them. And I don't know what the name of this program is and I didn't see how that bore on security or equivalent of prisoner classification. It certainly isn't the medical condition of any particular detainee.

Why would that have to be under seal?

**MR. IYENGAR:** My understanding, Your Honor, is that it

relates to the sensitivity of cyber security and potential hacks. A lot of Government software needs to be outdated compared to what the rest of the world uses because the Government uses software that has already been shored up so it can withstand potential attacks. So I'm not sure whether the particular software they're using faces vulnerabilities but that's the reason why we redacted, Your Honor.

**THE COURT:** Okay. So in other words, if you named the particular program being used, you're afraid somebody may try to get into it.

**MR. IYENGAR:** That's right, Your Honor.

**THE COURT:** Okay. Under those circumstances then, I'm going to sign an order granting your motion to file under seal. There was one that, frankly -- maybe there's one that I should deny but I don't know if it's worth it. In the motion to transfer, there's a reference to a particular -- I think it's patient A or something like that. But patient A is not identified in that motion. Patient A is identified as -- does she pronounce it Dr. Tiona?

**MR. IYENGAR:** Yes. That's right.

**THE COURT:** In her declaration, and that would be sealed because she does say so-and-so is patient A and then she goes on, but in their actual motion there is no way anybody can tell who patient A is unless they went to her declaration and that's going to be sealed so I could deny that but it's

probably not worth it to have a whole separate order just saying that. It's not going to hurt anybody so I'll grant that.

Now what I did get a particular concern was, quote, unquote, note of noncompliance with court order. Now, what happened originally, and of a particular emergent nature, if you will, was the concern about two detainees who had very serious health problems. Those two individuals then were the subject of a motion for temporary restraining order to direct them -- the defendants to provide a proper medical attention before they possibly expired on our watch which I definitely did not want to happen.

The Government and the plaintiffs then arrived at an agreement since it was pretty clear these people needed medical attention and rather than have a court order directing the defendants to do something, they agreed it was proper to obtain medical care. I was concerned it was over the holidays and if I ordered something too quickly, could you even find anybody. And the parties came to an accord as what was a reasonable amount of time to get the people to a reasonable specialist, which they needed, and then I think the Court approved the stipulation so it becomes an effective court order and that's the order being referenced in this particular motion.

And apparently as to one of the two people -- and I won't name him unless it became absolutely necessary but it's

in the papers and he had to have a biopsy and when he was to go back for a follow up, and he didn't -- he wasn't apparently taken to his follow-up appointment. Now, that's critical because there's a real question about whether this individual has cancer. Frankly, it was were all of the earmarks were essentially there, and if it were not acted on soon enough, it would get to a point where you couldn't do anything for it then you're going to have incurable cancer.

Do you know anything about this, Mr. Iyengar?

**MR. IYENGAR:** Yes, Your Honor, and I agree it is absolutely critical. We sent information to plaintiffs' counsel this morning as soon as I had it from ICE. As plaintiffs' counsel conveyed to the Court, the follow-up appointment didn't occur on February 2nd due to an internal scheduling error so we followed up on that to find out what that means.

And my understanding, according to the client, is that the appointment that was scheduled for February 2nd was missed because CCDF, the facility in California City, did not properly enter the follow-up appointment date into ICE's internal system. And without that entry, the transport process for Mr. -- for the detainee was not triggered. And once the issue was identified, corrective steps were taken to reduce the possibility of similar errors in the future, and that's all from ICE.

**THE COURT:** Is he getting to his specialist? Are they now, you know, rescheduling him?

**MR. IYENGAR:** He has absolutely been rescheduled but the date is March 3rd, which we all agree should be advanced.

**THE COURT:** Definitely needs to be advanced.

**MR. IYENGAR:** So they're actively making efforts to obtain an earlier appointment.

**THE COURT:** All right. I appreciate you're on top of this but let me ask you a question, the lack of entry, did they determine what the flaw was in their processing system that allowed for that to happen?

**MR. IYENGAR:** I don't know, Your Honor. They've told me that corrective steps were taken so they presumably identified the flaw to take those corrective steps but I --

**THE COURT:** There are just so many different answers. You could just -- I don't know if they had like one person who is supposed to be doing this or does the person who transports the person bring them back and enter something? Do you have human error? Do you have computer error?

There could be so many different things and I am concerned about this particular detainee because I know people have died of prostate cancer. It's not pretty. So it's important that he do have the care he needs, and -- okay.

There's a third detainee that I'm also concerned about which is the detainee with diabetes that had some foot problem

and the ulcer. And, again, I don't want to see somebody losing their foot while they're being detained so that was another one that particularly came to my attention and the detainee with the -- well, anyway. There's several.

Now I'm not sure where to go. So the notice at the moment, there was no motion filed in connection with it but counsel definitely wanted to call it to my attention.

**MR. RAGLAND:** Yes, Your Honor.

**THE COURT:** And you did do that and I'm glad you did. The medical concerns here are the biggest concern because they need to fix it. How is this facility different than a prison? One, these people have not committed crimes that have caused them to be brought to the facility. Maybe crimes in the past, as plaintiff points out, they served their time, they got out, some with very good reviews, and they're not there for having committed a crime.

Now, let's look at most criminals. Okay. Most people who commit crimes are not infirm, okay. They don't have serious medical conditions.

While they're in prison, if they get long sentences, get older, they succumb to various things that might occur. But the average person is not sent to prison with the kind of serious health concerns that these people have primarily because it would be pretty hard to commit a lot of crimes in this bad shape. So what they have is a lot of people who are

ill, and a number of them very seriously. They are not set up to care for them.

I think it's pretty clear. This is -- it's an organization that runs prisons. They know how to deal, maybe, with a prison population but that's not a prison population and I'm not sure how best to handle it. To simply say you've got to do a better job, -- if I were to grant a preliminary injunction, it doesn't do any good to say you have to do better, you have to do a better job, you got to get a better this, you got to get a better that.

I'm not sure where the specifics are of -- the intake is one, all right, that not having the best intake program so that you can identify the, you know, parade of delaying in the halt and whoever else is coming in here, that they need to do better on intake. How you exactly accomplish that, I'm not sure. Also with these people that are seriously ill and there are complaints about how people dealt with their illness, the people who are screening them, looking at them at the prison -- let's take an RN. They may not be a specialist in cardiac conditions.

Prostate cancer, severe diabetes, people who are in brittle condition, they're uncontrollable diabetics, even general practitioners may not be able to do this. So what you start with a large group of people who have these problems and how you put in a procedure, I'm not sure. But that's how I see

why this is before me the way it is.

**MR. RAGLAND:** Yes, Your Honor --

**THE COURT:** Okay.

**MR. RAGLAND:** May I just have a couple words?

**THE COURT:** Sure.

**MR. RAGLAND:** First, pointing out that 72 percent of the people detained at California City detention facility have no criminal record whatsoever, 86 percent of the women, 69 percent of --

**THE COURT:** You've made that argument --

**MR. RAGLAND:** Fair.

**THE COURT:** You made them all --

**MR. RAGLAND:** Okay.

**THE COURT:** Okay.

**MR. OSBORNE:** Right.

**THE COURT:** -- typical that's why prison people don't know how to deal with them. Even medical people may not know how to deal -- so if you criticize whoever took someone in in intake and didn't realize this person was as sick as they were or didn't realize that they needed X medication instead of Y, they need specialists. All right.

And I really don't know what the answer is there. I'm just saying that I -- this -- this is how I see the problem as created. I will never get to ruling on this. Okay. If this case is transferred, I may not be involved, but I want you to

know that that's the primary concern I have.

Other things can be remedied. All right. If somebody says we are getting flimsy jackets, we're not getting good, you know, sweatshirts and it's cold here, whatever, that can be remedied with a simple order, give it to them. Okay.

But this other incident is more problematic and so I just -- I want you to know I looked at this, not in the depth that I would have liked to have had the time to do. I do want to say that. And then with the motion for class cert, there would be questions I would have about it, certain of the problems are alleged to be systemic or system wide rather.

But other problems appear to be more of an individual nature or would require individual -- I don't know, review and so you could get to that if we're going to. But I want to go to the motion to transfer. The average person who would receive this case in this district would respond probably more formally with the following, why is this case here.

All right. Not why legally can it be brought here, if plaintiffs have an argument, it can be legally brought here, we have a buyer in San Francisco, use the complaint to part. Okay. But why is the case here? Everything going on in this case is happening in the Eastern District.

There are hundreds if not thousands of people who are witnesses who are in the Eastern District. Now that does not necessarily mean that the Eastern District is a better forum to

have the case because of the remote nature of this particular facility. Because the most important factor of the factors that one goes through in deciding a motion to transfer of -- on venue grounds, not improper venue grounds but for convenience, is the convenience of the witnesses and, in particular, the nonparty witnesses but witnesses.

And they're all pretty much, except for the one named defendant here, down in the Eastern District, the southern part of it and that's one of the problems we can talk about, convenience. This place is not near anything. In other words, the California City or whatever you want to -- you want to call it CCDF, I'll call it whatever anybody wants to call it.

CCDF, it's not near anything. It's not even really near Bakersfield. It's about, what, 70 miles from Bakersfield.

**MR. RAGLAND:** Yes, Your Honor.

**THE COURT:** Close to 200 from Fresno, about three and a half up here, and what's going on is going on down there. If I were a judge in the Eastern District, primarily in Fresno not so much Sacramento, I would want to go out there and look at this facility. A lot of times you can say a picture is worth a thousand words. Not here. How are you going to test the water, how are you going to test the temperature, how are you going to observe how people are being handled.

And, yes, they are -- they can be on their good behavior but there's only so much that can be changed. I

remember going on a restaurant review visit in Boston with, at the time -- because my husband was a columnist in Boston wrote for the Globe, her husband had segued into retirement as the food and restaurant -- food and wine, I guess, editor and we to a restaurant, a fancy one, and they didn't recognize him but they recognized her because her picture had been on a billboard.

Well, they couldn't change the food but they could change the service. We got really great service. Now, if a judge shows up at a prison, they can't really change the food, they can change the service but there are certain things that they aren't going to be able to change and I think it's worth a visit, clearly, but it's a lot closer to go from there.

Also, one of the judges down there I know started in Bakersfield, only went to Fresno because they were appointed to the district court, they had been a magistrate judge assigned to the Bakersfield courthouse and all of their probably friends were from Bakersfield so it wouldn't be the worst thing if they wanted to sit in Bakersfield, at least it wouldn't be as bad as if I had to go to Bakersfield.

Okay. Now, let's talk about the motion to transfer then in greater detail. Okay. And I'm just going to go through the various factors with you. And I was trying to see what would you say -- I'm going to ask plaintiff -- I'm sorry, defendants' counsel because it's their motion. What would you

say the travel time is between the facility and the Bakersfield courthouse?

**MR. IYENGAR:** We have a declaration, Your Honor, that says it's about an hour and a half.

**THE COURT:** All right. And that's what I've written. And unless that's, you know, disputed in some way, I mean, they didn't totally exceed the speed limit, did they, to do that?

**MR. IYENGAR:** No, 76 miles in an hour and a half is reasonable.

**THE COURT:** Okay. Did anybody try to do the run to Fresno -- I can't remember -- from CCDF? Do you know -- well, it's reported to me, per a declaration that I got, that it's 185 miles.

**MR. IYENGAR:** I see.

**THE COURT:** All right. How long does it take? Do you want to call that two and a half hours? What do you want to call it? Did anybody try to drive it?

**MR. IYENGAR:** Not to my knowledge. I'm not aware of any CoreCivic or ICE officials based in Fresno who have ever gone to the facility or have any responsibility traveling to the facility so I don't have a declaration by anybody who regularly travels that route but I would guess, Your Honor, two and a half to three hours.

**THE COURT:** Okay. Kind of what I wrote. First I wrote three and then changed to two and a half. Let me ask

counsel for plaintiff do you have any knowledge of what the travel time is or even what the roads are like between the two?

**MR. RAGLAND:** I know it's 200 miles and so I would think about three or four hours, depending on the roads.

**THE COURT:** Well, I was told by the Ragland declaration, 185, I don't have --

**MR. RAGLAND:** 185.

**THE COURT:** But, I mean, give or take 15 miles, okay, but let's say if you were traveling, you know, between, I don't know, Winnemucca and something, you could go pretty fast with nobody else on the road. You're trying to do it here in the Bay Area, it's a lot tighter. I don't know what the roads are like there and how hard it would be.

**MR. RAGLAND:** It would be a few hours, Your Honor --

**THE COURT:** Okay.

**MR. RAGLAND:** -- probably.

**THE COURT:** All right. The district judges are in Fresno. There is a courthouse in Bakersfield. Does it have the facilities for a jury trial? In other words, they have a courtroom that's got a jury box or something?

**MR. IYENGAR:** Right.

**THE COURT:** Okay. Okay. Let me just get up to -- I'm just going to launch into the factors. Wait a minute.

Let's start with the plaintiffs' choice of forum. That is given some weight but not a lot if the plaintiff

doesn't have a tie to the district where the action is brought and these plaintiffs are all down in the facility. There's no indication they're getting out and coming back up here so this factor to weigh in favor or against transfer only I would say slightly.

I can consider convenience to counsel. There's no question it's more convenient for counsel whose offices are here, but, okay.

**MR. RAGLAND:** May I be heard on that briefly, Your Honor?

**THE COURT:** Sure. Who is up here --

**MR. RAGLAND:** Well, every single woman in the Northern District who gets picked up by ICE will be taken to CCDF. Every single one.

**THE COURT:** Okay.

**MR. RAGLAND:** We know there's local interest. A Congressman from this area recently traveled, and we provided that to Your Honor --

**THE COURT:** We're not at global interest yet.

**MR. RAGLAND:** Fair enough, Your Honor.

**THE COURT:** Okay. We're just at plaintiffs' choice of forum and what you've said is anybody picked up up here is taken down there.

**MR. RAGLAND:** Every single female and many or most men will be taken down there. Also, Your Honor, what we are

seeking relief on is policies and plans and those are decided on Sansome Street, just a block from my office, a mile and a half from this courthouse. That's where the field office director who has chief responsibility for this facility --

**THE COURT:** That's not the plaintiff. All right. We are talking where does the plaintiff live. Okay.

**MR. RAGLAND:** Right. So people --

**THE COURT:** So he --

**MR. RAGLAND:** -- who are rounded up here will end up there.

**THE COURT:** Wait just a moment. We're going to get to every factor and you can put all of those arguments whatever box they go in but I'm in box A. Box A is ordinarily where does the plaintiff live. That's what it boils down to. And in this instance, the plaintiff -- one of the main plaintiffs are alleged to live here, all right, or going to be here shortly.

The statement you made that a number of them would be or could be down there now who actually are citizens or residents -- if not citizens I would say residents -- of the Bay Area here, is that in a declaration anywhere?

**MR. RAGLAND:** It is not in a declaration, Your Honor.

**THE COURT:** Okay. All right. But nonetheless, what we've got now is I don't know what those percentages are but by now they're all down at CCDF.

Now can I ask you a question because every time you

pick up that bottle and drink out of it, I get distracted.

**MR. RAGLAND:** I'm sorry, Your Honor.

**THE COURT:** This age of bottled water -- don't ask me why everyone thinks they have to drink it -- but, in any event, it really doesn't look any different than swigging out of a Coke bottle. All right. So if you've got a glass and we've got one, we can give you water if you're sort of getting parched, we can -- you know, he's got a glass of water.

**MR. RAGLAND:** I'll relegate it to counsel table, Your Honor.

**THE COURT:** Okay. All right. Because what I want to do is be sure I'm paying attention to you and not what you're doing with the water bottle.

Okay. So I'm giving it weight but I'm not giving it a lot of weight because it's not really home to the plaintiffs at least at the moment.

**MR. IYENGAR:** Your Honor, may I add one thing very quickly?

**THE COURT:** Okay.

**MR. IYENGAR:** I think it's very clear, and we said this in our papers, that individuals who are not lawfully admitted to the country don't have a residence for venue purposes under the statute 28 USC 1391(c)(1) and there's also case law from the Supreme Court confirming that fact --

**THE COURT:** Okay.

**MR. IYENGAR:** So to the extent anyone might have resided, quote, unquote, lived -- resided -- and I mean lived in this district prior to ending up at the facility, that's not enough to establish residency for purposes of venue. And also this whole case involves conditions of confinement at the facility in California City, nothing that happened before that time.

**THE COURT:** Now, for purposes of the propriety of bringing -- in other words, the ability to bring a case in a particular venue, what you've cited would be correct. In other words, legally, they don't count as residents so if a statute says venue can be placed where someone is a resident, they're not a, quote, unquote resident.

Nonetheless, if they're physically in the area, I think it could still be counted if they're making their home there on a convenience argument. Okay. So if one has other grounds upon which to bring an action in the district so you're not relying on where the plaintiff resides, then I think I can still consider where the plaintiff is on a question of convenience, even if legally they don't count as a, quote, unquote resident.

Okay. All right. Now let's go -- I'm going to skip convenience to the parties for a minute because that's really the big one here. I'm sorry. Convenience to the witnesses would be the one I want to skip over.

But convenience of the parties, certainly for purposes of the parties, the plaintiffs, in a sense, are just waiving the idea that it might be closer to go to Bakersfield or Fresno and they're essentially saying we'd rather be here. The defendants' position, you're on now again as the movant.

**MR. IYENGAR:** Well, Your Honor, I think it's primarily focused on the costs of proceeding here as opposed to proceeding closer to the facility. A transfer to the Eastern District would reduce costs of travel to the facility. As Your Honor said, the facility itself is at issue in this case. So being able to observe conditions at the facility, how they might change over time as this litigation proceeds is important.

Having meetings with the hundreds of potential material witnesses in this case, including nonparties, all of whom are at or near the facility and depositions would take place at or near the facility. So coordinating travel, you know, across -- over 350 miles is a significant cost to defendants and it's not just something that would need to happen once or twice, it would need to happen for every single trip to or by a potential material witness in this case and every trip involving observations of conditions in the facility.

And so we believe that, you know, the convenience to -- the cost associated with proceeding in this forum are

significantly in favor of transfer closer to California City.

**THE COURT:** Okay. Any counter to that?

**MR. RAGLAND:** I think it rather overstates things. Certainly there may be depositions closer to the facility, there may be other site visits, that sort of thing, but most of the litigation will happen here in San Francisco. We already -- the Government has already assigned a very able AUSA to handle the case who is familiar with the case.

Your Honor, the Court is already familiar with the case. We're willing to travel of course for depositions, depositions can be remote. We think the cost differential is negligible.

**THE COURT:** Okay. I'm going to go and skip over convenience of witnesses.

Ease of access to evidence. Documentary evidence and of course in this day and age kind of moves in the ether essentially. But whatever the physical there may be would be if it's in place, it's down there. I don't know if there's anything in particular you want to point out in that regard in support of the motion.

**MR. IYENGAR:** It's in our papers, Your Honor.

**THE COURT:** Okay.

**MR. RAGLAND:** Your Honor, it's not going to be necessarily more convenient -- or access to evidence, as Your Honor pointed out in the electronic age, the distance doesn't

matter that much. But I did want to point out this court has dealt with a very similar issue to this as far as convenience of Eastern District versus Central District for a case happening in this county, in Kern County, and that's *Pratt v. Rowland* case which we briefed in our papers.

And in that case, the judge here in the Northern District said that defendants argue that because really all of the parties resided in the Eastern District, and much of plaintiffs' complaint concerns events involving Tehachapi, which is located in the Eastern District. Tehachapi is 30, 40 miles from California City. That convenience mandates a transfer of this case to the Eastern District. Not so.

As the court here in *Pratt v. Rowland*, the cite is 769 F.Supp. 1128, I'm at page 1132.

**THE COURT:** I got to find my stack --

**MR. RAGLAND:** Sure, Your Honor. I have copies I could hand up if that makes it easier for the Court.

**THE COURT:** No, that's all right. Just keep reading.

**MR. RAGLAND:** Thank you, Your Honor.

The Court says, first, it's unclear whether transfer to the Eastern District would in fact be more convenient for the parties and witnesses. Many defendants reside in Kern County. For them, the difference in travel time between this court -- meaning Northern District -- and Eastern District is negligible.

Again, there is a district judge in Fresno. That's still 185 miles away. It's not like it's around the corner so it's a negligible difference. But also in *Pratt v. Rowland*, this was -- the Court went on and emphasized more importantly, however, the interest of justice tipped decidedly in favor of remaining the action here. Fairness considerations may be decisive in ruling on transfer motion even when convenience of witnesses and parties points the other way.

The Ninth Circuit has frequently held that a motion for transfer may properly be denied whereas here a case has been pending for some time in the original court or transfer would lead to delay. And, Your Honor, it's not just the *Pratt v. Rowland* case, but the *State vs. Bureau of Land Management* case that we cited, Judge Orrick commented that, yes, there are two pending cases in Wyoming that were inextricably intertwined, described as. Judge Orrick held so be it. Here, we have a fully briefed preliminary injunction motion, we can't afford delay and further irreparable harm by delaying it. That was Judge Orrick in the *State v. BLM* case so this Court has considered these factors and emphasized the need to not delay things in the interest of justice.

**THE COURT:** It was decided in 1991 by Judge Michael, rest in peace, and there are certain issues certainly and this particular issue, all right, he's weighing in on, it's not all that convenient for anybody anywhere and that's probably true

as I acknowledged when I came out here. The location facility is pretty much out in the middle of nowhere.

All right. So now we'll go to the next factor. I'm skipping convenience of witnesses and we've done ease of access. Choice of forum.

Now familiarity with the applicable laws since both of the venue are within California and we're dealing with California Law. That's kind of a wash. It doesn't go anywhere.

Feasibility of consolidation with other claims. At the moment, I'm not made aware of any, unlike Judge Orrick in the Wyoming situation.

Local interest in the controversy. Is it the kind of case that involves, at least up here, a local issue? In other words, nothing's really happening up here. There may be people up here who are concerned about what's going on down there but it's not quite the same as a local issue. I mean, people here are concerned about what's going on in Washington DC but it's not a local issue.

So down there, I don't know if they care what's happening to these detainees or not. Okay. They picked up a lot of farm workers, yes, people may be concerned down there because, under those circumstances, all of their crops are going to rot.

But other than that, I don't know if they're

interested in -- if anybody is, it seems like it would be down there because that's the locality of the events. Maybe I'm wrong on that and I'm happy to hear from counsel.

**MR. RAGLAND:** Thank you, Your Honor. I think local interest is demonstrated by the fact that Congressman Ro Khanna just went there a week ago because one of his constituents was snapped up from this district and taken there. And also his other constituents, presumably, wanted him to go there. That was an important fact.

We also know, as I mentioned, that every woman who is detained by ICE in the Northern District will end up there so we'll see our neighbors, our friends ended up there. There's extreme local interest.

And I think we can't discount, Your Honor, the fact that decisions made about whether or not Your Honor's orders will be complied with are being made here by the field office director who sits on Sansome Street, and ICE itself, that's -- this is Exhibit 1 to my declaration in opposition to the transfer motion -- ICE itself directs all complaints to the field office director in San Francisco. I think there's immense local interest here.

**THE COURT:** Okay. Anything you want to say about that, Mr. Iyengar?

**MR. IYENGAR:** I want to emphasize, Your Honor, this case is about conditions of confinement at a facility in the

transferee district. And this case is not about a policy, procedure or practice set in this district by Director Albarran.

They're alleging incidents involving CoreCivic staff at the facility. They say they violate national standards. And to the extent that they're challenging national standards, which I don't believe they are, there's no allegation that they be set at the field office level. These are national standards that are set in DC so I don't think any of these factors would help counsel in favor of denying transfer.

**THE COURT:** Okay. There are two issues that are factors if you will or elements that the Court is particularly interested in. That's why I took the other ones first because I want to get to the ones I really care about.

One is the convenience of the witnesses, which usually is simply a question of how many witnesses each side has that essentially live near the courthouse in their venue. This is a one-off in that respect because we don't have -- we have really everybody down there but the question is is it any closer there than it is here. Okay.

Then we have the question of relative court congestion. Now, I've been given some statistics and I also -- it sort of took judicial notice of published statistics that we have now. The statistics that the plaintiff gave me were from some years back and then the defendant gave me some statistics

that -- let me just see here. No, I take that back. Give me one second.

The Government gave me a statistic that I was concerned about where that came from. That the time from filing to disposition was -- let me just make sure I'm reading this correctly -- longer in this district. Where did you get that? You have some long, you know, cited web page.

It's the 12 month period ending June of 2025. I did not see 8.1 for Fresno or the Eastern District rather versus 20.5 for here. I saw that it was longer there by a fraction than it was here on time to disposition. Where did you get this statistic from?

**MR. IYENGAR:** I can absolutely confirm, Your Honor, it is the case that the median time from filing to disposition of civil case by action taken is 8.1 months in the Eastern District versus 20.5 months in this district. And we took that from the judicial case load statistics. That's available at this link, and I wish I had printed out a copy of this, but it's available at this link.

**THE COURT:** Yes. I wish you had.

**MR. RAGLAND:** I did, Your Honor.

**THE COURT:** If you want going to call someone, have them do it and show it to me because I saw a figure of about 8.1 versus 7.7 or something here. In other words, in my view, negligible difference but not this kind of weighted difference

that you're citing to.

**MR. RAGLAND:** Your Honor, I did have printouts. I'm happy to hand them up to the Court and provide them to Mr. Iyengar if you would like. And I can also explain that statistic and put it in context, if Your Honor would allow.

**THE COURT:** Sure.

**MR. RAGLAND:** What that statistic is that the defendants put forward is total cases that don't involve court action, cases that dispose prior to any court action.

**THE COURT:** Any court action?

**MR. IYENGAR:** All cases --

**MR. RAGLAND:** When there's no -- I'm sorry. Excuse me.

When there's no court action taken, that's the length to disposition. It takes longer to clear dead cases from this courthouse than from the Eastern District. But if we look at the stats that matter, this is cases in which any court action is taken. If it's during -- after -- before pretrial, it is longer in the Eastern District.

If we go all the way up to pretrial, the average median time for disposition pretrial when there's any court action in this district is 15 months. In the Eastern District it's 29.6 months. Twice as long. If we look at going through trial which cases in this court and in the Ninth Circuit have recognized is the key metric for congestion, the median time in

this district is 42.4 months and the Eastern District, more than five and a half years, 65.2 years.

**THE COURT:** So sorry. Read that one again.

**MR. RAGLAND:** Sure, 65 --

**THE COURT:** No. You're just going too fast.

**MR. RAGLAND:** I'm sorry, Your Honor.

**THE COURT:** All right. Now, you were looking -- all right. So when you say that the one that was cited by the defendant is if nobody gets into court at all other than the complaints filed?

**MR. RAGLAND:** Correct, Your Honor.

**THE COURT:** All right. Then you had 15 versus 29.6 goes to what type of event?

**MR. RAGLAND:** That is median time interval during or after pretrial where there is any court action.

**THE COURT:** Okay. After pretrial if the case, what -- well, if there's any court action.

**MR. RAGLAND:** Yes, Your Honor.

**THE COURT:** So let's call it double.

**MR. RAGLAND:** And then for during -- then all the way to trial it's 42.4 months is the median time in the Eastern District -- I mean here in this district. And the Eastern District is 65.2 months.

**THE COURT:** Okay. So let's look at it this way, from the nature of the claims you have, 42 months is too long.

Okay. That's if you stayed here. All right. So I'm going to assume that this case would have to be handled differently than the median, then if I remember statistics that would be the most cases at 42 and that 65 respectively, as opposed to an average where you could have six months and six years and come out with an average that's meaningless.

Okay. So none of these trial statistics work for this case. This case, if it had a trial, would be a bench trial because the relief sought is, at minimal -- it probably wouldn't be tried anyway but about what it needs is attention, as you say, now. So these statistics really don't play a great role in I guess the practical effect on this case.

Interesting though, it's rare that I'd even see this be an issue in most cases but it is here. Usually because it's not that much different -- and the Eastern District has had trouble with staffing and just, you know, it's hard for them. And if I were to transfer the case, I would feel kind of guilty about it also because they have a lot of cases.

In the same light, we know that Judge Thurston has looked at a case that comes out of CDCF, and that the -- or CCDF -- that the relief being sought is really what cramped the plaintiffs in that case because their argument was that the facility needs to stop bringing people in and their effort was to cut off that flow. She did not necessarily find that the complaints they made were unfounded, but what she said is you

haven't shown they're going to get any worse by more people coming in and, a lot of these appear to be just they really weren't set up to start up when they did and now they're -- they say they're doing better, and she didn't really address, however, the specific issue, but she clearly was made familiar with the fact of what's going on down there.

She ruled expeditiously. It's not like the case would just be put on a back burner. So --

**MR. RAGLAND:** May I be heard on that briefly, Your Honor?

**THE COURT:** Yes, you may. You were not counsel in that case, were you?

**MR. RAGLAND:** No, I was not.

**THE COURT:** Okay.

**MR. RAGLAND:** I have read the complaint. I know that case originated in state court in Kern County and was removed to the Eastern District. The defendant was the City of California City -- one of the defendants -- and the issues were about the municipal code and permitting and whether there's a limited use permit. These were issues that have nothing to do with our case which deal with ICE policies, practices, and how they're implemented.

**THE COURT:** But her opinion, and I -- I started with seeing exactly what you did. One, they're suing the City and saying, you know, it's like you don't have a permit to build

that ADU or whatever. Okay. You don't have a permit to have this facility running.

But then when she got into her analysis, out -- not out of nowhere, but she said the thrust of your case is that you want me to stop letting people come there and so that's what I focused on and that's what she ultimately made her rulings on. It's true, different defendant, and at least in hopes of what they had in the complaint, it looked like it was entirely removed, and -- and then she got into this whole thing about the conditions.

She went through every single condition, most of them overlapping with what we have here. And so it was kind of interesting. It was almost like the little intro didn't quite cover what was really at issue there. But, again, I wasn't there and -- but I only read the case.

I also read the cases that Judge Pitts has written about the local detention facility. And in one of those cases for example the Government didn't dispute that all of these things were going on, that people didn't have a bed, they had to lie on a net somewhere on top of uncomfortable things. They didn't get any food, they didn't get any hygiene products so this is all admitted.

You can't do that. Okay. You have to give them hygiene products, you have to give them a better bed and, you know, they were very specific. He also provisionally certified

a class and I wanted to talk to you about that in some time or another what that concept was, but, okay, I'm digressing.

**MR. RAGLAND:** May I make one point on the congestion point, Your Honor? I just have to make one point with regard to congestion. I agree with Your Honor that hopefully this case will be handled differently than a typical civil case.

However, the data we have is a case disposition through trial as the barometer for whether a court is congested or not. Courts in this district have recognized that, quote, "whether a trial may be speedier in another court because of a less crowded docket is the relevant inquiry on congestion." And that's the *Majka v. Prudential Insurance* case that we cited and the *Sierra Forest Legacy vs. U.S. Fish and Wildlife Service*.

**THE COURT:** Let's say they're more congested. All right. So that's a factor that could weigh in your favor.

Okay. Let's go now to the convenience of the witnesses. And this is the main thing, as I say, you brought a case that really comes out off the Eastern District. All of the witnesses with the exception of this one defendant who maybe is in charge of policy but the policies are not in dispute. What's being argued here is you're not following your policy.

Yes, your policy is to give everybody what they need and you're not giving it to them. So it's really not a

disputed issue. There's nothing to indicate that anybody is making complaints up here that are being ignored. It's unclear to me why complaints are relevant other than to the people that are immediately in charge of being able to act on them which are whoever is supposed to give people food, clothing, heat, exercise, there are a number of things.

So convenience of a witness -- we just talked about travel time. And it's not as clear as it may be elsewhere. You know, if you had 15 witnesses in Dallas, there's an airport, 20 witnesses or more in San Francisco, we've got an airport. It's a little bit different than that kind of case that we usually see.

So I'll just go back to my various notes on it for a minute. A drive of 350 miles or having to get on an airplane so then you've got about, I guess, 185 or 6 to get to Fresno, then you get on a plane and then you get up here, then you do whatever you do. Any witness who would be asked to testify up here would need to stay overnight, maybe a couple of nights. The Government is saying you could -- they're implying you could make it to Bakersfield and back in a day, how do you figure that if you wanted to fill in the blanks there for a minute?

**MR. IYENGAR:** To the extent that it takes an hour and a half or less to travel from Bakersfield to the California City facility, you could do that drive in the morning like many

of us do in the morning to work and drive back in the evening after the deposition or the evidentiary hearing or the trial.

**THE COURT:** Okay. It sounded like it could be done if you went to Bakersfield. It really doesn't work well if you have to go to Fresno. So, you know, the question is whether a district judge would elect to hear the case in Bakersfield. They may well if they have ties to Bakersfield; at least one judge does. The -- which is a matter of public record really.

So that's one -- the depositions of the trial, if you are conducting those in Bakersfield, both witnesses appeared to be within the 100 mile radius. Frankly, I don't know where the staff lives. Do they live in California City? Do they live in between Bakersfield and California City?

**MR. IYENGAR:** Their location is based on where they work, Your Honor, for purposes of evaluating this factor so it would be California City.

**THE COURT:** All right. Let's put them all there. They're pretty much all there. So why would it be more convenient for the witnesses to come up here?

**MR. RAGLAND:** Well, Your Honor, we're not saying it would be more convenient. What we're saying is, first, Bakersfield is not a reasonable option. There's a red herring. There's no Article III judge in Bakersfield.

If this were transferred, it would be in Sacramento or Fresno, almost certainly. And even Fresno is well beyond 100

miles so depositions would have to happen locally anyway, regardless of where they are and so we would travel there and depose witnesses, and that happens all the time in cases.

And I'll also point out, again, in *Pratt v. Allen*, the Court dealt with the same issue with Tehachapi, which is right near California City, and said it's a negligible difference, 200 miles -- or 185 miles, about 300 miles, they're both a shlep so it's not convenient for anyone because it's in the middle of the Mojave Desert away from everything. But what matters again, I would submit, Your Honor, is the interest of justice.

What the Government is asking, what the defendants are asking is that this court grind the wheels of justice to a halt say good day, go notice your preliminary injunction motion where people are literally risking death today, go notice it in another courthouse --

**THE COURT:** People are --

**MR. RAGLAND:** Risking death today because they need relief. We have, as Your Honor pointed out already, we have Mr. Reyes -- we can say his name -- who doesn't even know if he has cancer yet. He had a biopsy scheduled in March 2025 at a different facility before he was taken to CCDF.

So what the Government is asking is put this all on ice, let it just sit, let these people suffer in torturous conditions while you renotice it in one of the most congested

court districts in the nation and good luck to you. We think that is terribly unjust and should proceed here.

We have a fully briefed PI motion. We're ready to argue it today. We should do that. We should get some relief for these people.

**THE COURT:** Okay. Mr. Iyengar.

**MR. IYENGAR:** Thank you, Your Honor.

We obviously dispute there would be any meaningful delay with transfer. But to the extent there is any delay, it would be because plaintiffs made the choice to file this case in an inappropriate district and necessitated the motion to transfer. And we don't think there would be any meaningful delay, Your Honor, because we didn't ask this court to hold any of the briefing in abeyance pending this motion to transfer. Everything is fully briefed.

The briefing does not involve any issues that the Eastern District is unfamiliar with. They hear all habeas cases that are brought by detainees at that very facility in California City and they're currently hearing an ongoing case alleging conditions of confinement that are very similar to what plaintiffs, if not identical, to what plaintiffs are alleging here.

So the briefing is complete, Your Honor. It's ready to be decided, and it should be decided in the Court that the -- has the strongest and the proven interest in doing. And

I just want to make one final point, Your Honor, regarding the pending briefing because plaintiffs are asking this court to grant a preliminary injunction and class certification with respect to this facility and these detainees who are, you know, in the Eastern District over 350 miles away.

And they have cited 46 non habeas cases, which they say support granting motions brought by detainees challenging the conditions of confinement at the facility where they're housed, and I want to emphasize, Your Honor, that every single one of those cases proceeded in the district where the facility was located. All 11 cases cited in the class cert motion involved cases proceeding in the same district as the facility class certification of a class located in a facility in that district. All 35 cases cited in the PI motion, the case proceeded in the same district as the facility.

So plaintiffs are asking this court to grant relief in this district hundreds of miles from a facility in the Eastern District but there's a very good reason why this never happened in any of those 46 cases. Evaluating these motions requires the Court to engage in the substance of disputed allegations about conditions in a specific facility. If they are successful, it would involve potentially crafting relief that's specific to that facility.

And we see what plaintiffs have submitted to this court in their proposed order, they're asking essentially to

transform this court into a monitor of a facility that's in a different district over 350 miles away.

**THE COURT:** The case that you say is pending and has the same issues, which case are you talking about?

**MR. IYENGAR:** That is the case that Your Honor was discussing.

**THE COURT:** All right. But is that now going -- the case against California City?

**MR. IYENGAR:** California City and CoreCivic.

**THE COURT:** Okay. And are those issues being addressed in some way?

**MR. IYENGAR:** Yes, Your Honor. I believe that I've printed out the docket, but it's -- there's an ongoing motion to dismiss that's being briefed right now by -- brought by California City or CoreCivic. But the case is ongoing and it is brought a detainee at the California City facility who, while pseudonymous, is a member of -- at the very least, a member of the class the plaintiffs here are seeking to certify.

**THE COURT:** I don't know if it overlaps enough to really count it but certainly issues are being raised about the facility. When you were referencing the habeas cases, what were you speaking of?

**MR. IYENGAR:** I was referring to the 46 non habeas cases that they have cited in support of their class certification motion and their PI motion. The reason why I

limited it to non habeas cases, is that the question, Your Honor, why --

**THE COURT:** Actually at some point mentioning habeas cases also --

**MR. IYENGAR:** Yeah. I brought up habeas cases. The fact that the Eastern District hears every habeas case brought by a detainee at this facility because they have to file in their district of confinement, and as part of the analysis that some of the district courts are doing in the Eastern District, they are looking at conditions at the facility with respect to the first Matthews factor. So it's certainly something that the Eastern District is familiar with through the habeas process.

**THE COURT:** Do you know where those habeas cases are being heard? Are they being heard in Sacramento? Are they being heard in Fresno, if you know?

**MR. IYENGAR:** I don't know. And our point on that -- sorry, not to belabor this -- is that it is certainly within the Eastern District's local rules for an Article III Judge to utilize the Bakersfield courthouse --

**THE COURT:** Sorry. Could you start the sentence again.

**MR. IYENGAR:** Sure. Sure. I want to emphasize that it is certainly within the Eastern District's local rules that Article III Judges may sit in the Bakersfield Federal

Courthouse, which is 76 miles from the facility.

**THE COURT:** Is it specified in the rules?

**MR. IYENGAR:** Yes.

**THE COURT:** In other words, they recognize that it may be more convenient if cases are coming from that part of the district to hold hearings down there?

**MR. IYENGAR:** It's broader than that, Your Honor. Authorized Article III Judges to --

**THE COURT:** Don't talk fast.

**MR. IYENGAR:** Sorry, Your Honor.

It's broader than that. It authorizes Article III Judges to hold sessions, quote, "at other places in the district as the Court requires." And the local rules also empower the magistrate judge who sits continuously in Bakersfield to handle crucial evidentiary matters and various other pretrial matters, even in cases that are being heard by Article III Judges.

**THE COURT:** And some of these, do they do reports and recommendations then, is that it?

**MR. IYENGAR:** They do.

**THE COURT:** These are matters they can't hear directly without a consent but are assigned to the magistrate judge?

**MR. IYENGAR:** Correct, Your Honor.

**THE COURT:** I see. Yeah, well, we don't have to worry about Yosemite and wherever else they've got some --

**MR. RAGLAND:** Your Honor, a couple points in response to that.

First, obviously, if there's a report and recommendation that just is a longer process. I still don't think Bakersfield is a reasonable thing. But a couple points to make. The fact that habeas cases, which of course are different. They do go to the Eastern District from here.

But the fact that a number of them are pending in Sacramento. There may be some in Fresno, I don't know all of the details. But the fact that the Eastern District is being loaded with habeas cases from this facility because all of the people who are there who have habeas claims just adds to the congestion of the Eastern District and makes it really unjust to delay this case by sending it there.

I also need to respond to opposing counsel's implication that somehow we're a cause for delay. We filed the complaint on November 12th. The first time we ever heard that the Government thought it should be in a different district was January 2nd.

Mr. Iyengar didn't call us and say, hey, let's talk about this, let's meet and confer, let's figure out a fast way to get it heard. No. Without any meet and confer, without any notice whatever, on January 2nd he filed his motion to transfer. And we responded as quickly as we could. We didn't want to change the schedule because, again, every day of delay

in getting the relief we need risks irreparable harm, continuing irreparable harm to 1,100 souls who are right now at CCDF.

**THE COURT:** I was going to ask defendants' counsel why did you wait until when you did to move to transfer?

**MR. IYENGAR:** Thank you, Your Honor.

And if I may respond briefly to that initial point. It's not true that we never raised the specter of a motion to transfer prior to filing the motion. On December 21st, the parties had a meet and confer call in an attempt to resolve the TRO that the plaintiffs had filed. And plaintiffs had requested -- had sent defendants a draft of a potential stipulation that would resolve the TRO that would have required this court to retain jurisdiction -- continuing jurisdiction over the issues here.

And I explained to them on the phone that we couldn't agree to that because it would waive a potential motion to transfer. So we didn't raise that issue for the first time and they've repeated that and I didn't want to get into this muck but I just wanted to address that.

With respect to the motion to transfer, Your Honor, the case -- more important point is when the case was served on our office and when the subsequent briefing was served on our office. The case was served on our office, I believe, on November 20th. There's a process for assigning it to an AUSA.

It was assigned to me in early December when the PI and class cert motions were filed, and all of that needs time to be digested before the Government can write and obtain declarations in support of a motion to transfer. And we were doing that in conjunction with responding to the motions for preliminary injunction and class cert because we weren't going to ask this Court to stay briefing on those other motions and so that's why we filed it when we did and was relatively quick I would --

**THE COURT:** All right. That essentially boils down to there were some emergency matters that if they moved to transfer made, in some way, sidelines those and that the Government felt it wasn't inappropriate to address those right away but not with all of the conditions that went along with it, and I didn't even know that it happened when I said is there any way you can come to some accord on this when you came in on the TRO.

Now, if I were to grant a transfer, I still feel this case filed -- would ordinarily be filed in the Eastern District, and there's only a -- it's a really legal basis for bringing it here but not really a practical basis for bringing it here. And, in the same light, I don't want to see someone's health jeopardized by even a short delay. All right.

Just say it entailed a short delay, okay, I don't know that I am prepared to rule on every single one of these things

that you've raised either in terms of either the individual named plaintiffs seeking injunctive relief or spreading it to a class action today. There were so many different complaints, and I understand if you don't want to leave any stone unturned here, but some of them are more immediate than others in terms of what you are worried about.

And if there's anything in particular that the Court can carve out of this, a set of requests, and put in place something before transfer if I were to transfer it, I would certainly be amenable to hearing about that. And it would have to be a workable order. You can't have an order where every two minutes people are coming in saying you're violating it, no, we aren't, yes, you are, and it's unclear how specific it is.

So if we want to change lawyers for a minute on that, that's fine. I know you divided it up.

**MR. RAGLAND:** I welcome the invitation, Your Honor, and I think some immediate relief now even with transfer is much appreciated.

**THE COURT:** All right. And so let's also figure out our schedule. This has not been the world's greatest week in terms of things I've had to deal with. And we also have another motion on this morning for hearing and we have several -- I think one is maybe a no-show, I'm not sure -- several case management conferences and there was an offer by

plaintiff's counsel, if necessary, that we could have this matter heard if it had to go long in the afternoon.

The question is whether it should be interrupted at all to go to the afternoon and I've been so entranced by everything you're saying that I haven't really looked at the time. So we've been out here about an hour and a quarter, and at 10:30, that's when the case managements are.

Do we have a court reporter? We have a court reporter, correct? Yes. I see she's just grayed out here. All right. So at some point we would have to give the court reporter a break also during which time I could handle -- if Ms. Geiger is up to going without a break -- the case management conferences because those are not reported but we still have the other hearing. So let me just get it -- sort of preview of what we might be able to do if I were to put this matter over either to an afternoon session or to later this morning and then over as needed to an afternoon session.

And let's hear then from Mr. Harris. Right?

**MR. HARRIS:** Thank you, Your Honor. Cody Harris on behalf of the plaintiffs. And you wanted to hear first about the schedule. Correct?

**THE COURT:** Well, I'm not sure. I think if we get more the preview is more like what do you think might be carved out --

**MR. HARRIS:** I see. Yes. I'm happy to address that.

**THE COURT:** -- the request for relief that I could possibly hear even if I ultimately transferred the case, just so that these things are not left dangling even for a limited period of time.

**MR. HARRIS:** I very much appreciate the question, and I think Your Honor is right to note that there are some very urgent problems that need addressing right away. So even if the Court were to ultimately grant the Government's transfer motion, we do need relief now, and I think Your Honor is right to focus on the two main things that Your Honor already mentioned. One is medical and one are some very basic conditions of confinement issues that I think Your Honor said earlier some of this is very easy to handle with an order, but let me start with medical.

**THE COURT:** Could I stop you for one minute before you start with it. I'm sorry. Why do you need class certification to get the relief you're trying to get? Is there any way that could be put to the side and still grant the preliminary relief you're looking for? Would it not be meaningful?

**MR. HARRIS:** I think Your Honor could issue a ruling without handling that but I'll let --

**THE COURT:** Okay. Let's get your third participant here. Do you want to state your name for the reporter again, please.

**MR. VIRGIEN:** Kyle Virgien of the ACLU and thank you

for bearing with our changing cast of characters up here.

So, essentially, class certification is appropriate because we represent a class of people --

**THE COURT:** Simple question. The question is still it is still perhaps is Mr. Harris's --

**MR. HARRIS:** Yeah, let me try this way.

**THE COURT:** It's not why you want -- well, yes, why it's appropriate or not but why are you trying to get it?

**MR. HARRIS:** I think for what we're talking about now, you could proceed like this. Your Honor could grant, essentially, paragraph 10 of the proposed order. This is simply ordering them, ordering the defendants to do certain things to bring the conditions of confinement into compliance with the constitution. So those are some things that are very basic that Your Honor mentioned a few. So let me start --

**THE COURT:** Those aren't the most emergency ones.

**MR. HARRIS:** Some of them are quite emergent, Your Honor.

**THE COURT:** But the various family visits without Plexiglass, that's not an emergency matter.

**MR. HARRIS:** I would --

**THE COURT:** Not in the sense that --

**MR. HARRIS:** Okay.

**THE COURT:** -- somebody is going to die, get sick, be in -- you could say that you need it for your emotional

wellbeing and whatever and maybe you're right and we have to hear that. I don't want to get too scattered. Pick the most serious matter first.

**MR. HARRIS:** The most serious matter, Your Honor, is the medical problem and the failure of adequate medical care at California City.

**THE COURT:** Thank you. Now let's look at what you are doing in the proposed order that you would ask me to order to resolve the matter at least temporarily.

**MR. HARRIS:** Yes. Your Honor is 100 percent right when you said there's so much going on here, what am I supposed to do? There's intake problems, there's delivery of medicine problems, there's chronic care problems, there's specialist problems. What do I do?

We share the concern. Our response was to say Your Honor shouldn't be doing that. They should present to Your Honor and to us a detailed plan that says here is how we're going to fix these issues, they should do within 7 or 14 days, and then this is a case that cries out for an independent monitor to have access to go down there and make sure that that plan is being complied with so that we are not before Your Honor or the Eastern District, for that matter, with TRO after TRO after TRO as the problems that Your Honor already heard about with respect to Mr. Viera Reyes happens over and over.

This is commonly done. This is done in prison

contexts. This was done in the Hernandez case. Let's get a plan from the defendants and then lets get a monitor to monitor it.

**THE COURT:** I'm just trying to get the table of contents, not the contents. All right. The table of contents is you want an order on medical that includes a monitor and a plan provided by the Government with -- or the defendants within a particular period of time.

**MR. HARRIS:** Correct.

**THE COURT:** All right. Anything else in that sort of, you know, outline that you feel is kind of specific as opposed to just something like do a better job?

**MR. HARRIS:** At a high level, that's what we're asking for, a plan and a monitor.

**THE COURT:** Okay. Those can be discussed. Who would pay for the monitor?

**MR. HARRIS:** The Government would pay for the monitor.

**THE COURT:** Would pay for the monitor. Okay. And is this something that the Court ordinarily would have some say in the choice of a monitor?

**MR. HARRIS:** We propose that the parties would meet and confer, we would hopefully agree upon a monitor that we would present to Your Honor. If there's a disagreement with respect to appointing that monitor, we would bring it to Your Honor's attention for resolution and then the monitor would be

appointed.

**THE COURT:** Okay. All right. So those are a couple of potentially workable orders. I mean, they may be imposed but at least it's something that has some specifics that one could say, okay, are you going to give us the report or the monitor has now said these things are in your report that you plan to do aren't being followed and, you know, you could have something like that where it could be a meaningful review, if necessary, of compliance.

All right. Now, you thought a lot of other things were also important. And I want to -- and I appreciate that you narrowed down that several pages of, you know, the injunctive relief -- more than several I think. It depends what you want to call several.

**MR. IYENGAR:** May I respond, Your Honor, or I can wait as well.

**THE COURT:** Pardon me.

**MR. IYENGAR:** May I respond or shall I wait?

**THE COURT:** No, don't respond. I want to get what they want to talk about. They narrowed it down to two things. Unless you want to add to it, that's fine.

**MR. IYENGAR:** No.

**THE COURT:** Fine. Okay. Then -- okay. Then we have -- okay. Medical -- I'm still on medical. And we have access to counsel. That's number nine.

And apparently there's been difficulty, you know, given it's not near anything, the lawyers trying to meet with their clients and it's difficult because they have to drive there. It's like most of them aren't living in California City and then they get there and they're told, oh, you have to wait or -- and then there are concerns about privacy and trying to talk to counsel and are they behind Plexiglass again?

**MR. HARRIS:** Yes, Your Honor.

**THE COURT:** Okay. All right. So that's the counsel one. And it may not be an emergency if people are getting to talk to their lawyers but inconveniently or less ideally but we can put it in a box if you want, but I want to keep the box fairly, you know, not overcrowded so just keep it in mind.

Okay. Then we go to the question of ten that you wanted to lead with but I didn't want to.

**MR. HARRIS:** It's fine. I agree with Your Honor that medical is by far the most urgent.

**THE COURT:** And you started with medical.

**MR. HARRIS:** I did.

**THE COURT:** Yes. In the actual proposed order.

**MR. HARRIS:** Correct.

**THE COURT:** All right. So you have contact visits with family. You have body searches. You have daily counts. You have outdoor recreation.

You then get into sensory stimulation and socio

emotional programming. That gets a little bit broader. Then you have temperature appropriate clothing and blankets free of charge. I don't think you have to make people buy their uniforms. And their uniforms should be adequate for whatever the conditions are.

**MR. HARRIS:** Then would we would love an order to that effect, Your Honor.

**THE COURT:** So let's see -- let's put clothing -- if there's a dispute as to whether it's still going on --

**MR. HARRIS:** There is.

**THE COURT:** We'll put clothing in there. The question of outdoor recreation maybe can be addressed with everybody has to get so many hours per day per week or whatever. Right now, they are raising staffing concerns about everything and of course the answer to that is get more staff. And if the Government is paying these people to run the thing, then they can go get more staff.

So, you know, I'm saying your point is well taken. You're misunderstanding my point. Don't argue against it. All right.

**MR. HARRIS:** No, ma'am. Thank you, Your Honor.

**THE COURT:** All right. So some of these things are pretty specific. Whether there are responses to them, we can take up.

Maybe -- are we going to keep you if you -- if you

want to -- if the case went to Fresno, would you stay with it or are you going to transfer it to somebody down there?

**MR. IYENGAR:** It would be transferred to somebody --

**THE COURT:** Well, that's unfortunate because one of the things that I have noted is that Mr. Iyengar is willing to discuss matters and to deal with them in a way that sounds like he's really thinking about them. And I don't know who you get down there if I send you to Fresno.

And, you know, maybe this is just the surface I see in court and you see a different US Attorney but at least for now he is approaching things in a way that doesn't sound unprofessional, I would say. He does appear to be handling it in a professional way.

So -- all right. How many of the items in 10 -- let's count nine and then there's one, two, three, four, five, six and 10. So that means seven items on top of medical. Is there any way to narrow that down a bit?

If you want time, you can look at it. There are a lot of people at counsel table and actually here right in front of me. I actually have to look over at people and even further over from Iyengar so --

**MR. HARRIS:** And, Your Honor, I appreciate the offer and we have also counsel here who what they do is they have as much contact as they can get with the people who are there. And what we're trying to do in paragraph 10 is improve people's

lives immediately --

**THE COURT:** -- why I should order it, I just wanted you to tell me whether you can narrow it down at all.

**MR. HARRIS:** My point was I would appreciate the opportunity to talk to the people who would tell me the ones that are absolutely must have, let us confer about that, I would appreciate it.

**THE COURT:** Here is what I think we should do. It's now almost 10:30 so we could take a break now and then I got to figure out when to tell you to come back and the other people to come back.

Who is here in Pearl versus -- okay. Two counsel, three -- can I see those hands again. About four I guess. Thank you for the last person who kept their hand up.

I think that I need to hear them before I get back to you.

**MR. HARRIS:** That's fine, Your Honor.

**THE COURT:** All right. And if I had thought their case was going to be very, very short, I would have called it first but it didn't look like it was going to be very, very, very short. So --

**MR. IYENGAR:** Can I ask you one thing or should I wait until after?

**THE COURT:** Which did you want to add?

**MR. IYENGAR:** I just wanted to point the Court to the

line of cases --

**THE COURT:** No.

**MR. RAGLAND:** Well, we're at your disposal, Your Honor, and we can come back this afternoon and be here.

**THE COURT:** Okay. So let's see. I'm going to take a break, and I don't know, could even -- when I say it should only take like 20 minutes, it usually takes more so I should say the people in the other hearing, the motion to dismiss hearing, should come back after we take a break, come back in a half hour. And I don't know if we'll be immediately ready but I'm hoping we will be.

A lot will depend on some of the matters. It's possible somebody might not show up. Okay. So then I would hear that case. That would be around 11:00 that I would hear it, and, at that point -- let's say it only took a half hour, but maybe it would take longer. At that point, we're coming up close to 12:00. We may as well then break for lunch and have you come back, I'm thinking 1:30. Does that give you enough time to look -- whether you go to the attorneys' lounge, you go to have lunch, that's everybody.

**MR. HARRIS:** That's fine with us, Your Honor.

**THE COURT:** Okay. So those of you that are here expressing an interest in the particular case that we have been discussing, you're certainly welcome to come back. If you don't, nobody will take it personally.

And I think that I think maybe we should stop here and then we'll see where we are afterwards. Okay. Thank you very much and we'll take our break now and I'll take the other matters remotely, the case management.

**MR. HARRIS:** Thank you.

(Proceedings adjourned at 10:29 a.m.)

(Proceedings reconvene at 2:33 p.m.)

**COURTROOM DEPUTY:** Please be seated.

Recalling civil case number 25-9757. Fernando Gomez Ruiz, et al, vs. United States Immigration and Customs Enforcement, et al.

**THE COURT:** All right. Counsel, do you want to come back up for a second. We'll see where we are. This schedule today turned out not quite as I anticipated so the matter that I thought I would be through by 11:00 was through at 12:00 and then we had the other hearing which I was hoping would only take maybe a half hour but took substantially more than that and turned out to be more complicated than I thought it was going to be.

So we did not get through here until about 1:30 or so. I was able to grab something to eat so I think I'm up to this, but if I start fading out, we may just have to pick another day, you know, to keep going.

So one of the things, if I got it clear, one of the things you were going to do on behalf of the plaintiff was

confer about what particular aspects of the proposed order might be appropriate for some action taken without perhaps addressing everything. One of the things we talked about obviously was the medical. And then where are we with respect to items nine and ten?

**MR. HARRIS:** Yes, Your Honor. Cody Harris on behalf of the plaintiffs.

With the Court's permission, what we did was we took Your Honor's statements to heart. We met and conferred internally and we have drafted sort of a slimmed down version of that order, which with the Court's permission, I'll hand to the clerk.

**THE COURT:** Now has counsel for the defendant seen that?

**MR. HARRIS:** Counsel for defendants have seen it. Do you have it over there?

**MR. IYENGAR:** I have it.

**MR. HARRIS:** We met and conferred with counsel for the defendants earlier this afternoon and then we sent him a copy of this so he has seen it, Your Honor.

**THE COURT:** It doesn't look a lot shorter than --

**MR. HARRIS:** It is a lot shorter, Your Honor. We tried to narrow this to the most urgent issues, and here is what we propose.

**THE COURT:** Okay. Before we go any further, I do not

want to work off of something that's double sided.

**MR. HARRIS:** Okay.

**THE COURT:** So I'm going to ask Ms. Geiger -- this has been filed. Right?

**MR. HARRIS:** This has not --

**THE COURT:** Not filed. Okay. Because I was going to ask her to print out a copy --

**MR. HARRIS:** We have one.

**THE COURT:** All right. I'll trade you. And already by doing that, it looks as long as it really is.

Okay. Now you have the -- well, I can't do this. I mean, it's got all kinds of generic things well beyond what you were doing on the medical to start with. You have things like timely and responsive emergency services. There's no way I can make an order that's just general like that.

How is anybody going to know what they have to comply with? You told me there were a couple of things at the outset that you would deal with on the medical. And do you recall what those were?

**MR. HARRIS:** Your Honor, what we had talked about originally was that we would get a plan from the other side to try to -- to try to come up with these exact numbers and dates and the details and then the external monitor would ensure compliance with the plan. In order to shorten and make this simpler, we think Your Honor can -- and there are precedents

where courts do -- issue an order that says meet these requirements, these are not controversial, these are things that the defendants simply ought to be -- stipulate to, they ought to be providing these; timely access to care, prescribed medicines, a sick call system that works. These are basic functions of an adequate medical plan.

And then the crucial part is that an external monitor -- this is paragraph 2 -- will ensure compliance with these things so that Your Honor doesn't have to sit there and come up with it should be this many days before intake and you should use this system to do this or that. Instead, Your Honor would simply say here is what your medical plan must do to comply and we'll get an external monitor in there to make sure that that happens.

**THE COURT:** Maybe with the monitor idea, but, again -- okay.

**MR. HARRIS:** And these were in the proposed order. They're a shortened version of them and they're more condensed so that -- but the key function, Your Honor, is that an external monitor that will meet and confer with the other side, hopefully come to Your Honor with a joint proposal. If not, Your Honor will decide on the monitor, and that way a person can get in there and have access to the facilities, access to the staff, and the patients.

**THE COURT:** All right. I get the point already.

**MR. HARRIS:** All right.

**THE COURT:** This can perhaps work if you have a monitor who is going to make a determination about whether they're doing it. Otherwise, I mean, there's no point in just telling someone do it right. That's what this boils down to do it, do it right.

**MR. HARRIS:** An order that says --

**THE COURT:** I know what it says. I just read it.

**MR. HARRIS:** Yes.

**THE COURT:** All right. It says do it correctly. And ordinarily, that would not be a workable, in and of itself, injunctive order because then people would come back we are doing it fine. We're doing the, you know, et cetera, et cetera, and that's why I was looking for specifics. But if you have a monitor that is in a position to make determinations, possibly -- but I'm not absolutely certain about that and we'll just -- we'll take it one step at a time.

As I said, particularly concerned about intake and how one could tell someone how to do at intake other than just do intake right. Okay. But then you have all of these other problems that maybe you do need some kind of a referee for -- that's on the scene or can be there. But, again, these are very general concepts. They're not give somebody X numbers of hours a day outside. Okay.

They aren't give them a warm jacket. Okay. So they

are -- they're conclusions about how something should be done, okay, timely. Timely is not get somebody there at a particular time, it's do it in, you know, proper expediency. And, again, without somebody there, you could never tell whether anybody was following it or not unless you had a giant hearing on every one of these.

Okay. Let's go to the other one. This has to do with attorney access. I'm not sure I even understand the first one. And I'm not -- okay. I get the point, let their lawyer be there any time they want. I don't know if that's reasonable.

Okay. So we'll go to the next one. Contact visits without glass interface there. Okay. That's at least something specific.

Every time you go temporarily unrestricted -- you mean be able to have free calls for as long as you want with your lawyer?

**MR. HARRIS:** Correct.

**THE COURT:** That's what that means? Okay. And have an interpreter if they need one, or is this like an interpreter has to be provided for them, or they can have an interpreter or what does that mean? Accommodations for interpretation.

**MR. HARRIS:** Yes. If an interpreter is needed, accommodations are made to ensure an interpreter can be present at the --

**THE COURT:** Can be present, not necessarily provided.

**MR. HARRIS:** That's right, Your Honor.

**THE COURT:** Okay. I'm just making sure I understand what you're doing here.

**MR. HARRIS:** Sure.

**THE COURT:** Okay. Yeah. I'm not sure I'm ready to order all of these things but this is like a specific --

**MR. HARRIS:** Can I make one point about A? It's not whenever you want, it's seven days a week, eight hours a day on business days and four hours a day on weekends. So it's just there's chunks of time when lawyer calls can occur. And this is what the Court ordered in *Ricardo v. Noem* case out of New York.

**THE COURT:** Well that's very nice of that judge.

**MR. HARRIS:** Yeah.

**THE COURT:** Okay. Now we'll keep going.

**MR. HARRIS:** Sure.

**THE COURT:** What does this mean: Provision of written information regarding protocols for attorney client communications to all individuals detained in California City? What is that?

**MR. HARRIS:** Many of the declarants and the people there are reporting that they didn't know how to have calls with their attorneys. They just don't know the rules, they haven't been explained to them. So we're asking that the defendants provide them with the information, this is how you

schedule a virtual attorney visit, this is how you schedule a meeting with your lawyer.

**THE COURT:** How do they?

**MR. HARRIS:** They -- the defendants have various systems that they're supposed to be allowed to access and they need to be explained what those are.

**THE COURT:** Yeah. I am just asking you when you say they don't know how to, what, call an attorney or schedule an attorney visit --

**MR. HARRIS:** Correct.

**THE COURT:** -- and this would be something that says, for example, if I were to order that attorneys be allowed during certain periods of time that you can have a lawyer come during this -- they would have to write something. You want the monitor to look at that too?

**MR. HARRIS:** No. The monitor was for medical. For this, I think they have policies and protocols that are supposed to be shared with the people who are housed there and we want to make sure they are so they know how to schedule calls with their lawyers.

**THE COURT:** Okay. Give them what you already have?

**MR. HARRIS:** Yes.

**THE COURT:** Okay. All right. Okay. You have temperature appropriate clothing, blankets.

God bless you whoever sneezed.

Okay. Be able to get outdoor recreation for no less than four hours a day. We'll talk about all of these things when we get to them.

No more than two daily counts during waking hours. And then it says or in the alternative, daily counts -- I guess you mean if it's more than two -- that do not result in lockdowns for more than a total of two hours a day. Like you could have more lockdowns but they would be short.

**MR. HARRIS:** We're just trying to -- with providing flexibility for the defendants to create an environment where people are not locked in their housing units for sometimes 23 hours a day.

**THE COURT:** Okay.

**MR. HARRIS:** And I would add, it makes it easier to schedule attorney visits. It makes it have there be less waiting time for attorneys because with four counts a day that can last an hour and with the entire facility locked down during that time, it's very difficult then to meet with your lawyers or do anything at all.

**THE COURT:** Now this says family contact visits that aren't conducted behind glass and aren't restricted in the number and that occur without unreasonable delay. What's the occur without unreasonable delay mean?

**MR. HARRIS:** Well, we want to provide some discretion obviously to the facility, but when it's scheduled, it's

scheduled without undue delay so that people aren't waiting weeks and months to see their family members.

**THE COURT:** So you're saying if someone wants to see a family member or have a visit -- I'm just trying to figure out, in other words, this has to do with how soon after you request a family visit or family wants to see you -- can't they just come there during certain days?

**MR. HARRIS:** I think it works better if they schedule a time to come. If -- if there are walk-ins, sometimes I think those can happen, but the main issue with number D here is the contact visits.

I've been to this facility, Your Honor. There's a giant room, bigger than this courtroom, that's designed for contact visits so people can hug their loved ones. This may be the last time they ever see them before they're deported, hug their children, their wives, their husbands. The room is wide open with chairs and a mural, and it's empty with no one in it.

And when the people go to see their loved ones, perhaps for the last time, they are doing it behind glass like they're in some high security prison. What we're asking for is that the room that it's designed for this very purpose be used for that purpose so that people can have physical contact visits with their loved ones. That's the main thrust of --

**THE COURT:** I'm not sure about putting them all in a giant room, but we -- maybe that's okay, maybe it isn't. I

don't know enough about how that might work.

Okay. We keep going. Plaintiffs' counsel should be able to come in every now and then -- yeah, 30 days and at least once every 60 days and do what? Wander around, have lunch? What are you --

**MR. HARRIS:** We'd like to tour the facility, Your Honor. We'd like to see it and inspect it. We would like to be able to see the facility and have access to it.

**THE COURT:** Maybe. Maybe not. All right.

Don't retaliate against any of the plaintiffs. Has that happened?

**MR. HARRIS:** We don't want it to happen. And I can tell you that the plaintiffs are afraid that it will happen and we'd like a court order that enjoins the defendants from taking any adverse action because they're pursuing their rights in this court.

**THE COURT:** I don't know if I can order something when there's no indication that it's going to happen. Okay. In other words, I can order something not happening -- you don't have to have something happen bad already. If something bad is about to happen, somebody is going to chop down the historic giant sequoia, okay.

But you -- if there's no indication, I'm not sure I can do that. Anyway, I'm just going through making sure I understand. I'm not really ruling on anything at the moment.

All right. Then you threw class cert in, all right, which I may not do at all because we already talked about you don't need it.

**MR. HARRIS:** Well, we thought about that, Your Honor, and I think we want to make sure that this order runs to everyone in that facility, including people who aren't there yet and who aren't named as plaintiffs. So the way this is typically done would be through provisional class cert but only for the relief that Your Honor orders and -- and leave it at that. And that's often done in situations like this where a preliminary injunction is ordered, and we just want to be sure that the order runs to everyone who is in that facility or comes into that facility and not just the named plaintiffs.

**THE COURT:** Okay. So you've thought better about your thought that maybe you don't need class cert?

**MR. HARRIS:** We don't want to be dealing with some mischievous motion about how if all of these plaintiffs were to be suddenly transferred out to another facility or deported then the Government comes in and says, oh, well this order is meaningless because you didn't have a provisional class cert. I don't think that would be right, but I think it would be something to argue about that we'd rather not have to argue about.

**THE COURT:** Okay. I'm looking through A through H under number one. Let's go to C for a moment. A is a very

general phrase, have enough people, that's adequate healthcare staff.

B -- so, again, as I say, if you didn't have a monitor, there's no way this would work. B reads comprehensive documented medical intake screening performed by a qualified medical provider within 12 hours of a person's arrival. In other words, within 12 hours of getting there, screen them and see what they need.

Now, do you have in your mind what you mean by a qualified medical provider? Because in your motion, you're saying LVN's aren't qualified to do this kind of review, you need an RN. Is that what you're thinking?

**MR. HARRIS:** That is what I'm thinking, Your Honor. It should be at least an RN.

**THE COURT:** Okay. Now we'll go to C. Thorough initial appraisals performed timely by a primary care provider. Now what's an initial appraisal? That has capital I capital A. You're using it as a term of art of some sort.

**MR. HARRIS:** This is the first time that a person sees an actual provider. So someone has done a screening of this person, hopefully they've figured out what's happening with them. Oftentimes, they show up with perhaps medication from a previous facility or, even as in the case with Mr. Viera Reyes, a referral to a specialist. Someone should be understanding that, figuring out who needs to be seen urgently, who can wait,

and this has to be done by an actual provider, a doctor within -- within -- well, we say timely because I think what Dr. Tiona says this should be done within 14 days -- in her declaration.

About half of them take longer than 14 days but there are some people who need to be seen sooner. So you can't just have a blanket 14 days. Someone might have to be seen right away for a very urgent matter.

**THE COURT:** Now this is everybody has to be seen by a doctor or just certain people need to be seen by a doctor and, in other words, this idea, initial appraisal --

**MR. HARRIS:** Everybody should be seen by a doctor after their initial screening?

**THE COURT:** Really? Even if there's nothing wrong with them?

**MR. HARRIS:** Well, yes.

**THE COURT:** I'm just curious. I mean --

**MR. HARRIS:** I mean --

**THE COURT:** Is that the way that ordinarily these things are run? And I'm just inquiring --

**MR. HARRIS:** I think it depends --

**THE COURT:** Excuse me. Within some limited period of time, if you're not sick, you still have to be taken to be seen by a doctor.

**MR. HARRIS:** I suppose if after the initial screening, if there are no medical issues whatsoever that require to be

seen by a doctor, then the person wouldn't need to be seen by a doctor.

**THE COURT:** But if the screening in B --

**MR. HARRIS:** Correct.

**THE COURT:** -- identifies a medical concern, then what is the initial appraisal? Is that just have an appointment with some doctor?

**MR. HARRIS:** Yes.

**THE COURT:** Oh. Why is it called initial appraisal?

**MR. HARRIS:** That would be the first time the person would be appraised by a provider.

**THE COURT:** Do people use this term routinely in either the detention world or otherwise?

**MR. HARRIS:** My colleague is telling me this is California City's own term. They call it an initial appraisal so we use that term. This is the first time that a person is seen by a provider.

**THE COURT:** Okay. So the idea here is if somebody is earmarked to see somebody or needs some further review, that just a nurse shouldn't be, you know, trying to deal with, then they should see a doctor in a timely fashion and you didn't want to try to put a particular time. The current plan says 14 days so that's at the outside and there's certain people who should be seen sooner.

**MR. HARRIS:** Correct. That's exactly right, Your

Honor.

**THE COURT:** Okay. All right. I got that one. All right. Approval and access to medical specialists.

All right. Again, as I say, if you have somebody there who is watching it, then maybe one could figure out if it's being done timely, but, okay.

**MR. HARRIS:** And, Your Honor, here it's really a question of access at all. There are people who need to see specialists and it's not happening.

**THE COURT:** All right. I get it. All right. Timely and responsive emergency services -- okay. Do you have people -- I can't remember -- you had people who were seen in emergency who you thought should go to a specialist. Are there people who should go to emergency and are going to emergency?

**MR. HARRIS:** Your Honor, I think this is something that I think perhaps is happening at the facility. If someone collapses, passes out, goes what they call "man down," I think they lock everyone away and they run in and they try to take the person to an emergency room and they have done that on occasion, and sometimes that's done because there's been no access to medical care, but we want to ensure that that happens obviously that the emergency services are responsive and timely.

**THE COURT:** All right. I just didn't want to leave it out.

**MR. HARRIS:** Correct.

**THE COURT:** But at that moment, it didn't seem like that was so much the problem. Is there -- are there emergency services available at the facility or do people have to be taken to an emergency room somewhere?

**MR. HARRIS:** They're taken.

**THE COURT:** What's the closest one? Do you know?

**MR. HARRIS:** It's miles away. You know. Tell me.

**MS. BORDEN:** Good afternoon, Your Honor. Thank you. Tess Borden from Prison Law Office.

The closest one is in Tehachapi. We believe it's Adventist Healthcare, Adventist Hospital. It's about an hour drive, 45 minutes to an hour.

**THE COURT:** Oh. I mean, if somebody really had something that -- you know, you're picturing red lights and siren, an hour is pretty far away.

**MS. BORDEN:** Yes, Your Honor. And in support of our initial preliminary injunction, if I may, we have a declaration by the name of Alfonso Leyva who was -- excuse me -- Alfonso Leyva who was taken to the hospital twice. He fell off his bunk. He had, we think, an internal brain bleed, was taken to the first hospital. They rejected him and he had to be taken to a second hospital.

**THE COURT:** Why was he rejected?

**MS. BORDEN:** My understanding is because there was no

insurance to cover his care, even though he was in defendant's custody, Your Honor.

**THE COURT:** Okay. All right. Thank you.

All right. And then I remember reading about him because you said he shouldn't have been in the upper bunk and he can't see what he's doing anyway and he fell off and hit his head and he's in bad shape.

**MR. HARRIS:** Correct.

**THE COURT:** Continuity of medical upon intake and thereafter including timely completion of active medical orders, access to schedule provider appointments, and consistent provision of medication. We've talked a little bit about the provider -- the appointments because one that was supposed to happen didn't happen and now they're trying to fix it but it's too far off for what his condition is.

**MR. HARRIS:** Yes.

**THE COURT:** Also, medication has been a problem. There have been people who have been prescribed medication and they don't get it even if they were given it like in a different detention facility and then they come to this one and they don't get it. And do they have an on site pharmacy or not?

**MR. HARRIS:** That's a good --

**THE COURT:** Do you know?

**MR. IYENGAR:** I don't -- believe they use the

California City Pharmacy that they have a contract with that -- which is not on site.

**MR. HARRIS:** I don't believe that they do.

**THE COURT:** Okay. The question was whether they had a contract with a sufficiently stocked, if you will, provider for purposes of getting medication. There are certain conditions if you skip medication can be quite serious so -- okay. Then timely access to prescribed medication. Now, that's different than --

**MR. HARRIS:** Well, this is just -- the continuity of care is they show up, they have medicine with them, they're told to throw it away, and then they wait for it to be represcribed. And then there are people who fall ill while they're there and they need medication prescribed and that's what G gets to. Any prescription, they need to have timely access to it and we've seen long delays and intermittent access and lapses in provision of medicine.

So this is what you would expect, if someone needs medicine and it's prescribed, they get it in a timely fashion consistently.

**THE COURT:** Yeah. I wasn't sure timely access to prescribed medication is as -- as different from consistent provision of medication.

**MR. HARRIS:** You could consider them -- I think they overlap. F was meant to get the point of continuity of care,

which we're seeing a lot of disruptions of people who come from another facility or they have scheduled appointments, they have medication, and it's just being basically thrown into the wastebasket when they arrive at California City.

G is saying, listen, you need to have access to medicine, whether that's an on-site fully stocked pharmacy or some other method that they avail themselves of. You're housing a thousand people, they're going to need medication, you need to have access to it.

**THE COURT:** Maybe that last one you could pull G in instead of consistent provision.

Anyway, all right. Then you have a responsive sick call request system. Now, I know in response to the motion the defendants were saying, well, we have something where you put it in a box, and then it -- I don't know she says it gets picked up every night and, what, then they just are ignored. Is that what you think is happening?

**MR. HARRIS:** Well, they certainly have a box, people are using the box. But they've provided no data whatsoever to show the time in which these sick calls are responded to and, according to Dr. Wilcox in his reply declaration, it appears, based on the medical records, that the needs are continuing to go unaddressed. And additional patients who have submitted reply declarations confirm that their sick calls remain unaddressed.

So although their declaration states they have a system in place and the policies say that they'll be responded to, there's really no supporting evidence or data whatsoever to suggest that that's actually happening. So what we want is an order that there's a sick call system that is actually functioning and responsive.

**THE COURT:** All right. Well -- okay. Maybe we stop with that for a minute, okay, rather than get too far off a field. So what you are asking for is not unreasonable here. In other words, people should get appropriate medical care, that's kind of the heading, and then here is how you do it, you see people in intake, you make sure they're seen by somebody who is qualified, you get to them -- get them to the doctor they're supposed to see in a timely fashion, don't take their medicines away and make sure they get whatever is prescribed that they don't have yet, and if somebody has a sick call request and if it looks legitimate, that you get to it in some way in some reasonable amount of time.

All right. So that's all that which ordinarily somebody I don't think would be arguing except maybe the 12 hours, and I don't even know if that's something that creates any kind of problem. But after that, it's just generally do what you should do as a medical matter.

Now, the question is is there an opposition based on there's no showing they aren't doing it, or what's the

opposition? If you just -- if somebody just came up to you, My Iyengar, and said can we agree that these people get all of these things and forget that there's any court involved in it, what would you say? Is any of that unreasonable?

**MR. IYENGAR:** We would say there absolutely is an opposition to it, Your Honor, and it's set forth in the declaration --

**THE COURT:** Sorry. You're going to have to pull that mic closer and I didn't hear if you said you absolutely do oppose it or you don't.

**MR. IYENGAR:** We would oppose it because we do have declarations, sworn declarations --

**THE COURT:** No. No. Forget there's any kind of court action. Somebody just comes up to you and they say can we agree that the people here should be entitled to these things. Would you say, no, I think it's an unreasonable demand as to any of them and -- that's my first point. Now we're not in court, all right, just somebody saying, you know, can we work this out in some way, we've had some concerns, can we agree these are all what should be done?

**MR. IYENGAR:** I think so, Your Honor. I don't know if certain numbers in here conflict with the national detention standards.

**THE COURT:** The numbers -- the 12 I just mentioned, the 12 hours and I said I don't know enough at the moment about

whether that is a standard of some sort, where it came from, whether it's in your client's policy or not. If it is, then --

**MR. IYENGAR:** It is.

**THE COURT:** All right. Assuming argumendo it is. Okay. I won't -- you know, just for the moment. So there's nothing really unreasonable about 12 hours and all of the rest is just make sure people get decent care. I think one would be hard pressed to say, you know, that's unreasonable.

**MR. IYENGAR:** Right.

**THE COURT:** Now the question is whether it's unreasonable to put a stranger in there trying to see if that's what you're doing. That's what you're objecting to. Correct?

**MR. IYENGAR:** That's right, Your Honor.

**THE COURT:** All right. Now tell me where you think there has been an inadequate showing by the plaintiffs and let's look at it not so much by what -- first of all, let's look at -- wait a minute. Let me get my water.

In the first instance, if you feel that you don't even need to respond because they haven't made a real showing that requires you to go forward, you could pick out any one of these and say if you want -- they really have no evidence that any of this is going incorrectly in the first place. If you're not taking that position as to any of them, then it's like your response would be more in the nature of they say but it's not happening.

Okay. So is there anywhere you would say they haven't even said there is a systemic problem, let's say -- because that's what we're dealing with. There are individuals who have idiosyncratic events. They can be dealt with as individuals, pried out with TROs or otherwise, but if we're talking about everybody, okay, then are there any here that you feel haven't been shown to be systemic, for example?

**MR. IYENGAR:** Yes, Your Honor. And I think if Your Honor doesn't mind I would like to address a fundamental concern with this proposed order which is that it would require the Court to grant the motions for preliminary injunction and grant the motion for class certification, which we don't think is appropriate here. And it also conflicts with my understanding and ICE's understanding of the focus of this afternoon's session.

Our understanding was we were looking at identifying the most urgent medical needs that the parties would address during the brief period that this case is being transferred to the Eastern District, issues like Mr. Viera Reyes or Mr. Leyva, who we mentioned earlier. There's no mention of those individuals and their urgent medical needs in this. It's broader. And the external monitor is one good example of that, Your Honor.

Having an external monitor that the parties propose to this court in 14 days is not consistent with addressing

immediate medical concerns during the period of transfer. And that's what they're asking for is we come back to this court in 14 days with a proposed external monitor. I think the parameters that we were prepared to discuss in good faith are things that are big and obvious and straightforward for the Court to do. And we are very sensitive to -- and responsive to immediate medical needs. We have proven that we can work together to address them.

I think to the extent the demand is for broad relief, I think that is concerning. It also goes towards the kind of ultimate relief on the merits you get after a lengthy evidentiary hearing or a trial. And I also think that with respect to the specific items that we have gone through, the Court has to evaluate them under the appropriate standard here which is will they suffer irreparable harm in the absence of that specific item of relief.

Of course they have to also show that they're clearly entitled to succeed on the merits of their claim as to that allegation but we can just focus on irreparable harm for now and we were prepared to do so in good faith, focus just on what are the items that they're telling us that these individuals would be irreparably harmed by, what are the conditions they would be irreparably harmed by unless my client agrees to ensure that certain things happen. And that hasn't really happened today and I think none of these items are things that

pose an immediate risk of harm during the brief period between now and when the case is picked up by the Eastern District judge.

**THE COURT:** Well, I was hoping to get specifics as opposed to generics and that's why my first view of this -- kind of brought me up short a bit because I had understood that one was that they were going to ask for timely intake by a qualified person and also were going to ask for the defendants to provide a plan, if you will, for how these particular concerns would be addressed on a systemwide basis. Because right now they -- everybody seems to be of a single mind as to what's needed in terms of this is what you should do, this is the plan, but then for whatever reason -- and it can be a matter of staffing, quality of the staffing -- as I pointed out, this is not a typical prison population.

They have a lot more health problems apparently than the typical person who comes in. You know, the average bank robber just doesn't have major heart problems. Okay. And they're not limping around with diabetic ulcers or what have you. So what you end up with is a much larger group of people than the typical prison may -- at least at the beginning as these people come in, they have more concerns.

And it really would require more staffing, better, I guess, instruction as to how to deal with things. But I was hoping that it would be more or less like -- I knew you were

going to talk amongst yourselves, mostly counsel on the plaintiffs' side were going to see what they could come up with in terms of specifics, but I wanted to see if I could do something that -- if I transfer it -- that I don't leave people with really no -- no immediate response. And I -- it's not a concern that it's going to languish because I don't think it's going to happen.

There's been no showing that that would happen with this case. This case would end up getting priority and somebody else will go to trial on something else in three years or four years and this case is going to go to the head of the line.

So what -- it was first proposed, well, we'll get an intake -- we'll get an intake procedure laid out in some way and then ask that we get a schedule of some sort or some kind of -- it would have to be described but something from yourself essentially explaining what they're going to do. That seemed, to me, to be perhaps a starting point because the people in this room -- in other words, counsel on one side and counsel on the other -- don't disagree as to what the care should be. It's not a fight over what's right. There's a fight over how it should be accomplished with one side saying it should be enforced and the other side saying --

**MR. IYENGAR:** Saying that we've proven we can work together on urgent health matters. And I'll continue to be involved in this case in responding to any urgent medical needs

while this case is being transferred to the Eastern District. I'm not going anywhere. I'm going to be with the U.S. Attorney's Office for the foreseeable future. So the concerns about urgent medical needs are ones that we can work together to address in absence of an additional order beyond transfer --

**THE COURT:** -- that is identified at the moment. The concern is that there are people with all manner of health problems, they're not going to necessarily die from them. It's not like the two that were called to my attention, but it's still harm if you're not getting the care you need and, therefore are not -- they're still suffering from something that could be dealt with or be less painful or not lapse and have you have like some kind of relapse or get worse. And it's not so much that each individual there is going to need medical care. They can go through any kind of sloppy system and they'll be fine because there's nothing wrong with them.

But there are enough people there who at least may need some type of help. It can be acute, it can be chronic, and that's what the harm is, if you will, as I see it. But I'm not sure that I want to start saying, all right, let's just plug in a monitor. Because if I were to transfer it, which I am essentially inclined to do, right now -- and it's true, we've got two inconvenient forums.

It's inconvenient down there. It's inconvenient up here. It's more inconvenient up here, but either way, if

they're both inconvenient, at least everything is happening down there. It's where the crux of the case is.

Even from the standpoint here of defendants' counsel, he's doing everything from 350 miles away. Yes, if you were 185, it isn't all that close either, but at least it's closer. And people may be more familiar on a personal basis with what goes on there.

So -- and there's a good chance I'm going to transfer it, and I just don't want to dump and unwheel the set of requests on an already, you know, burdened judiciary or have your clients not get what they need in the interval. And I don't think it will be a long delay, but I am concerned if there are things that are really important and I can help you out, I want to do it in advance of sending it.

**MR. HARRIS:** Yes. Thank you, Your Honor. Cody Harris for the plaintiffs.

**THE COURT:** No, we know who you are.

**MR. HARRIS:** She asked me to say that every time so --

**THE COURT:** Oh. She did?

**MR. HARRIS:** I thought so because we don't have a court reporter.

**THE COURT:** We don't have a court reporter. Oh, I thought they were coming back or they were giving us a new one. Oh. Somebody should have told me that, I think. I understood

just that it was in the morning session the court reporter had a medical appointment so I said, okay, I don't know, we don't have that much more time left. That was wrong. But it turned out we had more to do than I thought, but --

**MR. HARRIS:** In any event, Your Honor --

**THE COURT:** So you can keep saying Cody Harris.

**MR. HARRIS:** Well, you know who I am, and I'm sure she'll -- the court reporter will hopefully recognize my voice by the end of this.

What was shown here with our showing, our voluminous stack of papers there is a systemwide failure of medical care, and I think the one person who defense counsel mentioned I thought we were going to talk about this one person like Mr. Viera Reyes, that proves how broke the system is. This is a person with a court order already in place for his care and the system failed. He still hasn't gotten his biopsy results and then he missed his appointment.

The system does not work, it needs supervision. It needs someone in there making sure that they're complying with what -- you're right, Your Honor, this is unobjectionable stuff. This is the basics. This is the basics that defendants need to provide and a monitor needs to go in there and see if it's actually happening and make recommendations so that we can avoid coming back to this court or another court or in Sacramento or Fresno with TRO after TRO about Mr. Viera Reyes

and then the next patient and patient A who didn't get their HIV medication, which you must take every day and had the medication discontinued and then changed without the patient's consent.

Those sort of things -- this happening across the board. And, Your Honor, if you read Dr. Wilcox's reply declaration, he walks through each of these areas in detail referencing medical records and declarations from the patients that shows how each of these steps is faulty. It is not working.

And so while I would love to say let's just have Your Honor order this or that, what we've really shown is a systemwide failure of this medical system. It wasn't ready to house a thousand people down there in the middle of the Mojave Desert, it just wasn't. So someone needs to go in there and see what is happening on the ground and be prepared to report back to Your Honor or to whoever this case gets assigned to.

It's true Mr. Iyengar has worked with us to try to address issues, but he's working with his client who is not able to or unwilling to do what they need to do even when there's a team of lawyers and a court breathing down their neck about one person.

**THE COURT:** Okay. In the opposition, Mr. Iyengar said, well, you've kind of cherry picked it, you know, a bunch of examples but these are just extreme examples, it isn't

really what's going on there. But Dr. Wilcox did say no, they are representative, if you will, you know, I mean, I can accept what he's saying or not, but he seemed to be making some amount of sense in that regard.

And it sounded like the defendants -- the expert or the doctor -- was trying to get things done but had some amount of insurmountable barriers or problems herself recognizing certain things weren't done right saying, well, those have been remedied, but of course you can only do those so often. Remedying, it really should not be happening in the first instance. So, no, I understand maybe this could work.

I don't know, for example -- and it doesn't have to be 14 days we get a monitor in there, but whatever it is that if there is a monitor, it also can be that the monitor can be pulled out. In other words, if things are working in a proper way, somebody can say, look, it's all working great, let's get rid of this guy. He's always hanging around and he's annoying us so -- if it's a guy. Maybe it would be a woman, anyway --

**MR. HARRIS:** That's right, Your Honor. It's provisional relief. It's preliminary relief. Defendants could make a motion to this court or another court saying disolve it or modify the order or what have you. But right now there is a lot of evidence of a systemic failure that needs oversight.

**THE COURT:** I think they are -- you know, what happened here is they really weren't prepared for this. Word

comes down from Washington start detaining these people, where are we going to put them, here is a decrepit facility that's been closed up, let's open it up, let's stick this private entity back in who's there, essentially, to make money and then everything will be fine and it's not quite fine. And I -- you almost need specialists in detainee cases as opposed to prisoners so --

**MR. HARRIS:** You need a medical doctor --

**THE COURT:** Don't talk when I am.

**MR. HARRIS:** I beg your pardon, Your Honor.

**THE COURT:** Because there's no court reporter and will just be a big jumble and when somebody tries to create a transcript, it will go unintelligible, unintelligible. You don't want it to say --

**MR. IYENGAR:** Can I say one thing?

**THE COURT:** Okay. So now we'll go over to defendants' counsel.

**MR. IYENGAR:** Thank you, Your Honor. The one thing I just wanted to -- first thing I wanted to say is I don't think it's fair to that say the facility is decrepit. In the warden's declaration --

**THE COURT:** Okay. It may not be decrepit but it was closed.

**MR. IYENGAR:** But there was always a -- there was always on site staff maintaining the property for its

reactivation from the moment the last criminal inmates left the facility in --

**THE COURT:** Okay. I take back decrepit.

**MR. IYENGAR:** But I don't think that's a major point. I think the main point is the reason I mentioned specific individuals is because I'm focused on -- or I was focused on what is so immediate that this court can address it during this period of time between when the case is picked up -- when it's transferred and when it's picked up by the Eastern District.

With respect to the issues that Dr. Wilcox identified, you know he reviewed, Your Honor, I think he said 3,000 pages of medical records among 17 detainee -- 3,000 pages among 17 detainees. There are hundreds and hundreds and hundreds of detainees at this facility. And identifying instances whether you know -- whether it's a missed appointment for a detainee or missed medications, those are serious and we take them seriously, but I don't think that they represent a system wide failure given the sheer number of individuals throughout this facility.

And I think another important point we tried to convey to the Court is when the facility opened there were issues, but those issues have been rectified, according to our declarants. There's a fulsome intake process. They've flushed out the inhouse medical, dental, mental health services. So the current conditions at the facility are, I think, something that

the Court really needs to look closely at before ordering something like an external monitor to come in today.

**THE COURT:** Okay. Let's go to when you -- what they had -- actually having this all called to their attention by the lawsuit fixed up the problems so that there were safeguards in place, can you tell me exactly what you're relying on as the evidence to show that, and then I would -- give me a second here. I will look at that specifically, but unfortunately I've got so many different papers up here at this point that I don't know what I'm looking at.

I've got the transfer motion, the certification motion, the preliminary injunction motion so that -- plaintiff gave me various declarations in support of the preliminary injunction. Let me take the transfer matters out of the way, okay, and get your opposition to the preliminary injunction back in front of me and then you have various exhibits and declarations so is there something in particular that you might like to look at in support of they've -- you know, they're dealing with it and it's okay now?

**MR. IYENGAR:** Yes, Your Honor.

**THE COURT:** Okay.

**MR. IYENGAR:** Paragraphs 51 to 53 of the warden's declaration, Warden Chestnut.

**THE COURT:** Okay. Which declaration?

**MR. IYENGAR:** Warden Chestnut.

**THE COURT:** I have his declaration. Give me a second. Okay. You said in the 50s.

**MR. IYENGAR:** 51 to 53, Your Honor.

**THE COURT:** Okay.

**MR. IYENGAR:** Those are the paragraphs where --

**THE COURT:** Let me read them. Okay, 51 to 53 is the warden's statement that they -- he said we initially experienced some challenges with staffing and that they were using corporate and regional medical suppliers and providers from CoreCivic's Otay Mesa Detention Center which is all the way in San Diego to complete the initial screenings and see patients on sick call. Well that I could see could be a problem.

All right. And then he says as the facility population continues to ramp up, we have steadily increased our medical staffing levels. Our mental health staffing levels are robust and significantly higher than I've had at any other facility I've worked at. Medical is staffed on site 24-7.

I'm not sure if he means like a nurse, LVN, or doctor. He says mental health staff are on site seven days a week and available on call 24-7. Dental staff are on site five days a week. There is an on site phlebotomist -- that's somebody that draws blood -- and they contracted a mobile radiologist. I'm not sure -- I guess that they -- they have somebody come in with x-ray stuff.

All right. Then they go on beyond that. We contract with Hall Ambulance for emergency medical services, transports, and medical evacuations. There are two helicopter landing areas on site for medical evacuations. That's interesting.

Now then they say the detainees experiencing medical emergencies are typically transported to Tehachapi Hospital, Antelope Valley Medical Center, or Mercy Hospital in Bakersfield. Quote, "we have contracts with Adventist Health Tehachapi Valley for imaging and specialty care."

Detention and custody staff receives six weeks of initial training. Other roles receive two to three weeks of initial security training. Medical, mental health, and dental staff receive two to three weeks of initial security training. Not quite sure what that means. Followed by additional clinical training.

Okay. All right. So they are trying to improve. So then the question is have they accomplished that. Now this declaration was filed at the start of the month of last month, January 2, and now what do we have that says that's all well and good but it's not still not working?

**MR. HARRIS:** We have Dr. Wilcox's supplemental declaration. He deals with this at paragraph 50, Your Honor, because there's no details here. Chestnut doesn't say here is how quickly we're providing medicine, here is the intake screening.

Dr. Tiona, who is not a person on the ground at Cal City. She has some statements that they're working on it. She doesn't say it's fixed. She says it's ongoing. They're trying to correct things.

So she says she made recommendations. Those weren't followed. But Dr. Wilcox says at paragraph 50, Warden Chestnut --

**THE COURT:** Just a minute. All right. I have his declaration, and I'm not sure how this person pronounces their name. Is it Pacholke?

**MR. HARRIS:** That's not Dr. Wilcox.

**THE COURT:** I know it's --

**MR. HARRIS:** I'm sorry. That's Dan Pacholke. That's correct.

**THE COURT:** I know that's not Dr. Wilcox. I have Dr. Wilcox. I was asking how you pronounce this other person because I thought they were interesting.

**MR. HARRIS:** Yes.

**THE COURT:** Along with Dr. Wilcox.

**MR. HARRIS:** Yeah.

**THE COURT:** Yeah.

**MR. HARRIS:** I just wanted to make sure I said the right --

**THE COURT:** No. No. No. All right.

Now which paragraph are you reading from?

**MR. HARRIS:** 50, Your Honor.

**THE COURT:** Okay. From the beginning, somewhere in the middle?

**MR. HARRIS:** We start at the beginning. You don't have to read the whole thing but --

**THE COURT:** It says Warden Chestnut and Dr. Tiona state the medical staffing levels have improved. All right. And he goes on to say but -- all right, he said that the records suggest otherwise, that there's no real organization to how medication is provided. He's concerned about that. He said it's -- varies drastically from day to day.

Sometimes it's good, and mostly it's -- I guess he's thinking it really isn't working the way it should. He then starts talking about individuals again, which is concern that the defendant has raised or are you just looking at some odd situation? Because let's face it, they're not really on site skilled with how to deal with people with serious, special medical concerns. But the real question -- because those can be handled in whatever way they have to be handled if they present unique problems, which they may well.

But the -- it's more or less the everyday people there who -- let's say they have prescriptions. Are they getting them? If you're looking systemwide, you're not looking at just the most dramatic and exciting things.

They could be exemplars of the dramatic nature of a

systemic problem but you really have to start with if there's a systemic problem and then say and look what's happened as a result of this. And we've got this person, that person who are in really, really bad shape as a result of them not getting medication or whatever. So he does say that -- it's not clear because he doesn't go into detail what record -- what the actual records showed that suggest otherwise. It may be that he had it in his original declaration and he's just kind of shorthanding it here, all right, in which case I can go back and look at his original declaration.

And he does say also that the way medications are administered vary drastically. That's V-A-R-Y, they vary drastically. Not two of these adjectives or adverbs. Okay.

**MR. HARRIS:** And, Your Honor, if I may, the defendants have access to all of the medical records. They submitted nothing. They did not rebut Dr. Wilcox.

It's unrebutted. There's no battle of the experts here. There's no other experts saying, no, we've reviewed all of the medical records and it's fine, nothing. Zero. The only evidence here is our evidence which takes the form of declarations of people and they're not just the sickest people.

It really runs the gamut. It's people who had a laceration. It's people with chronic problems. It's people with diabetes. It's someone who has prostate cancer that can't get treated.

It's a broad spectrum. This expert has reviewed all of these records, all of their vitals, their visit forms, their medication records and he has come to the conclusion as an expert that he has enough data to opine that there is a systemic problem here on all of these areas they've identified.

They did not challenge that. There is no expert and there's no data presented that rebuts it. In fact, Dr. Tiona says I've looked at four of these 17 people and I agree there were serious problems here and I'm going to make recommendations that they should be fixed.

When Dr. Wilcox looked at those four, he determined that nothing had happened, even when their own regional director -- who is not in California City, she's based in Colorado as far as I can tell -- she's saying, hey, you got to do something about these guys, these patients, and those recommendations did not happen. That's Wilcox's supplemental declarations paragraphs 6 and 63.

At the end of Dr. Tiona's declaration, she admits -- she doesn't say everything is fixed, Your Honor. Nothing to see here, we're fine, no need for any help. She doesn't say that. She says, quote, "multiple corrective and supportive measures have been implemented and remain ongoing, including training to ensure adherence to established protocols." So they're telling us they don't have people there who are adhering to their protocols.

They are working on it, they say. They could have provided Your Honor with data, with timelines. They could have disproven -- they could have rebutted what Dr. Wilcox reviewed and concluded. They didn't.

So from an evidentiary standpoint, there's really first person sworn testimony, there's expert testimony supported by evidence and that's it. And then there's these vague statements from Warden Chestnut, we have staffing. That's what there is on the other side. It's insufficient.

**THE COURT:** Okay. I --

**MR. IYENGAR:** Your Honor, may I respond to that?

**THE COURT:** Yes. Why don't the -- I give you the -- the last word at the moment on this particular point.

**MR. IYENGAR:** Thank you, Your Honor.

I don't think it's fair to say that the Government didn't rebut the points in Dr. Wilcox's declaration. It's true that they submitted a supplemental declaration with additional points that we haven't had a chance to respond to.

**THE COURT:** Don't talk too fast.

**MR. IYENGAR:** I'm sorry. It's true they submitted a supplemental declaration that we haven't had an opportunity to respond to, but the Government did strive to respond to the statements in Dr. Wilcox's declaration. This is not like a battle of the experts, Your Honor, in a traditional sense because in a traditional battle of experts, the expert would

provide their report and identify precisely what they reviewed in coming to those conclusions.

He didn't specify what pages of the 3,000 pages he was relying on so the Government had to go through the record of these 17 -- as many of these 17 patients as they could to rebut the allegations and speak to the broader statements he made about alleged systemic issues. And it was certainly the Government's goal -- and I think the Government accomplished it -- of rebutting as much as it needed to show that this isn't a systemic problem to the extent that plaintiffs have alleged here.

**THE COURT:** Now here is one of the -- thank you.

Here is one of the problems just logistically, I guess. If I were to make any kind of order, I hadn't really anticipated that it would require any kind of delay in transfer but it could. We can wait. I can make -- because once -- if I transfer, once I do that, I can't be making orders anymore here.

So it would have to be something I would have to do in advance. And if I were to order a monitor, for example, if I were, and it doesn't have to be you have to come up with a name in 14 days but you can, as long as I'm overseeing the case, it hasn't gone into some kind of temporary limbo, and if that's too soon, for example, if counsel thought that was just too quick, fine, we could pick some other time frame or what have

you. But if I were going to order that, I just want to be very sure that we are not just looking at they can't really deal with the hard cases.

Okay. If it's just a question of they can't deal with the hard cases because they're really not set up to deal with these really, really sick people on a -- they just came in out of nowhere really sick, as opposed to let's say you had a regular prison and people start getting older and they start getting various conditions that go with getting older, they see it coming. They deal with it.

It isn't like somebody -- you know showed up on their doorstep half dead already so it's really a very, very different circumstance. I can understand how it can be difficult to deal with. In other words, that the people at this facility may be doing their best but just not really understanding how much was involved when they agreed to take on this particular assignment.

And so I'm just saying that I'm not finding there are any really bad people here, if I make certain findings. And it looks to me like they're trying to do their best as opposed to saying I don't care about these people, let this guy just rot away with his diabetic ulcers or whatever, that they are trying to do their best, but it's just beyond them at the moment and that they may need some help in how they're going to deal with it.

Now if you had a monitor, is this monitor somebody who is just going to be saying you're not doing, you're not doing, or is it somebody that really understands how things should be done and can give constructive suggestions?

**MR. HARRIS:** The latter, Your Honor. There are people who do this, they do it in other correctional and detention type environments. This would be someone with medical training, with experience, who could go in and say, you know, this is not working, this needs to change and can report back. And that way -- there's a case called *Hernandez* that we cited where the parties agreed to exactly this process. They said, look, this is out of hand down here. This in the Arizona Prison System.

And the defendants and the plaintiffs got together and they agreed on a monitor to go in there -- actually three monitors -- to see, okay, what's going on with our medical system, is it working, how can it be improved and report back and then the Court made some orders. Frankly, we think that ought to be happening here.

We think they should say, you know, you're right. This is a problem. We could use some external help to get this up to constitutional standards. Let's do it.

They won't agree to that. We think the Court ought to order it. And we share the Court's instinct that even if the case will be transferred that some relief be granted in the

near term because things are dire at California City.

**THE COURT:** But he can't agree to it. All right.

**MR. HARRIS:** His client, Your Honor.

**THE COURT:** Just we'll leave that out for a minute.

To the extent that there was a possibility of agreeing to things, that was that first very emergent -- the emergency with the two people that he could agree to get those people medical care on an individual basis. As you point out, it didn't work out totally.

**MR. HARRIS:** No.

**THE COURT:** But -- okay. So now let's go to the other things for a moment and see where we are.

The next big one is attorneys. Now I certainly want to be sure that these individuals can talk to counsel because they -- you know, they're about to be deported or whatever is going on, they need to be able to speak to counsel. I'm not sure about all of the details here so the first thing -- what do you mean by -- aren't -- they are having in-person legal visits now. Right?

**MR. HARRIS:** There are opportunities for in-person legal visits. There are problems with those but, yes, you can go down there and meet with clients.

**THE COURT:** Now when you say temporarily unrestricted, you mean legal visit with your lawyer for as long as they want. Now, I'm not sure that's the standard that, you know, some

lawyer just wants to sit there for hours, probably they don't, it may be self monitoring in that regard. But, nonetheless, I don't know about just you can just have these lawyers there all day long, as many as want to come in, and at any time and that -- seven days a week, eight hours a day, et cetera. It just may be too restrictive.

**MR. HARRIS:** Well, Your Honor, I think the problem now is they're limited to an hour long, and some of these discussions with the attorneys, they just need longer than that in order to do what needs to be done so we're seeking more time.

The other point that makes it extremely difficult -- I've been down there, I've talked to some of our declarants and plaintiffs and it's behind this thick glass and there's a tiny slit at the bottom and you can't hear each other. And some of these people have hearing disabilities and so you're trying to reach down and put your ear to the little slit and they're trying to talk but not too loud because the guards are down the hall and they can overhear it. And so it's a mess.

So what we're hoping for is enough time that you can actually sit with your client and get what needs to be done for those important filings, and that's not happening right now.

**THE COURT:** Okay. So let's look at this this way, the monitor -- it can't work with a monitor because these are sporadic kinds of people coming in, what have you, that's

nothing a monitor could view. So whatever I would say, if I do, seems to me to be something that at least should be at the outset better than now but not that -- something that, you know, in an ideal situation ought to pertain.

Furthermore, it's not so much an emergency, although it's a great inconvenience. By the way, how long did it take you to get down to the --

**MR. HARRIS:** Well, Your Honor, we flew down to Los Angeles then drove from there. It's about an hour and 45 minutes to two hours from the Los Angeles metropolitan area.

What happened was I needed to meet four people from 9:00 to noon, but because of all of the counts, Your Honor, there was huge delays while I was down there, so we ended up sitting with one person for two hours because he couldn't go back to his cell during the count. The entire facility was locked down. By the time I got through my four client meetings, I had missed my flight and so my associate, Carlos, and I drove back from California City to the Bay Area which was -- which was quite a haul.

**THE COURT:** How long did that take you?

**MR. HARRIS:** He doesn't want to remember, Your Honor. It took hours. Yeah, it took six hours.

**THE COURT:** Okay. So -- okay.

**MR. HARRIS:** But that's the thing, when attorneys are making that drive out there, it's remote. It's in the middle

of the desert. And when you go out there, you want to talk to your client and get done what you need to get done. And if it's a strict 60 minutes and you're done and you can't hear them anyway, it's not adequate from a constitutional perspective.

**THE COURT:** I don't want to say that they can be there as long as they want. That may be too disruptive, that first intro to A.

Now, let's talk about seven days a week, and I would want to hear from Mr. Iyengar about really what things here he believes would be just not workable for them. It could be that there are certain days that work better than others or something and then you're talking about a certain period of time so that they shouldn't be limited to some very limited period of time.

Let me wait for a second. There's some conference going on amongst the lawyers. Okay.

**MR. HARRIS:** I'm sorry, Your Honor. I'm sorry that was distracting. I just wanted to make sure -- I think right now, they do offer seven days a week access so that's not anything new.

**THE COURT:** Seven days is not a problem. Are there limited hours in which attorneys are allowed to meet with the detainees like only from X hour to Y hour or do we know?

**MR. HARRIS:** I think it's business hours at present.

**MR. IYENGAR:** No. It's actually 8:00 a.m. to 8:00 p.m. daily.

**MR. HARRIS:** That's fine.

**THE COURT:** That's pretty good what they have now. Well, that's more than eight hours per day. That's 12 hours, if my count is halfway mathematically correct.

So -- all right. They already have that in place. Now whether it's actually being honored is another question. This is in a plan, is it, or is it an overarching plan that covers facilities or just this one or is it -- what's it in, if you know?

**MR. IYENGAR:** I believe that this exceeds the national detention standards.

**THE COURT:** Okay.

**MR. IYENGAR:** But I don't recall exactly what the national detention standards require.

**THE COURT:** But it's memorialized somewhere --

**MR. IYENGAR:** Yes.

**THE COURT:** -- with respect to this facility.

**MR. IYENGAR:** It's publicly available on ICE's website.

**THE COURT:** Oh. Interesting.

**MR. IYENGAR:** Warden Chestnut talks about that too.

**THE COURT:** So do they vary? For example, do they have different hours that are okay for business days than for

weekends, or is it pretty much every day 8:00 to 8:00? I mean that's pretty good actually.

**MR. IYENGAR:** I believe it's every day, Your Honor.

**THE COURT:** Okay. So maybe you don't want to be limiting yourself the way you are and actually asking them to do less than they're willing to do without anybody telling them. All right. So we'll just get rid of some of this and see how it can be rephrased, if I do this.

Now the big concern is where they get to meet with their lawyers. Apparently it's not in a private room. All right.

**MR. HARRIS:** Well, I can't see what's on the other side of the glass. The lawyer goes into a small room. It's a kind of cinderblock room with a door that closes and then there's a thick of pane of glass and a counter and on the other side is the client. And then I think down the hall --

**THE COURT:** Because you talked about a guard.

**MR. HARRIS:** Down the hall on their side, there are correctional staff. They say that they can't overhear what's being said but I have no way of knowing. And I know that my client to talk, because you can't hear them, have to talk quite loud, and I don't believe there's a door on their side of the wall. There's a door on my side of the glass.

**THE COURT:** Okay. You know, I'm limited to a certain extent to, you know, watching TV shows, and what they do.

Somebody is in prison, they're in a little room. The guard opens the door, the defendant is already sitting there at the table, maybe shackled, maybe not. In comes the lawyer, door closes, then the only people who know what they're saying are the people watching the TV show.

All right. Now, is it anything like that?

**MR. HARRIS:** Well, from my experience, you --

**THE COURT:** Should it be? In other words, are you trying to get --

**MR. HARRIS:** No. I think what it should be is like when I would go to San Quentin and meet with a death row inmate who is real high security -- at San Quentin, you have a contact visit. You go into a room with your client, you sit across the table, you can -- you can touch them and so on.

**THE COURT:** What you just described -- in other words, you go in a room --

**MR. HARRIS:** Together.

**THE COURT:** You and your client are in there.

**MR. HARRIS:** Yes. Correct.

**THE COURT:** There's no guard in the room with you.

**MR. HARRIS:** Right.

**THE COURT:** You talk for -- do they limit how long you can be there?

**MR. HARRIS:** At San Quentin, I don't believe so.

**THE COURT:** Maybe lawyers would appreciate some time

limits. They could say, you know, we're almost through here, we're running out of time, I have to leave, and besides, I have to get back to whatever place they live that's not going to be near this place.

**MR. HARRIS:** But Your Honor is exactly right, it's a room with a lawyer and counsel with papers that they can sign and review.

**THE COURT:** Is that what you're asking them to put in place?

**MR. HARRIS:** Yes.

**THE COURT:** All right. Now, do we have any idea whether the facility is -- already has the rooms or would be -- or a room and would be easily modifiable to make more or to make one in the first instance or anything like that? Now there are people sitting at counsel table, they're getting very --

**MR. HARRIS:** They're getting very anxious.

**THE COURT:** They're behind you. I want you to go over and talk to them for a minute. Just go over and talk to them. I don't want to gang up on Mr. Iyengar.

Okay. We don't have a reporter, Tracy? Hang on one moment. But when did we come out, 2:30? So we've only been here an hour. It feels --

**MR. HARRIS:** Your Honor, they do have the capability of doing it because, remember, this was a state prison and the

state prison is required to allow this and did. And so we don't know, we haven't been able to see it. That's one of the things we're asking Your Honor to let us do is tour the facility. We can only see what we can see.

But my understanding is that when it was a prison, certainly lawyers could meet with their clients and there's no reason why they shouldn't be able to do so now.

**THE COURT:** Do they need more -- you might think they need more than one room so if lawyers came out there, maybe three, now that's -- you're suggesting they should make appointments though to make sure they're not overlapping or they should just come in and, you know, say I would like to see so and so?

**MR. HARRIS:** I think most lawyers make appointments to go in. I know there's been some discussion of walk-ins, but I don't know that people want to drive two hours to this facility and hope to see their clients. So I think as a practical matter most lawyers are making arrangements to have an appointment so that the facility knows at such and such time I need to bring such and such person over to the room.

**THE COURT:** And, you know, there may be occasions where somebody did get sick or something and they're not there and you want to make sure that they are there.

Well, I do think that there should be something other than, you know, stooping under Plexiglass with a guard down the

line where even if they say they can't hear, it's not really conducive to a confidential conversation.

**MR. IYENGAR:** And there is, Your Honor. In-person legal visits are typically non contact, but as the warden explained in his declaration, quote, "contact visits may be permitted upon request and with facility approval." So there is a policy in place to permit contact visits with counsel. You'd have to apply for it and obtain a slot.

**THE COURT:** Why -- excuse me for a moment. Why should any one detainee be treated differently than another with respect to speaking to counsel? In other words, if they're in a secured room, they can't get out and run away, and if the lawyer's not worried about getting assaulted, nobody has to be in there to protect them, it seems almost like a better system where -- if they had like a call button or something so that if somebody is through you could just let them know and nobody had to stand outside of the door as long as it could be locked and wouldn't waste staffing on it.

You know, I'm certainly not a prison expert but I can think of ways in, you know, modern day -- we have a jury that has a verdict, it's not like somebody sits out there for all the time or they're trying to figure out what to do. They have a buzzer, it buzzes somewhere if people are doing work and then they come and get the jury and we come back and so that -- I don't know why they couldn't have something like that and it

would be much better for the facility really.

**MR. IYENGAR:** My understanding, Your Honor, is that there have been issues with contraband and therefore it's -- works the other way around where the legal visit -- you would have to request a contact legal visit -- rather than defaulting to contact legal visits the default is to meet in the legal visitation area which has the Plexiglass divider and then you apply and the facility has to review the detainee's background and approve it.

**THE COURT:** Now who you're concerned about is the outsider. Right?

**MR. IYENGAR:** Correct.

**THE COURT:** At least technically nobody is getting drugs other than by somebody bringing them in, so let's assume that's the case. And so then don't they have ways of searching anybody who wants to see a detainee and -- what do they think, like the average lawyer is smuggling cocaine in to the detainee? I'm just wondering -- it just doesn't sound terribly reasonable.

Every visitor ought to be able to be in some way searched sufficiently. And if they want a visitor to put up with being searched they can visit with someone and not have to worry about being behind glass, if you will. Now I don't know about the family visit; moving that out for a moment. I'm only talking about the lawyers at the moment.

**MR. HARRIS:** Your Honor, it's not --

**THE COURT:** So what do you want to add to that?

**MR. HARRIS:** I can wait, Your Honor. I just wanted to add you are searched when you come in. It's not unlike downstairs -- well, it's a little stranger. You walk in, they close the gate behind you, then another gate opens, then you come in, then you wait. You take off your belt, your shoes, you go through a metal detector. You don't just walk into the facility as a lawyer.

So the fear of contraband I think is overstated. And I did want to point out that although on paper they point out there may be contact visits allowed for lawyers in theory, we're not aware of one ever being allowed, and, in fact, when we asked counsel for defendant to set those up for us, he wrote to us "that's complicated since that appears to seek changes to existing regulations at the facility."

**THE COURT:** Okay. I can understand why the default ought to be a private room, counsel and client, no Plexiglass. All right. I understand that.

By the way, metal detectors don't pick up contraband that we're talking about, the sort -- drugs. They do keep weapons out. But do they conduct any kind of a search that would look for, let's say, drugs?

**MR. HARRIS:** I wasn't -- I don't remember that I was physically searched, Your Honor.

**THE COURT:** Okay. But they could search people if they wanted to and -- okay. So let's say if the default were what you described when you saw your death penalty or whoever it was person at San Quentin, if they thought they had a real concern, then that should be what restricts the average person, not the other way around so that if someone says, wait a minute, why aren't we in a little room, okay, this, that, and the other happened and we don't trust that you're not going to do whatever you're going to do.

So I could see how they could -- and then if that person thought it wasn't right, then they can ask to, you know -- they can bring some challenge to it. But at least the average detainee who is there because they wanted to live in the U.S. and essentially aren't doing it legally, okay, those people probably don't present a real security problem.

Then if they've got a gang member, they got someone who they're really worried about, they can take what steps they think, and then if the lawyer feels, wait, this isn't right, the lawyer can then draw it to somebody's attention because we're not even talking about, you know, wife and kids. You're talking about or if the husbands and kids, whoever got picked up, or -- you know, but you're talking about lawyers. They know how to bring things to court so -- okay.

Well I'm not adverse to making some kind of an order about counsel because a lot of these folks may find themselves

really in some kind of immigration proceeding where they don't really have a chance to talk to their counsel before so -- all right.

By the way, one of the things that I understand is really clogging up for -- Fresno to the extent it is is all of these arrests of people who are showing up at hearings or going to places in which a number of undocumented people may work and getting picked up. In the Northern District, those have gone away because Judge Pitts issued an order saying stop doing that. And there is really no reason if it is a legitimate order why somebody in Fresno can't do the same thing or Sacramento. And of those cases which are really required everybody drop everything, somebody is being put on a plane to Honduras or wherever it is those -- those can go away. They went away here.

So I'm just thinking that some of their difficulties may be alleviated if -- you know, if they think about it. Okay.

Then going back, most of this we could somehow combine in some way. Unrecorded certainly -- okay.

Calls. Now there was some kind of concern about phone calls and the phones are out. And is this going to be calls with lawyers? That's the concern at the moment.

**MR. HARRIS:** Yes.

**THE COURT:** Okay. Do they have any kind of -- sort

of, I don't know, sectioned off telephones that could be used where other people couldn't hear? I'm not sure where that should be or how -- what -- did you make any phone calls with your client who was at San Quentin and do you know how that person was able to reach you and what the physical setup was?

**MR. HARRIS:** I did not with that particular individual.

**THE COURT:** I'm just curious of what it usually looks like. In other words, we're taking as a model prisons at the moment and trying to at least give these people as good an opportunity to confer with counsel as people who have been sent away on felonies.

**MR. IYENGAR:** And we've submitted photos with the warden's declaration, Your Honor, of the virtual attorney visits rooms, Your Honor, which are confidential, and he's stated that virtual attorney visits, legal calls are not overheard by facility staff. They are confidential.

**THE COURT:** Let me go to the photo for a minute. Okay. Let's see. Do you want to guide me back to which declaration it's in most easily? Is it Chestnut?

**MR. IYENGAR:** It's in Warden Chestnut's declaration, Your Honor.

**THE COURT:** All right. I did have his declaration -- and, okay, give me a minute here. I was reviewing these attachments and -- where am I going to find that photo?

**MR. IYENGAR:** I think -- I didn't write the exact page number. I think --

**THE COURT:** There are four attachments, and -- well, if I look at his declaration I can see maybe.

**MR. IYENGAR:** It's near the end. Your Honor, it's paragraph 188.

**THE COURT:** That's why I didn't get to it right away. Okay. Just a minute. Oh, yes. I saw that and that didn't look bad.

I mean, that looked like -- they used to have these in hotels and stuff, you know, these kind of phone booth type things that, you know, you could go in and close the door and talk to somebody. Is there something wrong with the setup or just with the access?

**MR. HARRIS:** The access, Your Honor.

**THE COURT:** Okay. Fine. Because these look pretty good as I recall them.

So let's go back for a moment. That's item C under attorneys. Okay. What is -- you already have it apparently. Is there any reason to think that anyone is listening?

**MR. HARRIS:** When they're in the booths, we think that's as good as it's going to get.

**THE COURT:** Okay.

**MR. HARRIS:** The trouble is when they can't make those calls is a dayroom phone that's exposed to everyone.

**THE COURT:** Okay. Why do you understand they can't make the calls? Do they not have enough of these little booths? They're showing one, two, three booths. I don't know if that's for the entirety of the population or these are just exemplars. It says below is a photograph of the VAV booths.

I forget what VAV stood for.

**MR. HARRIS:** Virtual attorney --

**THE COURT:** Yes. I'm sorry. Virtual attorney visits.

**MR. HARRIS:** That's right.

**THE COURT:** Okay. And it says here that -- yes, he says they're available between 8:00 and 8:00 both in person and in VAV and may be scheduled in 30 or 60 minute intervals. That's the limitation. Is that the idea?

**MR. HARRIS:** That's one of the issues we have. And why they're hard to schedule and why they take sometimes a week or more, I don't know. I don't have that information.

**THE COURT:** In other words, you have to schedule one of these calls.

**MR. HARRIS:** That's right.

**THE COURT:** Okay. Okay. Hears legal calls in D. Let's look at that for a minute.

It says scheduling of confidential legal calls with legal representatives to take place within six business hours of a request. Okay. Now does that sound unreasonable? And if so, what does it conflict with or what does it cause a problem

with?

In other words, business hours. So if somebody at 10:00 at night says, you know, I want to talk to my lawyer, okay, well, when does business hours start? 8:00 a.m. it sounds like.

**MR. HARRIS:** When -- that's when the visits are beginning. Yeah.

**THE COURT:** Okay. And then -- okay. So somewhere then from 8:00 to 2:00 or something you got to let them do it. Right?

**MR. HARRIS:** Yes. Some of these are extremely urgent and --

**THE COURT:** Okay.

**MR. HARRIS:** -- that's what we would request.

**THE COURT:** Okay. And I don't know if that creates a problem or not but it sounds like something that you were concerned about. In other words, they have to schedule it, they can't just go walk down the hall and open a door and go in and close it and say don't bother me, I'm talking to my lawyer. You have to actually schedule it.

And then as far as how long, that presents a little bit of a problem because unlike the attorney visits, I don't know how -- how often -- it's hard to get there. So how many attorneys show up at any time may be not large numbers. But how many people want to just call their lawyer and how long

they should be able to stay on the phone doing that is -- is a question that I have.

And I'm a little hesitant to say they can stay on as long as they want, but maybe we should say at least as long as or something like that. Because maybe the 30 minutes might be too short. I don't know.

Maybe you have to reschedule like, okay, I got my lawyer, they're working on it, now I got to get back to them, they're working on it again. I don't know. I don't know what's workable here, and -- okay.

And if they have a protocol for how to do it, it may have to be rewritten. If I made this order, they're going to have to modify it because right now, it's telling them you only get A, B, and C, and maybe they're going to get D, E, and F now.

**MR. HARRIS:** That's right.

**THE COURT:** Or at least maybe modified A, B, and Cs.

I don't know about this no -- no restriction on the amount of time for either in person or on the phone.

**MR. HARRIS:** If Your Honor feels that temporally unrestricted is too broad, then if Your Honor thought that, you know, three hours, two hours was reasonable, that would be an improvement. I mean, the one hour limit is very limiting to do legal work.

**THE COURT:** Well, certainly, in person when has made

an effort to get there, it's not like, okay, you've seen your client, time is up, get out of here after they've gone all of the distance. But a phone call is different. The lawyer is sitting in their office ostensibly and this person is making a call and maybe that should not be as long if they have a lot of demand on the phones. But I have no way of knowing, and that's one of the problems of why this is somewhat difficult to try to come up with things of a very specific nature, but I asked you to give me specifics so I understand that so you don't have to say that part.

**MR. HARRIS:** I appreciate that, Your Honor.

**THE COURT:** Okay. What do you know about this, Mr. Iyengar, anything or --

**MR. IYENGAR:** I know what's in the declaration that the facility, according to the warden, does its best to respond to attorney requests for calls and --

**THE COURT:** Wait. Wait. You're reading so because you're -- here is your mic and you're over there looking at your paper.

**MR. IYENGAR:** Sorry, Your Honor.

**THE COURT:** So --

**MR. IYENGAR:** I'm reading from the warden's declaration, paragraph 207.

**THE COURT:** Did I put him back already? Give me a second. Wait. Wait. Oh no -- yes, I have it here. Which

paragraph are you looking at? I'm sorry.

**MR. IYENGAR:** 207.

**THE COURT:** Okay. He says he has not received complaints from attorneys regarding scheduling and he -- he made this covering both calls and visits. Well, there is a complaint that's being made here, they just apparently haven't told him personally but it doesn't really say that, for example, we cannot accommodate telephone visits with attorneys for more than "fill in the blank" minutes or hours per day because of the number of people who need to use the phone and they would all have to wait too long if somebody could be on the phone for an unlimited period of time.

So I don't have a parameter at the moment but I'm willing to try to at least pick something. I think it should be very different for the phone and the in person because it just involves much different circumstances so --

**MR. IYENGAR:** Your Honor, there's phone, there's in person and this VAV, this virtual attorney visit. And the warden in paragraph 187 says that there are currently VAV booths and also 12 VTC booths.

**THE COURT:** Wait a minute.

**MR. IYENGAR:** Sorry, 187.

**THE COURT:** Okay. The VAV booth, is that what I'm looking at in -- yes, that's the picture.

**MR. IYENGAR:** Yes.

**THE COURT:** That's where you're using -- so they're doing like Zoom?

**MR. HARRIS:** Correct.

**THE COURT:** Okay. So that's different than phone. You know, I was looking at this thinking this was like a phone booth but that's different than the phone. So they may still be stuck out there with a phone out in the middle of nowhere unless they're doing VAV. And so I might have to say something about a phone.

**MR. IYENGAR:** There are paragraphs about the detainee telephone system starting on paragraph 167, Your Honor.

**THE COURT:** Okay. Let me go back to that. I have to tell you that I read these papers but I originally was thinking I was not -- wait a minute.

Counsel, you can't just walk away, you know, and start talking to people. If you need to talk to someone, would you politely say could I have a minute to confer with counsel.

**MR. HARRIS:** Of course, Your Honor. Apologies.

**THE COURT:** Otherwise I'm over here talking to him, I'm looking at your back while you're hunched over talking to counsel, and it's not really very polite if you think about it.

So, okay, what was the paragraph again?

**MR. IYENGAR:** 167.

**THE COURT:** Okay. They have eight phones. He's showing phones out here that are just out in the hallway and

one of them looks like it's in a bathroom but I'm assuming it isn't; it's just tiled.

**MR. IYENGAR:** That's right.

**THE COURT:** Okay. All right.

**MR. IYENGAR:** There's four phones in that tiled bank.

**THE COURT:** That's not private. If you need to talk to a lawyer, that just doesn't work. They're just out there. And I'm not sure what to say. I mean, partly, they don't have the physical setup for it yet. They do for the VAVs and I was just thinking there was a phone in there but it's not; it's a computer screen so.

**MR. IYENGAR:** Your Honor, you're private from CoreCivic staff but Your Honor is correct, all detainees are around.

**THE COURT:** Just so -- so then somebody who is next to you says, hey, can I get this extra blanket or extra sweatshirt, I can tell you something I overheard from the guy next to me so -- no. We don't want that to happen.

**MR. HARRIS:** Your Honor, my understanding is -- you can see there are phones in those booths, too. I think they're used for phone calls as well. So those booths are for both the Zoom and the phone.

**THE COURT:** All right. But --

**MR. HARRIS:** But only those --

**THE COURT:** Is it just three?

**MR. HARRIS:** Again, I haven't been inside so I don't know how many. He says there are 10.

**MR. IYENGAR:** And there's also a portable telephone. I know that one is brought to the detainees who are in a restrictive housing unit to use within their cell and that's in paragraph 175.

**THE COURT:** Okay. So leaving out people in ad seg or whatever and are dealing with just the people in regular population, they should be able to make calls from those booths. These -- these can't be considered an ancillary option because the hallmark of a conversation with your client is that it is confidential and private, and even if everybody is your buddy who is making a call next to you or there's a guard that says they can't hear anything while they're 20 feet away, I just don't think it's conducive to what is considered interaction with counsel.

So I'm not sure if 10 is enough and I have no way of knowing at this time. That's -- I don't know that that's anything that a monitor can oversee. It doesn't sound like you thought they could and it may be that you would have to get more information from your clients if they have, for example, been restricted, even with what the improved situation is that there's just not enough phones for everybody to be talking within a reasonable amount of time after they need to contact counsel.

**MR. IYENGAR:** There's just one more thing, I'm sorry, Your Honor which is material which is tablets. That's the other way of communicating. There's one tablet for every four detainees and detainees may send email and through the tablet and also use it for video visitations.

**THE COURT:** That helps. I mean, you can -- you know, you can find out if somebody -- you can start by saying I really need to talk to you or whatever you're going to do, at least you can reach out to counsel through email or I guess -- are they allowed cell phones or?

**MR. IYENGAR:** No.

**THE COURT:** So no. So email and then one per four.

**MR. IYENGAR:** Yes.

**THE COURT:** Is that, in your view -- that's not something covered here?

**MR. HARRIS:** We did not include that, Your Honor.

**THE COURT:** Thank you.

**MR. HARRIS:** But they're at a premium and they're hard to get ahold of, but they can send emails. But in terms -- those aren't necessarily always accessible. But in terms of the communication with the lawyer, I don't think we need a monitor to -- what we need is this order and then they should, we expect, would comply with Your Honor's order.

**THE COURT:** Okay. If they can. If they can't, then they need to come to court and say, look, we'd really like to

do it but we've got for any given time slot more than these ten phone booths that we have and that we really can't accomplish it and then the question is what's a court order at that point. But it's probably going to be an order from someone other than me. Okay.

So now let's just keep going. All right. So this can be -- well, if we want to address it and try to write it if I'm going to order it, and does sound like they're current -- acknowledged plan is too restrictive. Okay. In other words, it isn't a question we want to do it -- you know, our plan says we're doing -- we want to do what you want us to do but we're just overburdened and we can't accomplish it unlike the medical. All right.

This is we are doing it differently now. And I think it's fair to say that's -- that's not good enough. Okay.

So I'm not quite sure how to write it. Right now we could say in-person legal visitation seven days a week from 8:00 a.m. to 8:00 p.m. If that's -- you know, if that's what they're doing now, I'm not even telling them to do something different except that the in person would have to be in some way -- I don't know how you want to describe it. It isn't that you want to have them pull the glass out, which they're not going to do.

You don't want to be out there in kind of a public feeling arrangement, and if they have rooms because they had to

have them when it was a prison, I'm not quite sure how to write this but maybe people at counsel table, you have four more people sitting there, maybe they can come up with something about how to describe where these attorney visits should be allowed.

**MR. HARRIS:** Your Honor, I think we can certainly try to do that. We don't have access to the facility but --

**THE COURT:** You don't.

**MR. HARRIS:** I don't, unfortunately.

**THE COURT:** Okay. Somebody thinks -- over there on your side of the courtroom -- that they -- it's a prison, it has to have --

**MR. HARRIS:** Yes.

**THE COURT:** -- interview rooms.

**MR. HARRIS:** Yes. I mean, we hoped that B would get that through. They say that they could do contact visits with attorneys on a case-by-case visit so they think they can do it. We want them to do it where they say they can do it.

**THE COURT:** Figure out how you're going to frame it because right now all you have is visits that aren't through a pane of glass.

**MR. HARRIS:** Correct.

**THE COURT:** So if you want them -- if you think just saying contact visits that do not take place through a pane of glass absent documented security grounds to deny such contact,

if you think that does it, I can say that. And then there are already calls and virtual visits in those booths so I don't know that that's something that I should be telling them they have to do but the scheduling is what you said was the problem.

So if we weren't looking at telling them you've got to allow C and are looking at how you're going to schedule C, I don't know about the six business hours of a request and I don't know if -- would you do me a favor and just say your name once so I don't murder it.

**MR. IYENGAR:** Savith Iyengar.

**THE COURT:** Iyengar. Was I saying that up to now?

**MR. IYENGAR:** You were.

**THE COURT:** Oh good. Okay. Fine.

So then getting back to this -- that's kind of a belated inquiry if I was mispronouncing it for all this time, but, in any event.

So do you have any idea coming from the defendants' standpoint about this six business hours to schedule a call?

**MR. IYENGAR:** My understanding is derived from the warden's declaration, Your Honor, and it does seem like there is a significant amount of inbound communication to the facility and to the warden requesting scheduling of calls, personal attorney visits, in-person visits in setting a six hour deadline to respond to those calls otherwise plaintiffs could move to enforce or file a notice of noncompliance with

the Court I think would be -- might be a problem.

**THE COURT:** Do you have any declarations from any plaintiffs or -- or any of the experts that have been called in that have discussed a delay in getting the calls?

**MR. HARRIS:** We have attorneys. We have eleven attorney declarations and several of those discuss having a hard time setting up of the AV in a call. I could tell you the names of those people but --

**THE COURT:** Just tell me when they said they had a problem, I'm not sure that I read that in total depth. Frankly, I didn't know I was going to get involved with this. I was inclined to grant the transfer and you have suggested there are things that are problematic that once I'm into it, I may as well talk to you about it and see what I can do.

And so if they said that somebody told them they had to wait days, hours, whatever, or if their client told them, whatever it was, even if it's hearsay I'd just like to know what --

**MR. HARRIS:** It's in the record, Your Honor. It's --

**THE COURT:** Yes, I understand. You tell me what it says in the record.

**MR. HARRIS:** Yes. I can pull it up.

**THE COURT:** Or we can wait and you can get back to it for me.

**MR. HARRIS:** No. I can read through them if Your

Honor would like. Or I can -- there's many of them but they all in sum and substance they say that they have a very hard time scheduling calls, that they have to wait sometimes days and days or even longer. The Kazim declaration, the --

**THE COURT:** All right. Let me stop you for a minute. Are these calls lawyers are trying to make to detainees, not detainees trying to make to lawyers?

**MR. HARRIS:** I'll read what the declaration --

**THE COURT:** I'm getting nods of some sort --

**MR. HARRIS:** Yes.

**THE COURT:** -- from the crew sitting at --

**MR. HARRIS:** They're trying to schedule the calls with their clients and they offer multiple potential times up to seven to ten days in the future and there's a lot of detail about trying to schedule these and offering many, many days in the future and it taking days and days and days to make that call.

**THE COURT:** All right. This is an alternative to an in-person visit.

**MR. HARRIS:** These are VAVs, yes. Alternative to in person.

**THE COURT:** They want VAV visits?

**MR. HARRIS:** What I'm reading you now is about scheduling VAVs.

**THE COURT:** Fine. Not calls.

**MR. HARRIS:** Well, yes, not calls, VAVs.

**THE COURT:** All right. Because they're different.

**MR. HARRIS:** They refer to them as both. They call it a call but they're --

**THE COURT:** All right. So if you're feeding them the same -- and the reason I'm asking you is because they fall more into this category of attorney visits than outgoing calls by the detainees, and I thought we were talking about problems that the detainees were having in being able to schedule calls but it turns out it's the lawyers who are having trouble scheduling the calls. And, in other words -- or the remote visits with their client.

**MR. HARRIS:** Yes. That's right, Your Honor.

**THE COURT:** So I misunderstood that, and -- okay. While I was going through this and reading the various papers and then I read a number of declarations, but if somebody told me somebody said X, I didn't necessarily go back and read all of the declarations because, frankly, I did not have time to do it at the time. However, if the details of those bear on what we would be doing today -- that's why I'm asking you about it -- so I'm not sure -- so it says here then scheduling confidential legal calls with legal representatives.

This is the lawyers calling -- or the VAV -- and then to take place within six business hours may be too fast and I'm not sure what would be reasonable to tell them and I don't have

anybody who can tell me by monitoring the situation what would be reasonable. But saying that you have to wait a week is kind of hard if somebody has an important matter that needs attention pretty quickly. And I don't know how often that may be the case but I envision it could be.

So maybe we think about how that could be phrased other than exactly what is said here. It could be within a day, it could be within two days, it could be but not maybe six hours. I would just be thinking about that and I might ask you to confer among counsel without that conversation in any way being deemed a waiver of any objection to my issuing the order but just -- you can get any feedback about what you understand might work or wouldn't work and what the lawyers really need.

Okay. Now I want to just check. We've been -- this clock didn't get changed I don't think. It's daylight savings or at least I hope it's the problem. No. That's okay. All right.

All right. We need to take a break. We've been going for two hours and there is no court reporter but there is me, and I am -- I'm just -- I have to tell you this has been a very wearing day and we can come back at a later time or we can keep at it, one or the other. My thought is that we should square away the lawyer problem with some kind of language that can be agreed -- not really agreed on but deemed workable if I insist on issuing one of these orders.

But we still have -- clothing, I don't think that's a problem. Okay. After recreation, I don't know enough about what's usually allowed, what they can provide, that starts to get a little bit more problematic and then how many counts you have per day and how long they can be. Again, I would have to really think about that.

The idea here is that if they keep doing this, people can't do the other things that they want to do because they're constantly being counted and I'm not sure why they keep counting them but they lost -- you know, and in any of these counts have they said we had 200 and now we have 199? I don't know why they keep doing it but anyway. Okay. Counting.

And then the family visits, again, one gets to a question that I'm not sure that you can just take 30 people and put them in a room with children running around and whatever else going on and whether this works or not. If you have a prison model -- and I understand these aren't prisoners -- you can tell me what that usually is and we can use that as a starting point but I'm concerned a little bit about just saying open this all up and, you know, you have all of these people and one guard trying to watch everybody, it just gets rather difficult just by the size of the space which you say is bigger than this courtroom.

**MR. HARRIS:** It's designed for contact visits, yes.

**THE COURT:** Well, whatever it's designed for, okay, I

can envision at least some difficulty in just letting anybody who wants to come in and visit at any time come into a gigantic room and talk to whoever they want to talk to so, again, just be thinking about that.

Here is an interesting -- counsel ought to be allowed to come in there and -- every 60 days and, you know, see what's going on. I'm not sure I would order that but you can tell me why you think six other judges have done it.

All right. Then we have another one about retaliating. If there had been any showing of that, I would consider it but I don't know that I have any grounds to order that. It's sort of like saying, you know, don't defraud anyone when there's no real evidence that anybody ever has.

All right. And then you have the bond. I'm not concerned about them posting a bond so -- okay. I think we should take a short break and think about scheduling whether we need to come back or how we're going to handle this.

My staff has been going -- my staff being essentially Ms. Geiger -- all day with almost no break. I've had starting from when we started this morning maybe 40 minutes and then back out here. And the matters have been, you know, of some significance and so I do want to give you my best effort here and not end up making some ruling out of fatigue or otherwise that isn't all that great. So just keep that in mind and why don't we take -- let's see, it's 4:34, we can come back at, I

guess, a quarter to would be okay. Come back at a quarter to and we'll see where we are at that time.

**MR. HARRIS:** Thank you, Your Honor.

**THE COURT:** Thank you.

(Proceedings reconvene at 4:45 p.m.)

**COURTROOM DEPUTY:** Please be seated.

**THE COURT:** All right. One of the questions that was raised and it has to do with the six business hours idea, also how many hours somebody should be allowed to meet with a lawyer in person or have a virtual meeting, that type of thing. If they are currently having in place very restrictive time limits, should we, you know, expand those a bit but not to the point that it's an extreme difference. And then we have this question about the counts and how family visits would be conducted.

Now I don't have any problem with ordering that they provide temperature appropriate clothing and blankets free of charge. There was an argument that they were now getting jackets and somebody said they are windbreakers and, you know, I'm not really down there to test the quality of what's being provided but enough people were complaining that they were really cold and that they were having to go and buy things and now maybe they are giving them jackets.

I don't really know what the temperature is like there. A lot of desert temperatures are hot in the day and

they get very cold at night, the temperature drops, and I'm just not really in a position -- like I said, I'm not even in the environments of it that people who, you know, know a little bit more about that area would know more about these things than I do so I can say it, and then the question is whether they're really getting them. Maybe your health monitors since it has something to do with health could weigh in on that -- if I appoint a monitor -- to say, by the way, people are really suffering some ill health concerns because they're freezing all the time or whatever is going on there.

Okay. And that might wrap into the other in some not unreasonable way. But after recreation, is there any kind of standard for -- I'm just going to use prisons for a moment and then I'll find it out if anybody disputes this. Is there any kind of standard there's required for prisoners?

**MR. HARRIS:** There are those at counsel table who deal with this for a living but I am told --

**THE COURT:** Would they like --

**MR. HARRIS:** Yeah, let's bring them up.

**THE COURT:** -- to come up. I can take one or the other maybe to start with just one counsel to come up. Okay. And you can see the mic then and please state your appearance again.

**MS. MENDELSON:** Margo Mendelson for the plaintiffs.

**THE COURT:** All right. Ms. Mendelson, to your

knowledge, is there any type of standard for California prisoners with respect to access to outdoor recreation.

**MS. MENDELSON:** There's not a binding standard about outdoor recreation. There is a practice which is in most cases, in excess of four hours. And that is also the practice in other ICE detention facilities in the country.

**THE COURT:** Okay. So at least four hours?

**MS. MENDELSON:** In both of the other ICE facilities, there's a practice of at least four hours a day out of -- in outdoor recreation.

**THE COURT:** Per day?

**MS. MENDELSON:** Per day.

**THE COURT:** All right. Now what would be the problem, to your knowledge, Mr. Iyengar, in requiring that? Currently, I think aren't they -- they're saying they're like only getting an hour but it wasn't even clear an hour how often -- and then there was a typo at some place where somebody wanted -- I think it may have said they only get an hour then it was like blank time per day. There was something where I was going how often and so I'm not sure where that was anymore.

So what's your understanding of what they're doing right now?

**MR. IYENGAR:** So, Your Honor, my understanding is that the plaintiffs are challenging recreation to the extent that it's not in compliance with the national detention standards.

And the national detention standards do speak to outdoor recreation time. This is in paragraph 91 of the warden's declaration.

But he says that the national detention standard 5.2(II)(A) states that if outdoor recreation is available at the facility, detainees must have access for at least one hour per day, five days a week or six or more hours per week, at least four days per week. That standard further states --

**THE COURT:** I'm trying to find the or --

**MR. IYENGAR:** 91. It's on page --

**THE COURT:** 91. Just give me a second. I don't see the or. Oh, here it is almost repeated.

All right. This is what he says the standard is. Are they even getting that?

**MR. IYENGAR:** According to a declaration, yes, they are. And there are certain things that they factor into providing recreation, like male and female detainees can't be outside recreating at the same time. High and low custody levels can't recreate at the same time. So there are considerations that kind of fit into this puzzle of when folks can be outdoors and when. But certainly the declaration does confirm that it's happening.

**THE COURT:** Well, they aren't getting even what the plan says. In other words, this is like the medical again. I can at least order that they comply with the national

standard -- not national. It's -- wait a minute.

Wait a minute. This is what they're doing. Where does -- where is -- here is the standard. Wait a minute. This is ICE's standard. Why -- yeah. Why am I concerned with ICE's standard?

**MR. HARRIS:** We're not challenging -- we're not saying that they're not complying with ICE's standard. That's not our claim.

**THE COURT:** Okay. You're -- your challenge is to ICE's standard.

**MR. HARRIS:** Our challenge is that what is going on there is harsh and unduly punitive, and so --

**THE COURT:** Wait. Wait. Wait. That's just, you know, doesn't tell me anything factual.

What I'm asking is, first of all, it's an ICE standard that they are using and possibly not even complying with that but the ICE standard may be less than what California prisoners are entitled to but Ms. Mendelson -- who is going to be arguing this, not you, okay. Thank you. I'm not going to do tag team here.

All right. Ms. Mendelson says there isn't anything specific, there is a practice, all right, of at least -- now, I don't have a way to check that. I don't have any reason to doubt her. But I can understand why at a minimum they should get the ICE standard and so my first question is are they not

getting the ICE standard.

Now maybe it is that, Mr. Harris, you know whether, you know, from those details, whether they're saying they aren't even getting the ICE standard.

**MS. MENDELSON:** The evidence shows that generally they receive that standard. Our view is that it is an inadequate and punitive amount that is in violation of the constitution.

**THE COURT:** Okay. I'm not sure -- who said it's inadequate? Anybody either from a medical or other standpoint by way of a declaration?

**MS. MENDELSON:** Dan Pacholke, our prison expert, speaks to the importance of outdoor recreation and the general standards.

**THE COURT:** Who are we dealing with? Pacholke?

**MS. MENDELSON:** Yes. Dan Pacholke.

**THE COURT:** All right. By the way, you do have kind of a summary exhibit where you've excerpt it out if it helps to find things. I happened to have this handy right here so.

**MS. MENDELSON:** Mr. Pacholke addresses outdoor recreation at paragraph 16 and 17 of his reply declaration.

**THE COURT:** All right. Hold on. Hold on. Here with the typo it reads -- I saw it and I told you I did read these declarations but some of the multiples I didn't read all of them.

All right. It says people in general population

prison units, even people at the highest security levels are generally offered more than seven hours of outdoor recreation -- oh, it isn't a typo. He's just saying you get seven hours a week. That isn't a typo.

I'm sorry. I read it as I thought he meant so many times a week but he's saying you get -- if he just said seven hours of recreation, yeah, I see what he's saying, time a week. Now that's just more -- so if somebody got five hours -- I'm sorry, five hours would be less than seven but one hour a day every day would not be less. And then he says they usually get more than seven.

And when he says in my declaration I wrote that four to seven hours per week is less than even prisoners in segregation units are offered -- and then he -- it's helpful, it's healthy, it's not good to be cooped up. I'm wondering -- let me see what you wanted me to say.

Okay. I think four hours is maybe too much. They may not be in a position to allow that. I don't even know how big the space is. You know, you can't just have people out there shoulder to shoulder.

This is one of the problems with my having to specify some of these details without having a better understanding of what the facility looks like. So say if I were down there -- and I'm not and I'm not going down there -- but if I were down there closer, I would go out there. I would see what it looked

like.

Somebody says to me we can't put more than 50 people at a time out here, I could look at it and I would either agree with them or say no and you have to do something else and maybe you have to open a new facility. You just have too many people here. So but I'm -- I can't really do that from here which is one of the reasons that I also thought transfer was appropriate. But what I don't know now is in trying to put some things in place so people -- we wanted first to do medical and that was counsel's, you know, first stated concern that it isn't just the people we know are seriously ill, now there are people seriously ill who are going to come in, there are people who aren't seriously ill but may become seriously ill if they don't get the treatment they need.

And I don't have a problem with that. I did originally have a problem with wording until I realized if a monitor were appointed at least for some -- I can either appoint them or appoint them for a period of time as another possibility and then ask somebody to extend it, depending on what the reports are and that's a possibility also. But -- which I just thought of, by the way.

But some of these others, I'm just at a loss as to what might be workable. I say you got a room you can put lawyers in, put them in there, don't have them trying to talk under Plexiglass, but some of the other things are problematic

for me. And it depends on whether you want me to say something right now today or how we're going to deal with this because I don't want to put it over, you know, indefinitely because that may slow things down in other ways that I can't envision.

And, by the way, you can't use this to argue now that you're really familiar with it, it's not appropriate --

**MS. MENDELSON:** Your point is taken, Your Honor.

**THE COURT:** Okay. Just so you understand, that's not a fair argument. Okay.

So what should we do? I really don't know that I can pick a number of hours a day. I'm not sure that I -- I think I could put some limits at least minimal time for lawyers beyond what the time that they're allowing for sounds very, very short, particularly for these in-person visits that require such an extraordinary effort to get out there.

**MS. MENDELSON:** Your Honor, our preference would be for you to decide this promptly even if it means narrowing somewhat our preferred relief.

As to the outdoor recreation, I will say this, we spent a lot of time speaking with the people inside. This is urgent for them. The profound lack of sensory stimulation is a primary concern and tremendous psychological distress that we hear every day on these calls -- so that is not to answer the question of how do we set a line -- but to say any increase would be appreciated.

And this is preliminary so if, for example, Your Honor were willing to put in a three hour daily minimum, if down the line that's not necessary or somebody says it's not workable, then we can revisit it but it would be a very meaningful change for people who are spending 24 hours a day in a concrete room.

**THE COURT:** Where was Pacholke's declaration? I have to get that again. This one is Warden Chestnut.

**MS. MENDELSON:** Unfortunately for us, Pacholke only says that the current is akin to a locked down punitive unit but does not provide a benchmark for you, Your Honor. But our experience in the prison context certainly with a higher security population than this civil detention context is that people routinely spend, at minimum, four hours a day out at the yard.

**THE COURT:** So he's supporting your this is punitive idea but not necessarily giving me a guideline as to what to use.

**MS. MENDELSON:** That's correct.

**THE COURT:** Okay. All right. I don't know exactly what to say. I could say seven days a week but that's just one more hour a day. And maybe an hour a day isn't enough, but at the moment, I don't have anything more from him as to what might be a standard.

These people are not in administrative segregation in the main. I mean, a couple people may be but not most and so I

don't know what the appropriate standard is for people in prison.

**MS. MENDELSON:** What I can offer is the other ICE detention facilities which have the same -- roughly the same population, they're interchangable, which we understand to be four hours a day minimum. Alternatively, we could provide more evidence but I understand our goal here is wrap this up.

**THE COURT:** Where do you have the other ICE facilities getting that much more than apparently the ICE plan is or what the warden said? I'm sorry, yeah, Warden Chestnut said was the ICE --

**MS. MENDELSON:** I don't believe it's in the record, Your Honor. That's our knowledge from our work in the area.

**THE COURT:** Okay. Well, it's kind of hard for me to say if others were getting in ICE detention more hours than these people at least shouldn't be disadvantaged in that way.

**MS. MENDELSON:** We are looking right now at the performance based national detention standards of ICE which say that detainees shall have at least four hours a day access seven days a week to outdoor recreation, weather and scheduling permitted.

**THE COURT:** Now what are you reading from?

**MS. MENDELSON:** I'm wondering too. It's the 2011 performance based national detention standards. It's ICE's own standards.

**THE COURT:** But now that's different than the warden says, and he's relying on -- I don't know if he says.

**MS. MENDELSON:** I think he's relying on a different --

**THE COURT:** 2025 he says. All right. I just -- you know, I would certainly not want them to be having less than other detainees and it's possibly other detainees used to get four hours and now they're not getting four hours and that's another question why did somebody take the hours away from them and so I'm just not sure what to do here.

I -- I -- I am hesitant to -- let me go back to his declaration. All right. They're now permitted one hour five or more days a week.

Well, I can give them another couple of days in an hour but that isn't a lot. Because that sounds like at least it would be better than what, you know, the prisoners are getting.

I'm going to go back to the Pacholke declaration. This is Dan Pacholke. We can do it -- here we go. All right. He says generally offered more than seven. Okay. I can at least give them seven, you know.

**MS. MENDELSON:** I say that the regulations that govern jails in California put a minimum of ten hours, if that's a guidepost for you. That's of course jails, not prisons, but it is an absolute minimum. That may be of some use.

**THE COURT:** You know, it's pretty hard for me without

something more. I might, you know, at least be able to give them another couple of hours so -- I mean, to be in and not get out at all for two full days, you know, is pretty cooped up.

And of course you're talking weather permitting. Nobody wants to get out there and just get soaked but. So I might be able to enhance it a bit but I don't know that I can go much further than that on the record that I have.

And the main question is now should we keep going now at essentially 5:00 or slightly later or should we pick another date to come back? But I don't want to get bombarded with a lot of new stuff that I have to deal with. So if we can do this today, I -- I've got 3D open at the moment that would have to be dealt with in some fashion but within six business hours isn't working.

**MS. MENDELSON:** Your Honor, we're glad to stay as long as you'd like. We share your preference.

And I do want to point out one declaration in the record that may be of service to you on the question of outdoor recreation. This is the declaration of Sokhean Keo, document 22-12. And it says I was also offered much more time out of my cell in prison. I was able to go to the outdoor recreation yard for four hours every day.

It goes on to describe the other out of cell opportunities but that is at least a benchmark for Your Honor in the record.

**THE COURT:** It's something, but I'm not sure where they were or what -- it's a little bit hard to --

**MS. MENDELSON:** It was at California City, Your Honor, at this facility. This person, the declarant, was a prisoner at California City when it was a prison at which point he was out of his cell four hours a day out of his -- outdoor rec.

**THE COURT:** Interesting. I don't know if I want to go up to it without more. I am somewhat concerned.

**MR. IYENGAR:** I think, Your Honor, the Supreme Court has described this as an inordinately difficult undertaking to be involved in crafting prison policies given all of the conflicting considerations and that courts -- you know, counsel's hesitation about doing so without a fully developed evidentiary record.

I think we share the plaintiffs' preference for a decision soon and we would advocate for a transfer as soon as possible so the appropriate court can engage with all of these -- maybe even visit the site. And if there's specific concerns -- immediate concerns that involve potential irreparable injury in the weeks before that court is up to speed or less, you know, I think that that might be something that we can discuss but I don't think we're discussing that right now. We're talking about things that really feel like relief on the merits that extends broader and longer into time.

**THE COURT:** Okay. And I understand that and that's

why I'm back on D under three which is something we ought to be able to say something about just so the lawyers can actually have contact with their clients and with -- and these VAV visits.

Thank you, Ms. Mendelson. We may have you back up here again or other counsel who have appeared briefly.

I think that they should be allowed to have these visits and something sooner than like weeks or a week at least. But I think six business hours may be tight. And that's why, again, without knowing everything that they're dealing with with the equipment that it just makes it difficult.

But I could pick something that at least is more immediate and --

**MR. IYENGAR:** I'm afraid it's difficult for me to contribute because the warden does expressly dispute there was any-weeks long delay here so it's hard for me to suggest --

**THE COURT:** Let's go to Warden Chestnut for a moment. Can you point me to his specific reference to calls again. Well, here we are in the 180s. Okay.

**MR. IYENGAR:** 204.

**THE COURT:** Okay. Let me go -- that's a little bit farther. Okay.

**MR. IYENGAR:** And these allegations are a little muddled, Your Honor, because I don't know if plaintiffs separated out issues with calls versus VAVs versus visits. I

think they were grouped together in the complaint as well.

**THE COURT:** Well, I do think that it is problematic to try to pick these specific times. I mean, it's fine to say you should have a -- an evaluation of somebody coming in for medical care within a particular amount of time. But some of the other things just gets to be pretty difficult.

So putting aside the earlier one, I don't know that I can really make a reasonable estimate. I could say within a couple of days and see if that, you know, might be workable. It seems like a week is too long. And I think the warden acknowledges that by saying it's not happening but he doesn't say when they're getting done.

**MR. HARRIS:** That's right, Your Honor. And there's lots of evidence that it is happening. We think 24 hours, even at an outside 48 hours -- the question isn't so much, you know, how hard is it for them to do it. It's what is required to allow these people to have meaningful access to their counsel. And given the types of issues we're dealing with and the urgency, we think 24 hours would be reasonable, 48 at the very outside.

And, Your Honor, we think you've given a lot of guidance here. If it would help Your Honor, we could, you know, by this evening, take what we've learned today and submit a revised version of this that addresses what Your Honor has said and of course you would be free to make additional

modifications to it as you see fit. But if that would help because we're -- and respecting the time and how long Your Honor has been on the bench today, I think we understand where Your Honor is with respect to the issues we've discussed and the concerns that you have and we can try to address those in a revised version and we can get that to you this evening or as soon as you would like it, if that would be helpful.

**THE COURT:** The problem is I'm not sure that I can -- I'll be in any better shape. You say maybe we'll just not make it as extreme and then maybe the judge will think it's okay and I don't know that I can do that because I -- it's pulling numbers out of the air is the problem and I don't really have a way of deciding it.

How about these counts? Do you want to take a look at that for a minute, Mr. Iyengar, and see what they're saying here. And this is under 4C at the top of page 3 on this revised request.

**MR. IYENGAR:** I think that really gets into the operations of the facility.

**THE COURT:** It makes it very hard for me to try to see what would be relevant. So I'm stuck. I don't mind giving him another couple of days of at least an hour of outdoor. It's not much and I just don't see why that would make a major difference to them.

But -- and I'd be willing to say within 48 hours of a

request and at least then somebody could find out what's going on with their client. I don't know if it should be 48 business hours. I don't know that lawyers are, you know, making requests outside of business hours. They might if somebody got in touch with them on one of these iPads or whatever and asked them about a problem so I might make it 48 business hours or something.

I could do that and then -- wait. That might not work actually. It may just have to be 48 hours.

**MR. IYENGAR:** The challenge is if they make a request at 5:00 p.m. on a Friday before a long weekend and then at 9:00 a.m. on Monday, it's immediately due.

**THE COURT:** Maybe 48 business hours. It could also be two business days, you know, or something but whatever sounds better. Maybe two business days sounds better.

But after that, I don't know what to do with the counts. I don't know enough about what they need to do. It sounds like they don't have to keep counting people all the time but I really can't tell you how that should be limited.

And I'm not sure what to do about the family visits either at this moment or about having counsel there at the moment. I don't think that's necessary.

There was the question about retaliation. Somebody thought they were retaliated against because they made some request but it's not clear to me that that really is something

at the moment.

**MR. HARRIS:** If I could speak to that briefly, Your Honor. It's of course hard to prove retaliation especially with no discovery but one of our named plaintiffs we understand has been placed in administrative segregation. We don't know if that's because of this or because of something else but certainly it's a clear and present issue that our plaintiffs are concerned with.

And in the Pablo Sequen case, which was the one from sixth -- from the Sansome Street facility that Judge Pitts just ordered, at the end of his preliminary injunction, he simply said defendants are also ordered not to retaliate in any manner against a class member for complaining about any alleged violation of this order. It seemed to us a straightforward request that, listen, there shall be no retaliation in response to this order.

**THE COURT:** But complaining about a violation of the order he issued, not something else about asserting constitutional rights. And then we get into is somebody acting unlawfully in asserting their constitutional right about something else and then whose state of mind that's involved. It's one thing to say if somebody says you're not complying, the judge said give me a blanket and then the next thing you're in administrative segregation. That's one thing. But those are very specific.

And he had a limited set of things going on because it was supposed to be short term and that people weren't there for just the limited period of time. And even if they were, they were not given even the basics that somebody would need and so it's a different case in -- even the wording you just read to me is different.

So here is what I would be willing to do. Okay. Now -- and this is over objection, and I understand that, and if there is any help in any of these things with cooperation between counsel with the understanding that once the defense is really saddled with this order that that's not to be considered any concession that they should have been stuck with it but if they had any suggestions about things that they can certainly talk to counsel about it.

Apparently, maybe -- all right. I just don't want, you know, Mr. Iyengar to feel, gee, I really can't do anything now because it will look like I'm caving in on this and -- and I don't want him to -- Ms. Geiger, what's causing the feedback?

Okay. Here's what I'm willing to do -- all right. Now I didn't come out here planning to do any of this. It struck me while we were talking but that's beside the point. I am willing to order the -- a proposed -- you know, the proposed preliminary injunction that encompasses items one, A through H, and to order two, but the question is with -- whether I should say for a limited period of time, for example, that could be 90

days, it could be, you know, a period of time once they're down there seeing what's happening or -- or just order it and then put the burden on -- you can hear me, counsel, without it and we can't just keep having it be back. And I just have it on on the lapel.

I'll try it once more. I know there are people who are sticking with us out in the courtroom, but this is just -- this is just a thing that holds the mic -- holds the cord. So I'm not doing anything but -- see, it's doing it again.

**MR. HARRIS:** I can stand it, if Your Honor can.

**THE COURT:** Well, it's very distracting.

**MR. HARRIS:** It is.

**THE COURT:** It's right now not doing it at the same volume so if it's just a small echo, I can live with that. I don't know how much more -- okay. Because I'd like the people who are here and spending time listening to it to hear me and I don't know that they would necessarily be able to hear me if I don't use the mic. Counsel at counsel table can hear me.

Okay. But this idea of the 14 days -- all right. The idea that -- I'm just going to try moving it away from me a bit.

The idea that 14 days, that Mr. Iyengar thought might be a problem, and to present your proposals to me, apparently there's a pool of people out there. In other words, plaintiffs' counsel is going to come up with a name and then

the question is does -- I don't know, since you've been picking me up -- people in the courtroom, thumbs up. Okay. Thank you.

If there are people that have been proposed by the defendant, again, without acknowledging there should be any monitor at all unlike whatever that other case was in Arizona, then I'm not sure how long it might take them. I think it would not take plaintiffs' counsel long. They've probably been trying to find somebody who would be available before we even got to this point so I can make it 14 days but -- actually Mr. Iyengar thought that would be maybe too short. But what I can say is I can do that and then if you need more time, you talk, you give me a stipulation, again, without any concession there ought to be a monitor but being ordered to come up with one, if you can, you need more time. Okay.

**MR. IYENGAR:** I think the issue was with the 14 days, Your Honor, was with the fact that this court is transferring this case and then the parties are submitting a plan to this court.

**THE COURT:** No. No. I'll hold on to it. Okay.

I'm not going to not -- I am going to transfer the case. I'm not issuing that order now because if I do it, that's it. I don't have -- you know, I don't have authority to do anything.

So I will hold on to it for the purpose of you getting me the monitor and giving me an order to appoint the monitor.

My only question is if there have been instances where a monitor has been appointed for some limited period of time, does anybody have any exemplars of what that might be?

**MR. IYENGAR:** I'm not aware of -- as an initial matter, I'm not aware of a court in a different district ordering a monitor of a facility located over 350 miles away in this case in a separate district --

**THE COURT:** I can order it and then any reports though are going to have to be delivered to somebody other than me. And we haven't talked here at all about how the monitor would contact the Court to let them know. And I don't know if ordinarily that's provided for in any way in an order of -- in the preliminary injunction or only in the order appointing the monitor in which it may be and the monitor -- so you might want to talk about that.

And I think thinking of limiting of the amount of time though because as Mr. Iyengar says, for all we know, whoever gets the case doesn't even want a monitor. So at least we could make it that if somebody warrants to extend the monitor, then they could based on whatever reports are coming in. Nobody knows, okay, as to how long --

**MR. HARRIS:** Your Honor, there was a case which we were discussing earlier called *Torres v. Milusnic*, which was around the Covid time where at a preliminary injunction they appointed a monitor to go in there --

**THE COURT:** That was probably shorter term though.

**MR. HARRIS:** -- to the Bureau of Prisons in Lompoc. I don't know the duration but I do think if Your Honor wanted to put an end time on it, things take a long time at California City. And getting the person in there, getting the person arranged to do what the person needs to do in order to assess this, I think, you know, a six month time limit would make sense.

And not to say they -- I'm assuming they're not going to be in tomorrow. It's going to take some time to arrange. And after six months -- and of course in the next court in the Eastern District, if Mr. Iyengar's successor wants to move to alter that or truncate it or dissolve it, they'll make whatever motion they like.

But if Your Honor were to put in place a monitor, I appreciate Your Honor's good idea to keep the case, don't transfer it yet until this has been done under Evidence Code 702, get this monitor in there, and then after six months, absent further order of the Court, it expires. And of course defendants would be free to say whatever they want to say to the Court in the Eastern District if they want something different to happen. But I think six months would be enough time to get down there, talk to patients, staff, see the facility, and then be able to advise the Eastern District with regard to what they've seen in terms of compliance.

**THE COURT:** I was kind of thinking of 120 days as maybe enough but if you're --

**MR. HARRIS:** Really that's --

**THE COURT:** Excuse me. If you're talking about actually getting out there and actually seeing what's going on, causing delays, I might consider a longer period of time. But, frankly, my thought is that they should be fixing this up pretty quickly and that I don't want this to be a long-term situation where -- we've had cases that have gone on for years with judges appointing monitors or whatever in prisons so that people can get whatever they need and the case is just never going away.

And so I -- I want to at least have something to start with that says, you know, they ought to be able to get it together within a particular amount of time and the monitor ought to be able to see that, get back to the court, and then if it needs more time, the monitor would be saying, all right, they're either making progress but they still haven't gotten -- or whatever they're going to say. I don't know. I never read one of these reports, but I can make one up in my head so I'm -- I'll consider --

**MR. IYENGAR:** And we believe, Your Honor, that the transferee district is the right venue to select a monitor. They can visit the facility, choose an appropriate monitor in the region. I think it's very challenging -- and the point

we're trying to make is that it's very challenging for this court sitting in a separate district to select a monitor for a facility we've never visited and I don't think there's sufficient evidence to support that type of drastic really unprecedented relief of issuing a preliminary injunction.

**THE COURT:** That's already been said but the problem is I can't do it halfway. In other words, I either don't do anything or I do this with a monitor. And I can't say in effect that -- I don't know if there's a way to write it that there will be a monitor provided, there's a monitor that everybody agrees to, and it's -- if you can think of a way that could be written -- and you don't have to tell me tonight -- if you think of a way that it can be written that I will say a monitor goes in there because otherwise I can't issue this order. It's just too loosey-goosey.

**MR. IYENGAR:** The Court can certainly grant a transfer in --

**THE COURT:** No. Okay. If I am going to grant the transfer but I am going to give them some immediate relief that they can start using, the only way item one is workable is with a monitor and the fastest way is for me to appoint one and not have some kind of conditional it's like I'm appointing a monitor but then it will be picked by the judge in the Eastern District at some point and then whatever. And in the meantime we have this sort of unmonitored thing going on.

All right. I will order this and I will consider a length of time -- it may be on the shorter side with the idea that you're -- as you point out, a judge down there ought to decide more about how this should go. All right. So I may put some limitations on it.

Now we're going to item number -- I'm sorry. That was one and two. Okay. All right. Then we have three, and I thought of having three read as follows: Okay. Defendants -- I'm reading the first part -- defendants are ordered to ensure that detained individuals have timely and confidential access to attorneys, including but not limited to via by allowing in-person legal visitation seven days per week, 8:00 a.m. to 8:00 p.m.

That's it on that one. All right. And then, B, keeping that as you've stated it.

**MR. HARRIS:** Could I ask Your Honor a question about A before we move on?

**THE COURT:** Yes.

**MR. HARRIS:** We had discussed temporally unrestricted being too broad but Your Honor had mentioned, you know, going all the way out there --

**THE COURT:** Okay. Do you have --

**MR. HARRIS:** We have three hours, Your Honor. We would propose three hours. Not to exceed three hours.

**MR. IYENGAR:** Are these things the external monitor is

considering, Your Honor, or the Court is ordering these types of operational changes?

**THE COURT:** These are outside of the monitor which is one of the difficulties that I expressed. And so give me a second here. Right now these are limited to, what, one hour?

**MR. HARRIS:** Yes.

**MR. IYENGAR:** It's unlimited, Your Honor, but one hour with a single attorney. If a different attorney wants to meet with that same individual for the next hour and a different one for the next hour, they can meet with them all day. It's limited to an hour for one single attorney.

**THE COURT:** How does that work? Two different lawyers come in from the same firm and one of them gets an hour and another gets another attorney.

**MR. IYENGAR:** If there's multiple lawyers representing one detainee.

**THE COURT:** All right. So they bring three lawyers and everybody gets an hour? That does not make sense to me. I'm sorry. Okay.

I don't know about the three -- I'll say not to exceed three. All right.

**MR. HARRIS:** Thank you, Your Honor.

**THE COURT:** Okay. I think it's more than most will need. Okay.

**MR. HARRIS:** It may not last that long but sometimes

it's needed. Thank you, Your Honor.

**THE COURT:** Okay. Where do you put the not to exceed? You can figure out where it fits in best. If it's at the end, fine, if you want after in-person legal visitation not to exceed three hours in length -- I think it fits better at the end but I'm not sure.

Okay. At this point I'm not sure of anything. Okay.

Then I'm not going to grant C the way it reads but I -- I'm going to D, and D is scheduling of confidential legal calls with legal representatives to take place within two business days of a request. All right. And that covers essentially the concern and C is out.

**MR. HARRIS:** And C is out.

**THE COURT:** Then we have D.

**MR. HARRIS:** The one issue we have with C is the temporal -- the amount of time allowed and Your Honor had said it should be different from in person and calls. The calls right now are limited to 30 or 60 minutes. We would ask that -- and everything else in C can go away, but we would ask that those calls be extended to 90 minutes.

**THE COURT:** What is it now?

**MR. HARRIS:** They say 30 or 60 minutes. Some are truncated at 30 minutes, others 60.

**THE COURT:** Is there any way to work that into D?

**MR. HARRIS:** Yes. I think we could. We could do

that. That's a good idea.

**MR. IYENGAR:** Is B out, Your Honor?

**MR. HARRIS:** Yeah. I wanted to go back to B. We skipped over B I think. B is the contact visits.

**THE COURT:** Thank you. But what are you saying about D and the --

**MR. HARRIS:** I think you're right, Your Honor, we can put the temporal extension into D so that covers the scheduling and the duration of confidential legal calls --

**THE COURT:** Okay.

**MR. HARRIS:** -- within Your Honor said two business days.

**THE COURT:** Contact attorney visits -- no. I thought I said -- if I did B -- yes, I said B as you've written it.

**MR. HARRIS:** Okay.

**THE COURT:** Okay. I think I said that. And E is okay if everybody knows what that means.

All right. Now we're into four. I would do 4A and 4 -- and then 4B, instead of four hours a day, I'm going to say that at least one hour per day, seven days a week. I'll do that. I just can't imagine this is going to create major problems but if someone thinks it has, they can ask to modify it.

**MR. IYENGAR:** Sorry. I missed what you said for B, Your Honor.

**THE COURT:** B is just as is -- or, wait. I'm sorry 4B or 3B?

**MR. IYENGAR:** 4B.

**THE COURT:** 4B I changed four hours to one hour per day, seven days per week. It's giving them an extra couple of hours a week. Yes. Right now they only get one hour.

**MR. HARRIS:** I think that's what -- I think that's what Chestnut says they get is one hour a day, every day.

**MR. IYENGAR:** No. They're getting it five days.

**THE COURT:** They're getting five I thought. Back to Mr. Chestnut.

**MR. HARRIS:** It's all right, Your Honor. We can --

**THE COURT:** Well I'm happy to look at it. I thought, you know, he was talking about the ICE thing and this is paragraph 91. He says they get one hour -- but he says five or more.

**MR. IYENGAR:** Five or more days a week.

**THE COURT:** But that would be five.

**MR. HARRIS:** Very good, Your Honor.

**THE COURT:** So five or more is five.

**MR. HARRIS:** One hour a day. Seven days a week.

**THE COURT:** Yeah. This way they're guaranteed to get out, if they can, at least once a day. And maybe it should be more. And whoever appears in the court wherever they're going to conduct it -- and I think to the extent they're not hauling

witnesses anywhere conducting a trial, it will be in Fresno. And so whoever goes -- you know, whoever appears for the plaintiffs in Fresno and for the defendant, if the plaintiffs want to say now we looked in it and should be more, if the defendant says those extra two days are just impossible, somebody down there can deal with that and hopefully, if necessary, go out there and look at the place.

I have conducted on, an occasion -- and rarely but I have -- conducted on occasion site visits and it does make a difference. You know, many years ago I had a case involving the Mt. Davidson cross and the challenge to it remaining on city property and the city having a proposed plan to chop off the top of Mt. Davidson and put it up for bid which then was challenged by various people. I went up to look at what it looked like up there.

If hikers are hiking it, what do they see when they're there, the whole picture. It made a big difference. So, you know, anyway, you might notice it's still there. Anyway, moving on.

All right. So I am not going to order the count change which is 4C. I would if I had some guidance but I don't have enough guidance. I'm sorry. Otherwise, I would be happy to try to help you out on that.

**MR. HARRIS:** Your Honor, could I point you respectfully to one place in the record, which is the

Montes-Diaz declaration. This was a person who was imprisoned at California City when it was a prison, and he reported it was two counts a day during waking hours.

**THE COURT:** For how long?

**MR. HARRIS:** Roughly an hour each.

**THE COURT:** Well, I don't know that I can't say that works right now. I've got one person telling me what it -- his experience was when he was a prisoner. I am not going to -- I do not have something, for example, from your --

**MR. HARRIS:** Pacholke.

**THE COURT:** Yes.

**MR. HARRIS:** He does speak to this. He says this is excessive. He says this many counts is excessive.

**THE COURT:** He doesn't tell me what to do. All right. And so I'm left with now what do I do? I said I would like to help you out but I don't have a specific, and I would like to give you one but I can't just pick something out and say it kind of sounds good to me, which I've already done twice in this order.

So -- all right. And then the family visits, at the moment, the only way to do it is either have them going into the interview rooms, but those are being used by lawyers, or going out in this gigantic football field of space and -- all right. It isn't that big but it's at least as big as this courtroom and maybe bigger and that's a lot of people so I am

not going to order that either.

But you will have another chance to improve upon this. Keeping in mind I am doing this with an effort to get as much of what's immediately needed ordered. Okay. So -- all right. I am not having counsel visiting down there and I don't think you need it if you have a monitor.

I am not going to order -- at least in this language -- the anti-retaliation provision. I will not require a bond. And to the extent you are worried that someone will say this order only covers the named plaintiffs, I will grant the provisional class so that everybody there will be able to, you know, avail themselves of the order.

**MR. HARRIS:** Thank you, Your Honor.

**THE COURT:** That requires you to submit to me a revised form of order, show it to Mr. Iyengar before you submit it to me to make sure -- and this is only for his approval as to form, not as to content, but as to form, that it matches what I said I was going to do.

Okay. All right. Then it means that I -- I can sign this before I do the question of the transfer but for the transfer, I guess once I sign this, I would be in a position to simply order a transfer. I don't know if I'll make it a gigantically long order because we've been through this quite a bit but I don't want the Eastern District to think I just flipped a coin and sent it down to them.

So I will say something but I want to get everything going as quickly as possible so that you are, you know, not kind of caught between two venues. All right. Now we got -- okay, Mr. Ragland, do you want to come back?

**MR. RAGLAND:** Just to make sure since Your Honor is appointing a monitor, the transfer order will come after Your Honor has appointed that monitor so it might be a couple weeks.

**THE COURT:** Yes, because you asked me to wait two weeks.

**MR. RAGLAND:** That was my understanding. I wanted to make sure I wasn't misunderstanding.

**THE COURT:** If you wanted to tighten it up, you could either figure out how to do that or otherwise. If you all agreed on a monitor before, you might want to say we agreed on a monitor before --

**MR. RAGLAND:** Thank you, Your Honor.

**THE COURT:** -- you know, and give it to me, but the deadline is two weeks. It doesn't mean you have to wait until the last day.

**MR. IYENGAR:** And I think, Your Honor, the one key question is whether discovery is going to proceed in this district now because we do have a CMC coming up in a few weeks and initial disclosures to exchange in answer to --

**THE COURT:** Okay. I don't think we're going to have a CMC. If there's one, I will -- well, the only reason is if I

wanted to talk to you about something that hadn't happened yet. Let's just see when it is. Ms. Geiger.

All right. It's March 6th. And two weeks from now is not -- you know, it's going to be before that. So I could leave it on and it will essentially go away. Just let me look at a calendar for a moment.

**MR. IYENGAR:** Thank you, Your Honor.

We have an initial disclosure deadline, we have to meet and confer about a discovery plan in a week.

**THE COURT:** All right. Do you want me to either vacate it or put it over so that you don't run into preparation for something that you're not going to do here?

**MR. IYENGAR:** Yes, Your Honor, and also so we can focus on the monitor.

**THE COURT:** Okay.

**MR. HARRIS:** The one date we would appreciate that it does not matter which court we're in is we would like to have a 26F conference with the other side so that we can start at least start propounding discovery. It doesn't have to happen in this court, but can we just have our 26F phone call and start and have that done?

**THE COURT:** I'm keeping it really just to give you this order. And I really would rather that once the order is in place and it's transferred that you just then for purposes of 26, that -- the disclosures, rather, not full blown

discovery. That kicks in, if I don't -- if I don't say anything, you would have to wait until you were down there.

**MR. IYENGAR:** Right now we have to -- the deadline is in one week to meet and confer and discuss the discovery plan for the case, how essentially initial discoveries --

**THE COURT:** My question is whether I say you don't have to do that. All right. That one could probably go forward here because it doesn't matter where the case is.

But the discovery itself, we haven't even gotten -- you know, is there going to be a motion to dismiss, what's going to happen, what -- so that I'm not going to say proceed and lift any kind of stay on discovery. If you're not entitled to it right now, I'm not going to say get going on it. But I will say that to get geared up for it, that part, to have your plan and whatever is not going to hurt anybody and you may as well get that going. And then you can tell the judge, you know, we're ready to roll, and then whatever happens after that will depend on what the response is to -- what's the status on the response to the complaint?

**MR. IYENGAR:** It's due in two weeks, Your Honor, so I would also request, if not now, in an admin motion or stip, that we continue it so the new AUSA can make the determination about what to file as the responsive pleading whether it's an answer --

**THE COURT:** If you're going to answer, you can just

answer. But if you're not going to answer and you're going to file a motion to dismiss, I guess that would go down to be heard by the judge.

**MR. RAGLAND:** And we're happy to meet and confer with counsel and talk about the schedule.

**THE COURT:** You might want to take some things that just require a kind of distracting amount of effort and say, gee, we don't have to do that immediately, that, you know, you might agree to something and I will certainly sign off on it if you do.

For now, there won't be any discovery because you aren't really entitled to yet, but I'll let the rule 26 disclosure and whatever those particular requirements are but you won't -- I'm going to -- if I vacate the case management conference, does that kill off --

**MR. IYENGAR:** It does.

**THE COURT:** Oh, it does.

**MR. HARRIS:** Well, I think Your Honor had set an order that said 26F conference and initial disclosures by such and such date, CMC by such and such date. I don't see why Your Honor couldn't say have your 26F conference on this date as ordered and I'm vacating the CMC.

**MR. IYENGAR:** We don't -- yeah --

**MR. HARRIS:** Go ahead.

**MR. IYENGAR:** I would just ask that we can have the

conference but exchanging initial disclosures and getting to discovery would all be part of the stay on discovery for the Eastern District to --

**THE COURT:** On the initial disclosures, because that would be something that -- the only question is if it's not going to be tried here and it's not going to be tried by Mr. Iyengar, should he be in a position of saying what somebody else is going to be thinking or report witnesses and that could be a problem. Okay. I'll vacate the case management conference.

All right. I'd like to have you be able to do it but I think it creates a problem for him. Because he -- otherwise, he is going to be in a position of having to say what's going on. The people who are going to get the case haven't even seen it yet and it's just too problematic. But, as I say, I would like a certain amount of this -- and I understand every time we do something, it puts something else in place that I need to rule on, and I'm not -- I'm certainly happy to do that.

So let's see where I am. I said what I would sign if you provide it to me and then that means that as soon as you have that, you've got 14 days to get back to me with a proposal either jointly or unilaterally as to a monitor and then, at that point, I would -- I guess that would be -- would that be a separate order then from the what I just said on the issue and I will consider if anybody is suggesting time limits on it, on

the monitor, I will consider that and then I will issue the transfer order after that.

**MR. IYENGAR:** Yes, Your Honor.

**THE COURT:** Okay.

**MR. HARRIS:** Your Honor, is there a date by which you would like -- we will do this as quickly as possible but since we are going to be conferring with the other side, should we say that we'll get this revised proposed order to you by Monday at noon or by -- just so that there's a date to focus us on and make sure it gets to Your Honor.

**THE COURT:** The running of the 14 days, you tell me when you can get it to me.

**MR. HARRIS:** Monday at noon.

**THE COURT:** Okay. Monday and noon.

**MR. IYENGAR:** I would probably request the end of the day so we have a chance to look closely at it and make sure it complies --

**THE COURT:** All right. Monday by 4:00.

**MR. HARRIS:** Very good. Thank you.

**THE COURT:** All right. Where are we now? Have we done everything we can? I have the record reflecting it's 10 to 6:00.

Ms. Geiger, are you going to have to stay in a hotel overnight or are you going to make it home?

**MR. HARRIS:** Your Honor, I want to thank you for the

time and attention that you've given this matter. It took all day and not including all of the time you spent dealing with all of these papers and motions and we're very appreciative of the Court's time.

**THE COURT:** You know, it's an important matter and it's important for everybody. And, as I say, I hadn't originally planned -- I wanted to familiarize myself but I hadn't gotten every single detail down because I hadn't really planned on going forward on everything else.

I think we've worked out the best we can once I had made it a decision about transfer. And so thank you, everybody, for all of the work you put into the case. And if any of you are down in front of whoever gets it, would you please tell them I didn't make the decision lightly to transfer it to them.

**MR. IYENGAR:** Yes, Your Honor. Thank you.

**THE COURT:** All right. That concludes the matter. Everybody try and have a relaxing weekend because you'll be back doing this after the weekend is over.

We are in recess. Thank you, all.

**COURTROOM DEPUTY:** Court is in recess.

(Proceedings adjourned at 5:51 p.m.)

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**CERTIFICATE OF REPORTER**

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: Tuesday, February 17th, 2026.

Andrea K Bluedorn

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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

**DECLARATION OF CODY HARRIS IN SUPPORT OF REPLY TO MOTION FOR PRELIMINARY INJUNCTION**

Date: February 6, 2026
Time: 9:00 a.m.
Dept: Ctrm. 9 – 17th Floor
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.

I, Cody S. Harris, declare:

1. I am an attorney licensed to practice in the State of California and am a partner at Keker, Van Nest and Peters, LLP. I represent Plaintiffs in this action. I submit this declaration in support of Plaintiffs' Reply to Opposition to Motion for Preliminary Injunction. I have personal knowledge of the facts set forth herein, and if called to testify as a witness thereto under oath, I could competently do so.

**Attorney Visit at California City**

2. On December 29, 2025, my colleague, Carlos Martinez, and I visited the California City Detention Facility to conduct legal visits with four individuals detained there. The visits were scheduled to begin at 8:00 AM, which is when we arrived.

3. After a roughly 30-minute wait, a detention officer escorted us to an attorney visit room that had a printed visit schedule displayed next to the door. The schedule listed the four individuals' names and accompanying meeting times as follows:

i) Fernando Viera Reyes – 8:00 a.m.

ii) Alejandro Mendiola Escutia – 9:00 a.m.

iii) Jesus Efren Reyes Murillo – 10:00 a.m.

iv) Chong Sik Kim – 11:00 a.m.

4. Our scheduled 8:00 a.m. visit with Mr. Viera Reyes did not begin until approximately 8:45 a.m. It lasted roughly an hour.

5. Our second visit with Mr. Mendiola Escutia began at approximately 10:00 AM and ended at approximately 10:50 a.m., almost an hour after the scheduled start time of our third visit. At that point, however, Mr. Mendiola Escutia could not leave due to the 11:00 AM count. We therefore continued speaking with Mr. Mendiola Escutia until approximately 11:45 AM.

6. Our third visit, with Mr. Reyes Murillo, began at approximately 12:25 PM, after we waited 40 minutes for him to arrive in the attorney visit room.

7. We waited another 40 minutes for Mr. Kim to arrive for our final visit.

8. Altogether, it took us roughly six hours to meet with four people.

9. All four attorney visits were non-contact visits. We conducted each visit in a small, cold room with plexiglass separating us from our clients, who sat in another small room on the other side of the plexiglass. It was extremely difficult to hear the clients.

10. A large and empty room with tables, chairs, and vending machines adjoined the attorney visit rooms. I asked the detention officer what function the room served, and he responded, "contact visits, if we were ever to have those." I asked if the facility had plans to institute contact visits. The detention officer replied, "No, not to my knowledge."

11. On January 5, 2026, counsel for Defendants, Savith Iyengar, responded to co-counsel Tess Borden's request for "confidential, sound-private contact legal visits, without a glass partition" due to "difficulty hearing our clients because of the heavy glass in the visitation booths." Mr. Iyengar responded that counsel's request "appear[s] to seek changes to existing regulations at the facility." After conferring with his client, Mr. Iyengar reiterated that "the facility has confirmed that it can accommodate confidential, non-contact legal visits in private areas with a glass partition." Attached hereto as **Exhibit 1** is a true and correct copy of the emails between co-counsel and Mr. Iyengar concerning co-counsel's request for contact attorney visits.

**Follow-up on Court's December 22, 2025 Order re Plaintiff's TRO**

12. On December 16, 2025, Plaintiffs filed a Temporary Restraining Order that sought urgent specialized care for Fernando Viera Reyes and Yuri Alexander Roque Campos, two Plaintiffs with serious and life-threatening conditions. *See* ECF No. 27.

13. On December 22, 2025, Defendants stipulated to resolve the TRO and agreed, among other things, to "ensure that Fernando Viera Reyes receives a comprehensive assessment by a urologist on the agreed-upon date (barring scheduling issues outside of Defendants' control) in order for the urologist to perform a biopsy." ECF No. 36. Defendants also agreed to "ensure that Yuri Alexander Roque Campos receives a comprehensive assessment by a cardiologist on the agreed-upon date (barring scheduling issues outside of Defendants' control) in order for the cardiologist to develop a comprehensive treatment plan." *Id.* Mr. Iyengar told us, on an attorneys-eyes-only basis, that Mr. Viera Reyes' urology appointment would take place on December 30, 2025.

14. On December 22, 2025—the same day that the Court entered the stipulated order—I emailed Mr. Iyengar to let him know that, based on our understanding and Mr. Viera Reyes' previous inability to have the biopsy performed, Mr. Viera Reyes needed to be placed on antibiotics before his visit to the urologist, or he would be sent back, for the second time, without the biopsy being performed. In relevant part, Mr. Iyengar responded, "[T]hank you for the additional, important note." Attached hereto as **Exhibit 2** is a true and correct copy of the emails between me and Mr. Iyengar.

15. Mr. Viera Reyes did not have a biopsy on December 30, 2025.

16. On December 31, 2025, one day after Mr. Viera Reyes' scheduled biopsy, I emailed Mr. Iyengar and told him that the biopsy did not occur. I also informed him that I understood that Mr. Viera Reyes had not been placed on the appropriate antibiotics for a biopsy to occur. I also told him that, based on our understanding of the medical records, "Kern Medical Center set a date for a follow-up urology appointment for February 2, 2026." I requested confirmation that Mr. Viera Reyes' biopsy would occur no later than January 7, 2026, noting that Plaintiffs would otherwise seek Court intervention. Mr. Iyengar responded that he was looking into the matter and would keep us updated.

17. On January 2, 2026, Mr. Iyengar informed me that Mr. Viera Reyes' biopsy had been rescheduled for the morning of January 7, 2026. Attached hereto as **Exhibit 3** is a true and correct copy of the emails between me and Mr. Iyengar concerning Mr. Viera Reyes' biopsy.

18. Upon information and belief, Mr. Viera Reyes's biopsy took place on January 7, 2026.

19. Mr. Roque Campos saw a cardiologist on January 13, 2026. The cardiologist requested for two procedures to be completed as part of Mr. Roque Campos' treatment plan. Both were initially recommended on September 3, 2025, before Mr. Roque Campos transferred to California City on September 5, 2025, and have not been conducted during the more than four months that Mr. Roque Campos has been at California City. We do not know if Defendants have ordered those procedures. Plaintiffs' counsel continue to monitor Mr. Roque Campos' treatment and have been in contact with Defendants' counsel about it.

**Purported Correction of Errors in Warden Chestnut's Declaration**

20. On January 8, 2026, co-counsel Tess Borden emailed Mr. Iyengar to request corrections to paragraphs 195 and 200 of Warden Chestnut's declaration, an exhibit to Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction (ECF No. 38-1).

21. Ms. Borden explained that paragraph 200 of the Warden's declaration claims Prison Law Office sent 221 emails to calcityattorneyschedule@corecivic.com, but after review, co-counsel found that Prison Law Office emailed the facility only 24 times during the date range the Warden described. Ms. Borden requested proof of the 221 emails or correction of the inaccurate number. Ms. Borden also requested that Defendants "double-check the other numbers listed in paragraphs 197 through 199. If Mr. Chestnut's count was off by a factor of ten for the Prison Law Office, then it is worth checking the other numbers he referenced in his declaration." Mr. Iyengar replied the same day and told co-counsel he would "follow up."

22. While waiting for Defendants to explain the allegations in paragraphs 195 and 200, co-counsel discovered additional errors in paragraphs 197 and 198 to the Warden's declaration and emailed Mr. Iyengar on January 12, 2026 about it. Co-counsel explained that paragraph 197 claims Lee Ann Felder-Heim and Genesis Fabian sent 74 emails to calcityattorneyschedule@corecivic.com, but upon further review of their email logs, both collectively sent only 22 emails. Co-counsel also explained that paragraph 198 claims that Attorney Hannah Kazim works for Immigrant Legal Defense and sent 122 emails to calcityattorneyschedule@corecivic.com along with a lawyer Mr. Chestnut identified as her colleague, Attorney Kyle Hudson, and others at Immigrant Legal Defense. But Attorney Kazim does not work for Immigrant Legal Defense. Rather, she works for Immigrant Defenders Law Center. Additionally, co-counsel noted that Hudson Kyle—not Kyle Hudson—had provided a declaration in this case. In response to co-counsel's request for proof or correction of these allegations, Mr. Iyengar replied the next day that he had "followed up and will keep [co-counsel] updated." Attached hereto as **Exhibit 4** is a true and correct copy of the emails between co-counsel and Mr. Iyengar concerning the various errors in the Warden's declaration.

23. On January 15, 2026, Defendants filed a corrected version of Mr. Chestnut's declaration, which purports to correct the errors in his original declaration regarding the number of emails sent to California City's scheduling address. *See* ECF 45. The revised declaration is misleading for several reasons:

i) Rather than admit that his email numbers were inflated, he now counts emails *and attachments* separately, combining both into his total figures. Many of those attachments are likely forms and identification that Defendants require. *See* U.S. Immigration & Customs Enforcement, *California City Detention Facility*, https://www.ice.gov/detain/detention-facilities/california-city-detention-facility (providing instructions for requesting legal calls, including requiring scans of forms and identification).

ii) To address the error with respect to Attorney Kazim's employer, he combines two separate organizations (Immigrant Legal Defense and Immigrant Defenders Law Center) into one line item.

iii) To address the error with respect to the Prison Law Office, he combines three separate organizations—the Prison Law Office, ACLU, and CCIJ—into another line item, which he claims collectively account 188 emails—which is still fewer emails than the number he had previously ascribed to the Prison Law Office alone. Additionally, in retaining the term "Counsel for Plaintiffs in this matter" in corrected Paragraph 200, Mr. Chestnut implies that all of the emails sent by ACLU and CCIJ to this email address were sent in the capacity as counsel for Plaintiffs in this matter. *See* ECF 45. Based on the representations of my co-counsel, I do not believe that to be true. For example, CCIJ attorneys also represent individual people detained at California City in habeas petitions and immigration proceedings, which require legal calls.

**Official Reports and Statements Regarding California City**

24. Attached hereto as **Exhibit 5** is a true and correct copy of a PDF document titled "California City Detention Facility (CCDF) Preliminary Findings", which I downloaded from the website https://oag.ca.gov/news/press-releases/attorney-general-bonta-warns-dangerous-conditions-california-city-detention on January 15, 2026.

25. Attached hereto as **Exhibit 6** is a true and correct copy of a PDF document titled "Representative Ro Khanna California City Detention Facility Tour Report, January 6, 2026", which I downloaded from the website https://x.com/RepRoKhanna/status/2008574388585578626 on January 16, 2026.

26. Attached hereto as **Exhibit 7** is a true and correct copy of a PDF document titled "Newly Opened California City ICE Detention Facility: Dangerous for Disabled People", which I downloaded from the website https://www.disabilityrightsca.org/reports/california-city-ice-processing-center-a-dangerous-expansion-of-immigration-detention-in on January 15, 2026.

Executed on January 16, 2026, in San Francisco, California.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**SUPPLEMENTAL DECLARATION OF DAN PACHOLKE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Date Filed: November 12, 2025

Trial Date: TBD

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.

I, Dan Pacholke, hereby declare:

## I. PURPOSE OF SUPPLEMENTAL DECLARATION

1. I submit this Supplemental Declaration in response to the Declaration of Christopher Chestnut, Warden of the California City Immigration Detention Facility ("California City"), filed in opposition to Plaintiffs' Motion for Preliminary Injunction.

2. I have reviewed Warden Chestnut's declaration in full. My opinions below are based on my more than 35 years of experience in adult corrections, including overseeing facilities at all custody levels, reviewing national correctional standards, and operating institutions housing people with far greater demonstrated security risks than civil immigration detainees.

3. While Warden Chestnut describes California City's policies as necessary for safety and consistent with ICE National Detention Standards ("NDS"), his declaration confirms that the facility employs blanket, highly restrictive practices without individualized risk assessment. From a correctional perspective, these practices are not reasonably related to legitimate security needs and instead reflect exaggerated responses to perceived risks. Sound correctional practice requires that restrictions placed on the detained population are necessary to address a concrete security risk, applied to individuals who present that risk, and proportionate to the threat presented.

4. Warden Chestnut's declaration justifies restrictive policies by citing the existence of some detainees with prior criminal convictions. That justification is inconsistent with accepted correctional practice.

5. Facilities, including California City, routinely house mixed-risk populations and rely on classification, behavior-based management, and targeted controls, not universal restrictions imposed on everyone, to safely manage the population. California City has numerous, blanket restrictions that are not reasonably related to the risks presented by the detainees, and are exaggerated and unnecessarily harsh. These include, but are not limited to:

- the lack of contact visits;
- the very limited freedom of detainee movement throughout the facility;

- the duration and number of counts conducted throughout the day;
- the lack of outdoor recreation time and programming; and
- the failure to provide weather-appropriate clothing.

## II. FINDINGS AND CONCLUSIONS

***No-Contact Visits***

6. Warden Chestnut states that all visits at California City are no-contact due to staffing and contraband concerns. Restricting all visitation to no-contact is a greatly exaggerated and excessive response to staffing and contraband concerns.

7. In my initial declaration, I stated that the prohibition on contact visits at California City is far more restrictive than necessary and not standard even for people at high security levels in most prisons. In prisons, the use of plexiglass barriers is generally reserved for people placed in disciplinary settings for adjudicated violations of prison rules. I also stated that no-contact visits are applied as the result of negative behavior and placement in segregation units. After reading the warden's declaration, my opinions remain the same.

8. Contact visits are routine in correctional settings, at all levels of security. The benefits of contact visits greatly outweigh the warden's hypothetical concern about the introduction of contraband into the facility. As I wrote in my initial declaration, contact with loved ones supports the well-being and mental health of the incarcerated population. It allows them to discuss personal issues with someone they love and respect. Conversely, being forced to communicate with your loved ones across glass can intensify feelings of alienation and distress.

9. Prohibiting contact visits based on the fear of contraband potentially being introduced into the population is unnecessary and overreactive. All locked facilities must consider the risk of visitors and staff introducing contraband into the facility and employ reasonable practices to mitigate that risk. It is standard correctional practice to allow people in prisons to have contact visits and the risk of visitors introducing contraband is not higher in immigration detention centers than in prisons. It is my understanding that several of the Plaintiffs in this case were allowed contact visits while in prison but are no longer allowed visits at California City as civil detainees. I have reviewed the NDS 2025 standard 5.5 section II (A),

which states that "[c]ontact visits are encouraged." I have also reviewed NDS standard 5.5 section (F) (3), which indicates that contact visiting in immigration detention facilities is permitted. In my opinion, the practice of contact visiting is appropriate for the vast majority of the detainee population with the exceptions of people in the Restrictive Housing Unit (RHU) or people with visiting-related violations. The NDS anticipates that visiting is not one-size-fits-all.

10. Similarly, as I stated in my first declaration, resource or staffing constraints are not a legitimate reason to limit visitation. The facility should take steps to decrease the number of people it holds or increase staffing until the correct level of staffing exists for the current population, rather than punish detainees with limited visitation.

11. The facility's prohibition on contact visits is a blanket rule that fails to consider individual security and classification factors. From a correctional perspective, a permanent prohibition on contact visits for every person in the facility, regardless of their security factors, is unnecessary, far too broad, and harmful to the population. The practice should be more nuanced with limited exceptions only as appropriate due to RHU placement or visiting-related rule violations.

***Universal Escorts and Pat-Down Searches***

12. Warden Chestnut confirms that detainees are escorted and pat-searched whenever they leave or return to housing units. His declaration, however, does not identify any specific safety or security rationale for imposing this level of restriction on people held in civil detention. Because this policy applies uniformly to every detainee, regardless of custody classification, behavior, or demonstrated risk, it appears that California City does not engage in individualized risk assessments to determine who actually requires escorts or heightened security measures.

13. Universal escort policies are not standard practice, even in prisons. As I wrote in my initial declaration, California City's policy of requiring all detained people to be escorted when they are outside of their housing units is excessive and does not meaningfully improve the safety and security of the facility. In a correctional setting, escort requirements are typically reserved for individuals who pose a demonstrated security risk based on their specific conduct. Applying this level of restriction universally—to all civil detainees, regardless of behavior or risk

level—exceeds what is necessary to maintain order in a civil-detention setting. That practice also consumes significant staff resources that could be better used on active supervision, programming, and engagement. My opinion remains the same.

14. Likewise, the routine use of pat-down searches for all movement outside of one's housing unit is exaggerated. As I wrote in my initial declaration, this is not a standard correctional practice, even in large prisons with people at high security levels. This practice is excessive and outside widely accepted practices in prisons for the subset of the population that is full minimum.

15. Although Warden Chestnut asserts that these searches are intended to limit the movement of contraband, his declaration does not explain why such an expansive policy is necessary to achieve that goal. In my review of NDS 2025 standards section 2.7 regarding searches of detainees, this practice is not required. In my experience, correctional systems address contraband risk through targeted measures such as random searches, intelligence-based searches, cell searches, area searches, urinalysis testing and individualized restrictions. I am not aware of any correctional system that requires every person in custody to be searched each time they enter or exit their housing unit. The policy at California City is therefore far broader than necessary to address contraband concerns and reflects an exaggerated security response rather than a measured correctional judgment. This practice will become more problematic and less feasible as the facility is filled to its operating capacity.

***Lack of Outdoor Recreation and Prosocial Engagement***

16. Warden Chestnut asserts that detainees receive at least one hour of outdoor recreation on most days. The warden does not provide a security reason for such an extreme limitation on outdoor recreation time. The policy limiting outdoor recreation applies to every person, regardless of their security level.

17. People in general population prison units, even people at the highest security levels, are generally offered more than seven hours of outdoor recreation time a week. In my initial declaration, I wrote that four to seven hours per week of outdoor recreation is less than

even prisoners in segregation units are offered. Outdoor recreation time boosts morale and helps people adjust to life in custody. It also promotes physical wellbeing.

18. This level of restriction is not reasonably related to any articulated security risk, particularly in a facility with multiple secure perimeter layers that houses civil detainees.

19. Warden Chestnut also does not explain the security justification for having such limited prosocial engagement. He asserts that ICE detention is "temporary" and suggests that robust programming is impracticable, but that position is inconsistent with correctional reality. Facilities routinely operate programming even where length of stay is uncertain. To increase prosocial engagement, the facility could offer education classes, activity books, language classes, indoor games like table tennis or cornhole, structured recreation like stretching or exercise classes, or volunteer- or detainee-led activities.

20. From a correctional perspective, the lack of meaningful programming at California City makes the environment unnecessarily punitive and undermines institutional safety.

***Failure to Provide Temperature-Appropriate Clothing***

21. Warden Chestnut's declaration states that detainees are not provided with sweatshirts or sweatpants, and that people who do not have sweatshirts or sweatpants can buy them from commissary. His declaration does not provide a security justification for refusing to provide people with temperature-appropriate clothing. The NDS 2025 standards section 2.1 (II) (D) indicates that clothing and bedding should be appropriate for the facility environment and local weather conditions. Similarly, section 4.4 (II) (B) states that facilities must issue additional clothing as necessary for changing weather conditions or as seasonally appropriate.

22. As I wrote in my initial declaration, there is no defensible reason to not provide people with weather-appropriate clothing. Refusing to meet people's basic needs and leaving them cold is counterproductive and does not serve any correctional purpose. Providing weather-appropriate clothing is essential to maintaining a basic, decent, condition of confinement, not a privilege.

***Excessive Counts and Daily Disruption***

23. Warden Chestnut confirms that California City conducts multiple standing and formal counts throughout the day, during which detainees are locked in cells and denied access to phones, tablets, and other programming opportunities.

24. As I stated in my initial declaration, excessive counting during the daytime limits the business that occurs during the day and can amplify frustration. It is not necessary to conduct four counts during waking hours in order to keep track of the population and account for their whereabouts. Additionally, midday counts are disfavored by correctional administrators because they interfere with programming.

25. It is also unnecessary to cease all movement for many hours of the day during facility counts. Generally in prisons, a limited number of incarcerated people can be present in program areas during typical counts, and those people are "out-counted." This practice allows some degree of activity for medical appointments, legal visits, and other priority appointments during facility counts. I understand that at California City, all movement, including legal calls and visits, is prohibited for the duration of the counts. This, combined with the frequency of the counts, substantially limits access to programming at the facility. This practice is an exaggerated response to the security needs of the facility, is excessive, and is unnecessary given the actual risk of the population.

26. In my experience running prisons, conducting one or two daytime counts has been sufficient to ensure institutional security. That level of monitoring should be more than adequate in a civil detention facility such as California City, which is already secured by multiple physical perimeter controls. The frequency of counts described by Warden Chestnut reflects an exaggerated security posture rather than a measured correctional response to actual risk. The NDS 2025 standards section 2.3 (II) (E) provides flexibility on count times to include formal and informal counts.

***Risk Assessment***

27. From a correctional perspective, California City's blanket restrictions related to basic conditions—complete lack of contact visits, extreme limitations on people's freedom of

movement, excessive lockdowns, and the lack of programming and recreation time—are wholly inappropriate and unjustified for people who are in civil detention, including people who served terms in long terms in state prisons for serious criminal offenses. Even in stand-alone supermax prisons, privileges and programs are graduated, based on behavior rather than one-size-fits-all.

28. Warden Chestnut's declaration describes the criminal offenses and alleged security threat group affiliation for the named Plaintiffs and for other detained people who submitted declarations in support of Plaintiffs' motion for preliminary injunction. I understand this information to be offered as justification for the facility's highly restrictive policies.

29. Reliance on years-old—and in some cases decades-old—criminal history, as well as unverified or generalized security threat group affiliations, reflects outdated and unsound correctional risk assessment. Modern correctional practice recognizes that institutional risk is driven by present behavior, recent conduct in custody, and demonstrated patterns of compliance or noncompliance. Using historical labels alone to justify sweeping restrictions imposed on all detainees is inconsistent with accepted correctional judgment and results in exaggerated security responses that are not reasonably tailored to the actual risks presented.

30. Based on the warden's declaration, I understand that several of the named Plaintiffs in this case are classified as "High Custody" because of criminal offenses that occurred over 20 years ago. After serving prison sentences, those individuals were granted parole by California Board of Parole Hearings. In my experience, people in prison are granted parole only after a rigorous, individualized assessment determines that they no longer pose an unreasonable risk to public safety. Parole boards typically maintain a high threshold for determining whether a person still presents a risk to public safety.

31. For example, I have reviewed the parole transcript for Gustavo Guevara Alarcon, one of the Named Plaintiffs. Mr. Guevara Alarcon was sentenced to prison for a crime that he committed in 2004, when he was 19 years old. At his parole suitability hearing in March 2024, the California Board of Parole Hearings determined that Mr. Guevara Alarcon did not pose an unreasonable risk to society and should be released to the community. The Board concluded that Mr. Guevara presented "humble" and "open," that he was committed to developing "into a better

person today," and that he "truly established … a strong reputation, a positive reputation within the institution, that shows that [he] found [him]self to the place where [he] recognize [his] own self-worth and the worth of others as well." That reputation, according to the Board, is "reflected in the way [Mr. Guevara Alarcon] treat[s] others and the way others view [him]." The Board identified "strong evidence" of his "growth and maturity." The Board acknowledged that Mr. Guevara Alarcon's work to improve himself was "very broad and robust" and included an "excellent work history," hundreds of hours in self-help programming, certifications in masonry, welding, and janitorial program, and numerous commendations in his file from high-ranking custody staff members. He even has records in his prison file of charitable donations. In making its decision to release Mr. Guevara Alarcon to the community, the Board considered his life before his incarceration, his behavior in county jail and prison, his disciplinary history in prison, his commitment offense, his level of insight and remorse, and his post-release plans. The Board ultimately concluded that, given the long period of time since the beginning of his incarceration and his lengthy period of rehabilitated programming, his commitment offense no longer indicates a current risk of danger and found him suitable for release from prison.

32. I also reviewed Mr. Guevara Alarcon's supplemental declaration. In his supplemental declaration, he describes how he was initially classified at a high custody level when he entered prison. Over his years in prison, his custody level was lowered as a result of his good behavior and positive engagement in prison programming. His declaration states that by the time he was granted parole and left prison, he was at the lowest possible security level. At California City, he is classified as high custody.

33. From a correctional perspective, categorically classifying people as "High Custody" because of their years-old criminal offenses, even after a parole board has meticulously analyzed that person's risk to society, is inconsistent with evidence-based risk assessments that are standard in corrections today. California City's approach to classification relies on static, historical labels, resulting in classification decisions that significantly overestimate people's risk factors. Detainees like Mr. Guevara Alarcon, who worked for nearly two decades to mitigate his risk factors through positive programming, self-help classes, and job-training, are subject to

unnecessarily restrictive conditions that are not justified by the actual security needs of a civil detention facility.

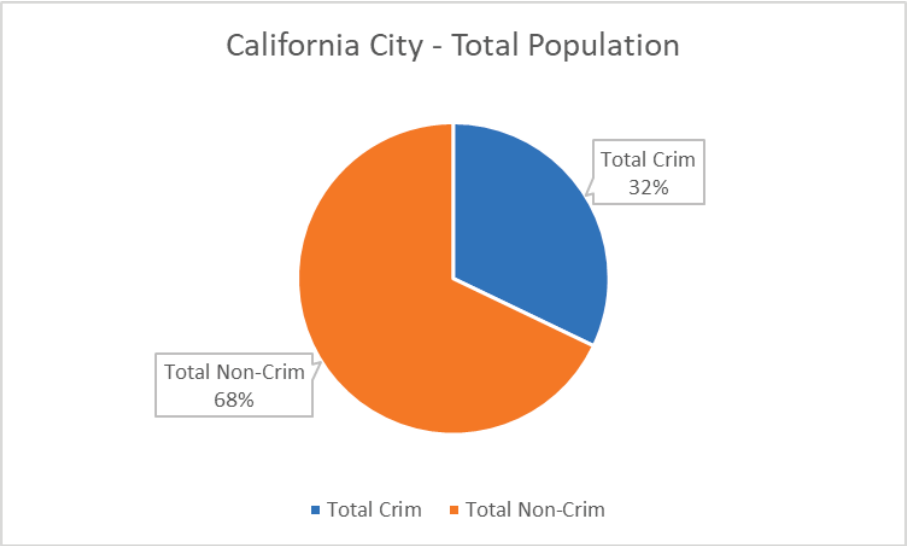
***California City's Population***

34. I reviewed ICE's statistics about the detained population at California City. Based on my review, it appears that the majority of detained people at the facility do not have a criminal history. In light of that fact, the extreme restrictions that the facility imposes on the detained population are even more exaggerated and unnecessary.

35. To reach my conclusion about the population's criminal history, I reviewed ICE's "Detention Statistics." This data is from ICE's "Detention Management" webpage, which I accessed at: https://www.ice.gov/detain/detention-management. On January 6, 2026, I downloaded the Excel file titled, "Detention FY 2026 YTD, Alternatives to Detention FY 2026 YTD and Facilities FY 2026 YTD, Footnotes (221 KB)." The Excel file is a spreadsheet that lists data for each of ICE's detention facilities, including whether people detained at the facility have criminal history. Row 32 of the spreadsheet lists data for "CALIFORNIA CITY IMMIGRATION PROCESSING CENTER." Column N is titled, "Male Crim," which I assume is the total number of people at the facility who are identified as male and have a criminal history. Column O is titled, "Male Non-Crim," which I assume is the total number of people at the facility who are identified as male and do not have a criminal history. Similarly, Column P is titled, "Female Crim," and Column Q is titled, "Female Non-Crim." According to Row 5 of the spreadsheet, the data was last updated on December 11, 2025.

36. A summary of that data is included below:

| **Total Population at California City** | | |
|---|---|---|
| | *Total* | *Percentage* |
| People with Criminal History | 272 | 32.11 % |
| People without Criminal History | 575 | 67.89 % |
| **TOTAL POPULATION** | 847 | 100 % |

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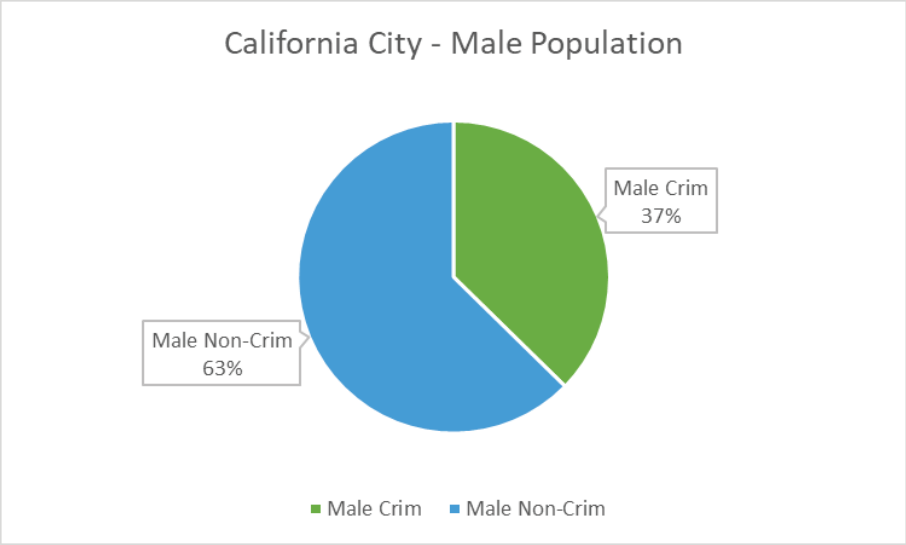
| Male Population at California City | | |
|---|---|---|
| | *Total* | *Percentage* |
| Males with Criminal History | 252 | 37.33 % |
| Males without Criminal History | 423 | 62.67 % |
| **MALE POPULATION** | 675 | 100 % |

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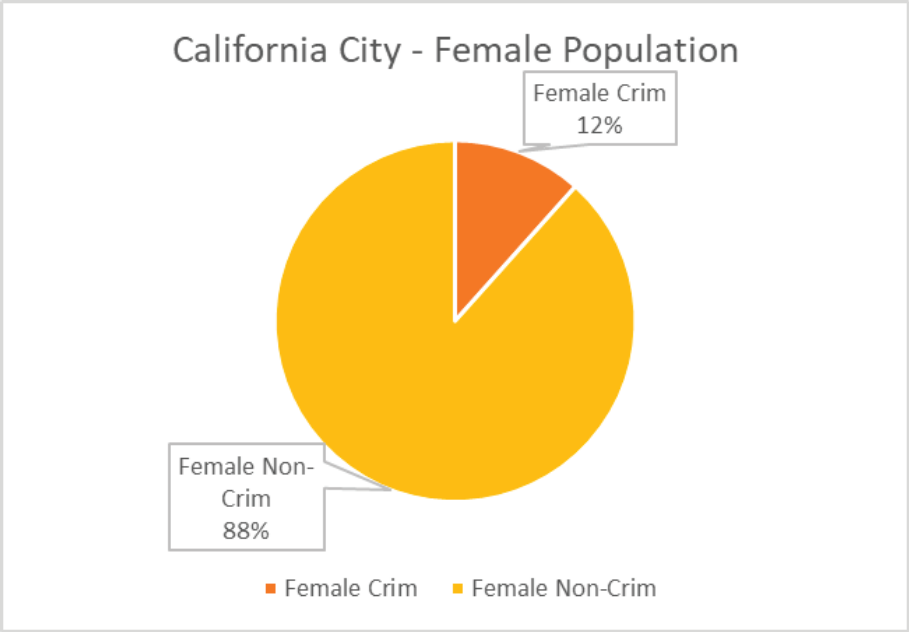
| Female Population at California City | | |
|---|---|---|
| | *Total* | *Percentage* |
| Females with Criminal History | 20 | 11.63 % |
| Females without Criminal History | 152 | 88.37 % |
| **FEMALE POPULATION** | 172 | 100 % |

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37. Similarly, in immigration detention more broadly than California City, the vast majority of people who are being detained have no criminal history. This conclusion is supported by ICE's data, which shows that the proportions listed above are typical of other ICE detention facilities. It is also supported by an analysis by the Cato Institute entitled, "5% of People Detained By ICE Have Violent Convictions, 73% No Convictions," dated November 24, 2025. The analysis is available at: https://www.cato.org/blog/5-ice-detainees-have-violent-convictions-73-no-convictions. I accessed the analysis on January 11, 2026.

38. The analysis is based on ICE data and other corroborating data sources. It finds that, of people booked into ICE custody this fiscal year (since October 1, 2025): nearly three in four (73 percent) had no criminal conviction; nearly half had no criminal conviction nor even any pending criminal charges; only 8 percent had a violent or property criminal conviction; only

5 percent had a violent criminal conviction; and a majority of criminal convicts had vice, immigration, or traffic convictions. This data involves the percentage of people booked into ICE detention during this time period, as opposed to the percentage of people held in ICE detention during this time period, but it is nonetheless a useful approximation for the typical population at California City. My conclusion that it is an appropriate approximation is supported by the fact the data for the population held at California City on December 11, 2025 lists a similar percentage of people with no criminal history (approximately 68 percent) to that listed in the Cato Institute analysis (73 percent).

39. This data further supports my conclusion that the population at California City is, in general, low security and should not require the kinds of extreme restrictions that the facility has in place. If one were to run the type of risk assessment score commonly used in prison facilities on the population at California City, the large majority, with no criminal conviction or a relatively minor criminal conviction, would be assigned to a low security level or to work release. This is a significant difference from prison systems, where all people held in the system have criminal convictions and many enter with criminal histories that result in risk assessment scores that result in initially stricter initial assignments.

40. Other fundamental differences exist between the population detained at California City and the populations detained in prison. These differences underscore that people detained at California City should be subjected to less harsh restrictions than those in criminal custody.

41. For instance, an important principle in correctional management is legitimacy. That is, the restrictions placed on a population should feel logical and just to that population. If a population finds the restrictions placed on it to be logical and just, it can generally be managed in a more orderly way; if a population finds the restrictions placed on it to be illegitimate—meaning illogical or unjust—it will be more difficult to maintain order. The determination whether to sentence someone to prison time involves a significant amount of due process over the course of a person's criminal case. As a result, people generally enter prison with a feeling that they received a certain degree of consideration by the judicial system and acceptance that they may logically and justly face a certain level of restrictions. By contrast, the determination whether to

place someone in immigration detention involves much less due process. People in immigration detention may find it illogical or unjust to be placed under significant restrictions. From the standpoint of correctional management, it is best to avoid applying significant restrictions on a population that will not find those restrictions to be logical or just. Thus, in immigration detention, prudent correctional management dictates applying the least restrictive environment possible, which will generally involve fewer restrictions than a prison environment.

42. Another significant difference between prison and immigration detention is that people in immigration detention are likely to feel significant desperation that is particular to the immigration detention environment. Most people in immigration detention have current claims to legal status in the country and are currently litigating those claims in immigration court. These claims require access to attorneys, to law libraries, and to family members. Restrictions on these functions central to people's ability to assert legal claims could lead to a significant sense of desperation as people risk being unable to fully assert their legal claims. Other restrictions will cause some people to feel that they are being pressured by poor conditions to abandon their claims to legal status and leave the country. Likewise, some people in immigration detention fled to the U.S. because they face persecution in their country of origin. They may reasonably have unique fears that they will face similar persecution in immigration detention or that their family members are at heightened risk of persecution. Depriving these people of access to their families and counsel could likewise create a significant sense of desperation. This type of desperation is inconsistent with the orderly management of a facility, and correctional management practices dictate that immigration detention facilities should particularly avoid practices that might generate feelings of desperation.

43. There are some parallels between immigration detention and civil commitment of people deemed to be sexually dangerous. Such civil commitment is intended to be preventative of future sexual offenses, in contrast to prison, which is intended to serve a correctional and rehabilitative function. Likewise, immigration detention is intended to prevent a risk of flight or danger to the community, rather than to serve any correctional or rehabilitative function. Civil commitment also involves fewer due-process protections, and as a result it should involve a less

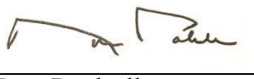
restrictive detention environment. So too with immigration detention, which also involves fewer due-process protections and should consequently involve a less restrictive detention environment. In fact, these justifications for less restrictive environments are more extreme in immigration detention than they are in civil commitment.

***Conclusion***

44. The policies described above are broadly applied without individualized assessment, disproportionate to the security risks presented, and counterproductive to safe and humane facility operation. From a correctional expert perspective, these conditions are not reasonably tailored to legitimate governmental objectives and instead reflect exaggerated responses inconsistent with accepted correctional practice for civil detention.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 14th day of January, 2026, in Olympia, Washington.

By: 

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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

**DECLARATION OF DR. TODD RANDALL WILCOX, M.D., IN SUPPORT OF REPLY TO MOTION FOR PRELIMINARY INJUNCTION**

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

PUBLIC--REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD

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.

I, Todd Randall Wilcox, M.D., hereby declare:

## I. INTRODUCTION

1. I have been retained by Plaintiffs' counsel in this matter to assess the adequacy of health care provided to people who are detained at the U.S. Immigration and Customs Enforcement ("ICE") facility in California City ("California City Detention Facility"). I previously submitted a declaration in support of Plaintiffs' Motion for Preliminary Injunction (ECF No. 22-3) ("initial declaration") as well as a declaration in support of Plaintiffs' Motion for Temporary Restraining Order regarding denial of medical care to two specific patients (ECF No. 27-2) ("TRO declaration"). I presented my medical background and expert qualifications, which include over 30 years working as a physician in jails and prisons, in those prior declarations.

2. I submit this declaration in support of Plaintiffs' Reply to Defendants' Opposition to the Motion for Preliminary Injunction. To form my opinions for this declaration, I reviewed Defendants' opposition brief and relevant supporting declarations, including the declaration of the California City Detention Facility warden, Christopher Chestnut and declaration of Dr. Susan Tiona, a CoreCivic Regional Medical Director (ECF Nos. 38, 38-1, 38-2); additional California City Detention Facility medical records, including records of recently arrived patients; the materials relied upon for my initial declaration and TRO declaration; and Plaintiffs' brief and the Court's order regarding the TRO (ECF Nos. 27, 36).

## II. OPINION AND SUMMARY OF FINDINGS

3. My opinion remains the same after reviewing Defendants' submissions and the updated medical records: it is still not safe to be sick at California City ICE Detention Facility, and the facility remains ill-equipped to care for patients who have serious medical or mental health needs.

4. In my initial declaration, I found failures and deficiencies across multiple components that are critical to a functioning healthcare system, including issues with intake, the sick-call process, chronic care management and treatment, medication management, specialty care, emergency care, medical housing, mental health treatment, and staffing. In response, CoreCivic's Regional Medical Director, Dr. Tiona, conducted chart reviews and appears to agree

with me about a significant number of those failures and deficiencies as they relate to systems and individual patients. In fact, she describes recommendations she made to the facility's medical leadership to address some of the patient-specific concerns I raised, acknowledges patient care errors that indicated a need for staff training, and makes concessions about the facility's challenges.

5. Dr. Tiona spends a significant amount of her declaration focusing on CoreCivic policies and procedures. She implies that having those policies and procedures means that there are systems in place and that care at California City Detention Facility is adequate. In my experience, policies and procedures are a foundational element of a well-functioning healthcare system, but their publication does not mean that the system operates as it should or that the care being provided is adequate. In my many years of assessing correctional healthcare systems, I can confidently state that the presence of acceptable policies and procedures is no guarantee that the facility can or will implement those policies and procedures. In the vast majority of systems where I have identified deficiencies in healthcare delivery, there were policies and procedures that were facially acceptable. My initial declaration did not assess the sufficiency of California City's policies and procedures; it found that there were nonfunctional aspects of California City's health care system and that delivery of care was deficient. As a result, Dr. Tiona's description of CoreCivic policies is mostly beside the point. Dr. Tiona does not offer any objective evidence to show that policies and procedures are followed by the healthcare system. Her declaration actually suggests the contrary in that she identified multiple instances in specific patient cases where follow-up care for patients and additional training for staff was needed.

6. Dr. Tiona states that she made recommendations as to eight patients whose care I discussed in my initial declaration.[1] For this declaration, I reviewed updated medical records for those patients who were still in custody, to confirm whether the facility provided the recommended care. Dr. Tiona does not explain her recommendations beyond a few words, but

[1] Dr. Tiona discusses eleven distinct patients in paragraph 57 of her declaration. Three of them were declarants on topics other than medical care whose records I did not review in my initial declaration.

even so, I can see that no relevant action was taken in most of the cases. I can clearly confirm only one patient received the recommended follow-up, in his case for "expediting offsite appointment scheduling." But that patient is Named Plaintiff Roque Campos and I expect it was expedited because of the TRO motion and court-ordered stipulation about that very appointment (ECF Nos. 27, 36), not because of Dr. Tiona. It is very concerning to me that the facility did not immediately implement Dr. Tiona's recommendations, especially because the recommendations were clearly time-sensitive but also not time-intensive: things like renewing medications and ordering lab work can be completed quickly, and none of the recommendations obviously required a patient examination. In other words, all of this could have been easily accomplished from someone's desk, even remotely. Yet despite this litigation and Dr. Tiona's CoreCivic position of authority, the facility nevertheless failed to take demonstrable action in the week or more that followed.[2]

7. Finally, Dr. Tiona makes a number of assertions, again without patient care evidence, that things have improved since the facility opened. My initial declaration already contradicted that assertion, because it considered chart entries that were dated in October and November, two to three months after the facility opened. Still, because Defendants are claiming – without patient evidence – that healthcare service delivery has improved, I reviewed additional patient charts for this declaration, including updated medical records for patients I discussed in my first declaration and medical records for new patients, some of whom arrived in January 2026. My updated chart review unequivocally shows that the problems I discussed in my initial declaration, from intake processing and the sick call system, to management of chronic care patients and specialty service access, are ongoing.

8. In short, Dr. Tiona's declaration not only confirms my original findings and opinions regarding California City's broken healthcare system, but raises further concerns about their ability to follow their own policies and procedures. What is even more concerning is that

[2] Dr. Tiona signed her declaration on December 29. The updated charts I reviewed for patients I discussed in my first declaration covered dates a week or more after that. Regardless, I expect she would have sent her recommendations before December 29.

California City appears unable to course-correct and fix known deficiencies even when they are called out to them.

9. In the sections that follow, I (1) address some threshold issues raised by Defendants, explaining why my sample size is appropriate and how Dr. Tiona's comments about my ability to read the electronic health record are misleading and irrelevant, and correcting Defendants' misstatements regarding the date range of failures I identified in my initial declaration and the presence of adverse patient outcomes; and (2) discuss topic-specific areas of the healthcare system that Dr. Tiona states are addressed by policies and procedures, where I nevertheless find continuing failures in practice. Where relevant, I also respond to Dr. Tiona's limited chart review findings, which in fact support, rather than dispute, the majority of my findings. However, Dr. Tiona devotes a dozen paragraphs to four particular patients, none of whom I emphasized in my initial declaration and none of whom are Named Plaintiffs or exemplify the most egregious system failures. Although I address these patients in the relevant sections of this declaration, because of Dr. Tiona's disproportionate focus on them, I also respond to each of those cases in Appendix A to this declaration.

## III. THRESHOLD ISSUES

### A. Sample Size

10. For my initial declaration, I reviewed over three thousand pages of medical records across 17 patients, who presented a variety of healthcare needs. Defendants assert that the sample size I reviewed is too small to draw conclusions about the care being provided at California City. I strongly disagree. As I acknowledged at the time of my initial declaration, and repeat again here, although my sample size was small, the deficiencies were pervasive and consistent across multiple patients and they continue uncorrected to this day. These deficiencies are also replicated in the new patient charts that I reviewed that reflect care done months after the facility's startup, which contradicts Defendants' claims that things have improved since then.

11. The process of delivering healthcare in a large system can essentially be viewed as many individual transactions strung together in a logical and temporal way. While the total number of patients in my sample size was small, the total number of individual transactions in

those medical records (every pill passed, every lab result, every vital sign taken, etc.) was large enough to draw valid conclusions. In my experience, finding so many deficiencies in such a small patient sample is not common in a well-functioning healthcare system. My initial declaration describes failures to deliver care for very sick patients, where the seriousness of the medical need should have been obvious and triggered immediate action. But it also describes patients who had less acute medical problems. Even with patients with low complexity problems that were not time-sensitive, California City medical staff frequently made mistakes in the healthcare delivery process and in clinical judgment. This system struggles to address the simplest of medical problems.

12. Defendants seem surprised that the patients I discussed in my initial declaration were "hand-picked" and not a random sampling. In my experience, it is common for an expert to review only selected records, for people with specific medical care needs. As a general matter, when assessing the care being provided in a system, I would prioritize the charts of the sickest patients because those are the patients who test the ability of the system to provide care and who would give me assurances that patients are not at risk of harm. It was therefore consistent with expert practice to review selected records here. Because Defendants say they are unclear about my position, I will clarify: I do believe that the patients I reviewed in my initial declaration and for the present one are representative of the system failures at California City and are not merely "isolated or atypical cases" in an otherwise functional system. The additional medical records I reviewed for this declaration reinforce for me the pervasive and dangerous extent of those system failures.

13. I am confident that if I had the opportunity to review an even larger number of records, I would identify similar concerns. In fact, Dr. Tiona discusses patient records which I myself did not review but which resulted in recommendations similar to those needed for the patients I did review. This strengthens my opinion that the systemic healthcare operational issues that I described in my initial declaration are authentic and accurate.

**B. Electronic Health Record**

14. Dr. Tiona discusses the electronic health record (EHR) used by CoreCivic. Although she does not say anything about my findings in this context, Defendants use her discussion to suggest I may have misread some of the medical records because I did not have access to the electronic version of the records. I disagree. In my role as a correctional health professional and expert in multiple cases, I have reviewed various types of records, including those that use the same or similar electronic health record platform CoreCivic employs. Dr. Tiona's description of the information that I was unable to see does not impact my prior conclusions.

15. Dr. Tiona explains that certain information does not translate into the condensed chart review, or printed copy, of the records, including the correct time of the encounter, whether a provider reviewed a lab, when a provider reviewed scanned records, and some of the accu-checks (blood sugar checks). Defendants suggest that access to that information might change my conclusions.

16. I do not believe any of those possibly missing pieces of information would have altered my medical opinions. For instance, according to Dr. Tiona, all lab results automatically become part of a patient record and the provider is notified that the lab is ready for review the next time they log into the system. I cannot tell when a provider reviewed the lab results in the printed record accessible to me, but that is not a necessary part of my review. Instead, my concern is what action is taken in response to medically significant lab abnormalities. In my initial declaration, I identified issues related to follow-up care provided to patients whose lab work revealed concerning results, and those issues remain today.

17. For example, Mr. Juarez Ruiz had a very elevated HgA1C of 10.7% which measures the 90-day average of his blood sugar levels. Based on this, there should have been a consideration of medication adjustments, which was not done. In fact, there is no commentary from the providers in the medical record about their plan to deal with this significant abnormality. So while they may have "reviewed and signed" the lab result, they did not interpret the abnormal lab result and adjust the treatment plan accordingly. When the provider reviewed the lab result

(the date I cannot see in the printed records) does not change my opinion that the provider did not take adequate steps in response to it, even months later. Dr. Tiona did not directly address my concern about the follow-up care provided to Mr. Juarez Ruiz based on this lab result except to say that she recommended he have a follow-up appointment and have new labs ordered, which supports, not contradicts, my conclusion.

18. Dr. Tiona spends time discussing the medication administration records (MARs), essentially saying that what appears to be a missed medication is just a patient who did not report to the medication line, also known as a "no show" or NS. In my initial declaration, I expressed concern about the many 3:05 am NS entries and suggested they could indicate that the medication was never offered. According to Dr. Tiona, a 3:05 am NS entry is a reflection of a detainee who did not appear for scheduled pill call and so the system automatically entered a NS for them. This does not explain the medication administration errors I identified and does not change my medical opinion that patients are experiencing lapses in medication continuity at intake and throughout their detention at California City.

19. Even assuming her statement is accurate and that every time a patient does not report to the pill nurse to pick up medication, an automatic 3:05 am NS entry is entered in the MAR, the medication administration process is still flawed because a pill nurse should never just accept a "no show" at face value. When a patient does not pick up their medication from the pill nurse, attempts should be made to get the patient to report for their medication; it is not acceptable to do nothing further. A MAR should include all relevant entries, including the times medications were offered to a patient and refused. If the patient refused, then a signed refusal should be in the medical record or there should be a note from the nurse explaining why they were not able to administer the medication. Thus, even if it is true that the 3:05 am entry reflects a patient no show, that is not enough to prove that the medication was offered: in the absence of signed refusals or justifiable reasons, the MAR still suggests that pill call nurses are not making attempts to ensure patients receive their medication or to understand why they are not taking their ordered medication. There are many significant healthcare reasons that a patient might not come to the pill line including that they are too sick to get out of bed, their mental health issues may

have increased, they may be experiencing side effects, and so forth. It is an imperative component of patient safety for the nurses to understand why their patients are not taking ordered medications instead of just passively allowing the computer to fill in an automated "No Show.' Given the lack of pill nurse documentation and prior reports by declarants that their medication was not available despite active prescriptions, I cannot take at face value that every NS entry means the pill nurse did in fact offer the medication.

20. One of the reasons I suspect noncompliant nursing practices with the NS entries is because nurses seem to be failing to consistently provide prescribed medications. Recent records from December 2025 and January 2026 show that essential medication continues to be missed without explanation and without the automatic 3:05 am entries explained by Dr. Tiona. For example, Mr. Benavidez-Zamora is prescribed insulin. His MAR shows missed doses in December 2025 without automatic 3:05 am NS entries. Mr. Juarez Ruiz's MAR reflects no entries for Glipizide, which he is prescribed twice a day for his diabetes, from 12/23/25 to 12/28/25 with no entries whatsoever, including no NS entries, again indicating missed doses. Similarly, Fernando Viera Reyes' records show that he was not administered metformin on 12/7 to 12/10/25 with no entries whatsoever, including no 3:05 am NS entry. This raises questions about why some records have 3:05 NS entries and others do not. Regardless, in both scenarios, it is clear that the patient did not get their medication and there is no documented reason.

**C. Period of System Failures Identified**

21. Defendants claim that "all of the incidents" I relied on in my initial declaration date to approximately the first month that California City Detention Facility was operational. Defendants say there have been significant improvements at the facility since that time. My initial declaration, dated November 25, 2025, described in detail medical failures and omissions that continued well beyond the first month and into November, and was supported by declarations of detained people reporting the same. While it is true that many of the records I reviewed were from patients who entered the facility in the first month that it was operational, my conclusions involved care that was provided in the months following that and was hardly limited to intake issues that occurred in September, the first month of the facility's operation. Additionally, as

described below, I have now reviewed additional medical records of people who entered the facility in December 2025, when Defendants were preparing their filings. Those records do not reflect "significant improvements at the facility" since September. In fact, they paint an even bleaker picture about the delivery of medical care at California City than before. I discuss these new records and the demonstrated ongoing system issues below.

22. Dr. Tiona also discusses issues early in the facility operation regarding pharmacy dispensing, coordinating transportation for specialty services, and other resource and logistical constraints purportedly outside the facility's control. Based on my review of updated records, some of these issues – including out-of-stock pharmacy medications, delayed initiation of medication, and access to specialty services – remain problematic four months later. I have worked in systems with resource constraints before and that is not a justification for poor care which places patients at risk of harm.

**D. "No adverse patients outcomes"**

23. Defendants indicate that a CoreCivic medical manager reviewed the patient charts that I reviewed for my initial declaration and, although she too identified multiple deficiencies with the patient care provided by California City healthcare staff, found no adverse patient outcomes. This statement is wrong and logically flawed for a multitude of reasons.

24. First, there have been many adverse outcomes for patients at California City as a result of poor medical care. It is not clear what Defendants consider to be adverse outcomes. In my view, an adverse outcome is a demonstrable risk of medical harm, whether or not that harm has yet materialized. Regardless, the harm has materialized for a number of patients whose chart I reviewed for my initial declaration. For example, Plaintiff Viera Reyes, who likely has prostate cancer, has gone out multiple times to the emergency room for blood in his urine and stool, and is now using a catheter to urinate due to ongoing delays by Defendants to get him the diagnosis and specialty care treatment he needs. These delays may ultimately result in a significant preventable adverse outcome if the workup for his suspected prostate cancer reveals that the cancer has metastasized to other parts of his body.

25. Alcide Banegas was a completely stable diabetic managed on insulin prior to his arrival at California City where they decided to discontinue his insulin and completely destabilize his diabetes: his HgA1c, which was 6.1% three days after he arrived at California City in October, shot up to 11.2% in January after California City doctors stopped his insulin shortly after he arrived. A HgA1c level of 11.2% corresponds to an average blood glucose reading of 275 mg/dL continuously (average normal blood glucose range is 90-100 mg/dL). Such a rapid and high magnitude increase in blood glucose can harm multiple organs in his body and puts his life in jeopardy.

26. There are many other examples of ongoing harm that I detailed in my initial declaration and TRO declaration, including ongoing and progressive damage to the heart muscle, lungs, and vascular system and risk of death for Named Plaintiff Roque Campos due to California City's failure to properly treat his very serious heart condition. I address ongoing harm throughout this declaration, including with lists of examples in the section on Access to Healthcare and Sick Call Process.

27. Second, a number of these patients have been at California City for a short period of time. The consequences of poor medical care can take longer than a few months to become evident but can nevertheless cause irreversible harm. For instance, poorly controlled blood pressure in a diabetic can accelerate damage to the kidneys, the eyes, and the smaller blood vessels of the legs. This can accelerate the progression of renal failure, retinal damage, and impairs blood flow to the limbs, with the end result of this progression being dialysis, blindness, and amputations. Mr. Juarez Ruiz is a patient who I wrote about in my first declaration who had malignant hypertension, a severe and aggressive form of hypertension, with multiple blood pressure readings in August, September, and October 2025 (190/106, 168/107, 180/112). All of these blood pressure readings would be considered to be in the malignant hypertension range, meaning that emergency intervention is necessary to intervene and prevent end-organ damage. As a general rule, if the systolic and diastolic blood pressures added together total more than 300, the patient needs emergency blood pressure management because organ damage is occurring. Since those blood pressures were recorded, he has not been seen at all in the chronic care clinic Dr.

Tiona describes, and he has had only once had his blood pressure checked on November 6, 2025. He is on only one blood pressure medication which is almost certainly inadequate to control his blood pressure and there has been no attempt to monitor him appropriately through the records production date of 1/5/2026.

28. Mr. Juarez Ruiz is having end-organ damage as demonstrated by his recent labs: his albumin/creatine ratio on his blood work is high and he has protein spilling into his urine. Both of these lab results indicate ongoing damage to the kidneys. Additionally, he is diabetic and on glipizide and metformin. The combination of uncontrolled hypertension and diabetes is particularly dangerous; both conditions need to be managed tightly. In his case, they drew a HgA1c in September which came back with a very elevated level of 10.7% indicating very poor diabetic control. Additionally, his urinalysis showed 3+ urine indicating that he is spilling glucose into his urine. His diabetes is objectively out of control and yet nobody at California City has done basic chronic care management to minimize his ongoing and progressive organ damage or assess the extent of his "adverse outcomes" about which Defendants claim to be ignorant. They have not completed a retinal exam which is a standard part of chronic care for a diabetic but it is highly likely that he is having microvascular damage to his retinas as a result of both his uncontrolled hypertension and uncontrolled diabetes.

29. As another example, Patient A[3] arrived at California City on December 25, so it is too soon to confirm adverse outcomes. Patient A has HIV that was well-controlled on daily Dovato until he arrived at California City. He experienced a 9-day lapse in HIV medication in his first two weeks at the facility. This is despite the fact that he appears to have reported to the arresting or transport officers that he is HIV positive and requires Dovato, based on the transit paperwork in his medical record. California City provided him medication on December 25 and December 28 and then, without ever seeing him, a provider decided to change his HIV medication from Dovato to Biktarvy. These two medications are not interchangeable. Regardless, he did not receive Biktarvy until January 7. This grave mismanagement of an HIV patient's

[3] To protect this patient's identity, given the discussion of HIV status, I refer to him anonymously in my declaration. His name is provided in Appendix B, which is filed under seal.

continuity of care by California City, including lapses in critical medications, places Patient A at risk of treatment failure, including drug resistance, viral rebound and the emergence of significant medication side effects. I find this story particularly shocking: in the detention system I work in, when a patient comes into our custody who is on Dovato, we consider that medication to be a critical medication and we order and administer it with the next medication pass. If we do not have it in stock (which we normally do) we would go get it emergently from the backup pharmacy. It is well established in medicine that successful HIV treatment requires >90% compliance with medication dosing in order to avoid resistance and virologic failure (HIV replication that is not suppressed by the medication anymore). Patient A's intake into California City came nowhere near maintaining his required medication compliance.

30. Third, California City's sparse and poor management of patient chronic conditions and minimal provider follow-up means that there is a lack of documentation related to patient conditions and minimal to no work-up such as lab work that would otherwise demonstrate worsening conditions. Even so, the patient cases I reviewed demonstrated clear adverse consequences due to poor care.

31. Fourth, California City's utter failure to facilitate appropriate and timely specialty care means that necessary work-up and diagnoses are missing from records. That means that adverse outcomes may be undetected because California City is not enabling the patients to be tested for them. California City is simultaneously denying people appropriate diagnostic care and then claiming no adverse outcomes. If patients begin to have timely access to specialists, I am confident that the health consequences of untimely care will become abundantly evident.

32. The argument that the care was acceptable because no adverse patient outcomes occurred conflates luck with quality. Modern healthcare quality monitoring considers near-misses as evidence of system failure and that the absence of harm does not equate to the presence of quality. Healthcare system quality is appropriately judged by the adherence to standards, not by the avoidance of harm. In any case, California City has neither adhered to standards of care nor avoided harm for the people who live at that facility.

## IV. DEFENDANTS' TOPIC-SPECIFIC CLAIMS

33. In paragraphs 19-51 of her declaration, Dr. Tiona addresses a number of systemic topics about which I raised concerns in my initial declaration. I respond to those below.

### A. Intake Screenings and Physical Examinations

34. As I described in detail previously, intake within a detention facility consists of two components: (1) an initial intake screening and face-to-face interview by a registered nurse (or someone with a higher licensure), which should take place within twelve hours, in order to assess patients for urgent medical needs and ensure continuity of care, and then (2) a more comprehensive initial assessment, which should be completed by a provider within fourteen days or sooner based upon the clinical determination made at the initial intake screening.

35. Dr. Tiona devotes a number of pages to a discussion of intake procedures. She describes a process at California City that in theory seems fine. It is generally the process that I would expect to see and it would be adequate if California City actually followed it. However, they do not, as I have delineated in my prior declaration. New records that I reviewed further demonstrate that the theoretical process Dr. Tiona describes is not what actually happens in reality. Her discussion does not alter my opinion that intake screenings at California City are not adequate, timely, or thorough.

36. As to the initial intake screening process, I previously concluded that this process was not occurring timely based on my record reviews. In response, Dr. Tiona simply states that the National Detention Standards (NDS) require that initial screenings be completed within twelve hours. A policy expectation is meaningless for patients if the practice does not follow it.

37. I previously explained that it is not clinically appropriate for LVNs to conduct initial intake assessments, as I found was happening at California City, because it exceeds their licensure and training. Dr. Tiona states that it is appropriate for LVNs to conduct a pre-screening for purposes of prioritization for Initial Intake screenings. She concedes that Initial Intake screenings should be completed by RNs. Her discussion of this point therefore actually supports my prior conclusion. Dr. Tiona did not discuss the quality and thoroughness of the Initial Intake screenings, which I found to be poorly completed. Despite her assertions that intake processes

have improved, even in January 2026, recent arrivals continue to have their assessments – not just pre-screenings – completed by LVNs. Jose Luis Trejo Cervantes arrived at the facility on or around 1/2/26 and had his intake assessment exam completed by an LVN on 1/3/26 – an examination that is beyond an LVN's licensure.

38. As to the comprehensive initial assessments – which should be completed by a provider within 14 days or fewer, as clinically indicated – I previously found that these assessments are of poor quality and not thorough. Dr. Tiona does not rebut this finding but instead admits that one of the providers who was completing Initial Assessments "received detailed and ongoing training on evaluations and documentation thereof." Completing a thorough and appropriate Initial Assessment, which includes a review of systems and a physical examination, is a basic task that any provider should be able to complete; requiring ongoing training on doing so is cause for concern and supports my initial conclusion.

39. I also previously found that these assessments were not timely completed as ordered. In response, Dr. Tiona presents a table of 29 patients (including some non-medical declarants whose charts I have not reviewed). She presents this table in the context of her claim that initial health examinations occur within a 14-day time period, which is the required period assuming they all received a routine (as opposed to urgent or emergent) referral by the intake RN. The chart proves the opposite. In fact, 13 of the 29 patients were seen beyond 14 days. She acknowledges that there are "occasional delays in the intake examinations." Nearly half of all cases being beyond the 14-day mark strikes me as more than the "occasional" delay.

40. Furthermore, 14 days is the outer limit for completion of an intake assessment. Based on the patient's clinical presentation and the information provided by the patient, the intake nurse is supposed to make a clinical determination about how soon the patient needs to be seen for a comprehensive initial assessment by a provider. That could be emergent (immediately), urgent (next day) or routine (up to 14 days). For a number of the patients in that table, the Intake nurse had in fact ordered an urgent (e.g., Uktarsharkumar Trivedi, Sudesh, Singh) or emergent (e.g., Jose Ruiz Canizales) provider appointment, and that subsequent appointment did not occur for another week or two. If the appropriate clinical referral is used, the rate of timely completion

for initial assessments in Dr. Tiona's table is even lower; the actual noncompliance rate rises to over 50%.

41. While acknowledging the "occasional" delays, Dr. Tiona claims that this issue has been remedied with additional staff, changes in health services administration, and increased training and oversight. Yet new records I have reviewed reveal that delays continue and this issue has not been remedied. For example, Gabino Chavez-Benitez arrived at California City on 12/4/25. He reported a history of hypertension. He was referred urgently to the PCP to be assessed for his medication needs. According to California City's own policy, he was supposed to be seen within 24 hours, but was not seen until 12 days later on 12/16/25, at which time medications were finally initiated. Similarly, Roberto Valera Chuquillanqui arrived at California City on 12/4/25 and was referred urgently to the PCP for an initial assessment. He was not seen until 15 days later, on 12/19/25. Patient A, an HIV positive patient who arrived at the facility on 12/25/25, was referred on a routine basis to the provider for an initial assessment. A California City provider decided to change his HIV medication prescription five days after his arrival with no corresponding evaluation or consultation. As of 1/13/26, nineteen days after his arrival, he had not seen a provider or had an initial assessment or labs completed.

42. Dr. Tiona only discusses four patients in detail in her report (see my Appendix A). Three of those patients had urgent (next day) referrals for an initial assessment that were not timely completed. She defends this by claiming that the RN's decision to refer the patient to the provider on an urgent basis at Intake was in error. This rationalization is flawed and irrelevant to the question of timely scheduling for two reasons: (1) the referring nurse did a physical exam of the patient and, within their licensure, determined the need for an urgent referral, so it is not relevant if Dr. Tiona now believes that the urgency was not warranted, based only on a chart review and without physically examining the patient; and (2) whether or not the urgency of the referral was clinically necessary, California City was unable to schedule the ordered encounter timely. Nothing in those three charts indicates that the urgent referral had been voided at the time.

43. I previously concluded that TB screenings at intake were not handled appropriately given the unique characteristics that make this patient population at high risk for tuberculosis

exposure. Dr. Tiona describes what an appropriate TB screening should look like according to the NDS. I have no problem with what she cites as a resource from the CDC, but in the cases I cited, they did not follow those guidelines. Defendants do not address or dispute the examples I presented in my initial declaration. For instance, I discussed a patient who arrived at California City with latent TB and reported symptoms but remained in the general population for weeks, potentially exposing others to a highly infectious disease, until a confirmatory x-ray was completed. This decision was dangerous and placed all detainees and staff at risk of exposure.

44. Dr. Tiona indicates that previously prescribed medications are not ordered within their system until the patients are seen by a medical provider for the comprehensive medical examination. As I have demonstrated and as Dr. Tiona's own chart indicates, this appointment generally takes upwards of 24 days to occur, during which time the patient is not receiving their continuity of care medication. Dr. Tiona indicates that they continue to administer medication sent with the detainee, but in the federal system transport protocols require a standard 7 day supply of medications. Clearly CoreCivic's reliance on transport medications is inadequate if the intake provider appointment takes 24 days. This is an illogical and broken process; it results in patients not being able to maintain the continuity of their medication treatment plan, which can be dangerous.

45. Dr. Tiona also indicates that the transfer forms have an area to indicate whether a detainee has any pending consultations for specialty care scheduled, but she says that there is just no way to know who the specialist is or the date of the appointment, so CoreCivic cannot honor those appointments. All it takes is a phone call to the sending facility to get that information. In my opinion, in many cases, it is medically irresponsible not to make that call.

**B. Medication Administration and Pharmacy Issues**

46. Another issue I identified was widespread lapses in medication for newly arrived patients. Defendants attribute that to challenges they faced getting medications filled at local pharmacies and say that has been resolved by a new contract. I am alarmed that Defendants opened a detention facility without having an adequately stocked pharmacy available to them. In fact, they state that it took until October 27, two months after they began to accept detainees into

their facility, to establish a relationship with a local pharmacy that agreed to stock medications commonly prescribed at the facility. This is a deceptive statement. As Dr. Tiona states, CoreCivic has another contracted, mail-order pharmacy provider. Defendants filed that name under seal in Paragraph 26 of her declaration so I do not repeat it here, but I know it to be a full service national pharmacy with extensive experience in correctional facilities. They could have stocked California City literally overnight if California City had requested it. A fully stocked pharmacy is a critical part of a well-functioning healthcare system and should have been established before the facility opened. It was clinically dangerous to accept patients into the facility before that was established.

47. Defendants offer no proof that medication administration failures have in fact been remedied or that medications are now being administered timely. By contrast, updated chart reviews demonstrate ongoing failures to timely fill prescribed medication and to timely and consistently administer medications. For instance, Patient A was prescribed a critical HIV medication on 12/30/25, but the first administration of the medication was not until 1/7/26. That alone is damning proof that their pharmacy is unable to procure and administer medications to patients timely, even when it is life-sustaining medication like Patient A's.

48. Dr. Tiona spends a lot of time talking about setting up a relationship with a backup pharmacy and the challenges of that, and says that the issue has been remedied by a new local pharmacy contract. But that source of medications should account for only a tiny fraction of the total medication burden. A successful pharmaceutical practice in a correctional facility requires three levels of pharmacy supply: an in-house stock pharmacy where commonly used medications are held, a contract pharmacy service that sends medications via express overnight mail (the national pharmacy described above), and a relationship with a local pharmacy to handle emergency backup needs. The first two levels should supply 95% of all medications needed in the facility and Defendants should have had these relationships already worked out prior to California City opening. This suggests that the lack of a local pharmacy did not account for the extent of the serious problems with medication supply and administration at California City that I identified

previously. Indeed, updated records show that this issue persists even after the local pharmacy contract was put in place.

49. Chart reviews demonstrate lapses in medication renewals and delays in obtaining newly prescribed medication well after October 27 when the relationship with the local pharmacy was supposedly finally established. For instance, Plaintiff Viera Reyes returned from the emergency room in late November with a prescription for antibiotics twice daily. He received one dose the evening of 11/28/25 but received no doses on 11/29/25. Mr. Benavidez-Zamora was also prescribed antibiotics on 11/20/25, but did not receive the first dose until a week later on 11/27/25. Mr. Guevara Alarcon had Topiramate renewed after he experienced a lapse from 10/3 to 12/11/25. Even after it was renewed, the medication was noted as out of stock from 12/13 to 12/19/25. It is evident that a contract with a local pharmacy was not the only cause of the medication deficiencies. Unfortunately, patients remain at risk of harm due to delays in medication administration.

50. Warden Chestnut and Dr. Tiona state that medical staffing levels have improved, but medication administration records suggest otherwise. Records also show that the time that medications are administered vary drastically from day to day, and sometimes medications are administered too close in time. Mr. Benavidez-Zamora is prescribed insulin in a long-acting formulation twice a day, but sometimes has doses administered only a few hours apart, such as receiving the evening dose at 11:04 PM on 1/3/26 and the morning dose at 5:03 AM on 1/4/26, then the evening dose again at 10:57 PM and the 1/5/26 morning dose at 4:52 AM. Many medications are time-sensitive. Insulin is a prime example of this. It has to be dosed in a consistent manner and failure to do so can create large swings in blood glucose levels. If you dose insulin too close together, you can drive the blood sugar down to dangerous low levels. If you dose insulin too far apart, the patient's blood glucose can increase to dangerous high levels. There are many other medications where the time of administration is actually medically meaningful. Common examples of time-sensitive medications include high blood pressure medication, anticonvulsants, anticoagulants, and antibiotics. In most healthcare settings, the allowable variance in medication administration time is 30 minutes. It is clear from the Medication

Administration Records that the medication practices at California City do not conform to generally accepted nursing practice. In my experience, inadequate staffing is one of the reasons systems experience this type of irregular medication administration.

**C. Access to Healthcare and the Sick Call Process**

51. Defendants claim that Dr. Tiona's chart review shows "all sick call requests at the facility are currently processed in a timely manner, resulting in same-day responses for all 'urgent' requests and responses within 72 hours for all other requests." As an initial matter, that is not what Dr. Tiona asserts: Dr. Tiona states that she and a colleague reviewed 29 records, so read in context, her assertion that based on their clinical chart review "sick call requests are now being processed timely" means that, for those records, they found the sick call requests were timely processed. She does not claim to have completed a chart review for all patients at the facility or that all requests receive a timely response, as implied. Regardless, I have reviewed the same charts she has. They show the opposite.

52. Mr. Trivedi, a patient whose chart Dr. Tiona discussed in detail, clearly demonstrates recent failures of the sick-call process and medication management at California City. Mr. Trivedi submitted a sick-call slip on 11/29/25 requesting a refill of three medications for his chronic conditions. The RN noted on 12/1/25 "your medication has been refilled." However, there is no indication that medication was administered so it is unclear if this was in error. Five days later, on 12/6/25, another sick-call was submitted requesting the same medications, as well as two additional ones. The RN noted on 12/8/25 that a refill request was submitted. Mr. Trivedi's MAR shows a 12/17 refill of Colace and a12/30/25 refill of Loratadine (one of the medications requested) – nine days and a month respectively after the initial sick call requests – and no refill of the remaining three medications as of January 5, 2026. Mr. Trivedi also submitted multiple sick call slips on 11/15/25 reporting itching, toe pain, and vision problems; he was seen on 11/17/25 by an RN who assessed only his rash and referred him on a routine basis to a provider. Having not seen the provider weeks later, Mr. Trivedi submitted additional sick-call slips on 12/3/25 and 12/18/25 reporting ongoing itching, toe pain, and vision problems, and asking about the status of his appointment with the provider. He was assessed yet again by the RN on 12/23/25

for itching but his additional complaints about his vision and toe pain were again not discussed. Almost a month and a half after the 11/17/25 RN referral to the provider, Mr. Trivedi had still not been seen by a provider, including for concerns relating to a potential vision disability.

53. Similarly:

- Julio Armenta submitted a sick-call slip on 12/26/25, which was marked received on 12/28/25, noting extremely red, teary, and bloodshot eyes. As of 1/5/26, Mr. Armenta had not been seen by a RN for a face-to-face assessment or by a provider.

- Mr. S. Singh submitted a sick-call on 11/18/25 reporting heel pain; the sick-call "disposition" notes that an appointment with the provider would be scheduled. Instead, however, he was seen by an LVN five days later. After consulting with a nurse practitioner, the LVN made a routine referral to a provider. Mr. Singh submitted another sick-call slip on 12/3/25 reporting similar concerns, and the sick-call "disposition" again noted that he would see a provider. He was not seen by a provider until his chronic care appointment for diabetes on 12/23/25, a month after he filed the sick call slip. It should not take a month for a patient reporting such concerns to be seen by a provider.

- Named Plaintiff Viera Reyes may have metastatic prostate cancer and has, for months, reported pain and bleeding from his rectum. He submitted two sick-call slips on 1/2/26 stating (1) that he is feeling intense pain in his anal area and needs pain management and (2) he is having severe issues using the bathroom and requests stool softener. He is not seen regarding his concern and instead the written disposition states he was already seen on 12/30/25 by the provider. He clearly submitted this sick-call slip after his encounter with the provider so the disposition here is medically inappropriate and not consistent with California City policy timeframes. Moreover, the 12/30/25 provider "visit" was actually an encounter that took place in the waiting room, per the provider's note, following

Mr. Viera Reyes's return from the hospital, and was entirely unrelated to his rectal pain.

54. Other patients who were not discussed in my initial declaration demonstrate California City's ongoing failure to address sick call requests in a timely manner, contrary to Dr. Tiona's assertion that all such requests are responded to within 72 hours. For example:

- Blas Martinez Gutierrez arrived at California City in early November 2025 with an active prescription for risperidone, an anti-psychotic often prescribed for conditions such as schizophrenia or bipolar disorder. The medication was continued for a month until 12/6/25, but then expired on 12/6/25 without a documented rationale for why it was not renewed or "bridged" so he could be assessed by a medical or mental health provider to determine whether it needed to be continued. Mr. Martinez Gutierrez submitted a sick-call slip on 12/13/25 stating "I would like to know why I am not receiving my medication. I am not feeling too well. I feel like I need it to balance me out. Thank you. Please let me know as soon as possible." In response, he was scheduled to see the RN on 12/23/25, far beyond 72 hours. The record states that he reportedly refused but does not contain a signed refusal from the patient verifying he did in fact refuse and there are no documented attempts to reschedule him. He remains without his anti-psychotic medication as of 1/9/26.

- Jesus Alcides Banegas, an uncontrolled diabetic, submitted a sick-call on 1/3/26 reporting pain in his feet. He was not seen by a nurse or provider in response; instead, the written disposition states that he has a pending appointment with a provider and can discuss it then. His record reflects two active provider encounters with "due dates"[4] on May 11, 2026. If this is the encounter that is being referred to by the RN, which appears to be the case based on the lack of other appointments

[4] As I explained in my TRO declaration, these "due dates" do not mean appointments have been scheduled in fact.

pending, scheduling a provider appointment for four months out is not an appropriate response. This clearly does not comply with the sick call response times that Dr. Tiona says the institution follows. Foot care is incredibly important for patients with diabetes because they frequently develop ulcers and infections. Diabetic foot ulcers are notorious for being extremely difficult to treat and they frequently result in amputations and more serious systemic infections. The failure to examine him and to instead defer his care into the future puts him at significant risk, especially since his glucose is not being well controlled in the institution.

55. Dr. Tiona repeatedly claims that staffing levels have increased and addressed delays in care. But recent records demonstrate continued and extensive delays in PCP follow-up. For example:

- Mr. Oscar Rodriguez Lopez submitted multiple sick-call slips reporting ongoing hip pain as a result of a prior accident which necessitated hip surgery. He was seen on 11/23/25 by an LVN (rather than an RN), who completed an assessment (a function beyond the scope of their licensure) and referred him on a routine basis (2-14 days) to the PCP. He was seen again by an LVN on 12/6/25, who noted limited range of motion in his extremities, an inability to bear weight, and challenges performing his ADLs or completing self-care. (These issues have significant disability implications and should have been addressed promptly.) Mr. Rodriguez Lopez was again referred to the PCP on a routine basis and was not seen timely by a PCP. He submitted another sick-call and was seen on 12/23/25 by an RN, who referred him for the third time to the PCP on a routine basis. As of 1/9/25, a month and a half after the first routine referral, Mr. Rodriguez Lopez has yet to have a PCP assessment completed. This is a clear example of the hurdles patients experience accessing care at California City and shows ongoing noncompliance with policy.

- Mr. Rodriguez Lopez also submitted a sick-call slip reporting shortness of breath

and wheezing. He was fully assessed by an LVN rather than an RN on 12/9/25, and referred to a PCP for an evaluation and confirmation of asthma and need for an inhaler. As of 1/9/26, he has not been seen.

- Mr. Roberto Adonay Galan-Martinez has been waiting since 11/11/25 to see a PCP after being referred by the RN on a routine (within 14 days) basis for reports of painful urination, testicular pain, and swelling. That appointment did not happen. He submitted another sick-call slip on 11/23/25 stating this was his fourth sick-call regarding "pain while I urine. There's been blood and very painful while I urine. Please I need to see the doctor ASAP." He was not assessed by any medical staff; a written disposition stated he would be seen by the provider on 11/25/25. That appointment did not happen. He submitted another sick-call on 12/8/25 reporting pain and blood with urination. The RN entered a note that he reportedly refused because it was just another RN appointment and he wanted to see the PCP. He was seen by an RN on 1/8/26 and reported that he was having a hard time urinating and seeing blood in his urine. He was told he would be seen the following day. I do not know if he was seen, but under no circumstances it is acceptable to have a patient reporting such serious, ongoing symptoms for over a month and a half without being assessed by a provider.

56. Additionally, Defendants describe the sick call process at California City as a primary method for detainees with disabilities to access disability accommodations. Evidence that the sick call system continues to be riddled with delays and fails to comprehensively address patients' needs indicates that the process is ill-suited to address disability needs in a timely and appropriate manner.

**D. Chronic Care**

57. I previously found that chronic care is poorly managed at California City: Follow-up encounters are ordered beyond appropriate timeframes given the patient's condition and

presentation, and the care provided falls below the standard of care. In response, Defendants again rely on an overview of policy expectations to defend their chronic care practices.

58. Dr. Tiona describes a policy whereby patients are enrolled in a Chronic Care Clinic (at the initial intake screening or the initial appraisal) and providers then manage follow-up encounters based on their discretion and the patient's level of control of the condition. The existence of a chronic care management policy is commonplace in any correctional health care setting, and its mere existence does not counter my finding that in practice chronic care is poorly managed at California City. In fact, Dr. Tiona's own review of patient records demonstrated that the policy is not being followed by California City providers. She identified multiple deficiencies in her chart reviews for which she made recommendations for remediation, including scheduling follow-up provider appointments for many patients, ordering necessary labs, and adjusting medications.

59. My medical opinion has not changed: chronic care management at California City is far too often inadequate in frequency and incompetent in delivery. Updated medical record reviews for patients I discussed in my initial report also demonstrate that chronic care management remains untimely and inadequate.

60. For example, Mr. Benavidez-Zamora has poorly controlled diabetes with blood sugar readings that fluctuate drastically from 53 (very low) to 336 (very high) in the span of one week (12/30/25 through 1/5/26). His A1C is 8.9%, which is an indication of poorly controlled diabetes. Dr. Tiona reviewed his record and recommended that a chronic care appointment be scheduled for him. That appointment should have already been scheduled at the time of his Initial Assessment on November 20, 2025, according to CoreCivic's chronic care management policy. The fact that it had not been is just one of many examples of the way the policies Dr. Tiona describes in her declaration do not translate into practice. Although Dr. Tiona recommended that a chronic care appointment finally be scheduled for him, Mr. Benavides-Zamora's medical records, as of 1/5/25, do not show that any chronic care encounter took place since November 20, or that any chronic care encounter was pending despite his abnormal labs from November 21,

2025 (HgA1C at 8.9,% Creatinine at 1.44 mg/dL and eGFR at 55), fluctuating blood sugar readings, and a recent foot infection that required antibiotics.

61. The above labs put Mr. Benavidez-Zamora into the category of an uncontrolled diabetic (HgA1c of 8.9%) with hypertension and chronic kidney disease (elevated creatinine and GFR less than 60). A patient like this should be on a medication from the family of ACE inhibitors to slow down the kidney damage and to help protect the kidney from additional damage. The purpose of a chronic care clinic visit would be to review his medications and to adjust them to meet the standard of care. As of January 5, Mr. Benavidez-Zamora had not been prescribed any ACE inhibitor which is an unequivocal deviation from the standard of care. Mr. Benavidez-Zamora's medical records explicitly states that he has no known allergies so there is no recorded reason not to prescribe this medication. This is as basic of chronic care management as there is in medicine. A third year medical student would be expected to know this because it is so critically important for diabetic management. This is a prime example of why chronic care clinics are so important and why the facility's failure to have him seen for his chronic disease management causes ongoing harm.

62. In my initial declaration, I discussed the very poor and dangerous chronic care management received by another patient, Alejo Juarez Ruiz, who has uncontrolled diabetes and dangerously uncontrolled hypertension. He is another example that undermines Defendants' suggestion that the chronic care clinic at California City functions well. He has a hemoglobin A1c of 10.7%, which puts him at risk of developing diabetic ketoacidosis, a serious and potentially life-threatening complication of diabetes. Given his uncontrolled diabetes, standard of care would be to place him on insulin because he is beyond what oral medications can accomplish. Defendants' only response to my previous findings is an indication from Dr. Tiona that she recommended that Mr. Juarez Ruiz have a follow-up encounter scheduled, as well as lab draws completed. But even after that recommendation, the chronic care system still failed him: a recent record review demonstrates ongoing poor and untimely care, including no recent changes to his prescribed medication, no blood pressure or blood sugar checks since early November 2025, and no active lab orders, despite Dr. Tiona's statement that she recommended it. Furthermore, Mr.

Juarez Ruiz only has one active order for a chronic care evaluation for his diabetes and cardiac condition, with a "due date" in late February 2026. As explained in my TRO declaration, nothing in the medical records indicates that this "due date" means an appointment will actually be scheduled.

63. The facility has failed to provide adequate care for Mr. Juarez Ruiz even after being notified by the plaintiffs, by Dr. Tiona, and by a urinalysis that shows that his kidneys are leaking protein and that his HgA1C is above 10.% This failure indicates that California City's healthcare system continues to fail to deliver even the most obvious and basic healthcare for common diagnoses. The fact that my criticisms and Dr. Tiona's recommendations have not yet accomplished a chronic care visit is almost unbelievable and solidifies my opinion that this system is operating on vapors and is poorly equipped to handle sick patients of any acuity.

64. Plaintiff Roque Campos is yet another counter-example to Dr. Tiona's discussion of how the chronic care clinic is supposed to work. He is diagnosed with pulmonary hypertension and congestive heart failure, which, as I pointed out in my initial declaration, are life-threatening conditions that require close monitoring and appropriate management. Unfortunately, Mr. Roque Campos has not received either of those. He had only had two contacts with health care staff at California City – both RNs – in the month of December 2025. The first encounter was 12/1/25 for testicular pain and cough. The second was for chest pain on 12/10/25. The RN notes that Mr. Roque Campos has no prior history of heart disease, which is an alarming error given his serious cardiac history noted throughout his medical records, including on his problem list. An EKG was completed which was abnormal, including a right bundle branch block and sinus rhythm with first degree AV block. The presence of the first degree AV block can be an objective marker of the severity of underlying structural cardiac disease (as suspected by the ER physician) and should prompt an expedited evaluation by a cardiologist.

65. Mr. Roque Campos just saw a cardiologist for the first time since being detained at California City on January 13, 2026, despite a recommendation made by the ER doctor in early September 2025 that he be seen in 72 hours. As discussed elsewhere in this declaration, I wrote a supporting declaration in December to obtain an order from the Court to ensure that Mr. Roque

Campos would see a cardiologist emergently to receive a comprehensive assessment and treatment plan. Let me be clear: this assessment and treatment plan should have been completed months ago – and they have occurred now, it appears only because of Plaintiffs' counsel's intervention and the Court's assistance. I discuss Mr. Roque Campos further below with regard to offsite referrals. However, in the context of chronic care management, it is critical to note the facility's failures with respect to both his hypertension and his congestive heart failure. Dr. Tiona suggests that the facility's Chronic Care Clinic ensures patient follow up at the "discretion" of the providers; those providers have failed woefully here.

66. Jose Franco-Pena was one of the four patients who Dr. Tiona spent significant time discussing. She acknowledges that the provider order for regular blood pressure checks to monitor his hypertension was not followed, noting that the issue has "subsequently been rectified with enhanced nursing training and improved staffing patterns." Yet she offers no evidence that the issue was in fact rectified. She also acknowledges the failure of the providers to order recommended medication upon Mr. Franco-Pena's return from the specialist and to order appropriate follow-up with the specialist, noting that the failures have been discussed with the onsite providers. These failures of basic functions of a healthcare system – to follow provider orders and to offer appropriate aftercare when patients return from the emergency room – raise serious questions about California City's ability to manage complex health issues.

67. New patient records I reviewed highlight California City's ongoing struggle to provide even basic medical management of chronic care conditions, further undermining Defendants' claims with respect to chronic care. Mr. Alcides Banegas arrived at California City on or around 10/18/25 with well-controlled diabetes. He reported to staff that he uses insulin, but did not receive it at California City. Instead, for an unexplained reason, he was prescribed metformin in the lowest dose for an adult (500 mg twice per day) on 11/3/25. From a medical perspective, if a patient's diabetes is so severe as to require insulin to manage it, there is no justification to stop that insulin and revert to oral management without a substantial change in the patient's condition, such as massive weight loss. Even then, that conversion would require very tight monitoring to make sure that it was medically safe. None of that occurred in this case, and it

is beyond medical logic to understand why the facility felt it was appropriate to stop his insulin and put him on low-dose oral medication. That plan was guaranteed to fail.

68. Mr. Alcides Banegas was seen the following week, on 11/11/25 by the same provider. On the date of that visit and in the prior days, Mr. Alcides Benegas' blood sugar readings were elevated, but there was no discussion of that finding. His metformin was continued, and he was ordered a 6-month follow-up despite evidence demonstrating that he needed closer monitoring and management, particularly given that a new diabetic medication regimen was recently implemented.

69. Mr. Alcides Banegas was seen again by a provider on 12/23/25 for a chronic care visit. In the interim weeks, he received only one blood sugar check, when he should have had frequent checks to determine whether the new medication prescribed was adequately controlling his diabetes. At the 12/23/25 encounter, the provider did not have any recent information to conclude that Mr. Alcides Banegas' condition was well-controlled. He reportedly relied on an outdated HgA1C (a measure that averages blood sugar readings from the prior 90 days) of 6.1% from mid-October, a week after Mr. Alcides Banegas' arrival, when he was still feeling the benefits of his recent management with insulin, and a handful of blood sugar readings from early November, all of which were elevated. There is no objective exam documented. The provider failed even to check Mr. Alcides Banegas' blood sugar levels the day of his encounter.

70. Labs drawn on January 5, 2026, shortly after his chronic care encounter, show an alarming increase to his HgA1C level, at 11.2%, and a blood glucose level of 431 mg/dL, demonstrating severe hyperglycemia. This means that Mr. Alcides Benegas' condition has been deteriorating since he was placed on metformin and he did not have the benefit of adequate medical monitoring so that medication adjustments could be made. As of January 13, 2026, no provider has acknowledged or addressed the significant increase in his blood glucose level or evaluated his need for insulin. This is dangerously poor medical care for a chronic condition.

71. Another example of egregiously and dangerously poor chronic disease management is the management of Patient A's HIV. Patient A arrived at California City with a transfer memo that noted he takes Dovato, a medication to manage HIV. He informed the RN at

intake about his diagnosis and medication but, despite his serious medical condition, he was referred on a routine basis to the provider for an initial assessment. Chronic management of HIV treatment requires laboratory assessment of multiple body functions. Decisions about medications and treatment protocol changes cannot be made without those lab results. As of 1/13/26, no labs had been drawn on him and his records do not reflect that any have been ordered. As noted earlier, his HIV medication was changed without a consult, assessment, laboratory results or patient consent. Even with the medication change, he did not receive over half of his daily medications from 12/25/25 to 1/12/26. He has no pending chronic care appointment and, as of 1/13/26, 19 days after his arrival, he had yet to see a provider.

72. Jesus Contreras Jimenez is diagnosed with multiple chronic care diseases, including malignant hypertension and a seizure disorder as a result of a recent traumatic head injury. The management of a patient's blood pressure is very well within the parameters of what a primary care provider should be able to do, but nonetheless seems beyond the abilities of California City. Recent records from December 2025 reflect dangerously elevated blood pressure readings and multiple incidents of hypertensive crisis, placing Mr. Contreras Jimenez at real risk of organ damage based on his reported symptoms.

73. Since at least early December, almost every medical encounter Mr. Contreras Jimenez has had has been rife with questionable medical judgment and medical decision-making that placed him at greater risk of harm and failed to meaningfully address his extremely high blood pressure. On 12/5/25, his blood pressure was 169/100 and he was experiencing facial sagging and arm numbness. He was given a dose of lisinopril (which is not a fast acting blood pressure medication) and sent out to the emergency room to rule out a brain tumor. It is not clear why that was the working diagnosis of the provider. A brain tumor was ruled out and he was brought back to the facility; he was cleared to return to his housing unit with no subjective exam noted and no vitals taken to ensure he was stable. His care continues in the same fashion:

- 12/9/25: Reported to the clinic with elevated blood pressure and nausea, and he was given nausea medication. He did not receive appropriate care.

- 12/13/25: Reported to the clinic with extreme chest pain with radiation to the extremities, elevated blood pressure (169/102) and low O2 levels (94%). Blood pressure continued to worsen (194/125 and 189/110), reaching hypertensive crisis levels that would warrant an emergency room visit, but he was not sent out. He did not receive appropriate care.

- 12/14/25: Reported to the clinic with chest pain and dangerously elevated blood pressure (166/111 and 172/98). He reported taking extra doses of Lisinopril (a long-acting blood pressure medication) in an attempt to bring down his blood pressure. In the clinic, he was given a dose of clonidine and aspirin. Aspirin is a poor medication to administer to a patient who is already experiencing elevated blood pressure as it interferes with the ability of their blood to clot which increases his risk of a stroke. An EKG was ordered, but could not be completed because the machine was out of paper and was malfunctioning. He again received dangerously poor care.

- 12/17/25: Reported to the clinic with chest pain and alarmingly elevated blood pressure (191/117 and 199/133). He was inappropriately given doses of Lisinopril and aspirin and ordered an EKG, which showed left atrial enlargement. He was finally given a dose of amlodipine 5 mg and sent to the emergency room. The ER recommended that he start an additional blood pressure medication, metoprolol ER 50 MG 1 tablet a day, which he finally started on 12/20/25, and resumed on 12/22/25. No blood pressure was taken before he returned to his unit.

- 12/19/25: He was wheeled to the medical clinic on a gurney after being found lying on the floor. He reported "blacking out," and his blood pressure was elevated (160/84). He was given a medical lay-in, but no work-up as to why he blacked out. This too is inappropriate care.

- 12/20/25: Reported to the clinic because he did not feel well, his whole body hurt, and he was getting spots in his eyes that typically happen with a seizure. His blood pressure was elevated (162/108). He was prescribed medication for a bacterial infection, including prednisone, although it is not clear how that diagnosis was reached. This too is inappropriate care. Prednisone is a dangerous medication to use in a patient with uncontrolled hypertension because it increases blood pressure and he is on ibuprofen; those two medications should not be given together.

- 12/22/25: Submitted sick call slip reporting chest pain and numbness in left arm. Reported to the clinic with difficulty breathing. The RN noted that his right leg was shaking while he was lying on the gurney. No work-up or additional treatment was ordered. He was told to return to the clinic if he was not feeling better the next day. Records reflect that he fell backwards when he reached to brace himself on the back of a chair on his way out of the clinic. Nothing was done aside from paperwork documenting the fall. This is completely inappropriate care.

- 12/25/25: Reported to the clinic because he believed he had a seizure. An EEG, a test that measures brain activity to diagnose seizures, is ordered with a 3/25/26 compliance date. This is inappropriate care.

74. Overall, this series of healthcare encounters for malignant hypertension with end-organ symptoms has been incredibly mismanaged. California City gave Mr. Contreras Jimenez medications that are ineffective and contraindicated for his condition and failed to work up his condition or appropriately monitor him. Nurses inappropriately provided most of the care for this patient with acute problems that require physician assessment and treatment. The entire sequence falls below the standard of care and undermines any claim that health care is appropriately managed at this facility.

**E. Off-Site Referrals and Specialty Care**

75. As I explained in my initial declaration, specialty care must be available to patients when the patient requires more specialized care than a primary care provider can provide. Dr. Tiona states that the facility "continues to experience some difficulties in scheduling specialty appointments" and "is actively working to rectify this issue" and "to expand the contracted specialist panel." By her own admission, California City is not able to provide all necessary specialty services. Yet she seems to imply that nevertheless some specialty care is occurring. Dr. Tiona and the facility warden both reference contracts that California City has in place with local hospitals and specialists. Both also reference offsite medical transports. Notwithstanding, my prior conclusion that California City does not have a system in place to ensure specialty services are timely and appropriately provided remains just as true today. In fact, the facility's failure to provide specialty services is even more alarming now given that more time has passed. The patients I referenced in my initial declaration continue to wait for much needed care.

76. Dr. Tiona states that in the first three months of the facility's operation, there were 65 offsite medical transports. She does not offer any information about what types of transports those were. It is very important to clarify that those do not appear to be offsite transports for the purpose of obtaining specialty care. Based on my chart reviews, I suspect them to be primarily emergency room visits, likely because California City did not have ready access to specialists, as Dr. Tiona acknowledges continues to be a problem. Emergency room access is not a substitute for specialty services. The purpose of an emergency room visit is very different from the types of specialty service needs I discussed in my initial declaration. The role of the healthcare providers in an emergency room is to assess and stabilize patients with acute or traumatic illness, not to complete significant work-ups and recommend treatment options that are better handled by specialists. A case in point is that of Mr. Roque Campos who went out to the emergency room twice in his first days at California City for urgent cardiac concerns and returned with a directed recommendation from the Emergency Department Physician to be seen by a cardiac specialist urgently. In other words, the emergency room visit does not suffice to offer the services that specialty providers can provide. He was only seen by a cardiologist four months later after

lawyers sought court intervention due to the severity of his condition and California City's failure to meet his urgent health care needs.

77. Another telling example of the limitations of an emergency room visit is the case of Mr. Viera Reyes, who arrived at California City with an urgent need for a prostate biopsy. Records document occasions in which the California City provider attempted to get a urology consult for Mr. Viera Reyes by sending him to the emergency room. As a result, he was not seen by the appropriate specialist, but only by an ER doctor who addressed time-sensitive issues and discharged him back to the facility. For example, Mr. Viera Reyes reported to the clinic at California City on 12/13/25 with bright red blood with visible sedimentation in his catheter bag. At this point, Mr. Viera Reyes had been waiting over three and a half months for California City to obtain a urology appointment for him. On 12/13/25, the California City provider ordered Mr. Viera Reyes to be sent to the emergency room for a "possible catheter removal and urology evaluation." It is inappropriate to rely on the use of emergency room visits to address conditions that likely require careful work-up and continuity of care from a specialist. Mr. Viera Reyes likely has prostate cancer that may have metastasized and needs the continuous care of a urologist to diagnose and coordinate his care. Dr. Tiona and the warden point to ambulance contracts, relationships with hospitals, and offsite transports. These are no substitute for the specialty care so many patients need.

78. Dr. Tiona responds to my concern that pending specialty encounters are not consistently honored at California City and are discontinued without a documented reason or provider evaluation. She explains that when a patient arrives to the facility with a pending specialty evaluation, it must be re-initiated because transportation and funding for those appointments differs from facility to facility. As a preliminary matter, this explanation does not contradict my prior findings; it supports it. More importantly, a lack of funding or transportation is not an excuse to not provide necessary medical services. The provider should acknowledge the pending specialty encounter and assess the medical need for the appointment. In making this assertion, Dr. Tiona refers to Mr. Trivedi who arrived at the facility with pending appointments with an oral surgeon and ENT to rule out malignancy of his oral lesions. His records do not

reflect that California City healthcare staff engaged in any discussion about his need for those pending appointments and provide no explanation for why they were not honored by California City. She references his case without acknowledging that the policy she just described results in this failure to provide appropriate care. Even in the case where a detained person had a specialty appointment at a previous ICE facility and the specialist ordered follow up, California City does not consistently follow those orders. For example, when Mr. Leyva arrived at California City in early September 2025, he had already seen an audiologist for his hearing loss. He requested hearing aids multiple times, but medical records indicate that "hearing aides and amplifier is [sic] not available." The subsequent request for referral remained in a status of "financial authorization requested" until Mr. Leyva left the facility on November 28.

79. In my initial declaration, I discussed a number of patients who required specialist appointments. A couple of those, like Mr. Leyva, are no longer in custody. Mr. D. Singh and Mr. S. Singh are still detained, but still do not appear to have seen specialists as of 1/5/26. From my review, only two of the still-detained patients I discussed in my initial declaration have seen specialists, both after court intervention. Mr. Viera Reyes has seen a specialist for what is likely undiagnosed prostate cancer. My understanding is that his appointment with a urologist took place on December 30, 2025, as a result of a court order for which I submitted a declaration. Likewise, Mr. Roque Campos saw a cardiologist on January 13, 2026, as a result of the same court order. I believe that without legal intervention, both patients might still be waiting to see specialists for their urgent medical needs. These continuing delays and inaction suggest that there are more than "some difficulties" in the facility's ability to obtain specialty care for patients.

80. Dr. Tiona discusses the case of Mr. Franco-Pena, who went out to the emergency room, where he underwent an upper endoscopy with biopsies and a colonoscopy. She admits the failure of the California City providers to order him the necessary follow-up procedure with the specialist (but fails to discuss the failure of California City to obtain the biopsy results from the hospital). As of 1/5/26, his records still did not reflect a specialty appointment has been ordered.

81. She further discusses Mr. S. Singh, noting he has several pending offsite appointments for general surgery, podiatry, ophthalmology, and optometry. She indicates that

none of them are urgent and that they are being addressed by the facility. As of 1/5/26, Mr. S. Singh's active orders show that the ophthalmology appointment has been voided and the other three remain pending, with two of them overdue even by California City's own compliance dates.

82. Other patients who I discussed in my initial declaration are still waiting to be seen as of early- to mid-January: Mr. Viera Reyes is waiting to see an optometrist and have an ultrasound completed; Mr. D. Singh is waiting to see a gastroenterologist (GI); Mr. S. Singh is waiting to see a general surgeon, podiatrist, ophthalmologist, and optometrist.

83. Dr. Tiona briefly touches on medical observation housing, but only when discussing Mr. Franco-Pena, who went to the ER for a gastrointestinal bleed. She states that it is customary and medically-indicated for a patient to be observed in medical observation for a period of time when returning from the ER with that particular condition. While this may be correct, my concern was not with the decision to medically observe a patient in a controlled environment when they return from an emergency room to ensure they are stable before returning to their housing unit. Rather, I was concerned with how long they remain in that setting and, more importantly, the conditions and care provided while there.

84. Mr. Viera Reyes provides another example of my concerns. He returned from the emergency room on 11/28/25 with a newly placed indwelling catheter to assist with his urinary retention and a urinary tract infection diagnosis. He was placed in a medical observation housing when he returned and remained in medical housing until 12/6/25, when it was finally decided that he could be released to his housing unit because his catheter bag no longer posed a custody concern. While in the medical housing – where he reportedly receives regular nurse monitoring – he did not receive three of the four prescribed doses of antibiotics from 11/28 through 11/29, where it was noted that he was a "no show." It makes no sense to flag him as a "no show" when he was under the monitoring of medical staff. Furthermore, there appears to be no medical justification for keeping him in a segregated unit under more restrictive conditions for over a week. He went out again on 12/13/25 and was placed in medical observation housing when he returned until he could be seen by a provider on 12/14/25. Similarly, he did not get two doses of the prescribed antibiotics on 12/14/25 while under the direct monitoring of medical staff.

85. Dr. Tiona said she conducted a chart review for Mr. Viera Reyes. All of these things happened two weeks before Dr. Tiona signed her declaration, so it is baffling that she still made the assertion about medical housing. The failure, at a minimum, to make sure patients get their prescribed medications while in medical observation housing is a testament to the futility of that housing and undermines Dr. Tiona's assertion that medical observation ensures that the "patient remains stable" before returning to the general population.

## V. CONCLUSION

86. My opinion about the quality of care at California City remains unchanged after reviewing Defendants' filings and updated health care records. This system is egregiously inadequate and poses a clear and present danger to patients. As time goes on, more patients are exposed to the risk of severe harm due to substantial, systemic, and ongoing deficiencies in the provision of health care at California City. I remain gravely concerned about patient safety at California City in the absence of timely and comprehensive remedial action.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 16th day of January, 2026, in Salt Lake City, Utah.

By: _____
Todd R. Wilcox, M.D.

**APPENDIX A**

Paragraphs 58-70 of Dr. Susan Tiona's declaration discusses four particular patients. Although I address these patients in the relevant sections of the preceding declaration, because of Dr. Tiona's disproportionate focus on them, I also respond in detail below.

**Paragraphs 58-60 of Tiona Declaration**

In this case, I was critical of California City for not seeing the patient on the timeline established by their own policies and procedures. He was referred for "urgent" referrals to a primacy care provider and to mental health. Those referrals did not happen in accordance with the standard of care or California City's own internal timelines. Dr. Tiona responds that those referrals were inappropriate and he really did not need to be seen urgently. She reclassifies the care retrospectively without the benefit of having actually seen the patient. She is essentially moving the goalposts, and her comments miss the point of my criticism. It really does not matter if the referrals were appropriate or not; what matters is that their nurses in real time activated their urgent referral system and it did not work as described in their policies and procedures.

With respect to the patient's mental health care, a nurse practitioner prescribed Haldol (a powerful antipsychotic) on 10/8/25, apparently after he reported auditory hallucinations. The medical record does not contain a clinical note documenting the clinical justification for the initiation of this medication. Prescribing a powerful antipsychotic without a comprehensive note establishing a diagnosis and justifying this treatment plan is shocking. Moreover, the nurse practitioner prescribed it on an as-needed basis as determined by the patient. Dr. Tiona says this is routine care and there is "nothing unusual" about dosing Haldol this way. I strongly disagree. I have never seen Haldol given as-needed where the patient determines the necessity for this medication. The only time I have ever seen Haldol used as-needed is in an acute hospital or inpatient setting for acute and severe agitation, where the healthcare staff has a much closer observation on the patient than here. Nothing about this medication initiation and prescription plan meets the standard of care.

The patient was seen again by the nurse practitioner on 10/29/2025 and his Haldol was increased to the maximum recommended dose of up to 15 mg per day (written again as-needed as

determined by the patient). The note justifying this massive increase in dosing is so sparse as to not meet any contemporary standard of mental health documentation. Haldol has serious and sometimes permanent side effects in high doses, and the records indicate no plan in place to monitor for those side effects.

In addition, the patient is on a maximum dose of Aripiprazole (30 mg per day), another potent antipsychotic medication. There is no justification in the medical record for why he needs this aggressive treatment. The nurse practitioner did not even assign him a diagnosis on either visit to justify these medications.

The only two mental health problems listed in his master problem list are depression and anxiety. There is no diagnosis in his master problem list that justifies the use of high dose Haldol. Aripiprazole is sometimes used for Major Depressive Disorder, but only as adjunct therapy to a primary antidepressant medication and not as monotherapy. The patient is not on an antidepressant. Dr. Tiona admitted in her note that his Sertraline expired and was mistakenly not continued. Despite that admission, as of the records produced on 1/6/2026, the patient has not had his Sertraline restarted.

Both of these medications can cause tardive dyskinesia or akathisia, which are very serious. Patients on these medications should be assessed on a regular basis for these symptoms. In fact, there is a prompt in CoreCivic's mental health note for that assessment, but the nurse practitioner did not perform the AIMS (the Abnormal Involuntary Movement Scale) assessment as directed. This is a deviation from the standard of care.

Review of the full set of medical records produced on 1/6/2025 indicates that the patient has never been seen again by mental health prescriber since his Haldol was increased on 10/29/25. He has been seen by a psychologist, but her notes do not address any medication-related issues or initiate any of the chronic care monitoring needed for patients on high-dose antipsychotics.

In summary, it is surprising that Dr. Tiona chose this patient to discuss and to suggest that his care was fine because analysis of his chart shows that the totality of his care is a complete mess that deviates from the standard of care in multiple ways. It also shows that their scheduling

and follow-up process is not working as Dr. Tiona described. At this point, my recommendations for this patient are for him to be seen by a psychiatrist and for him to be given a proper diagnosis after a thorough mental health workup. Once that is done, his medications should be adjusted to address his actual underlying mental health condition instead of tranquilizing him with maximum dose antipsychotics with no monitoring.

**Paragraphs 61-63 of Tiona Declaration**

In this case, I was critical of the lack of continuity of care for this patient's diabetes medication, Metformin. Dr. Tiona responded that the patient does not have a diagnosis of diabetes. She apparently did not review their own master problem list where "Diabetes" is the first diagnosis on the list. Dr. Tiona assigned him a diagnosis of pre-diabetes, but that is her own construct. It is unclear how she arrived at that idea because the diagnosis of pre-diabetes does not appear anywhere in his medical record. To the contrary, the diagnosis of diabetes appears in multiple places including, most importantly, the patient informing the staff that he was diagnosed with diabetes at his previous facility.

I do agree that his HgA1c lab on 10/10/2025 showed a borderline value of 5.8%. However, given that this lab is a 90-day look-back at glucose control and given that he had been on metformin at his previous facility, it is entirely possible that this almost normal value actually represents successful medication management of his diabetes. The only way to parse out the distinction between actual diabetes and pre-diabetes would be to repeat his HgA1c at least 90 days after stopping that medication. That lab has never been ordered and her diagnosis of pre-diabetes is unsupported by actual patient data.

It was critical that this patient did not receive his medication timely and that he did not get the blood pressure checks ordered by the provider. Dr. Tiona agrees with both of these statements but indicates that the delayed medication did not impact him and that staff has received training regarding following orders so that has been fixed. It is unclear how she can be certain as to both things. Timely receipt of medication and following PCP orders for blood pressure checks are very basic aspects of a functioning healthcare system, so needing to train staff on such an elementary level function is alarming.

I was also concerned about the inappropriate follow-up care this patient received after returning from the emergency room where he had a colonoscopy and EGD with biopsies completed. Dr. Tiona implicitly acknowledges that the aftercare the patient received after he returned from the emergency room was not handled well. She says that aftercare was discussed with providers to ensure that meds are ordered and that the patient has a follow-up procedure timely. However, Dr. Tiona is silent as to biopsy results and why those were not obtained. Obtaining and reviewing biopsy results are a critical part of a procedure in order to ensure that potential diagnoses are not missed.

**Paragraphs 64-67 of Tiona Declaration**

In this case, I was critical of California City's failure to follow their own policies and procedures in referral timelines. Dr. Tiona confirms those failures.

I was also critical of their failure to schedule outside specialty appointments for this patient that were already in process at his prior facility. Dr. Tiona confirms those delays and merely indicates that they are working on it.

As of the records produced on 1/5/2026, my criticisms remain. Dr. Tiona again suggests that a patient who is currently managed with metformin and has a borderline high HgA1c value of 5.8% is not diabetic. California City has not obtained sufficient data to make that statement, and it is entirely likely that the correct description of his status is that he is successfully managing his hyperglycemic state with metformin. Additional data would be necessary to determine his true status.

**Paragraphs 68-70 of Tiona Declaration**

In this case, I was critical of the obvious fact that the patient was not receiving his medications, as clearly shown on the Medication Administration Record. Dr. Tiona attempts to draw a distinction between whether a patient appears at the pill call window or whether a medication is out of stock. My criticism was of a medication administration system that resulted in the patient not getting his ordered medication. The reason is of administrative concern maybe, but the end result is the patient is not getting his medication.

Dr. Tiona does not address my concern that none of the patient's chronic conditions were

noted on his intake form.

Dr. Tiona is also silent on my main criticism of their failure to get him to his specialty consults with an ENT surgeon / oral surgeon to investigate whether he has head and neck cancer. As of the record production date of 1/5/2026, he still has not been seen by these specialists for an appropriate workup of a medically serious and potentially life-threatening problem.

**APPENDIX B**

[redacted] is the person described in this declaration as "Patient A."

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**DECLARATION OF TESS BORDEN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

PUBLIC--REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD

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.

I, Tess Borden, declare:

1. I am a supervising staff attorney at the Prison Law Office, co-counsel of record for Plaintiffs in this matter. I am admitted to the New York Bar, am registered by the State Bar of California as a Registered Legal Aid Attorney through the Multijurisdictional Practice Program, and appear *pro hac vice* in this matter. I submit this declaration in support of Plaintiffs' Reply in Support of Motion for Preliminary Injunction. I have personal knowledge of the facts set forth herein, and if called to testify as a witness thereto under oath, I could competently do so.

2. Due to the limited period for reply briefing and the difficulty of visiting detained people at California City Detention Facility, Plaintiffs' counsel were unable to collect wet signatures on the declarations of Anbhav Mann and [redacted] ("Patient A").[1] Instead, I conducted calls with both individuals, during which time the declarations were read to them. Each individual confirmed, under penalty of perjury, that the contents were true and correct and gave me permission to affix their electronic signatures to the declarations and file them in this matter.

3. On January 14, 2025, I conducted a call with Anbhav Mann. During that call, I read the contents of Ms. Mann's declaration to her, and she confirmed, under penalty of perjury, that the content was true and correct and gave me permission to affix her electronic signature to the declaration and file. Her declaration is filed as Declaration of Anbhav Mann in Support of Plaintiffs' Motion for Preliminary Injunction.

4. On January 15, 2025, I conducted a call with Patient A. My colleague, Gabriela Pelsinger, who is a native Spanish speaker, joined the call to translate between English and Spanish. During that call, Ms. Pelsinger read and translated the contents of Patient A's declaration to Patient A, and Patient A confirmed, under penalty of perjury, that the content was true and correct and gave me permission to affix Patient A's electronic signature to the declaration and file. Patient A's declaration is filed as Declaration of "Patient A" in Support of Reply to Motion for Preliminary Injunction.

[1] An Administrative Motion to File Under Seal is forthcoming.

Executed on January 16, 2026, in San Francisco, California. I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

TESS BORDEN

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**SUPPLEMENTAL DECLARATION OF GUSTAVO GUEVARA ALARCON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Date Filed: November 12, 2025

Trial Date: Not Set

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.

**Supplemental Declaration of Gustavo Guevara Alarcon**

1. I am a Named Plaintiff in the above-captioned case and submitted a declaration in support of our Motion for Preliminary Injunction, which I signed on October 28, 2025 (ECF No. 22-7). The facts in that declaration remain true.

2. I submit this supplemental declaration to provide additional information about the current conditions at California City, as well as my experience at Golden State Annex ("GSA"), the immigration detention facility that I was housed at before being transferred to California City.

3. I have been detained at California City since August 29, 2025. In my initial declaration, I described the harsh conditions and extremely restrictive practices at California City. Since completing that declaration, the custodial practices and conditions have remained largely unchanged.

4. In my housing unit, we are still prohibited from having any contact visits with family, friends, or attorneys. I am not aware of anyone who has ever had a contact visit at California City. We continue to be subjected to clothed body searches every time we return to the housing unit from outdoor recreation. We are only allowed out of our housing unit for outdoor recreation for around seven hours each week. As a result, I spend nearly every hour of the week in my housing unit. We have very little to do, and we have no classes or groups to pass the time.

5. I am also locked in my cell multiple times throughout the day while staff complete four counts per day, which typically occur around 7 AM, 11 AM, 3 PM, and 7 PM. Each of those counts usually takes anywhere from 30 minutes to an hour and a half, and usually around an hour, during which time we are locked in our cells with nothing to do.

6. The temperature is still very cold in the cells. Around November 2025, staff gave us windbreakers. The windbreakers are very thin, have no hood, and do not retain heat. They do not provide warmth. Cold air blows out of the vents in our cells even though it's cold outside. We have not been issued a sweatshirt, sweatpants, or a beanie by the facility. I purchased sweatpants from commissary at California City and wear a sweatshirt and beanie from GSA to try to stay warm, but I am still cold all the time in my cell.

7. In my unit, we have two PlayStation consoles with four games, one board game, four puzzles, and Uno cards, and rubber dominos, which were all provided by California City. We have to share all of these games with 80 people in the unit, and the games and puzzles are not changed out. We have four televisions that do not get local channels and only get English channels, two or three Spanish language channels, and no channels in other languages. I do not have access to a newspaper in my unit. A librarian only comes by my unit every two weeks to ask if we want to check out books from the library. I am not provided any art supplies, such as colored pencils, and have to purchase these items from commissary. These items are important to me because art is therapeutic for me and one of my primary hobbies.

8. During outdoor recreation, I am only allowed to borrow a soccer ball, volleyball, or handball, which are poor quality and constantly flat. Staff only recently replaced the soccer balls after five months of use.

9. I have filed 18 grievances at California City, and I do not consistently receive responses. The responses that I do receive do not resolve the issues that I raise in the grievances. I have also filed around six sick call requests regarding my ongoing chronic foot pain and need for orthopedic shoes on September 10, September 23, October 6, October 29, December 23, 2025, and January 8, 2026. I have not received a response to any of my requests. I continue to experience pain in my feet daily due to a lack of adequate footwear. I purchased a pair of shoes through commissary, but they do not provide the appropriate support I need for my condition.

10. The conditions at California City are very different from the ones at GSA, where I was previously detained. While detained at GSA, I could have contact visits with lawyers and family or friends for an hour and 45 minutes minimum. I had a contact visit with my loved ones at least once a month.

11. At GSA, officers did not escort me throughout the facility unless I was going to medical or visitation. I was never handcuffed, and officers did not pat me down or search me every time I entered or left my housing unit and only did so when I had a visit. I had around three hours of outdoor recreation time per day. I also had access to an indoor recreation space that had a pool table, foosball table, ping pong table, air hockey, basketball hoop, and DVDs.

12. At GSA, there were times I was able to access classes and structured recreational opportunities, including arts-and-crafts. I know that other detained people were sometimes able to lead classes, such as English as a second language (ESL) classes, at GSA. At GSA, I had access to over 70 channels on the televisions including local channels, several Spanish language channels, and channels in Mandarin, Punjabi, and other languages commonly spoken by the people in my unit. While I was at GSA, staff did not call me "inmate," which California City staff use to refer to us.

13. While at GSA, I was issued a sweatshirt, sweatpants, and beanie at no cost. It was not extremely cold at that facility like it is here. Count at GSA was much less restrictive and typically only took about 30 minutes to complete. GSA only had count two times during the day around 10 or 10:30 AM and 4:30 PM. I was able to sit on my bed in the dorm during count and immediately access the dayroom after count was done. At California City, I am locked inside my cold cell for an hour and wait for staff to unlock the cell in order to go back out to the dayroom.

14. I had a much lower security level in prison than I do at California City. When I entered prison in 2006, I was at a high security level. While in prison, I joined as many programs as I could and I stayed out of trouble. I even taught programs to other people in prison. I worked my classification level down as far as it could possibly go, and I was low security by the time I was released. While in prison, I was allowed to program from 9 AM to 9:45 PM every day because of my low security level. I was able to go in and out of my unit to attend various programs and self-help groups and was never escorted or searched by staff on the yard in order to attend these programs. Because I was a self-help group facilitator and earned the trust of the staff on my yard, I was allowed to meet with the captain and other custody staff regularly. I had more freedom in prison than I do at California City.

15. Before I was released from prison, I was granted parole by the California Board of Parole Hearings. In prison, most people who I knew that went before the Board were denied parole at their first hearing. But when I went to the Board for the first time, I was found suitable for parole. The Board said that I was not a risk to society and that I could be released to the community. The Board saw that I stayed true to the commitment I made to myself to participate

in rehabilitative programs, stay committed to my Christian faith, and become a positive role model.

16. The Board also recognized that I was committed to developing into a better person, that I treat others with respect, and that I grew and matured a lot during my time in prison. I put in hundreds of hours of work to improve myself in prison. I completed more than 15 different self-help groups and numerous vocational programs. I taught self-help groups in prison, and several custody staff members wrote positive notes about me to include in my file. In one of these notes, my facility captain wrote, "Guevara has been instrumental in making the [youth diversion] program a success and it is clear he clearly has a heart for helping the youth stay away from criminal activity…I wholeheartedly trust Guevara as the lead because it is apparent Guevara's rehabilitation is genuine…More so than just his participation in such programs, I feel it necessary that Guevara is recognized for his genuine respectfulness and positive attitude. Guevara is well known by staff for such attributes and I can confidently say that all facility staff would agree with this description of his attitude and the earned appreciation…Guevara is an exemplary model of what rehabilitation should look like in prison."

17. I felt really proud when I was granted parole. It felt like the Board acknowledged how much effort I had put in to work on myself. Now at California City, I am treated like I just committed a crime yesterday. I am classified as high security just because I was in prison, even though the Board decided that I could safely be released into the community. California City ignores all of my years of hard work to improve myself. The conditions at California City are much more restrictive than in prison. California City has confined me to a small cell, limited my access to the outside world, to my rehabilitative programs, to my support group, and to my community.

I, Gustavo Guevara Alarcon, declare under penalty of perjury that the foregoing is true and correct and that this declaration is completed and executed on January 13, 2026 from California City.

Gustavo Guevara Alarcon

January 13, 2026
Date

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Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS

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

**DECLARATION OF ANBHAV MANN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Date Filed: November 13, 2025

Trial Date: Not Set

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.

**Declaration of Anbhav Mann, 214987590**

1. I, Anbhav Mann, am currently detained at the California City Detention Facility.

2. I have been detained at California City since October 7, 2025. I am 30 years old. I am currently housed in F-300, where I share a cell with another person.

3. I was detained by ICE on October 6, 2025, during my family immigration interview for my I-130 petition. That day, I went to the U.S. Citizenship and Immigration Services offices in Fresno with my husband, who is a U.S. citizen, and with my attorney. The officers separated me from my husband, and called him in for an interview first. Then they called me in for my interview and made my husband leave. I went in to my interview with my attorney, without my husband. During the interview, two officers entered the office and said that they had a warrant for my arrest. With a warrant for arrest, you would have thought I had done something wrong. But I have no criminal history so this was just because of my immigration status. I was in a state of shock. They put me in handcuffs and walked me out of the USCIS office through the back door, and put me in a vehicle. They did not allow me to see my husband or say goodbye to him. My attorney had to tell my husband that I was taken away.

4. The officers took me to the ICE holding facility in Fresno. At the holding facility, the officers patted me down, took my jewelry, and put waist chains and leg irons on me. They took the heels that I had been wearing, and gave me sneakers but no socks. The leg irons were on my bare ankles, and the metal rubbing on my ankles caused bruising and bleeding, and was painful. I had to wait at the ICE holding facility in Fresno for about four hours. I was placed in a small cell with another woman, which had two cement benches, and an open toilet, but no toilet paper or soap. The room was very cold. Eventually, an officer brought us an aluminum foil blanket. The only food that the officers provided had meat. I practice the Sikh faith and am therefore vegetarian, so there was nothing for me to eat. Later that evening, I was put in another vehicle, in waist and ankle chains again, and was driven to Bakersfield, and then to the California City Detention Facility. I arrived to California City very late at night, sometime around midnight. There were officers in black clothes standing on each side of the hallway staring at us blankly as we walked by. I had a whirlwind of emotions going on. I had never been to a jail or prison and

felt scared and overwhelmed.

5. I have lived in the United States for over 10 years. In addition to my U.S. citizen husband, I also have a cousin who is a U.S. citizen. I studied nursing and graduated from my program in 2025. I had been studying for the nursing licensing exam before I was detained, and had been looking forward to working as a nurse in my community.

6. I am in the low security unit at California City. Although I have no criminal history, no disciplinary infractions, and am housed in the low security women's unit, I am not able to have contact visits with family, friends, or attorneys. I am not aware of anyone who has ever had a contact visit at California City. All of my visitors have been on the other side of a large pane of plexiglass. My family has to drive three hours to get to California City to visit me, but when they get here, we are not allowed to hold hands or hug each other. We have to speak to each other using telephones, and there are often crackling sounds on the line that make it hard to hear each other. We do not get to have any more contact than we would in a video visit. My last visit with my loved ones was on Sunday, January 4, 2026, and that visit was behind glass.

7. I have also had two legal visits with my attorney since I got to California City. For these visits, I am in a small room with a large pane of plexiglass separating me from my attorney, who is in a small room on the other side of the plexiglass. It is very hard for me to hear my attorney in these rooms. Outside of the room where I meet with my attorney, there is a hallway where there is a lot of loud noise, and staff and detained people are constantly walking by. There is a small gap at the bottom of the plexiglass pane between me and my attorney. I usually have to get up and lean my head towards this gap in order to be able to hear what my attorney is saying, which is uncomfortable. Being separated from my attorney also makes it difficult for us to review documents relevant to my case. My attorney visited me on Friday January 9, 2026. He told me that he had asked the staff if we could have a contact visit, so that we could review documents that he had brought. He had brought many pages of documents for us to review, and they did not all fit through the small gap in the plexiglass. The staff did not allow us to have a contact visit. It was difficult for us to review these documents together during the legal visit because we could not easily look at the documents together or hear each other well.

8. Even though I am in the low security unit at California City, I am also subjected to clothed body searches every time I leave the housing unit, including when I go to or come back from outdoor recreation. Some officers even ask us to take our socks off during the searches too, in addition to being patted down. It is very uncomfortable to have to be searched so often. It also can take a very long time. When we come back from yard, we have to wait in a long line while staff complete the searches of every person who went out to the yard.

9. We spend the vast majority of our time inside the housing unit. When we are allowed outside, the amount is inconsistent and unpredictable, and on some days, staff do not offer any outdoor recreation time at all. The outdoor recreation yard is in bad shape. There are a lot of weeds with thorns on the outdoor yard, in the path of travel, and all over the outdoor space. The weeds make the path of travel more difficult to navigate. The thorns get stuck in the plastic sandals that we were issued to use as shoes. When we come back from the yard, we have to manually pull the thorns out of the sandals. There are still some thorns stuck in my sandals that I have not been able to pull out. We are not allowed to bring water out to yard, and unless staff bring a cooler with drinking water out to the yard, which they do not always do, there is no drinking water available while we are on the yard. The outdoor recreation yard does not have very much exercise equipment. There is a volleyball net, but the balls that are provided are usually deflated, or deflate very quickly, so they are very difficult to use in a game. I have noticed that many women do not go out to yard because there is nowhere for people to sit down on the yard, so they have to stay standing for an hour if they want to go outside. Some people sit down on the ground, but some officers do not allow people to sit down on the ground on the yard.

10. There is also an indoor basketball court, with six or seven rowing machines, where we can sometimes go, that staff refer to as a "gym." We have never been offered both outdoor recreation and time in the indoor basketball court on the same day.

11. We have very little to do in our housing unit. We have no groups or classes. In my housing unit, we have one PlayStation console, which only has games about basketball, one set of UNO cards, one set of playing cards, and three or four jigsaw puzzles, which were all provided by California City. We have to share all of these games with over 80 people in the unit. There are

also four televisions in the housing unit. Staff are responsible for controlling the channels and the volume. A librarian comes to the unit once every two to three weeks, so that we can check out library books. We can only check out one book at a time from the librarian, and then we have to wait weeks to exchange that book. The librarian has also brought our unit printed sheets with coloring pages and with games, like word searches, crosswords, and sudoku. She brought these materials to us around Halloween and again around Christmas. However, staff have not provided us any colored pencils or markers to use for the coloring pages. I am not aware of any way that I can order books, magazines or newspapers for myself. There are only 22 tablets in my unit, or one for every four people. Sometimes I have a hard time getting a tablet, which makes it hard to check messages and communicate with my loved ones and attorney. In order to have video calls with our loved ones, we have to put the tablet on a station in the dayroom. There are only two stations in our dayroom, for over 80 people, so it is not usually available because many people need to use it. The stations are in the center of the dayroom, and staff and detained people are walking by, so there is no privacy during video calls with our families.

12. We are locked in our cells multiple times throughout the day while staff complete four daily counts, which typically occur around 7 AM, 11 AM, 3 PM, and 7 PM. Each of those counts usually takes around 60 minutes, during which time we are locked in our cells with nothing to do. Sometimes, the counts can take as long as two hours to clear, and there have even been times where the count has taken three hours to clear. On January 12, 2026, the 3 PM count did not clear until almost 5 PM. We are not allowed to go to medical appointments, attorney visits, or social visits during count. We are not allowed to use phones or tablets during count.

13. The temperature is very cold in the building. Sometime around November, staff gave us windbreaker jackets. The jackets are very thin and unlined, have no hood, and do not keep me warm. Cold air blows out of the vents in our cells even in the winter. We have not been issued warm clothes, such as a sweatshirt, sweatpants, or beanie, by the facility. I purchased a sweatshirt, sweatpants, a thermal shirt and leggings, and a beanie from commissary at California City. Even with the clothing that I purchased, I am cold all the time. Sometimes I wear socks on my arms to try to stay warm, or wear my socks as a scarf around my neck, but staff told me that it

is against the rules to wear the socks in this way or to alter them. Some people also try to turn the socks into hats. Sometime around October 2025, officers told me and a group of women that if we didn't stop using our socks like this, they would give us disciplinary write-ups.

14. I have filed somewhere around 10 grievances at California City. I believe that I have only received one grievance response. When I first got to California City in October 2025, I filed grievances and I still have not received any response to them. I wrote one grievance about a response to a medical emergency in my housing unit that really worried me. A woman in my housing unit who had a history of cardiac arrest was having chest pain, and asking for medical care, but the staff did not want to call a code to provide an emergency medical response. I was concerned that staff did not appear to be taking her medical issues seriously. I have also filed around three or four sick call requests since I got to California City. One of the requests that I filed was for medical care for a stye in my eye. I think that it took staff about seven to 10 days to call me in to the medical clinic after I submitted that request. I have not received responses to the other sick call requests that I have filed. I have been discouraged by the lack of response to my sick call requests and have stopped using the sick call request system.

15. I have experienced weeks-long delays in receiving legal mail. I understand that the Prison Law Office mailed a letter to me on or around December 24, 2025, which I still have not received as of January 14, 2026. My attorney has also sent me legal mail that I still have not received. I understand that my attorney sent me a letter in mid-November 2025 and another letter in late December 2025, but I still have not received either of these letters. Around January 6, 2026, I asked a counselor if there was any legal mail for me, because I was expecting a letter from an attorney. The counselor told me that she did not receive any legal mail for me. She also told me that the staff member who is in charge of processing the mail still has a lot of mail to go through after the holidays.

16. Sometime at the end of November or beginning of December 2025, while I was sitting in the common area in my housing unit, next to the showers, I saw a woman in my unit fall in the shower. This woman uses a wheelchair and a walker. The showers in my unit do not have any grab bars or railings to hold on to. People always have to stand up while they are showering

because there is no shower bench or shower chair available. This woman had finished her shower and was trying to put her clothes on, while standing in the shower area. She stumbled and fell to the ground. I helped her get up after she fell, and helped her into her wheelchair. I asked the officer in the housing unit to call medical staff for her.

I, Anbhav Mann, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at California City, California this 14 day of January 2026.

*/s/ Anbhav Mann*
Anbhav Mann

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**DECLARATION OF "PATIENT A" IN SUPPORT OF REPLY TO MOTION FOR PRELIMINARY INJUNCTION**

Date: February 6, 2026
Time: 9:00 a.m.
Dept: Ctrm. 9 – 17th Floor
Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

**PUBLIC--REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD**

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.

**Declaration of "Patient A," [redacted]**

1. I, [redacted], am currently detained at the California City Detention Facility ("California City").

2. I am 42 years old. I have lived in the United States since March 2023.

3. I was detained by ICE the morning of December 24, 2025, during a routine check-in with ICE at the field office in San Jose, California. I arrived to California City late that night.

4. I do not have a criminal history.

5. About twenty years ago, I was diagnosed with HIV. I take Dovato daily to manage my condition. My condition is well managed with medication but I know if I don't take it, it's a big problem. When I was detained, I let the ICE officers know that I needed my HIV medication, which was in my car. I had approximately a month's supply of medication in my car. The medication was in the original bottle, with my name and the name of the medication, Dovato, written on the bottle. The ICE officers retrieved the medication from my car and brought it with me to California City.

6. I told the nurse at intake that I needed to take Dovato daily for HIV. The nurse said that I would need to file a sick call request to see a doctor in order to get my medication.

7. Even though the intake nurse told me that I had to see a doctor to get my medication, staff provided me with some doses of my medication but not every day, which is what I need. I only received Dovato on December 25, 2025 and December 28, 2025 even though I came to the facility with approximately a month's supply of Dovato pills and told them I needed to take them daily.

8. I began filing sick call requests every day asking to see the doctor because of my medications. I filed the requests using the paper forms, which I then gave to the officers for them to turn in to medical. After several days of filing paper requests, a staff member told me I should make the request using the tablet, which I did.

9. During this time, I regularly spoke with the nurse who comes to administer medications to people in my housing unit to see if my medication was available. I tried to find someone to help translate my conversation with the nurse since I do not speak English. The

nurses told me that I had to wait to speak to a doctor about my medication. I explained that I needed to take this medication every day, and that I had brought a 30-day supply of my medication when I was detained, but the nurses would only tell me that I had to talk to a doctor. I did not see a doctor regarding my medications or my HIV during my first three weeks at the facility.

10. In January, I started getting a new medication, which was a red pill. I noticed that this red pill was not Dovato because Dovato is a white pill, so I refused the medication the first time that medical staff gave it to me because I did not know what it was. Since I have been in the United States, I have only ever taken Dovato for HIV. The next time that the nurse offered me this red pill, I asked the nurse to tell me the name of the medication. She showed me the medication name on her tablet: Biktarvy. She did not give me any information about what Biktarvy was. I decided to take the medication because I was worried about my health since I had not received Dovato for many days. Then I called my psychologist in San Jose, from before I was detained, and asked if he knew what the medication Biktarvy was for. The psychologist told me it was an HIV medication but that it was not as good as Dovato. I was distressed when my medication was changed without a doctor speaking to me about it. However, I continued to take it because I knew I needed HIV medication. I was very diligent about going to pill call every day to get the medication.

11. During the first three days that I received Biktarvy, I experienced side effects from the medication. I felt very nauseous and experienced headaches. I would have to lie down after taking the medication because of the nausea.

12. Due to the lapses in receiving my medications, I started to feel very sick in early January. I have experienced headaches, fever, bone pain, and on the morning of January 9, I was coughing up blood. I am still feeling poorly, and experiencing headaches, loss of appetite, and am coughing very much. It is very cold in our cells and in the housing unit, and I feel very cold at night. It is so cold that I have difficulty sleeping.

13. I take my health very seriously. Before I was detained, I was very diligent about taking Dovato every single day, at approximately the same time each day. Now that I am

detained, I am not in control of when or whether I take my medication. Doctors have previously told me that it is critical that I take my HIV medication daily as prescribed, and I know it is incredibly dangerous for me to miss any doses.

14. In addition to sick call slips, I filed a grievance about my need to see the doctor about my medication issues, on or around January 10, 2026. I have not received a written response to that grievance.

15. On January 15, I finally saw a doctor to discuss my medication. The doctor said that he would put me back on Dovato but it would take two weeks and I needed to take Biktarvy until then.

16. These problems with my medications have been very stressful. I am afraid that without getting the medication that I need, I could relapse and get sick, and even have to be hospitalized. I have had friends who have died from HIV and I am very scared that this could happen to me if I cannot get the medication that I need. It is also very stressful to be locked up here. I like to take care of myself and my health, making sure to take my medication daily and exercise, which I have not been able to do in this detention facility. It has been very psychologically difficult to be here.

17. I am submitting this declaration because I want the court to know what's happening and I don't want other people to suffer the same problems that I have gone through and to get hurt.

18. I have asked the lawyers not to tell the public my name because my family does not know I have HIV and I don't want them to find out this way. I am also scared of people's reaction. My medical condition and HIV diagnosis is very private, and I am afraid that I could be discriminated against at this facility, in my community, and in my career if my medical condition was public knowledge.

I, [redacted], declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at California City, California this 15th day of January 2026.

[redacted]

ATTESTATION OF TRANSLATOR

I am a native Spanish speaker. On January 15, 2026, I reviewed the above declaration with [redacted] in Spanish, which [redacted] represented to me was his preferred and/or native language.

Gabriela Pelsinger

Gabriela Pelsinger, Investigator
PRISON LAW OFFICE

1/16/2026
Date

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**SUPPLEMENTAL DECLARATION OF HANNAH KAZIM IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

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.

**Supplemental Declaration of Hannah Kazim**

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently and truthfully to these matters.

2. I submitted a declaration in this case on November 13, 2025.

3. I have reviewed the Declaration of Christopher Chestnut, Doc 38-1, in this case.

4. As I indicated in my previous declaration, I am an immigration attorney with the Immigrant Defenders Law Center. Warden Chestnut's declaration incorrectly states that I work for Immigrant Legal Defense.

5. Between August 27, 2025 and December 10, 2025, I sent a total of 11 emails to calcityattorneyschedule@corecivic.com.

6. When scheduling virtual attorney visits (VAVs) with my immigration client detained at California City Detention Facility, I have offered multiple potential times for a call, including up to 7-10 days in the future. I find that if I offer multiple options over a longer time frame that I am more likely to be able to successfully schedule an appointment, avoiding back-and-forth with the facility if all of the sooner times I suggest are already booked. In particular, I understand from my own experience and from the experiences of the immigration bar attorneys who practice in California that California City is generally unwilling to schedule times within a week of a request email, so in recognition of this reality I usually ask for times up to 7-10 days in the future even when this delay would be a hardship to my client and my case preparation.

7. In my experience scheduling appointments with my client who was detained at the California City Detention Facility, the facility consistently picked the date furthest in the future of the options I offered. For example, I emailed calcityattorneyschedule@corecivic.com on October 23, 2025 requesting a VAV and offering October 24, October 29, October 30, and October 31 as potential times for a call. Having not heard back, I sent a follow-up email on October 27, 2025 which stated, "It is crucial that I speak to him as soon as possible. I am available any time today other than 2-3pm and any time tomorrow afternoon, in addition to Wednesday 10/29 before 11 or after 1 and any time Thursday 10/30 or Friday 10/31." I received an email response on October 27, 2025 scheduling my appointment for October 31, 2025.

8. In another example, even when I did not initially suggest sooner times for an appointment, the facility informed me that no appointments earlier than 10 days past when I submitted my request were available. On November 12, 2025, I emailed calcityattorneyschedule@corecivic.com and requested a virtual attorney visit (VAV) with my client. I offered November 20, 2025 or November 21, 2025 as potential times for this call. Having not received a response, I sent a follow-up email on Friday, November 14, 2025 to ask again if there was any availability the following week for a call. On Monday, November 17, 2025, I received the following reply from calcityattorneyschedule@corecivic.com: "While we understand the urgent need, due to limited slots and availability, we unfortunately do not have any availability until 11/21/25, unless we have any cancellations." I had initially offered November 21, 2025 as one of the potential times for a call but, even if I had not, was told that that was the earliest availability for the call.

I, Hannah Kazim, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Los Angeles, CA this January 15, 2026.

Hannah Kazim

01/15/2026

Date

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**SUPPLEMENTAL DECLARATION OF LEE ANN FELDER-HEIM IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

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.

**Supplemental Declaration of Lee Ann Felder-Heim**

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently and truthfully to these matters.

2. I submitted a declaration in this case on November 13, 2025.

3. I have reviewed the Declaration of Christopher Chestnut, Doc 38-1, in this case. In that declaration, Warden Chestnut writes that my colleague, Genesis Fabian, and I "sent 74 emails to calcityattorneyschedule@corecivic.com" between August 27, 2025 and December 10, 2025.

4. I have reviewed my email logs and sent a total of 15 emails on four separate email threads to calcityattorneyschedule@corecivic.com during that time period. Four of these emails, dated September 30, 2025, October 15, 2025, November 14, 2025, and December 4, 2025 were follow-up emails after I had not received a response from the facility. One of these emails, dated September 9, 2025, was just an email that said "Thank you!" in response to a call being scheduled for my client.

5. My colleague, Genesis Fabian, also reviewed her email logs and shared them with me. She sent a total of 7 emails to calcityattorneyschedule@corecivic.com between August 27, 2025 and December 10, 2025.

6. Together, we sent 22 emails between August 27, 2025 and December 10, 2025 to calcityattorneyschedule@corecivic.com.

I, Lee Ann Felder-Heim, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Francisco, California, this 13th day of January, 2026.

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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.

U.S. IMMIGRATION AND CUSTOMS

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

**DECLARATION OF SARALYN OLSON-WAGNER IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Judge: Hon. Maxine M. Chesney

Date Filed: November 12, 2025

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.

**Declaration of Saralyn Olson-Wagner**

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently and truthfully to these matters.

2. I currently work for the Coalition for Humane Immigrant Rights (CHIRLA) as an immigration attorney. I have been an immigration attorney since 2023 and I have been representing clients in removal defense since September 2025.

3. I currently represent one client who is being held at the California City Detention Facility.

4. I have successfully scheduled and completed a virtual attorney visit (VAV) with my client three times, once on October 28, 2025, once on November 19, 2025, and once on December 18, 2025, since he was transferred to California City Detention Facility in October 2025. Each of these were phone calls with no video component.

5. I first reached out to calcityattorneyschedule@corecivic.com to schedule a VAV with my client on October 20, 2025. In that email I proposed the following times for a VAV: "10/21/2025- any time between 8:30 AM and 3 pm; 10/22/25, any time between 12 PM and 5PM; 10/23/2025, any between 11 AM and 5 PM; 10/24/25, any time between 12 PM and 5 PM. If none of these work, I am willing to do a phone call instead." I received a response from the facility on October 20, 2025, which stated: "While we understand the urgent need, due to limited slots and availability, we unfortunately do not have any availability until 10/28/25, unless we have any cancellations." I proceeded to schedule an appointment for October 28, 2025.

6. For my November 19, 2025 VAV with my client, I began reaching out to the facility to request an appointment on November 7, 2025. In my November 7, 2025 email, I asked: "Can you please tell me what is the soonest available meeting next week Monday through Friday?" I received a response the same day that stated: "Availability starts 11/18." I proceeded to ask for available times on November 19th and was able to schedule an appointment for November 19th.

7. I have been trying to schedule another VAV with my client since December 2025. I urgently need to speak with my client to gather information about his physical health in order to

advocate on his behalf concerning his medical care. My client has a history of throat cancer and of strokes and has reason to believe that his cancer may have returned and that he has suffered another stroke while detained at California City.

8. On December 5, 2025, I emailed calcityattorneyschedule@corecivic.com requesting an urgent call with my client. In my email, I wrote: "I urgently need a phone call with him. I am wondering if there's any way I can speak to him today/this evening or tomorrow or Sunday afternoon between maybe 1 and 3? If nothing is possible that soon, then please let me know what the earliest available is." I never received a response to that email.

9. I then attempted to visit my client in person on December 11, 2025. I had previously asked by email, on October 28, 2025, if the California City Detention Facility allowed walk-ins. On October 28, 2025, I received this response to my question "Yes, but different department handles walk ins. You can call the main line and the ext. is 18126." I also checked the California City Detention Facility's website, and it indicates that attorney visits are permitted from 8:00am to 8:00pm daily and does not mention a notice requirement. Further, my experience in other immigration detention facilities is that walk-ins without prior notice are routinely permitted provided attorneys are willing to wait after arriving at the facility. Based on all this information, I arrived at California City Detention Facility around 9:00 am and asked to meet with my client. I was told that I would not be able to meet with my client because I had not previously notified the facility of my visit and the day was fully booked. I asked if I could wait at the facility in case there was a cancellation or a meeting ended early, as is my regular practice when visiting clients in other detention facilities. I was told that I would not be permitted to wait. I left the facility around 9:15am without meeting my client.

10. On December 12, 2025, I emailed calcityattorneyschedule@corecivic.com again to request an urgent call with my client. In that email, I included my availability for a call on December 15, 16, 17, and 18. I did not receive a response to my email. I called the facility on December 15, 2025, and informed the person I reached that I had emailed to schedule a phone call but had not received a response. They scheduled a phone call for me with my client on December 18, 2025.

11. On December 18, 2025, I emailed calcityattorneyschedule@corecivic.com to request a call for December 29. I never received a response to that email.

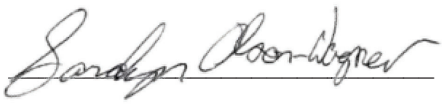
12. In addition to my emails, I have attempted to contact the facility by phone on December 4, 2025, December 5, 2025, December 8, 2025, December 11, 2025, December 15, 2025, December 17, 2025, and January 5, 2026. On December 15, 2025, I managed to reach a person at the front desk, who transferred me to the scheduling person, and I was able to schedule a confidential legal call for December 18, 2025. The phone rang and disconnected each other time I tried to contact the facility by phone.

13. As of January 7, 2026, I still had not received any responses to my emails to the facility, and I sent another follow-up email. I included in my January 7, 2026 email my availability for a call on January 9, 13, 14, and 15. I also noted that: "I urgently need to speak to him. I have been trying to call as well but the phone call is always cancelled after it rings for a while. Please respond to this email." I finally received a reply that day scheduling a call for January 13, 2026.

14. Since December 18, 2025, I have only spoken with my client once when he was able to call me from his dorm. This is not a reliable or sufficient method to access my client because the calls are not confidential since he is speaking in a crowded area where others can hear what he is saying and because I cannot plan in advance to be available for his calls when he is able to get to the phone.

15. On December 11, 2025, I planned to assess my client's physical condition and discuss legal options he may have to address poor medical care in detention. I was not able to communicate with him directly about that application because my in-person visit was denied. I have also been unable to confidentially discuss my client's bond application with him because I have not been provided with a confidential legal call since mid-December. Because of these limitations on my ability to contact my client, I have had to rely on his daughter, who he tries to call regularly, to convey updates on his health and wellbeing.

I, Saralyn Olson-Wagner, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at Los Angeles, California, this 13th day of January, 2026.



Saralyn Olson-Wagner

01/13/2026

Date