



PRISON LAW OFFICE

General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 • Fax (510) 280-2704
www.prisonlaw.com

Director:
Donald Specter

Managing Attorney:
Sara Norman

Staff Attorneys:
Rana Anabtawi
Steven Fama
Alison Hardy
Sophie Hart
Corene Kendrick
Rita Lomio
Margot Mendelson
Thomas Nosewicz
Shira Tevah
Camille Woods

BY EMAIL ONLY

May 3, 2019

Ralph M. Diaz
Secretary
California Department of Corrections and Rehabilitation

Kathleen Allison
Undersecretary, Operations
California Department of Corrections and Rehabilitation

RE: Discrimination Against Deaf People in California Prisons

Dear Ralph and Kathy:

I write regarding the California Department of Corrections and Rehabilitation’s longstanding and pervasive failure to provide adequate accommodations to Deaf people. As you know, my office has been raising this issue for years. The federal court already has issued three enforcement orders on this topic. Over 530 days ago, my office agreed to pause a fourth round of litigation based on Defendants’ assurances that they would engage in collaborative efforts to resolve this issue expeditiously. It has become increasingly apparent, however, that Defendants are unwilling or unable to provide adequate resources and engage in meaningful, systemic reform for this small and marginalized population.

First, Defendants currently house 74 Deaf people who use sign language as their primary form of communication in men’s prisons.

<i>Institution</i>	DPH-SLI
<i>Substance Abuse Treatment Facility and State Prison (SATF)</i>	37
<i>Richard J. Donovan Correctional Facility (RJD)</i>	13
<i>California Institution for Men (CIM)</i>	11
<i>California Medical Facility (CMF)</i>	5
<i>California State Prison, Los Angeles County (LAC)</i>	2
<i>California Health Care Facility, Stockton (CHCF)</i>	2
<i>NKSP Reception Center</i>	3
<i>DVI Reception Center</i>	1

As my office has documented, Defendants have been unable to accommodate Deaf people in those prisons. Defendants should reduce the Deaf population at those prisons and house a subset at San Quentin State Prison, where they will have improved access to interpretation services; to more and varied programs, services, and activities; and to community groups familiar with their needs.

Board of Directors

Penelope Cooper, President • Michele WalkinHawk, Vice President • Marshall Krause, Treasurer
Harlan Grossman • Christiane Hipps • Margaret Johns • Cesar Lagleva
Laura Magnani • Michael Marcum • Ruth Morgan • Seth Morris

“A critical component of a well-functioning correctional system is providing offenders greater opportunities for rehabilitation, thereby improving offender outcomes and increasing public safety.”¹ Programs, services, and activities are particularly important for Deaf people because they otherwise cannot communicate with the majority of their peers. *See* Irene W. Leigh *et al.*, *Deaf Culture* 196 (2018) (“Deaf prisoners tend to be very isolated”); Donald F. Moores & David S. Martin, *Deaf Learners* 227 (2006) (“The primary problem of deafness is not too little hearing but an abundance of isolation from peers, meaningful learning opportunities, and needed learning resources.”). Nonetheless, Defendants continue to house 35 Deaf men and two transgender women at the Substance Abuse Treatment Facility and State Prison (SATF), a prison in a remote location and with limited programming opportunities and access to sign language interpreters.² My office has raised concern with such placement for years.³

We interviewed all Deaf people at SATF last month. They almost uniformly expressed frustration with programming opportunities there. One Deaf person on G yard said: “I don’t want to sit around twiddling my thumbs. I want to do something. Here there’s nothing to do.” (As SATF staff noted, there is only one vocational program on G yard and no possibility of change or expansion due to physical space constraints. SATF does not have a strong volunteer base and has been unable to fill fifteen funded sponsor positions.) Another Deaf person said: “There’s not much to learn. . . . Deaf people here are very restricted in prison. Limited access. Hearing people have a big advantage on which prison they can go to.” Another Deaf person said: “I just walk around. No group. Just wander around. Nothing to do.” As explained in more detail below, even when a Deaf person is in a group or program for a couple hours a week, they are unable to meaningfully participate due to inadequate video remote interpretation. Nonetheless, some Deaf people do not want to transfer from SATF because they (rightly) are concerned that they will fare no better at the other prisons currently designated for them.⁴

¹ Governor’s Budget Summary 2019-20, Public Safety at 108 (Jan. 10, 2019).

² As of April 30, 2019, 28 Deaf people whose primary form of communication is sign language were housed on Level II yards at SATF (11 people on A, six people on B, and 11 people on G); seven on a Level III yard (E); and two on Level IV yards (one each on C and D).

³ June 2011 SATF Tour Report at 11; December 2012 SATF Tour Report at 3; March 2013 SATF Tour Report at 1; December 2013 SATF Tour Report at 13-14; April 2014 SATF Tour Report at 21; June-September 2018 SATF Tour Report at 5; Email from Don Specter, Prison Law Office, to Kathleen Allison, CDCR (Dec. 13, 2018); December 2018 SATF Tour Report at 2.

⁴ Last year, a Deaf person who transferred out of SATF reported: “[E]ven though I much prefer this environment [at the new prison], . . . I need to report to you all there that here . . . I have yet to see an SLI and at my doctor appointment the VRI was inoperable. . . . The deaf here have been begging for help.” *See* June-September 2018 SATF Tour Report at 7 n.2 (“Other deaf class members reported that they did not ask to be transferred because they did not know where they would be transferred to or what programming opportunities would be available, and because they were concerned that interpretation services would be even more limited—a concern that apparently was well-founded, at least according to early reports from deaf class members who transferred to CIM and RJD.”). Others have expressed concern about integration; written and televised information on that topic reportedly has not been provided in American Sign Language.

It simply is not clear why Defendants are unwilling to designate San Quentin State Prison for Deaf people who use sign language, particularly given Defendants' efforts to provide people with other disabilities access to the "ample programming opportunities unique to San Quentin State Prison."⁵ Deaf people should not be categorically excluded from such opportunities. *Armstrong* Remedial Plan § II.I ("EQUIVALENT PROGRAMMING: The designated DPP facilities shall offer disabled inmates a range of programming equivalent to that available to nondisabled inmates.").

Richard J. Donovan Correctional Facility: Defendants have acknowledged that "RJD has the next largest population, but [it has] only one staff SLI and has difficulty with finding contract SLIs willing to come to RJD." Email from Kathleen Allison, CDCR, to Don Specter, Prison Law Office (Jan. 28, 2019). Notably, for approximately five months last year, no on-site interpretation of any kind was provided at that prison. Letter from Penny Godbold, Rosen Bien Galvan & Grunfeld LLP, to Russa Boyd, CDCR Office of Legal Affairs, DPH Tour of RJD, July 2018—SLI Access (July 20, 2018). And my staff had to fly back to Berkeley last week after Defendants were unable to procure sign language interpreters for a joint visit of RJD to address lack of accommodations for Deaf people.

California Institution for Men: During an *Armstrong* monitoring tour in March 2019, Deaf people reported lack of effective communication, bullying by other incarcerated people, lack of sign language interpretation, and inadequate video remote interpretation for rehabilitative and educational programs. ADA staff reported that they have one staff interpreter who does not typically interpret education, religious services, vocational programming, or self-help groups. ADA staff also reported that they have not been able to get any contract interpreter to provide on-site services.

California Medical Facility: During an *Armstrong* monitoring tour in April 2019, Deaf people reported, and Defendants' documentation confirmed, that sign language interpretation often is not available. The institution continues to cancel entire self-help groups because no interpreter is available, which, as you can imagine, represents an abrupt departure from Defendants' rehabilitation mission and also puts the safety of Deaf people—already a vulnerable and marginalized population—at risk. Jared D. Lozano, Warden (A), & Lori Austin, Chief Executive Officer, CMF Response to the *Armstrong* Monitoring Tour—March 26-29, 2018 at 40 (Jan. 23, 2019) ("In order to provide equal access to all inmates, if an SLI is not present and VRI cannot be utilized, the entire group will be cancelled."). Deaf people at CMF also reported faulty video remote interpretation and lack of effective communication.

⁵ CDCR, San Quentin State Prison Enhanced Outpatient Program Open Dormitory H2 Activation Plan at 1 (Dec. 6, 2018) (discussing EOP class members); *see also* CDCR, CAMU Responses to RBGG DPP Matrix Review at 2 (Feb. 15, 2019) (discussing DPH and DPS class members who do *not* use sign language interpretation and stating: "The CDCR is committed to maximizing the housing placement options for disabled class members. . . . It would be contrary to the spirit of the ADA to arbitrarily exclude an entire class of disabled inmates from being housed at a location.").

Second, Defendants remain in violation of court orders that they “employ, through whatever salary is necessary, sufficient qualified interpreters to serve the needs of the DPH prisoners housed at each institution.”⁶ This has been a problem for over a decade.⁷ Defendants, without “seek[ing] relief from” the court orders, have deployed inadequate video remote interpretation (VRI).⁸ As we have documented at length over the last year, this violates court orders and the Americans with Disabilities Act.⁹ I provide a few examples below.

On December 11, 2018, my staff observed the CBI-SO program for a Deaf class member at SATF. Although scheduled to begin at 12:30, problems with VRI laptop and the DRP microphone delayed the start time until 12:53. During this time, the class participants, clinician, and remote interpreter all reported problems with the VRI equipment. The remote interpreter reported to the clinician: “I can’t hear or understand everything that’s being said. It’s all garbled. . . . When the speaker is any distance—it’s like speaking through a wall. It’s not clear. It’s like Charlie Brown. . . . Sound isn’t crisp. It just dissolves into air. . . . We’ve been having this problem every week. I keep letting my boss know.” The clinician said, of the VRI problems: “This happens almost every day.” Another clinician who came in to try to help with the VRI equipment reported that the situation affects other participants, and that it is better to have an in-person interpreter. Class participants reported that VRI issues often delay the program by about 30 minutes, that the calls drop, and that the Deaf person has had to leave the program twice because no interpreter was available.

At 12:53, the remote interpreter logged back on, and the program began. The clinician started by saying that the class “might not have time for more than check-ins” given the delay. The remote interpreter still was not able to hear and interpret, however, as the class participants introduced themselves and said how they were doing. My staff was accompanied by a certified sign language

⁶ Order, Doc. 2345 at 5 (June 4, 2013) (quoting Order, Doc. 1045 at 8 (Jan. 18, 2007)).

⁷ Letter from Rita Lomio, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, Failure to Provide Sign Language Interpreters at SATF (June 19, 2018); Letter from Rita Lomio, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, Issues Related to Deaf Class Members 2-7 (Nov. 7, 2017); Letter from Rita Lomio, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, Problems Regarding Lack of Sign Language Interpreters at SATF (Oct. 11, 2017); March 2017 SATF Tour Report at 3-6; October 2016 SATF Tour Report at 3-5; March 2016 SATF Tour Report at 7-8; November 2015 SATF Tour Report at 14-15; April 2015 SATF Tour Report at 3-4; October 2014 SATF Tour Report at 1; April 2014 SATF Tour Report at 21; December 2013 SATF Tour Report at 13-14; March 2013 SATF Tour Report at 6; December 2012 SATF Tour Report at 7; September 2012 SATF Tour Report at 12; December 2011 SATF Tour Report at 14; June 2011 SATF Tour Report at 11-14; April 2009 SATF Tour Report at 8.

⁸ Order, Doc. 2345 at 5 (June 4, 2013).

⁹ *Id.* (permitting use of video remote interpretation only if it is “sufficient”); 28 C.F.R. § 35.160(d) (setting forth minimum requirements for VRI); *see, e.g.*, June-September 2018 SATF Tour Report at 20-31; December 2018 SATF Tour Report at 20-26.

interpreter, who interpreted the remote interpreter as signing to the Deaf person only that she (the remote interpreter) could not hear or disjointed words with no context during the check-ins:

“Garbled”
“Garbled”
“Garbled, I don’t understand.”
“Garbled, I don’t understand.”
“Help them out.”
“Can”
“Garbled”
“Can’t understand what they’re saying.”
“Laughing”
“Two days”
“Garbled”
“Garbled”
“Don’t understand”
“Garbled”

The interpreter logged off at 13:00. In the seven minutes VRI was used, nothing of substance was communicated by the interpreter to the Deaf person. Nonetheless, the program was listed on the SLI log as “Held” on this date from 12:30 to 14:00, with no comments or indication of any problems.¹⁰

Since that time, Defendants reported that they have “approved approximately \$60,000 in equipment for SATF to accommodate inmates who require interpretation.”¹¹ Notwithstanding repeated requests over the last several months, Defendants have not explained what equipment was purchased, when it was received by the institution, and where the equipment is (or will be) located. Regardless, the new equipment has not fixed the problems. On April 16, 2019, my staff observed two rehabilitative programs, each with one Deaf participant: How It Works on B yard, and Alcoholics Anonymous (AA) on G yard. The remote interpreter scheduled for How It Works reportedly had a family emergency, and the contract agency was not able to get another interpreter until 35 minutes after the scheduled program start time. Throughout the program, the video went in and out of focus. The remote interpreter could

¹⁰ We are losing patience with Defendants’ common refrain that they will reassess interpreter needs once they have ensured the accuracy and completeness of the SLI logs. *See* Letter from Rita Lomio, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, Scheduling and Monitoring SLI Encounters (Jan. 17, 2018). The new calendaring system currently in place is not accurately recording problems. *See* December 2018 SATF Tour Report at 20-24. During a recent tour at CIM, the ADA OT said she would not record when the remote interpreter could not hear group participants talk, because, in her words, “That was a constant.” Defendants also have disregarded the court order that they “produce the previous month’s logs to counsel for Plaintiffs by the fifteenth of each month.” Order, Doc. 2345 at 25 (June 4, 2013). Plaintiffs last received a copy of the logs on February 5, 2019, for encounters held through December 14, 2018.

¹¹ Email from Kathleen Allison, CDCR, to Don Specter, Prison Law Office (Jan. 28, 2019).

not hear all participants and at various times signed to the Deaf person, “Someone’s reading,” and, “I can’t follow that.” One participant’s lengthy narrative was interpreted to the Deaf person only as “push me” and “try catch something.” At other times, the remote interpreter could not hear that someone was talking and therefore did not interpret anything at all to the Deaf person. In addition, although the sponsor turned the speaker on the television all the way up, it was almost impossible to hear the remote interpreter, so she was not able to voice the Deaf person’s comments to the class.¹² A different remote interpreter was scheduled for the AA program on G yard. Throughout the program, there was major trailing and blurriness, which significantly interfered with the ability to distinguish his finger movements and at times made it impossible to understand what was being signed.

Deaf people reported in April 2019, and my staff have observed, that problems with VRI are not unique to any one particular interpreter. Indeed, the problem is so prevalent that some Deaf people reported that they have withdrawn from rehabilitative programs and/or will not sign up for new ones because they know they will not be adequately accommodated. One person explained that he could not understand most of what was said in his self-help group due to problems with VRI: “When I look at the signs, sometimes I miss meaning. And the trailing makes it hard. When class is over, I’ll ask the Deaf, ‘Did you understand?’ They’ll all say, ‘No.’” As a result, he asked to be removed from the group.

One contract interpreter who provides services at SATF reported that she makes roughly the same amount (and potentially more) by providing services remotely as opposed to on-site.¹³ Defendants’ persistent failure to ensure that Deaf people can meaningfully participate in programs, services, and activities puts them at a significant disadvantage before the Board of Parole Hearings, which may result in them serving longer sentences than their hearing counterparts. Simply put, Defendants must hire more staff interpreters and provide meaningful financial incentives so contract interpreters will provide services on-site, particularly in the evenings when many self-help groups meet.

¹² “Support groups are characterized by free, uninhibited emotional interchanges between members. . . . The point is to be able to express feelings openly, to share pain and hurt, in a supportive environment.” Matthew S. Moore & Linda Levitan, eds., *For Hearing People Only* 457 (2016). An in-person interpreter makes a significant difference. Earlier this year, Deaf people were provided with in-person interpretation for an AVP workshop and reported what they had learned: “I realize that I am not alone. . . . My story impacted others, and theirs impacted me. I didn’t realize that before. We learn from each other. How to avoid making [bad] choices.” Another said: “I had a lot of fun. I even got emotional. Big ol’ me. I was really happy. [It’s] something I’ve been wanting for many decades. Now GP understands us. They understand us better. They understand our world. I get to know everyone. I am excited for more groups.”

¹³ October 2018 SATF Plaintiffs’ Joint Audit Report at 12 (“[The contract interpreter] reportedly receives \$65/hour for services rendered via VRI (through ICS) and only \$60/hour for services rendered in-person at the prison (through Natural Languages). She reported that CDCR does not pay for travel time, just for mileage, so there is a financial disincentive to accept an onsite interpreting assignment at SATF when she can decline and wait to accept the same assignment through VRI where she will be paid more and not have to travel.”).

Third, Defendants must tailor programs to the learning needs of Deaf people. “Recognition that deaf learners have some distinctly different needs from hearing learners is critical for placing the uniqueness of deaf students in a positive and supportive context.”¹⁴ In addition, “[i]t is a well-known fact that many deaf people have low English literacy,” and that reading and writing “become a lifelong struggle for many deaf people.”¹⁵ “Thirty percent of deaf students leave school functionally illiterate, i.e., they read at grade level 2.8 or below.”¹⁶ Although Defendants have proposed an initiative to improve the literacy of people in prison, Deaf people appear to have been left behind.¹⁷ Deaf people at SATF have reported that they are unable to complete homework, read written materials related to self-help groups, participate in college correspondence courses, or write letters of remorse because they do not know the English vocabulary.¹⁸ We were quite disappointed by Defendants’ cursory response to our clients’ request for an English vocabulary class tailored to the needs of Deaf students: “CDCR is not mandated to produce the same result, level, or achievement for hearing-impaired and fully-hearing persons”¹⁹ That crabbed and short-sighted view seems to conflict with the Governor’s statement that “[l]iteracy instruction is the primary focus of CDCR’s Office of Correctional Education.”²⁰

¹⁴ Marc Marschark *et al.*, *Educating Deaf Students* 222 (2002).

¹⁵ Irene W. Leigh *et al.*, *Deaf Culture* 191 (2018); John W. Adams & Pamela S. Rohring, *Handbook to Service the Deaf and Hard of Hearing: A Bridge to Accessibility* 125 (2004).

¹⁶ Michele LaVigne & McCay Vernon, *An Interpreter Isn’t Enough: Deafness, Language, and Due Process*, 2003 *Wis. L. Rev.* 843, 854 (2003).

¹⁷ Governor’s Budget Summary 2019-20, Public Safety at 109-110 (Jan. 10, 2019).

¹⁸ June-September 2018 SATF Tour Report at 33-35.

¹⁹ Clarence Cryer, Chief Executive Officer, & Stu Sherman, Warden, California Substance Abuse Treatment Facility and State Prison at Corcoran Response to the Armstrong Monitoring Tour Report (DPH/SLI)–June/September 2018 at 40 (Feb. 28, 2019). We similarly were disappointed in Defendants’ belief that Deaf people should simply ask for clarification about a word during a class. That represents a fundamental misunderstanding about the challenges of interpreting English, a language with over 500,000 words, into ASL, a language with just 5,600 handsigns. *See* Neil S. Glickman, *Preparing Deaf and Hearing Persons with Language and Learning Challenges for CBT: A Pre-Therapy Workbook* 236 (2016) (“Many abstract concepts have to be unpacked with examples, and the fast pace of spoken conversations may not allow time for this.”); Cynthia Neese Bailes, *Deaf-Centric Teaching*, in Lois Bragg, ed., *Deaf World* 211-233, 221 (2001) (noting that interpreter “frequently stopped to make asides in which she explained vocabulary, including English idioms, and concepts”). As one Deaf person explained, it may take fifteen minutes to explain one English phrase in ASL, and “[Deaf people] don’t want to [raise their hand and interrupt class]. They are embarrassed. They don’t want to look stupid and waste time of the class. Hearing people get mad at them for stopping class and saying that they do not understand. They’ve had bad experiences all their life in that situation.”

²⁰ Governor’s Budget Summary 2019-20, Public Safety at 109 (Jan. 10, 2019); *see also* Ralph Diaz, CDCR Secretary, Assembly Budget Subcommittee No. 5 on Public Safety at 24:24 (Mar. 4, 2019), available at http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=5951.

As my office has stated previously, Defendants should engage the services of a consultant to facilitate Deaf people’s participation in programs, services, and activities and develop programs for Deaf people so that they can improve their literacy. Defendants also should retain qualified itinerant teachers of Deaf students; “mere placement contiguous to hearing peers, even with highly skilled interpreters, . . . is not sufficient, and the services of a qualified itinerant teacher of deaf students are necessary to support and supplement classroom instruction. It is only through the cooperation of the regular classroom teacher and the itinerant teacher that the curriculum can be implemented effectively.”²¹

Fourth, Defendants should designate time during mandatory block training to address Deaf culture and effective communication at those prisons that house Deaf people whose primary form of communication is sign language. We have reported the need for Deaf-specific training for years.²² And, in December 2018, my staff interviewed housing officers regularly assigned to units where Deaf people are housed at SATF. The officers repeated the most common misconceptions about Deaf people—that people with hearing aids can understand spoken language, that Deaf people can lipread, that a Deaf person’s understanding can be gleaned from a nod of assent, and that Deaf people can all understand written English well. Deaf people in all units were frustrated by staff’s lack of cultural awareness and effective communication. One Deaf person reported that he does not wear his hearing aids because staff incorrectly believe he can hear when they are on: “If I have hearing aids on, [officers] think I can hear them and I don’t need an interpreter. That’s the reason I take them off. I don’t want to wear them because I want them to see me as Deaf. It’s easier to show officers I’m Deaf.” Defendants could model the training on that of the Kentucky Department of Corrections, which developed similar training in response to litigation and with the assistance of the court monitor. As we understand it, Defendants’ new annual training and LMS modules do not cover these subjects.

.....
.....
.....
.....
.....
.....
.....
.....
.....

²¹ Donald F. Moores & David S. Martin, *Deaf Learners* 246 (2006). “An itinerant teacher has been defined as a professional who provides instruction and consultation for students who are deaf or hard of hearing and most generally travels from school to school.” *Id.* at 94; *see also* Marc Marschark & Peter C. Hauser, *How Deaf Children Learn* 129 (2012) (“Itinerant teachers provide consultation to mainstream students’ teachers who may have no training or experience working with deaf or hard-of-hearing students.”).

²² June 2011 SATF Tour Report at 15-16; March 2012 SATF Tour Report at 3; June 2012 SATF Tour Report at 3; September 2012 SATF Tour Report at 4; June-September 2018 SATF Tour Report at 4, 14; December 2018 SATF Tour Report at 6-18.

Fifth, Deaf people in California prisons have reported to my office that they have been sexually abused, harassed, and bullied by other incarcerated people over the past year. They continue to report that they do not know basic information about the Prison Rape Elimination Act (PREA) or how to confidentially report abuse in American Sign Language. They report that they are afraid to make a PREA complaint. We have reported this concern to Defendants for over a year, and it appears nothing has been done, in violation of PREA.²³ This is a particular concern because, as you know, “[s]exual assault and abuse of people with disabilities often goes unreported.” RAINN, Sexual Abuse of People with Disabilities, <https://www.rainn.org/articles/sexual-abuse-people-disabilities> (last visited Mar. 20, 2019); see also Matthew S. Moore & Linda Levitan, eds., *For Hearing People Only* 439 (2016) (“Deaf people have traditionally been vulnerable to exploitation”); Irene W. Leigh *et al.*, *Deaf Culture* 194-95 (2018) (“[Deaf people] often will have limited knowledge of available and accessible resources [related to sexual harassment and abuse] . . .”).

....
....

²³ **Access to Information About PREA:** SATF June-September 2018 Tour Report at 10 (“[D]eaf class members reported that they have been trying to understand written PREA information, but could not understand it because the language was so complicated that even those deaf class members who could read English a little did not know how to translate the words and concepts into ASL.”); December 2018 SATF Tour Report at 4-5 (noting that PREA orientation video is not in ASL) (citing 28 C.F.R. § 115.16(a) (“The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf . . .), have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. . . . In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities . . .”).

Confidential PREA Reports: Letter from Rita Lomio, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, *Issues Related to Deaf Class Members* at 7 (Nov. 7, 2017) (“One [Deaf] class member. . . wants to make a PREA report, but does not feel comfortable doing so because . . . deaf class members may be able to ‘overhear’ his report because the dayroom—including the bench area in front of the television—provides a clear line of sight to the class member using the videophone. . . . Please explain all methods available to deaf class members at SATF who want to make a confidential PREA or OIG report, and how those methods were communicated to the deaf class members.” (citing PREA Standards In Focus, § 115.51, *Inmate Reporting*, <https://www.prearesourcecenter.org/node/5261> (“Agencies should use caution with whichever reporting mechanism is utilized to ensure inmates are not identified as making reports of sexual abuse. For example, if the phone is the reporting mechanism to the outside entity, the facility should make sure the phone can be used for other purposes in addition to reporting sexual abuse so it is not obvious that an inmate may be reporting sexual abuse.”)); Letter from Rita Lomio & Tommy Nosewicz, Prison Law Office, to Russa Boyd, CDCR Office of Legal Affairs, *VRS Privacy and Access Issues* at 7-9 (July 30, 2018).

Since March 2017, my office has conducted nine *Armstrong* monitoring tours and joint task force visits to SATF. There should be no dispute at this point about what the problems are; my office has documented them at length, and your staff has witnessed them firsthand. My office has worked with ADA staff at SATF and with attorneys from the Office of Legal Affairs to address barriers that our Deaf clients face. Those efforts, however, now are showing diminishing returns. Simply put, without substantial resources and good faith, comprehensive support and action from Defendants at the headquarters level, there will be no further progress. In fact, we are beginning to lose the gains we have made. Deaf people on all yards at SATF have become frustrated that their concerns with program access and VRI have not been addressed. Some have stopped going to the biweekly captains' meetings—intended by the institution to provide Deaf people clear and open lines of communication and the ability to self-advocate for the accommodations they need—altogether. As one Deaf person told us: “[Staff said they will] help me get in programs and fix the [VRI] laptops. They never called me or fixed the laptops.” Deaf people have withdrawn from programming or will not sign up for additional programs because interpretation is wholly inadequate. And Deaf people increasingly will not let my office report their names or information because they feel that they will be retaliated against or that it is futile.

My office is committed to ensuring that our Deaf clients are safe, treated appropriately, and able to meaningfully access programming. At a minimum, Defendants should:

- I. House a subset of the Deaf population at San Quentin State Prison;
- II. Hire more staff sign language interpreters and provide meaningful financial incentives so contract interpreters will provide services on-site, particularly in the evenings;
- III. Engage the services of a consultant to facilitate Deaf people's participation in programs, develop Deaf literacy programs, and retain qualified itinerant teachers of Deaf students;
- IV. Designate time during mandatory block training to address Deaf culture and effective communication; and
- V. Provide accessible information about PREA and establish a confidential way for Deaf people to report abuse in American Sign Language.

I look forward to discussing our concerns and the remedial steps outlined above with you.

Sincerely yours,



Don Specter

cc: Russa Boyd, Office of Legal Affairs
Ed Swanson, Court Expert