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 14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 16 SAN FRANCISCO DIVISION

18 **CARLOS PEREZ,**
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 Plaintiff,
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 v.
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MATTHEW CATE, et al.,
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 Defendants.
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C 05-05241 JSW
 STIPULATION AND ~~PROPOSED~~ ORDER
 RE CALIFORNIA OUT-OF-STATE
 DENTAL SCREENING PROGRAM
 Courtroom: 11, 19th Floor
 Judge The Honorable Jeffrey S. White

1 The parties, by and through their counsel, hereby stipulate that defendants shall develop
2 and implement a dental screening procedure for prisoners considered for transfer to a COCF,
3 incorporating the elements that the parties have agreed to, as reflected in Exhibit A.

4 The dental screening procedure shall be implemented on a trial basis for six months. The
5 six-month trial period will begin when the Court Representatives, Dr. Toche and Dr. Rosenberg
6 agree that the CCA has in place the necessary staff, facilities and equipment to perform the
7 required screening examinations. Before making this determination, the Court Representatives
8 will physically inspect the dental facilities at the two COCF prisons that will be performing the
9 initial dental screenings. CDCR shall not resume transferring prisoners classified as DPC 2 until
10 the trial period begins. Once the trial period begins, CDCR may transfer DPC 2 prisoners without
11 further order of the Court.

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14 Defendants shall implement a CDCR monitoring program that shall require Corrections
15 Corporation of America to provide dental logs, treatment data and access to individual dental files
16 to defendants. Defendants agree to provide this information to the Court Representatives and to
17 plaintiffs, in accordance with the monitoring program.

18 Two months after the program's initiation, the parties and the Court Representatives will
19 meet to review CCA compliance with the screening requirements and to identify criteria for
20 suspending the transfer of prisoners classified as DPC 2 should CCA fail to provide complete
21 dental screening examinations to California state prisoners within 30 days of arrival at the COCF.

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23 Six months after the resumption of DPC 2 transfers, the parties will review the program to
24 determine whether the procedure should be implemented permanently.

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26 **IT IS SO STIPULATED.**

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Dated: May 1, 2009

EDMUND G. BROWN JR.
Attorney General of California

/s/ Phillip Lindsay
PHILLIP LINDSAY
Deputy Attorney General
Attorneys for Defendants

Dated: May 1, 2009

/s/Alison Hardy
ALISON HARDY
Prison Law Office
Attorney for Plaintiffs

Pursuant to the stipulation of the parties,

IT IS SO ORDERED.

Dated: May 7, 2009


JEFFREY S. WHITE
United States District Court

EXHIBIT A

SCREENING PILOT PROGRAM

1. **MAINLINE FACILITIES:** A California Department of Corrections and Rehabilitation (CDCR) Dentist shall perform a dental screening in a dental clinic on all prisoners identified as being eligible for COCF transfer. (If a prisoner has undergone a comprehensive dental examination within the previous 90 days, a face-to-face encounter is not necessary.) The dentist shall identify the prisoner's current DPC and document it on a CDC Form 128-C Medical/Psychiatric/Dental Chrono.
2. **RECEPTION CENTERS (RC):** A CDCR dentist shall perform a dental screening in a dental clinic on each RC prisoner to identify the prisoner's current DPC, which shall be documented on a CDC Form 128-C-1 Reception Center Medical Clearance/Restriction Information Chrono.
3. **DENTAL SCREENING:** The screening examination performed at both the Mainline and the Reception Center facilities, will include, at a minimum:
 - a. A head, neck and oral cancer screening;
 - b. An intra-oral clinical evaluation of hard and soft tissue using a mouth mirror with the aid of adequate illumination from a powered light source (not merely ambient light or conventional ceiling/wall light fixtures);
 - c. Noting the presence and condition of prosthetic appliance(s).
 - d. Assigning and recording a DPC based on the prisoner's most acute dental need(s).
 - e. Distinctive recording or charting of Priority 1A or other exclusionary condition (such as acute infections, severe pain, spontaneous bleeding, etc.).

5. **ALL CDCR FACILITIES:**

a. The dentist shall identify any DPC 1A conditions or other conditions the dentist determines that bar transfer.

b. Prisoners identified with DPC 1A or other exclusionary conditions shall be:

1.) Temporarily medically ineligible for COCF transfer.

2.) Scheduled by institutional dental staff for treatment of the condition(s) by a CDCR dentist.

3.) Eligible for COCF transfer after treatment of the DPC 1A or other exclusionary condition(s) is provided by a CDCR dentist, resolving the exclusionary condition.

c. Prisoners who are identified by a CDCR dentist as not having DPC 1A or other exclusionary conditions and those for whom treatment of the DPC 1A or other exclusionary conditions has been provided shall not be ineligible for COCF transfer based on their dental condition.

d. Prisoners who refuse a dental screening or who refuse treatment for DPC 1A or other exclusionary conditions shall not be ineligible for COCF transfer based on their dental condition. The dentist shall document the refusal(s) in the unit health record.

e. Prisoners for whom fabrication of a dental prosthesis has begun and who are awaiting delivery of the prosthesis shall be temporarily medically ineligible for COCF transfer. After delivery and any necessary initial adjustment of the prosthesis by a CDCR dentist, a prisoner shall not be ineligible for transfer based on their dental condition.

6. **CALIFORNIA OUT-OF-STATE FACILITIES:** The CDCR will require CCA

to perform, within 30 days of arrival at the COCF from a CDCR Mainline prison or Reception Center, a comprehensive dental screening exam on each prisoner that will include:

- a. panographic x-ray;
- b. bite wing x-rays;
- c. peri-apical x-rays if clinically indicated based on symptomatology;
- d. oral cancer exam;
- e. clinical examination by a dentist;
- f. periodontal screening and recording (PSR); and
- g. individual treatment plan.

7. **MONITORING OF COCF:**

a. California state prisoners transferred to a COCF will be processed at one of two facilities in Arizona: La Palma or Red Rock. The Court Representatives will physically inspect the CCA dental facilities at both prisons to determine whether CCA has the necessary staff, facilities and equipment in place to perform the required comprehensive dental screening exams on California state prisoners within 30 days of arrival at the CCA facility. Counsel for plaintiffs is authorized to accompany the Court Representatives on the initial inspection of the La Palma facility. This inspection shall occur by May 31, 2009.

b. Beginning six weeks after the initiation of the Screening Pilot Program and for the remaining five months of the program, defendants will require CCA to produce weekly reports showing the number of prisoners, if any, who have waited more than 30 days for their dental screening examination.

c. In addition to the weekly reports, defendants will require CCA to provide to defendants, plaintiffs' counsel and the Court Representatives, monthly logs documenting California prisoners' access to dental care, under the audit protocol to be developed by defendants, in collaboration with the Court Representatives and plaintiffs' counsel. Additionally, the defendants and Court Representatives will have access to Allscripts, which stores the electronic medical records for California state prisoners. Using the data from the logs, defendants and the Court Representatives will audit prisoners' intake exams, sick call response and treatment.

d. The Court Representatives and the defendants will develop an audit tool based on the audit protocol discussed in para. 7(c). The results of the audits will be available to all parties.

e. To the extent that defendants initiate any Corrective Action Plans (CAP) based upon the audits, the CAP shall be on the agenda for the parties' next 30-Day meeting.

f. Two months after initiation of the Screening Pilot Program, the parties shall meet and confer regarding criteria for suspending the transfer of prisoners classified as DPC 2 if CCA is not providing complete dental screening examinations to all California state prisoners within 30 days of arrival at the COCF from a CDCR Mainline prison or Reception Center. If the parties cannot agree on the criteria, the parties will defer to the Court Representatives to identify the criteria.

g. Three months after initiation of the Screening Pilot Program, the Court Representatives and defendants will provide plaintiffs with an interim report on the status of the Program.

h. During the Screening Pilot Program, the Court Representatives will visit the remaining three COCF facilities to inspect their dental facilities. If, during the Program, the Court Representatives believe it necessary based on monitoring data to visit to one or more COCF facilities, they may do so.

8. CONCLUSION OF SCREENING PILOT PROGRAM

a. The parties and the Court Representatives shall meet at the end of the six-month period to evaluate the Screening Pilot Program. If the parties and the Court Representatives agree that California state prisoners at the COCFs are receiving timely comprehensive dental screening exams and timely access to dental care, the Program will be implemented on a permanent basis, and the parties may meet and confer to modify the reporting and auditing procedures, if appropriate.

b. If plaintiffs conclude that the California state prisoners at the COCFs are not receiving timely comprehensive dental screening exams and/or timely access to dental care, defendants shall discontinue transferring prisoners classified as DPC 2 pending resolution of the matter.