IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA , et al.,

Plaintiffs

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants,

NO. C01-1351-T.E.H.

RECEIVER'S FIRST BI-MONTHLY REPORT

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I.

INTRODUCTION.

The Order Appointing Receiver ("Order") filed February 14, 2006 requires that the Receiver file his "Plan of Action" within 180-210 days. In the interim, the Order calls for the Receiver to undertake "immediate and/or short term measures designed to improve medical care and begin the development of a constitutionally adequate medical health care delivery system." Order at page 2-3. In addition, pursuant to page 3, lines 16-22 of the Order, the Receiver must file with the Court on a bi-monthly basis status reports concerning the following issues:

A. All tasks and metrics contained in the Plan and subsequent reports, with degree of completion and date of anticipated completion of each task and metric.

B. Particular problems being faced by the Receiver, including any specific obstacles presented by institutions or individuals.

C. Particular success achieved by the Receiver.

D. An accounting of expenditures for the reporting period.

E. Other matters deemed appropriate for judicial review.

The Receiver reports on issues B though E below.[1] Before this reporting, however, the Receiver believes it important to place the initial activities of his Office into context. He begins with the Findings of Fact and Conclusions of Law re Appointment of Receiver ("Findings of Fact and Conclusions of Law") filed October 3, 2005.

The Court iterated its rationale for placing the California Department of Corrections and Rehabilitation ("CDCR") medical care system into Receivership in the Findings of Fact and Conclusions of Law. The Receiver has been mindful of the Findings when conducting his duties and responsibilities to date. The Receiver has not only verified the Findings but, unfortunately, he has as well concluded that the situation in California's prisons is, perhaps, worse than the

[1] Given that the 180 day Plan of Action is not yet prepared, there will be no status report concerning the plan in this report.

descriptions provided in the Findings of Fact and Conclusions of Law. Because of this, the remedies envisioned may be more dramatic, far reaching and difficult to achieve than previously envisioned. Therefore, in addition to discussing the issues required by the Order, the Receiver will address below three additional issues of importance: (a) the state of the State of California; (b) the waste of taxpayer resources, and (c) efforts to establish the Office of the Receiver.

II.

THE STATE OF THE STATE OF CALIFORNIA

The Receiver has conducted dozens of meetings concerning the medical care provided inside California's prisons during his first sixty days of appointment. He has met and conferred with counsel for the parties, spoken formally and informally with literally dozens of State of California employees, from Governor Arnold Schwarzenegger to the heads of California's control agencies, executives from the CDCR, and correctional staff and health care clinicians working inside the walls of five prisons (San Quentin, the California Institute for Men, the California Institute for Women, the Central California Womens Facility and the Valley State Prison for Women). He has also interviewed inmate/patients. In addition, the Receiver has met with officials of the bargaining units who represent medical care providers in the CDCR, including the Union of American Physicians and Dentists ("UAPD"), the Service Employees International Union ("SEIU"), the California Correctional Peace Officers Association ("CCPOA") and the American Federation of State, County, Municipal Employees ("AFSCME").

The Receiver also reviewed thousands of pages of documents, including budget proposals, inmate/patient medical care charts, internal affairs investigations, policies and procedures, incident reports, memoranda from counsel, and the reports of the Court experts. In addition, as explained below, the Receiver has aggressively moved to assemble a team of top quality staff, including experts in both corrections and medical care. Based on all of the information reviewed and considered during the initial 60-days of the Receivership, the Receiver finds as follows:

A. The medical services provided by the CDCR are without question "broken beyond repair," as found by the Court in the Findings of Fact and Conclusions of Law. Almost every necessary element of a working medical care system either does not exist, or functions in a state of abject disrepair, including but not limited to the following: medical records, pharmacy, information technology, peer review, training, chronic disease care, and speciality services. Similar to the conditions reported by the Court, the Receiver has observed cases where inmate/patients did not receive adequate care because of their inability to access care; also, and perhaps more disturbing, he has reviewed cases where inmate/patients did not receive adequate care even after accessing the CDCR medical care system.

B. The Receiver commenced the task of raising the level of medical care provided to California prison inmates up to constitutional standards with the assumption that prison medical care services will remain, at least in the near term, within the overall framework of the California correctional system. However, two very serious impediments may, over time, render the Receiver's assignment difficult, if not impossible, to complete:

1. Systemic Long Term Overcrowding: Most California prisons operate at 200% of capacity, with no effective relief in sight. Unless and until the living conditions of some prisons and the overpopulation experienced system-wide is effectively addressed, the Receiver will be impeded in applying systemic and even some ad hoc remedies to the medical care system.

2. Instability of Leadership: The Receiver has already dealt with no fewer than three Secretaries or Acting Secretaries of the CDCR. As well, the reassignment, retirement, promotion, or demotion of numerous wardens has significantly contributed to the instability, demoralization and ineffectiveness of the CDCR in both its custody as well as medical care responsibilities.

Given this state of affairs, and the poor reputation that the CDCR has earned as an employer, raising the medical system to constitutional standards may require removing it from the umbrella of the CDCR.

C. The prevalence of "trained incapacity" was correctly noted in the Findings; however, it may have been understated. "Trained incapacity" is a major cultural obstacle. Furthermore, it is both a vertical and horizontal issue, i.e., it involves not only CDCR but all other State Agencies and Departments whose performance significantly affects CDCR's ability to perform adequately and appropriately. Thus, the Receiver affirms that the inadequacy of medical care in California's prisons is not caused by the CDCR alone. As noted in the Findings of Fact and Conclusions of Law, the problems with CDCR medical care are a product of "[d]ecades of neglecting medical care while vastly expanding the size of the prison system [which] has led to a state of institutional paralysis." The present crisis was created by, and has been tolerated by, both the Executive and Legislative branches of the State of the California. Furthermore, these problems have not been adequately addressed by the State's control agencies, including the Department of Finance ("Finance"), the Department of General Services ("DGS"), and the Department of Personnel Administration ("DPA"). For example, the imposition of unreasonable and unfunded bureaucratic mandate, concerning certain essential services (for example, the ability to obtain medical supplies in a timely and cost effective manner and the ability to enter into contracts with specialty providers in a timely and cost effective manner) has all but crippled the CDCR's efforts to provide adequate health care. Therefore, concerning these services, the corrective action required from the Receiver must, of necessity, involve the restructuring not only of the CDCR, but also the operation and oversight of State of California control agencies.

D. It should also be understood that the "trainer" of the aforementioned "trained incapacity" is the State of California itself; including, at least, the Executive and Legislative branches of State government. It may, indeed, not be possible to achieve the mission of the Receivership given the existence of current State laws, regulations, policies and procedures and interpretations of same. This includes existing bargaining agreements for which the State is ultimately responsible. The Receiver references here the non-economic provisions of labor

contracts.[2] Due to labor agreements, statutes, regulations, policies and procedures related to the State personnel system, Civil Service requirements, and the California State Personnel Board, it is virtually impossible to effectively discipline and/or terminate State employees for poor performance, up to and including incompetence and arguably illegal behavior. The sense of hopelessness this creates for supervisors, managers, department heads and others with the responsibility and supposed authority to assure adequate and competent performance of subordinate employees cannot be overstated and has led, in some cases, to the dereliction of their own responsibilities in this regard. In addition, the lack of qualifications, training and, in some instances, competence of the above personnel has created a culture of incompetence and non-performance which, unfortunately, is more rewarded than not within State employment.

E. As noted by the Court in the Findings of Fact and Conclusions of Law, the imposition of the drastic remedy of a Receivership was needed in California's prisons to "reverse the entrenched paralysis and dysfunction and bring the delivery of health care in California's prisons up to constitutional standards." The Receiver finds that the depth of the CDCR medical care delivery problems and the shortfalls of oversight and services from the control agencies, to be so ingrained in operations and thinking, and so severe that the Receiver's remedial process must, of necessity, address both "big picture" policy related concerns as well as extremely detailed procedures, practices, training, and monitoring. To emphasize: there will be no quick fixes. If a quick fix was available, the Court would not have appointed a Receiver.

F. Inmates are not the only prisoners in the California Department of Corrections and Rehabilitation. The Receiver has encountered many CDCR employees, medical providers and correctional personnel who desperately want to do a good job. The medical care crisis in California's prisons was not created by the men and women who toil in the CDCR trenches. The

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[2] The gross underpayment of State employees, especially in clinical, management and support positions who provide services in California's prisons is well documented and, frankly, more easily correctable than non-workable and unduly burdensome State provisions relating to work rules, roles and responsibilities, performance assessments, disciplinary processes and employee "rights" (as currently defined).

Receiver's observations cannot help but lead to the conclusion that the overwhelming majority of State employees involved in activities essential to the Receiver's mission are also prisoners. They are prisoners to a culture that dictates inappropriate rewards and punishments, and a system of operation groaning under the burden of the numerous statutes, rules, regulations, policies and procedures imposed upon them. The Receiver affirms the Court's finding that there are, despite deplorable conditions, individual employees and pockets of employees who continue to perform admirably and provide quality services to patients. Given the realities of the State system, however, the number of such individuals is far too insufficient at this time to enable the Office of the Receiver to achieve its mission.

G. Therefore, after evaluating the health care crisis in California prisons for a period of sixty days, after meeting and conferring with clinicians in the prisons, examining the CDCR's Central Office operation and consulting with his staff, the Receiver concludes that it will be a fatal error to proceed toward correcting the unconstitutional conditions in a haphazard or less than thoughtful manner. In making this finding, the Receiver emphasizes that he has inspected five prisons in sixty days. He has reviewed letters from inmate/patients and the families of inmate/patients, he has interviewed inmate/patients and observed first hand the real life negative impact of staffing shortages, the inability to contract with outside providers, the inability to order basic supplies, and other problems impinging on the efforts of CDCR clinicians to provide adequate care to inmate/patients. The Receiver is painfully aware of the emergent nature of the present crisis. Nevertheless, placing band-aids on gaping wounds, as has been attempted throughout the more than five year course of this litigation, will only worsen the problem and lead to more waste of limited public resources. Furthermore, the ultimate objective of the Receivership must always be kept in mind: to develop a medical care system that can be returned to the State. Given the depth and scope of the existing problems, and given the State-wide responsibility for the problems and the ultimate objective of the Receivership, the Receiver must proceed in an organized and methodical manner to develop a prison medical care system that is adequate, complete, and sustainable on a long term basis. Again, there will be no quick fixes.

III.

THE WASTE OF TAXPAYER RESOURCES

The creation of a constitutional medical care system is entirely consistent with sound fiscal management. While there will be elements of the prison medical care program which, in order to provide constitutionally mandated care, may cost more under the Receivership than they have in the past, the breakdown of the present system also provides significant opportunities for reducing unnecessary expenses through responsible fiscal management. The existing prison medical care system is not only constitutionally inadequate, it is also wasteful. Furthermore, despite numerous audits, statutes, regulations, and policies, the State of California has proven unable to adequately steward the finances of prison health care.

The Receiver lists below a limited number of examples of the waste of taxpayer resources that presently exist in the CDCR medical care system. The Receiver brings these issues to the Court's attention to emphasize two points. First, these examples of waste were created not only by the CDCR, but also by the State's control agencies. Second, for the Receiver to develop and implement a constitutionally adequate medical delivery system for California's prisons, he must not be bound or otherwise limited by the State's bureaucratic paralysis, including the State's ineffective rules and those dilatory fiscal processes which have created the very situation which led to the appointment of the Receiver.

Examples of the waste of taxpayer funds include the following:

A. Equipment: Diagnostic imaging equipment was purchased for the gastroenterology ("G.I.") clinic at San Quentin State Prison. The equipment, ordered four years ago, arrived two years later and has been in storage ever since because the room in which it was to be installed couldn't bear the weight of the purchased equipment. The fluoroscopy unit, an integral part of a G.I. diagnostic procedure, which operates in conjunction with the radiographic unit, was not even ordered. Without that unit, the full complement of diagnostic exams cannot be performed.

B. In-Prison Dialysis Services: The CDCR provides dialysis services for approximately 150 inmate/patients. Dialysis is provided inside the California Medical Facility ("CMF"), but

prisoners who require dialysis at every other CDCR prison are transported outside the prison for such care, an expensive option which requires correctional officer escorts and presents an increased risk of escape. In 2003 the State attempted to contract for in-prison dialysis care for inmate/patients at the Substance Abuse Treatment Facility ("SATF") and Corcoran State Prison. The contract would have lead to significant savings and improved security. However, due to poor contract management, numerous delays created by the DGS contract process and protest rules (the company with the sole source contract for dialysis services outside California's prisons protested the State's award for an in-prison contract, effectively stopping the process), the SATF/Corcoran in-prison contract is not yet, three years later, operational. Meanwhile, the CDCR continues to transport patients to more expensive and unsecure dialysis treatment outside SATF and Corcoran and the State is faced with an additional task: how to dispose of 16,000 syringes which were purchased by SATF in 2001 in anticipation of in-prison dialysis, which are now outdated.

C. Failure to Conduct Timely Investigations and Implement Discipline of Medical Providers Suspected of Inadequate Patient Care.

While the CDCR has attempted to establish various procedures to investigate clinician misconduct, including the delivery of woefully inadequate medical care, these efforts have not been successful. In some cases the clinicians under investigation have been removed from patient care duties; however, because of untimely investigations and discipline, they continue at full pay on the CDCR payroll for, in some instances, several years after the commencement of the investigation.

D. Pharmacy:

1. *Introduction*:

Even prior to the Receiver's appointment, the Court, at the Receiver's request, took action concerning the pharmacy crisis in California's prisons. The Receiver initiated this action primarily because of concern about patient services; however, it quickly became apparent that the California prison pharmacy system, or more accurately the lack of any system, was also entirely

ineffective concerning the contracting, procurement, distribution, and inventory control of necessary patient medications, including controlled substances. Given the massive size of the CDCR pharmacy operation, the lack of centralized controls, the lack of an effective audit program in prisons, and the inherent potential for fraud and theft which exists in the correctional environment, the Receiver made the decision to obtain a timely and independent evaluation of CDCR pharmacy services.

2. *Pre-2006 State Audits of CDCR Pharmacy Services.*

The Receiver's decision to audit CDCR pharmacy services was in no way unprecedented. During the past five years the pharmacy services of the CDCR have been audited by the State Auditor, the Office of the Inspector General, FOX Systems Inc., and the Senate Advisory Commission on Cost Control in State Government. In every instance the auditing agency found serious problems with the management and control of pharmacy services, with dire fiscal consequences.

3. *CDCR and Control Agency Responses to Prior State Audits.*

Following each such audit, the CDCR responded to the auditing agency with a plan for a plan to correct the serious problems found. The plans, however, were premised on the need for additional funding. The funding sought called for very basic improvements in pharmacy services. For example, at present CDCR pharmacists are paid just under fifty percent of the market rate for pharmacists. Not surprisingly, many prisons operate today with up to a seventy percent vacancy rate for pharmacists, filling in, when possible, with contract providers (who are paid through their registry at substantially higher hourly rates than CDCR employees). CDCR requests for higher salaries were, however, not implemented by Finance or DPA. Likewise, one of the glaring deficiencies noted in the prior State audits was a failure to control pharmacy inventory. However, between 2003 and 2006, four CDCR feasibility studies which called for the automated tracking of medications from receipt in the pharmacy to delivery to the patient were delayed due to a "lack of funding." To summarize, despite the serious fiscal consequences of four audits, CDCR and Finance were unable to sit down cooperatively and implement a cost

effective automated pharmacy management system.

4. *The Maxor Audit.*

The Receiver requested that John Hagar (who at the time had been appointed the Court's Correctional Expert) seek approval from the Court to retain Maxor, a Texas Corporation with extensive experience in correctional pharmacy management, to conduct an up-to-date audit of California's prison pharmacy services. On March 30, 2006 an agreement was reached with Maxor, and an audit began promptly thereafter.

In its comprehensive examination of prison pharmacy services, Maxor reviewed all prior audits, conducted on-site inspections of six California prisons, and initiated its own analysis of pharmacy fiscal controls, examining procurement, inventory control, and distribution.

5. *Findings of the Maxor Audit.*

Maxor's Analysis of the Crisis in the California Prison Pharmacy System ("Analysis"), attached as Exhibit 1, confirms all of the deficiencies detailed in prior audits; specifically:

> (1) lack of effective central oversight and leadership; (2) lack of an operational infrastructure of policies, processes, technology and human resources needed to support an effective program; (3) excessive costs and inefficiencies in the purchasing processes employed; and (4) ineffective systems for contracting, procurement, distribution, and inventory control.

Analysis at 5.

Without question, the crisis in the pharmacy system jeopardizes patient care. As noted in the Maxor Analysis:

> The fragmentation of responsibilities and oversight of the CDCR/DGS pharmacy procurement and distribution program has resulted in the absence of clear lines of authority and accountability, a breakdown in communications, inefficiencies, waste, and the potential for illegal diversion, the sum result of which has seriously endangered the quality and appropriateness of offender health care.

Analysis at 17.

From the perspective of providing adequate health care to inmate/patients, the evidence indicates that California's prison pharmacy system needs to be entirely re-organized. Maxor's audit also, however, points out the seriousness of the waste of public resources that resulted because the prison system and California's control agencies have been unwilling or unable to

work together to address the pharmacy crisis. For example:

> Between January 2005 and April 2006, the State of California incurred avoidable CDCR pharmacy expenditures in excess of $7 million dollars.

Analysis at 17.

> DGS has also negotiated favorable drug manufacturer rebate contracts, although it is clear that there is no central reconciliation of rebates, as evidenced by the estimated $650,000 in outstanding rebates CDCR, through DGS, has yet to receive. Similarly, there is no systemic method for ensuring that DGS-contract pricing is honored by the wholesaler and that individual pharmacies purchase contract items in lieu of more expensive non-contract items. As a result, during CY 2005, the State of California was overcharged by more than $700,000 and failed to take advantage of another $5.8 million in preferable contract pricing by not purchasing the most cost effective DGS contracted items.

Analysis at 19. *See also* the page 19 chart detailing the Top 20 "Missed Savings Opportunities."

> [S]ignificant discrepancies in the prescription dispensing data were identified that indicate a high potential for drug diversion and negative clinical outcomes. Upon initial review, the difference between quantity purchased and quantity dispensed was up to 99% varying by drug and facility, indicating that purchases exceeded documented use by vast margins. It was later explained to Maxor by CDCR staff that the quantity dispensed may be documented by the computer system in nontraditional ways.

Analysis at 20.

> In summary, California's 2005 drug costs are approximately $46 to $80 million dollars higher than comparable correctional programs, even after adjusting for pricing and population.

Analysis at 24. *See also* the page 24 chart comparing California's drug cost expenditures to the Federal Bureau of Prisons and the state prison systems in Texas and Georgia.

6. *The Hearing of July 26, 2006.*

The pharmacy crisis poses an immediate and serious threat to patient care. Furthermore, as noted in the Analysis at page 25, "[i]f immediate and substantial corrective action is not initiated, CDCR offender drug purchases are projected to rise more than 50% over the next three years." Therefore, at the Receiver's request, the Court has calendared a hearing concerning the pharmacy crisis for Wednesday, July 26, 2006. The hearing will begin at 10:00 a.m. in Courtroom 12 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California. Representatives for Maxor will testify at

the hearing and following that testimony the Receiver will propose a plan for immediate and substantial corrective action.

IV.

ESTABLISHING AN OFFICE OF THE RECEIVER

A. California Prison Healthcare Receivership Corporation ("CPR").

While beginning the process to repair California's prison medical system, the Receiver simultaneously began to establish the infrastructure and organization of the Office of the Receiver. It has been a significant undertaking involving both strategic actions, such as establishing office space and recruiting the Receiver's staff, and more mundane efforts, such as equipping and supplying the office.

The Receiver has established the California Prison Healthcare Receivership Corporation ("CPR"), a California nonprofit public benefit corporation, to provide a corporate embodiment for the Office of the Receiver. Most of the affairs of the Office of the Receiver, such as staff employment, contracting and banking, are being conducted through CPR. The CPR Articles of Incorporation and Bylaws are attached as Exhibits 2 and 3.

The Receiver is grateful for the pro bono legal assistance that the firm of Morgan, Lewis and Bockius LLP provided to the Office of the Receiver in establishing the office. In particular, the Receiver would like to thank Amanda Smith and Jim Penrod for their oversight of the project; Tomer Inbar, Alexandra Thomas, Jesse Minier and Drew Porter for their assistance in incorporating the office, Devon Block and Steve Finn for their assistance in negotiating the office lease; and Alexander Nestor and Daryl Landy for their assistance with employment matters.

B. Office Location.

The Office of the Receiver will be located at 1731 Technology Drive, Suite 700, San Jose, CA 95110. This space is currently undergoing tenant improvements and will not be occupied until approximately August 1, 2006. Until that time, the Receiver's office will remain in temporary quarters.

C. Staff Appointments.

The Receiver, with the approval of the Court, has appointed several staff members to positions within the Office of the Receiver. Brief descriptions of the Receiver's staff follow.

Linda Buzzini is a Staff Attorney for the Office of the Receiver. Ms. Buzzini worked for the State Personnel Board and the Departments of Health and Developmental Services until 1984 when she was appointed by Governor Deukmejian and assumed responsibility for labor/management relations with State employed firefighters. She became an attorney for the Department of Personnel Administration (DPA) in 1996 where she practiced labor and employment law in various forums, including the California Court of Appeal and the California Supreme Court. She represented Governor Davis in labor contract negotiations with the California Correctional Peace Officers Association (CCPOA), the Service Employees International Union, Local 1000, the Professional Engineers in California Government (PECG) and the Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE). In October 2002, Ms. Buzzini became Deputy Chief Counsel for the Department of Personnel Administration. In February 2004, she prepared a *Madrid* remedial plan on behalf of the California Youth and Adult Correctional Agency. Since returning to the Department of Personnel Administration, Ms. Buzzini has represented various State agencies in cases pertaining to State employment and labor/management relations.

Lori Estrada-Kirn is the Special Assistant to the Receiver. Ms. Estrada-Kirn is responsible for the administrative affairs of the Receiver and the day-to-day operation of the Receiver's office, including coordinating the Receiver's calendar, contacts and correspondence, and managing the office's facilities, administrative and support functions. Ms. Estrada-Kirn comes from Santa Clara County's Health and Hospital System where she worked with Robert Sillen for nearly 25 years and most recently as a Health Care Program Analyst. During that time, Ms. Estrada-Kirn provided direct administrative support to Mr. Sillen, supervised support staff, responded to customer, staff and public inquiries, assisted in the development of policies and procedures, participated in special projects and executive management meetings and coordinated

the Health and Hospital Committee for the County Board of Supervisors.

Jared Goldman is a Staff Attorney for the Office of the Receiver. Mr. Goldman worked for the County of Santa Clara, Office of the County Counsel as a Deputy County Counsel from 2001 to 2006. While at the Office of the County Counsel, Mr. Goldman represented the Santa Clara Valley Health and Hospital System, including Santa Clara Valley Medical Center and the Santa Clara County Public Health Department. From 2004 until joining the Office of the Receiver, Mr. Goldman served as the primary counsel for Santa Clara Valley Medical Center. Mr. Goldman's practice areas include health care operations and compliance, contracts and general government.

John Hagar is the Chief of Staff of the Office of the Receiver. Mr. Hagar is an attorney from San Francisco with extensive litigation experience in jail and prison cases, including class action injunction cases and damage jury trials. For approximately twenty-five years Mr. Hagar has provided legal workshops for jail and prison managers throughout the United States. He is certified as a law enforcement trainer in numerous states, including Alabama, Alaska, California, Colorado, Oregon, and Washington, and serves as a consultant for the National Institute of Corrections. Mr. Hagar was the State Court appointed Monitor over all jails and prisons in Alaska (*Cleary v. Smith*) and is presently the Special Master appointed by the Honorable Thelton E. Henderson over Pelican Bay State Prison (*Madrid v. Tilton*). In addition, Mr. Hagar has previously been appointed as the Court's Correctional Expert in this litigation.

Lara Hasik is the Coordinator of Projects and Receivership Activities for the Office of the Receiver. Ms. Hasik worked for the California Department of Corrections and Rehabilitation (CDCR) for the past six years. For the past two years, Ms. Hasik monitored compliance and coordinated remedial efforts under the *Madrid v. Tilton* (Post Powers) remedial plan related to CDCR's employee discipline and internal affairs investigation processes. This included revising the statewide policy governing employee discipline, assisting in the development of the Employee Disciplinary Matrix, and coordinating the implementation and statewide training of staff on the Matrix and all related disciplinary process revisions. Ms. Hasik also tracked

completion of related remedial tasks and composed all reports and correspondence related to the progress of the remedial plan. From 2000 to 2004, Ms. Hasik worked within the Division of Correctional Health Care Services on the initial *Plata v. Schwarzenegger* policies and procedures, served as the Division's Legislative Coordinator, and developed various healthcare-related policies, procedures, and training materials.

Kristina Hector is the Inmate Patient Relations Manager for the Office of the Receiver. Since 2001, Ms. Hector has worked with Judge Thelton E. Henderson and Special Master John Hagar on the case of *Madrid v. Tilton*. Ms. Hector's duties include working closely with the Special Master, Court appointed experts, the CDCR and affiliated agencies to create and implement new policies and procedures, reviewing inmate complaints of inappropriate use of force by prison officials, and corresponding with inmates and inmate advocates regarding medical care. Ms. Hector has a B.A. in Political Science from UC Berkeley and is a graduate of UC Hastings College of the Law. At Hastings, Ms. Hector was a co-founder and editor of the Hastings Race and Poverty Law Journal, the first such journal of its kind at Hastings to address the issues facing under-represented minority and poor communities. She is a member of the California State Bar.

Terry Hill, M.D. is the Chief Medical Officer for the Office of the Receiver. Dr. Hill, a geriatrician, was Senior Medical Director for Quality Improvement at Lumetra, the Medicare Quality Improvement Organization for California. From 1999-2004 he was medical director of Laguna Honda Hospital. Dr. Hill is on the core faculty of the Stanford Geriatric Education Center and is an Assistant Clinical Professor in the Department of Medicine, UC San Francisco. He serves on the National Quality Forum's Palliative and Hospice Care Review Committee, and he co-chairs the California Coalition for Compassionate Care. He is a board member of the California Institute for Health Systems Improvement, a consultant to California Medical Association's Committee on Quality Care, and a leader in the California Adult Immunization Coalition. He is immediate past-president of the California Association of Long Term Care Medicine. Dr. Hill was in private practice in Oakland from 1994-1999. He has led program

development for hospitals and managed care organizations and he has been medical director of retirement communities, nursing facilities, adult day health centers, and a hospice program. His research and writing has focused on end-of-life care, winter viruses, nurse-physician communication, and ethnogeriatrics.

Rachael Kagan is Director of Communications for the Office of the Receiver, where she oversees media activities, strategic communications and external relations. Ms. Kagan previously served as Director of Communications for the California Association of Public Hospitals and Health Systems, which represents the state's public hospitals that treat all in need regardless of ability to pay, insurance or immigration status. Ms. Kagan's work in health care communications draws on a varied background in policy and journalism. She was Public Information Officer for the Alameda County Medical Center; Publications Director for the Petris Center on Health Care Markets and Consumer Welfare at the University of California, Berkeley, School of Public Health; and Director of the Health Care Quality Project for the California Works Foundation. She also covered health care for the Oakland Tribune and ANG Newspaper group. Ms. Kagan covered education in Paterson, New Jersey and immigration in the region for the North Jersey Herald & News. She began her career at the American Committee on Africa in New York, NY, the organization that orchestrated the successful sanctions and divestment strategy against South Africa's apartheid regime. Her freelance portfolio includes Ms. Magazine, The Nation, Modern Physician and NurseWeek. Ms. Kagan earned a bachelor's degree in History from Macalester College in St. Paul, MN and a master's in Journalism from Syracuse University.

Vincent Marengo is the Director of Facilities Engineering for the Office of the Receiver. Mr. Marengo has a total of twenty years experience in facilities management and engineering. For the past year, Mr. Marengo was the Director of the Department of Public Works for the City of Petaluma where he was responsible for operations and maintenance, engineering and inspections, private/public programs management and projects, traffic engineering, transit and solid waste, public grants, city infrastructure and street rehabilitation and maintenance. Prior to that, Mr. Marengo spent five years as the Senior Regional Manager, Facilities, America's Pacific

Region, for Cisco Systems, Inc., where he managed facility operations for 1000-2000 multiple employee sites. Mr. Marengo has also been the Senior Manager, Facilities Engineering for Komag, Inc., and the Manager of Facilities and Security for ZyMOS Corporation.

Joe McGrath is Director of Custody Support Services for the Office of the Receiver. Joe McGrath has worked in California corrections for 27 years and recently retired from the position of Chief Deputy Secretary, Adult Operations, for the California Department of Corrections and Rehabilitation (CDCR) where he was responsible for prison and parole operations State-wide. Mr. McGrath also served as the Assistant Secretary, Office of Internal Affairs with the CDCR where he improved and implemented statewide employee investigation and discipline processes for the Department. Prior to that Mr. McGrath was the Warden at Pelican Bay State Prison for several years. During his tenure at Pelican Bay, Mr. McGrath co-authored California's use of force policy and procedure, and the health care remedial plan in connection with the case of *Madrid v. Tilton*. He is an industry expert in prison security operations and recently co-authored a chapter of a text book entitled Managing Special Populations in Jails and Prisons, New York: Civic Research Institute. Mr. McGrath is a certified Phi Theta Kappa instructor in leadership and ethics for public safety officers and earned a Bachelor of Arts degree in Corrections and Social Justice from California State University, Sacramento.

D. Establishing the Receiver's Presence in Prison Operations.

1. *Introductions.*

The Receiver devoted significant time during his first sixty days meeting and conferring with State officials, including the Governor and his staff, the Directors of California's control agencies, the Inspector General, Senate leaders, three CDCR Secretaries, all CDCR Wardens, Health Care Managers and Directors of Nursing, health care staff who work in Headquarters at 501 "J" Street, CDCR officials responsible for internal affairs investigations and staff discipline, officials from the Office of the Controller, and correctional and medical care personnel working at five CDCR prisons.

2. *Prison Visits.*

The Receiver visited five State prisons during his initial two months of duty: San Quentin State Prison on April 18, 2006, the California Institute for Men ("CIM") in Chino and the California Institute for Women (CIW) in Corona on May 16, 2006, and Valley State Prison for Women and Central California Women's Facility in Chowchilla on June 18, 2006.

These visits were not formal "inspections" aimed at documenting the conditions of the facilities medical delivery system. The documentation of the crisis facing the State's prisons, which forms the basis of the receivership, is already replete and beyond dispute. These trips were, instead, brief visits with the goal of meeting the facilities' staffs, sharing information about the receivership, and providing the Receiver and his staff a first hand, general impression of the needs of the facilities. Each visit began with introductions, a briefing by the Receiver, and an opportunity for questions by facility staff. Tours of the respective facilities followed, and the visits ended with discussions of the facilities' immediate needs and the Receiver's future expectations. The staff of all five prisons were hospitable. Wardens, Health Care Managers, Chief Medical Officers, Directors of Nursing, and their staff provided open access to facilities, personnel, and inmate/patients. As set forth above, the crisis faced by the prisons' medical system was readily apparent during the facility visits.

Common themes were reiterated at each institution. Identical to the problems found by the Court Medical Experts, clinicians at the prisons expressed concern about inadequate clinical space, staffing, equipment and supplies. To describe one example, the Triage and Treatment Area (TTA) (the emergency treatment unit) in the Acute Care Hospital of CIM lacked staff trained in emergency medicine or Advanced Life Support (ALS) techniques; lacked a sufficient number of working cardiac monitors, blood pressure cuffs, surgical lights and gurneys; and the floor was damaged to a degree which prevented appropriate cleaning and sanitation.

It should be noted that despite the grave problems encountered, the morale of the line staff of all five facilities was good and all clinical personnel expressed hope in the future now that a Receiver had been appointed by the Federal Court.

Following each visit, prison personnel were provided an opportunity to present the Receiver and Division of Correctional Health Care Services with a list of their basic and unmet equipment and supply needs—their "low hanging fruit." These lists are currently being reviewed, and the Receiver will ensure that any equipment or supplies necessary for patient care will be provided to the facilities. The Receiver plans to visit approximately two State prisons a month until he has visited all thirty-three of the State's facilities.

3. *Communications.*

a. Introduction.

The restructuring and improvement of prison medical care cannot be effectuated without significant improvements in communication between those who lead the medical care system and the clinicians, correctional officers, and support staff who provide services in the prisons. Likewise, inmate/patients, the same as any other group of patients, deserve honest and straight-forward information about the Receiver's efforts, as do the public and State officials. Therefore, one of the priorities established by the Receiver during his first sixty days was to begin to build an effective system for communicating with staff, patients, the public, and the State.

b. Office of the Receiver Communications Department.

The Receiver's Communications Department encompasses the following areas: strategic communications advisor to the Receiver, media, publications, public information, public affairs, and external relations -- including government and community affairs, inmate/patient and staff relations. The first two months of the Receivership focused on establishing the basic functions of the areas outlined above, providing day-to-day communications support to the Receiver, and having the Director of Communications, Rachael Kagan, become familiar with the many facets of the California prison medical care system. In addition, Ms. Kagan initiated relationships with journalists who report about corrections in California, responded to press inquiries, and made the Receiver available for interviews upon request (for example, on KCBS and KQED radio news). She also met with CDCR Communications Office personnel in order to establish the appropriate working relationship and to provide direction to CDCR staff as appropriate.

c. Public Information: Media, Publications.

The Office of the Receiver circulated two of an ongoing series of public "Letters from the Receiver" that were distributed to CDCR staff, members of the State Legislature, the Governor's Office, State Administrators, and the bargaining units that represent prison medical care employees. *See* Exhibits 4 and 5. Over time, the Letters will be utilized to inform the audience about how the Receivership works, and as an instrument to deliver news about the Receiver's efforts to bring the California prison system medical services up to constitutional standards.

d. External Relations – Government and Community Affairs.

Ms. Kagan also established relationships with her counterparts at CDCR in the areas of government and community affairs: Joyce Hayhoe, Assistant Secretary, Office of Legislative Affairs; Dean Borg, Adult Operations and Programs Office of Legislation; Del Sayles-Owen, Director, Division of Community Partnerships; David DeLuz, Northern California Coordinator for the Division of Community Partnerships. These meetings were introductory in nature, to learn how these people fulfill their functions and to provide them with the current information about the Receiver's efforts and answer any questions they have about the Receiver, the Receivership, and how the Office of the Receiver will interact with them.

e. Inmate/Patient and Staff Relations.

As mentioned above, an important audience concerning the Receiver's work are the inmate/patients in the prisons and the clinical staff who work inside individual institutions. Effectuating accurate and regular communication with these groups performs two important functions. First, it provides relief and recognition for two populations who have been largely ignored by the prison medical care system in the past. Second, correspondence from inmate/patients and from clinical staff provides the Receiver with a window into specific circumstances and problems that he may not have access to from other sources, missives that will help inform the Receiver's efforts, describe trends and patterns in medical care and will assist in setting priorities.

To facilitate this aspect of the Receiver's communication effort, as explained above, Kristina Hector will serve as the Inmate Patient Relations Manager for the Office of the Receiver. To begin to effectuate this program, Ms. Kagan and Ms. Hector met with the CDCR inmate grievance coordinators, the staff at the Prison Law Office who field inmate complaints, and the CDCR's Ombudsmen Office in order to learn how their role of responding to prisoner and staff complaints may compliment the Receiver's efforts.

f. Communications Planning.

In the near future, the Communications Department of Office of the Receiver will address the following issues:

1. Web site – development, design, content, and maintenance.

2. Constituent communication plan - developing specific instruments for the San Quentin Project (to be discussed below), inmate/patients, CDCR staff and the general public.

3. Media - outreach, creation of statewide media list, and phase one strategy.

4. Additional Staffing – including increased writing and production capacity.

V.

PROBLEMS BEING FACED BY THE RECEIVER, INCLUDING ANY SPECIFIC OBSTACLES PRESENTED BY INSTITUTIONS OR INDIVIDUALS.

A. Introduction.

In general, the initial response by State of California officials to the Receivership has been positive. Without question, the Receivership has been greeted by the health care staff in the prisons and by inmate/patients with relief and strong commitments of cooperation.

The major problem encountered by the Receiver during the first sixty days following his appointment, however, is very serious. The problem involves the need to fund the constitutionally mandated improvement in medical care services in California prisons in a carefully planned but timely manner.

B. Funding the Substantive Changes Ordered by the Receiver.

The Order at Paragraph I.C. states as follows:

> The Receiver shall determine the annual CDCR medical health care budgets consistent with his duties and implement an accounting system that meets professional standards. The Receiver shall develop a system for periodically reporting on the status of the CDCR's medical health budget and shall establish relations with the California Office of Inspector General to ensure the transparency and accountability of budget operations.

Following his appointment, the Receiver was presented with a proposed plan for Fiscal Year 2006-07 whereby the State would fund the Office of the Receiver through an "unallocated" account within the budget for the CDCR, Division of Correctional Health Care Services.[3] This proposed Budget, if it had been approved, would have provided up to $250,000,000 for use as directed by the Receiver, including funding of the Office of the Receiver. This funding was to have been above the approximately $1.4 billion proposed by the Governor for the Budget of the Division of Correctional Health Care Services. See Exhibits 8, 9 & 10.

In an effort to work cooperatively with the State concerning finances, especially given the timing of the Receiver's appointment and the State's 2006-2007 budget cycle, the Receiver agreed to consider this approach (but not any specific limits on funding) for 2006-2007. By June 19, 2006, however, the proposed plan had been amended to reduce the $250 million to $100 million. *See* Exhibit 11. After discussing the most recent proposal with CDCR officials knowledgeable of the fiscal requirements needed to improve prison health care, and considering other options with his staff, the Receiver has concluded that the State's proposed plan for the prison medical budget requires further development and specificity.

The Receiver has requested that his Chief of Staff and Staff Attorney meet with the appropriate State officials in an effort to achieve an immediate resolution to this problem. Thereafter, the Receiver will issue a special report to the Court which will include the following:

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[3] Negotiations between the Court and Finance began prior to the effective date of the Receiver's appointment. *See* Exhibits 6 & 7.

A. Recommendations for a hearing concerning whether the Court should take further action in order to waive State requirements that impede the funding of necessary changes to the prison medical care system pursuant to Paragraph II.D. of the Order and;

B. To request that the Court issue orders mandating that the State provide the funding for specific projects out of the General Fund and/or issue a writ of execution for the levy of State funds sufficient to appropriately fund the California prison medical system.

VI.

SUCCESS ACHIEVED BY THE RECEIVER.

Given the emergent nature of the medical care crisis that afflicts California's prisons, the Receiver performed an initial assessment concerning State-wide prison medical problems and made the decision to begin to solve three previously intractable but serious medical care problems - inadequate salaries, the collapse of the CDCR system of contracting for specialty care, and pharmacy services - during the first sixty days following his appointment.

A. Fair and Adequate Compensation for Prison Health Care Personnel.

Perhaps the most serious impediment to improving the delivery of medical care in California's prisons is inadequate pay for all types and levels of health care professionals. In late 2005 the Court issued interim orders requiring recruitment and retention differentials for nurses, mid-level providers, and physicians. While those increases have had a positive impact concerning certain clinician positions at certain prisons, no one seriously argues that the compensation presently offered to prison health care personnel is adequate in terms of recruiting, hiring and retaining the quality and numbers of staff needed to accomplish the objectives of the Receivership. Unfortunately, the CDCR, Finance, and DPA have allowed the salaries of the health care professionals to fall to such uncompetitive levels that it is impossible to recruit and retain enough clinicians, pharmacists, and health care managers to operate the California prison

medical care system within constitutional requirements.

This in turn has forced CDCR officials to shift significant public resources to private providers. For example, the CDCR has entered into a series of state-wide contracts with nursing registries, physician provider groups, and pharmacy providers who send contractors into various CDCR institutions. These contractors are paid an hourly rate which far exceeds the salaries of State employees; in fact, the salaries of the contractors often exceeds the salary of the CDCR managers who supervise them. It is important to emphasize that no real taxpayer savings result from the intolerably low salaries of prison health care employees. Instead, according to recent audits, the cost of compensation simply shifted from State employees to the private providers. For example, the total annual cost for contract health care services in the CDCR has increased from approximately 153 million dollars in 2000-2001 to approximately 821 million dollars in 2005-2006, an increase of 668 million dollars or 537%.

The Receiver considers this problem a top priority. In that regard, he made significant progress toward determining the amounts and methods to be utilized in increasing the pay for prison medical personnel during the first sixty days of the Receivership. The Receiver is finalizing a plan to raise salaries within the next sixty days. At that time, he will issue a special report concerning health care compensation.

B. Contracting with Specialty Care and Other Out of Prison Providers.

1. *Introduction.*

On March 30, 2006 the Court filed its Order re State Contracts and Contract Payments Relating to Service Providers for CDCR Inmate/Patients ("Order re Contracts"), noting:

> another chilling example of the inability of the CDCR to competently perform the basic functions necessary to deliver constitutionally adequate medical health care. In this instance, the abdication not only threatens the health and lives of inmates but also has significant fiscal implications for the State.

Order re Contracts at 1:25-28.

As explained in the Order re Contracts, following findings by the California State Auditor of serious fiscal problems relating to CDCR contracts with outside clinical providers, the DGS

established a mandatory policy for obtaining competitive bids for all such contracts, absent certain special circumstances. The State, however, proved incapable of implementing these new requirements. As found by the Court:

> Instead of approaching these new requirements proactively, the CDCR and the State's control agencies - the Department of Finance, the Department of Personnel, and the DGS - stuck their collective heads in the sand. The administrative processes required by the new DGS requirements are quite time-consuming and complex. Yet the CDCR and the State's control agencies failed to provide the staffing and training necessary to handle the newly heightened obligations and implement effective fiscal controls over the contracting process.

Order re Contracts at 2:27 to 3:6.

As a result, the CDCR process for negotiating, processing, renewing, and payment of medical contracts collapsed. Effective April 17, 2006 the Receiver assumed responsibility for overseeing the State's compliance with the provisions of the Order re Contracts, including the Court's mandate (1) that "all current outstanding, valid, and CDCR-approved medical invoices" be paid within 60 days of March 30, 2006; and (2) that under the direction of the Receiver, the CDCR and State entities responsible for contracts develop and institute health care oriented policies and standards to govern the CDCR medical contract management system considering both the need for timely on-going care and the fiscal concerns of the State.

2. *Payment of Outstanding Invoices.*

The CDCR paid outstanding invoices within 60 days in compliance with the Order re Contracts. This effort called for diligence, organization, and constant monitoring, as well as improved coordination between the prisons and CDCR's Central Office and improved cooperation between health care personnel and accounting/contracts personnel. The success of this effort demonstrates that CDCR personnel can, when called to do so and when provided with the appropriate direction, incentive and support, respond to problems in a timely manner. Credit should be given to Richard Kirkland, Deputy Director of Budgets and Tim Gilpin, Associate Director (A) of CDCR Accounting Services for managing the project and reporting accurately to the Receiver both successes and problems; however, literally dozens if not hundreds of rank and

file employees should also be complimented for their hard work reducing the payment backlog.[4] [5]

3. *Development of Health Care Oriented Policies to Govern Contract Management.*

After some initial implementation problems, the State, at the Receiver's direction, has formed what appears to be an effective inter-agency team that appears to be moving forward toward the development of health care oriented policies and standards to govern the CDCR medical contract management system. This process is being monitored by John Hagar and Jared Goldman of the Receiver's staff on a bi-weekly basis.

This project is an important test concerning whether the CDCR and the State's control agencies can begin to work proactively together to solve serious problems that implicate inmate/patient health care, or whether the only way to solve this sort of problem is to remove the contracting and accounting function from the State.

The Project Charter is attached as Exhibit 12. The Receiver will provide the Court with updated status reports in his future bi-monthly reports.

C. Pharmacy.

The status of prison pharmacy services and the results of the Maxor audit are discussed above.

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[4] Problems continue to arise concerning the management of timely payment to providers. The problems appear to be indicative of the complications and bureaucratic delay that was built into the existing system for payment, and not poor fiscal management on the part of CDCR officials. The problems should be addressed by the new, more timely payment system that is presently being developed.

[5] The State Controller's Office also took significant steps to process CDCR health care disbursements on an expedited basis during the sixty-day period.

VII.

ACCOUNTING OF EXPENDITURES FOR THE REPORTING PERIOD.

A. Revenues.

In accordance with section III.C of the Court's February 14, 2006 Order Appointing Receiver, the State established an initial operating fund with the Court in an amount of $750,000 for use by the Office of the Receiver. Subsequently, the Office of the Receiver established an interest bearing Office Fund Account, as required by section III.E of the Order, for the maintenance of funds received by the office. The entire initial operating fund established by the State has been transferred to the Receiver's Office Fund Account.

Section III.E of the Order Appointing Receiver requires that the Receiver "arrange with Defendants a system for regularly replenishing the Receiver's Office Fund Account." The State has proposed two primary methods of funding the Office of the Receiver—one applicable in the current Fiscal Year, and the other applicable beginning in Fiscal Year 2006-07. For funding in the current Fiscal Year, the State has elected to provide the Office of the Receiver funds from the existing 2005-06 CDCR Budget. To date, the State has been cooperative in this regard. On Friday June 2, 2006, the Receiver requested $2,000,000 for the Receiver's Office Fund Account, with the condition that these funds not be taken from any custody or health care operating fund. With the cooperation of Acting CDCR Secretary James Tilton, the transfer of funds was accomplished in a timely manner.

B. Expenses.

The total operating and capital expenses of the Office of the Receiver from the effective date of appointment to June 30, 2006, equaled $447,136. A balance sheet and statement of expenses is attached as Exhibit 13.

C. 2006-2007 Annual Budget for the Office of the Receiver.

As required by section III.F of the Court's February 14, 2006 Order Appointing Receiver, the Receiver has established a budget for the Office of the Receiver's first year of operation. The Receiver estimates a Fiscal Year 2006-2007 operating budget of $8,383,510. The major expense

items are salaries and contractors which are estimated at $4,600,000 and $3,200,000 respectively. The Receiver anticipates employing approximately twenty-six full time employees in various executive and support staff positions. In addition, the Receiver anticipates engaging consultants and other contractors in areas such as pharmacy services, medical records, purchasing/supply management and information systems. Lease payments for administrative office space in San Jose, California will total $177,860. And capital expenditures, including the purchase of furniture, fixtures, equipment will total approximately $360,000. A budget summary and detail are attached as Exhibit 14.

The budget presented in this report is an estimate and may be subject to significant revision. In particular, it is likely that the number of employees and the degree of contract services required by the Receiver will change as the Receiver's plan for improving the prison medical system evolves. The Receiver will provide the Court with an updated budget for the Office of the Receiver as one element of the Plan of Action to be filed with the Court in approximately 140 days.

VIII.

OTHER MATTERS DEEMED APPROPRIATE FOR JUDICIAL REVIEW.

A. Coordination Between *Plata* and *Coleman*.

Significant areas of overlap exist between the California prison medical delivery system, the subject of the *Plata* litigation, and the California prison mental health delivery system, which is the subject of a class action case in the United States District Court for the Eastern District of California entitled *Coleman v. Schwarzenegger* ("*Coleman*"). To ensure the efficient use of resources, and to avoid conflicting orders, the Honorable Thelton E. Henderson and the Honorable Lawrence K. Karlton conducted a joint hearing concerning the issue of coordination on June 8, 2006. The Receiver and Special Master Michael Keating will conduct an initial face-to-face coordination meeting on July 11, 2006, and plan to meet and confer at least every two months thereafter.

B. The July 2006 San Quentin Project.

1. *Introduction.*

On July 5, 2006 the Office of the Receiver will commence its first prison specific corrective action project: improving medical services provided at San Quentin State Prison. The Project objective is to create a clinical environment where health care professionals can provide quality medical care to inmate/patients. To effectuate this, additional and appropriate clinical space will be needed, as will improved working conditions, including salary increases and staffing increases. The project is limited to improving the operational basics of medical care; it should not be considered transformative. For example, the Office of the Receiver is not going to "fix" San Quentin. The prison is too troubled, too decrepit and too overcrowded for fixing. Nevertheless, improvements with the delivery of medical care should be achieved through a carefully planned, timely and limited project.

2. Project Focus.

The Project focuses primarily on environment, equipment, supplies, and staffing. It will not change the medical record system, but it will ensure that the current system works as well as it can. Objectives for the Project include ensuring a clean environment for medical care delivery; improving operations, providing adequate resources concerning supplies, staffing (including appropriate salary levels) and equipment; implementing programs for the appropriate screening and placement of inmates in need of medical services; improving access to and operation of specialty and ancillary services; and addressing custody-health care interface issues that impinge on each group's ability to support and deliver timely, quality medical care.

3. Project Purpose.

The project will assist the Receiver in accomplishing the restructuring and development of a constitutionally adequate medical care delivery system in two ways:

First, the project will deliver timely and needed relief in the clinical trenches by improving the day-to-day conditions encountered by inmate/patients and staff. By addressing long-neglected but relatively straightforward issues such as supplies, equipment, cleanliness,

staffing and salaries, the project should shift staff's attitudes from one of low expectations to one of hope and thereby improve the quality of care and clinical outcomes. The Project's initial results should facilitate recruitment and commitment at San Quentin, and create the preconditions for a more transformative process in the future.

Second, the Office of the Receiver will utilize the Project to gain insight concerning the most effective manner to address systemic problems. Especially important will be the Project team's evaluation of the impact of State business practices, State laws, rules, regulations, policies and procedures which have created the unconstitutional medical care being delivered at San Quentin.

Upon completion of the San Quentin Project, the Office of the Receiver will be better equipped to assemble a package of corrective interventions that can be used at other prisons. Given the variety of patients and security levels at San Quentin, and the difficulties inherent in the delivery of medical care within its antiquated structures, the prison is an ideal laboratory to test proposed improvements in prison medical care.

4. Project Duration.

The project will take place over a ninety day period; however, certain elements of the Project may continue longer. The Office of the Receiver will continue to, after the ninety day period, monitor and re-calibrate certain corrective actions.

5. Project Team.

The Receiver will install a team on-site to direct and support change. The project leader is John Hagar, Chief of Staff. The Project Team itself includes Joe McGrath, Director of Custody Support Services; Terry Hill, M.D., Chief Medical Officer; Vince Marengo, Director of Facilities Engineering; Lara Hasik, Coordinator of Projects and Receivership Activities, and Kathy Page, Correctional Nursing Expert.

Day-to-day operational chain of command remains in place. For example, Peter Farber-Szekrenyi will continue to manage the daily operations of the Health Care Services Division related to San Quentin, and coordinate with the Receiver's office. Dr. Karen Saylor will continue

to function as the Acting San Quentin Chief Medical Officer.

6. Project Elements.

The aspects or elements of San Quentin health care services that will be improved through the Project are set forth below. For each element a team will be assembled that includes both Office of the Receiver staff and San Quentin personnel.

1. Clinical Space
2. Custody/Clinical Relations
3. Diagnostic Imaging
4. Equipment
5. Evaluate *Plata* Remedial Plan Requirements
6. Facility Maintenance
7. Laboratory
8. Medical Records
9. Organizational Structure
10. Outpatient Housing Unit (OHU)
11. Patient Complaints/Grievance Process
12. Reception Standards and Compliance
13. Salaries
14. Sanitation/Janitorial
15. Specialty Services
16. Staffing
17. Supplies

IX.

SUMMARY

As evidenced in the foregoing, the Receiver has reaffirmed the Court's Findings of Fact and Conclusions of Law wherein the utter disrepair of the State's prison medical care system, and relevant support systems upon which the medical system relies, is well documented. The

challenge of bringing access to and the quality of medical care up to constitutional requirements will be even greater than previously anticipated and may entail a significant overhaul of State rules, policies, and practices up to and including the current responsibilities and performance of not only CDCR but, as well, State overhead and control agencies. Labor contracts may also have to be reshaped in order to accommodate salary increases as well as changes to work rules and disciplinary processes.

In addition to dealing on a daily basis with the ongoing crisis in the system, the Receiver will focus during the next 60 day period on the following issues:

1. San Quentin Project.

2. Visitation to additional correctional facilities.

3. Implementation of 2006-2007 budget.

4. Provision of adequate and appropriate staffing and salaries for clinical and support staff in the Health Care Services Division (HCSD) over and above the current appropriated budget.

5. Creation of viable clinical working environments and conditions for HCSD staff in correctional facilities.

6. Provision of adequate supplies, equipment and space for patient care and support activities in the correctional facilities.

7. Exploration of organizational options for the appropriate placement of HCSD functions and activities.

8. Recruitment of additional personnel into the Office of the Receiver.

9. Development and implementation of an action plan to address pharmacy deficiencies as identified in the Maxor audit.

10. Drafting initial design criteria for the future, constitutionally adequate, prison medical care system.

11. Redesigning the broken CDCR/DGS contracting system for the acquisition of community based medical and support services for inmate/ patients.

To summarize, the challenge is great, the crisis is real, and the Receiver's mission, to bring the level of medical care for California's inmate/patient population up to constitutional requirements will be done.

Dated: July 5, 2006

Robert Sillen
Receiver

PROOF OF SERVICE BY MAIL

I, Kristina Hector, declare:

I am a resident of the County of Alameda, California; that I am over the age of eighteen (18) years of age and not a party to the within titled cause of action. I am employed as the Inmate Patient Relations Manager to the Receiver in Plata v. Schwarzenegger.

On July 5, 2006 I arranged for the service of a copy of the attached documents described as RECEIVER'S FIRST BI-MONTHLY REPORT on the parties of record in said cause by sending a true and correct copy thereof by pdf and by United States Mail and addressed as follows:

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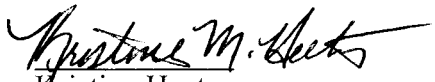
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 5, 2006 at San Francisco, California.



Kristina Hector