

CALIFORNIA
PRISON HEALTH CARE
RECEIVERSHIP CORP.

J. Clark Kelso
Receiver

September 23, 2008

Open Letter
To Residents and Officials of Ventura County

To Whom It May Concern:

I have received and reviewed hundreds of letters and e-mails expressing concerns about the decision to construct a long-term, chronic care facility for adult inmates in Ventura County. Although we have not yet begun the formal environmental review process, I wanted to communicate directly with you concerning this project so that you can begin to have a better understanding of the nature of the project and of our appreciation of the project's impacts, which we will work to mitigate as required by state law.

Background About the Receivership and the Turnaround Plan of Action

The Prison Health Care Receivership is unique and unprecedented. It was established because of extraordinary circumstances: the State of California's utter failure to provide constitutionally adequate healthcare for California's prison inmates, a problem so serious that, on average, one inmate a week was unnecessarily dying because of the lack of basic, competent medical care.

In 2002, the United States District Court for the Northern District of California found that the prison medical care system constituted "cruel and unusual punishment" in violation of the Eighth Amendment to the United States Constitution. For many years before this finding, the State was aware that its prison medical system was falling apart and that litigation in federal court was a probable consequence. But nothing was done to turn the system around.

Having found the prison medical system to be unconstitutional, the federal district court ordered the State to undertake corrective measures. Remarkably, even under the pressure of a federal court's judgment and orders, the State Legislature and leaders in the Executive Branch failed for *four years* to make any significant progress in improving the system.

In 2006, after four years of failure, the federal court took the extraordinary step of appointing a federal Receiver who was given the powers of the Secretary of the Department of Corrections and Rehabilitation ("CDCR") with respect to the prison medical system. Simply put, the Receiver runs CDCR's medical program. The court also ordered the State to cooperate with the Receiver and to pay for the implementation of the Receiver's plans.

In June of this year, I presented to the federal court a "Turnaround Plan of Action" that identifies the specific goals, objectives and action items for bringing CDCR's medical care program up to constitutional standards. Objective 6.2 of the Turnaround Plan describes my plan to construct long-term, chronic care facilities for CDCR's sickest inmates.

Objective 6.2 provides as follows:

As a core component of the plan to bring the level of prison health care services up to constitutional standards as quickly as practicable, the Receiver will supervise the creation of expanded prison health facilities and housing for approximately 6% of CDCR's existing inmate population (i.e., approximately 10,000 inmates) whose medical and/or mental condition requires separate housing to facilitate appropriate, cost-effective access to necessary health care services.

Approximately half of the housing and facilities will be for medical services, of which approximately three-quarters will consist of open-space dormitories for "specialized general population" patients who have functional impairments and chronic conditions requiring ready access to health care (e.g., advanced chronic obstructive lung disease, or wheel chair bound patients with spinal chord injuries). Approximately 18 percent will consist of assisted-living-quality housing for "low acuity" patients who have nursing needs (e.g., wheel chair with wounds that need routine dressing, or stroke patients who need help dressing), and less than 10 percent will consist of nursing-home-quality housing for "high acuity" patients (e.g., patients with complicated wounds that need nursing attention daily, patients undergoing chemotherapy, and patients who are completely bed bound).

The other half of the housing and facilities will be for mental health services. Approximately 70 percent of this housing will consist of open-space dormitories for an "enhanced outpatient program," 18 percent will be for high-custody enhanced outpatients, and less than 14 percent will be for a mix of mental health crisis beds, acute beds, an intermediate care facility and a high-custody intermediate care facility.

The Receiver intends to supervise construction on up to seven sites at existing CDCR institutions, each site supporting medical and mental health services for up to 1,500 inmates. Two of the facilities will be specially designed to serve the unique health needs of CDCR's female population. Because existing facilities are operating well beyond their design capacity for all systems, the new facilities will be designed to be self-sufficient, full-service institutions for both infrastructure and support service facilities such as food service, laundry and central plant.

On June 16, 2008, the federal court issued an order approving the Turnaround Plan, including the elements of the plan relating to construction of long-term health care facilities.

Deciding Where to Build—Why Ventura?

Given the need to find suitable clinical staffing for each of our long-term, chronic care facilities, we determined early on that these facilities should be constructed in areas where highly educated, trained and skilled staff are already available or would be likely to settle down. We know from the difficulty we currently have in providing medical staff to prisons located in California's deserts that placing a large chronic care facility in the middle of nowhere is not a practical option. In addition, when locating sites for construction, we took into careful consideration the existing stock of land already owned by the State.

The site in Ventura County came to our attention last year when we learned that the CDCR had decided to close the Youth Correctional Facility because of its deteriorating condition. Both internal CDCR review and outside experts have determined that the Ventura site should not be considered for long-term use as a juvenile offender facility. For example, a 2006 Facility Assessment Report prepared for CDCR by the Kitchell Corporation, found that "the Ventura facility is in poor condition overall." Kitchell estimated that it would cost \$31.9 million to bring the facility up to usable standards. At the time of the Kitchell study, only five of the twelve housing units were in use because of their poor condition. Of the 53 buildings on the site, 35 were deemed to be in "poor" overall condition.

Closure of the facility meant, among other things, that CDCR had to relocate the female wards who were housed there to other locations. CDCR began that relocation effort in April of 2006, and the total number of female wards has been steadily declining since then. Unfortunately, CDCR has not done as good of a job of controlling costs at the Youth Correctional Facility even while its utilization has decreased. The total expenses for wards at the Ventura facility exceed \$280,000 a year. That is \$800 per day, per ward. At this point in time, CDCR needs to accelerate its efforts to close the facility and find a more cost-effective solution for caring for its juvenile population consistent with the requirements of the state court orders in the *Farrell* litigation. The Receivership stands ready to assist in that relocation effort, as described more fully below.

To be clear, I have not yet determined to build one of the long-term, chronic care facilities in Ventura County. However, I have decided – given the availability of CDCR-owned property at the Youth Correctional Facility, its proximity to an urban population that will guarantee a diverse, competent workforce, and the preliminary assessment of the infrastructure and construction challenges we will face – to commence the formal environmental review process for the site by filing a "Notice of Preparation" (NOP) of an environmental impact report (EIR) within the next three or four weeks. The NOP will trigger a 30-day public review and comment period under the California Environmental Quality Act (CEQA) about what the public and responsible and trustee agencies would like to see analyzed in the EIR.

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It will also trigger a public hearing and scoping meeting to discuss the scope of the project, a series of environmental impact studies, and ultimately, publication of a Draft EIR for public review and comment.

If we do not run into any insurmountable environmental obstacles, I would anticipate breaking ground at the site in November 2009, more than a year hence.

In the remainder of this letter, I want to add some additional detail regarding concerns that have been raised by community members and efforts that we already have underway to address those concerns. But before turning to those concerns, I want to comment very directly and frankly upon one objection that has been raised in nearly all of the comments I have received, the gist of which is, "How dare you think of spoiling our community by putting a prison nearby. Put the prisoners where they belong – out in the desert!"

If the Receivership were engaged in "politics as usual," I might respond favorably to this type of "not in my backyard" argument, particularly if powerful, local political forces join in the opposition. But this is not politics as usual. I am accountable for implementing a federal court order and must do so in a measured, responsible way, largely free from the impetuosity and arbitrariness of political bargaining. We are focusing on the Ventura site for very good, substantive reasons. Local opposition grounded primarily upon unsubstantiated fears and prejudices are not an appropriate basis for me to turn away from what is otherwise an attractive site. Moreover, there is a strong element of fairness that I must endeavor to meet. If not Ventura, then what other community should I turn to? And what do I do when that community also complains? It is important to note, in this regard, that while Ventura County has approximately 2,500 residents who are held at various adult CDCR facilities around California, there is no adult CDCR facility in the county.

The State's long history of placing prisons in remote locations, far from the prisoners' home community has been a failure in many respects. Among other things, it has significantly contributed to the inability to staff and care for thousands of chronically ill prisoners. I believe that a 1,500 bed low-rise health care facility in Ventura County, given the County's current incarceration rate, is entirely appropriate. It will, in both the immediate future, and in the long run, provide jobs and benefits which far outweigh the concerns that have been expressed to me.

Possible Adverse Consequences and Steps in Mitigation

Residents of Ventura County and the City of Camarillo have expressed a number of concerns regarding the construction of a long-term, chronic care facility at the Youth Correctional Facility site. These concerns include:

1. The current use of the Youth Correctional Facility and the displacement of its staff and wards.
2. Perceived public safety issues concerning the construction of an adult health facility.

3. The possible drain on local medical staff such as doctors and nurses away from existing hospitals that serve residents.
4. The environmental impact of construction and adherence to the California Environmental Quality Act (CEQA).
5. The potential impact on local Emergency Medical Response agencies and hospital services.
6. The impact on local infrastructure like sewers, water delivery and roads.
7. The potential for construction in an earthquake fault zone.
8. The appearance and aesthetics of the facility.

It is with these concerns in mind that in the past four months my staff and I have met with local elected, public safety and medical services officials. We have also carefully read and considered the hundreds of letters that have been directed to the Receivership by concerned residents, and the Prison Hospital Action Committee.

I met personally with Assembly Member Audra Strickland, Ventura County Supervisor Kathy Long, Ventura County District Attorney Greg Totten, and Ventura County Undersheriff Craig Husband. My Chief of Staff, John Hagar, and I also met with the Special Master overseeing improvements at the Ventura Youth Correctional Facility, Donna Brorby, and with Barry Krisberg, a safety and welfare expert working on the juvenile system remedial plan. In the same vein, Mr. Hagar also met with representatives of the Prison Law Office, plaintiffs' counsel in the underlying federal action. I have discussed the Ventura site, its importance to the federal court remedial plan, and the impact of that plan on juvenile services with the Secretary of the California Department of Corrections and Rehabilitation ("CDCR"), Matthew Cate. In addition, my staff have also met with all of the employee representation groups for the Youth Correctional Facility, including the California Correctional Peace Officers Association (CCPOA), the Service Employees International Union (SEIU), the American Federation of State, County and Municipal Employees (AFSCME), Union of American Physicians and Dentists (UAPD), the California Association of Professional Scientists, and the International Union of Operating Engineers (IUOE).

Finally, we have reviewed literally hundreds of documents pertaining to the Ventura Youth Correctional Facility, as well as other materials concerning the number of California prisoners from Ventura County. Based on our document review and meetings, I want to provide you with the following additional information.

1. The Real Status of the Ventura County Youth Correctional Facility

Facility Conditions and Costs

As noted above, the Youth Correctional Facility in Ventura County is in poor condition, requiring tens of millions of dollars in expenditures to bring the facility up to usable standards. Furthermore, the ward population has been steadily declining. According to the CDCR, there are

less than 85 male wards at Ventura today, and only 20 (less than 25%) are under the age of 18. There are less than 90 female wards at Ventura today, and only 21 (less than 25%) are under the age of 18. Spending tens of millions of dollars at a time when CDCR is substantially reducing its juvenile population statewide (from 10,000 wards to 2,500 wards in ten years) makes no fiscal sense at all. Indeed, the highly respected, nonpartisan Little Hoover Commission recently recommended that the State of California *completely eliminate* its state-run juvenile correctional system by 2011. It recommended a whole-sale shift to individual counties to manage this population. The Receiver believes that this recommendation is worthy of serious consideration given the difficulty the State has had in serving this population.

Female Wards

Because of poor conditions at the facility, an effort was made by CDCR to relocate all female wards beginning in April of 2006. While 24 entities expressed interest in housing the female wards and asked for Requests for Information packets, only two bidders responded to the final Request for Proposal (RFP). However, the RFP was limited to \$200 dollars per day, per ward, only one fourth of what it costs the State to keep a ward at the Ventura facility. Both CDCR officials and court experts have expressed the opinion that it is possible to develop a relocation contract that will be successful in the future.

Initially, the Receivership had considered (and presented to the Special Master and Prison Law Office) the construction of a replacement mental health facility for female wards. However, given the concerns expressed by the Special Master, the Prison Law Office, and given the findings of the Little Hoover Commission, my staff and I have determined it is best not to proceed with any form of juvenile construction at this time.

My staff then visited the Southern Youth Correctional Reception Center and Clinic ("SYCRCC") located in Norwalk, California, and determined that this facility was a viable option for housing the female ward population until such time as these wards can be placed in suitable privately-run housing. The Receiver recommends this course of action to handle the female wards.

Male Wards

Early in my discussions concerning the Ventura juvenile facility, a plan was mentioned whereby hundreds of male wards might be moved from the Chino area to Ventura because of significant behavioral issues. However, despite numerous requests, neither the Prison Law Office (representing the wards), nor the State have to this date produced any documents or other reliable evidence explaining why such a move was either necessary or helpful to the overall system. The problems that exist in the Chino facility are management related, there is no evidence they will be solved by moving wards even further from their homes to Ventura County, especially given Ventura's very poor conditions.

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The Receiver's staff discussed multiple options with CDCR and Mr. Krisberg for relocating the 80 or so male wards. The best option – and none of the options were perfect – is to relocate these wards to the Dewitt Nelson Youth Correctional Facility (“DWNCF”) located in Stockton, California. In making this recommendation, we realize that we are unable to address all of the concerns raised, primarily the concern about moving Southern California wards to Northern California. However, moving approximately 80 male wards (75% of whom are over 18 years of age) to the northern part of the State is the option with the least impact upon the rest of the southern facilities and the populations housed in those facilities.

Ventura Facility Staff

As for the dedicated CDCR employees at the Ventura Youth Correctional Facility, the Receiver's personnel team has been hard at work on an employment displacement plan to ensure that they have access to employment in the adult health care facility we will be constructing. Ultimately, however, staff at the Ventura facility are CDCR employees, therefore, all final decisions lay with the CDCR and California's Department of Personnel Administration.

Nonetheless, the Office of the Receiver has prepared a written proposal that recommends the following:

- For employees who want to work at the new adult health care facility in Ventura County, there will be guaranteed positions;
- During construction, placement will be provided at adult correctional facilities in the neighboring Los Angeles area;
- The Office of the Receiver will provide van pool transportation to and from the temporary job sites and temporary housing during work periods near the adult institution – all for no cost to the displaced employees;
- And, for those employees who prefer to stay in Ventura and work other jobs outside of State employment, the Office of the Receiver recommends an enhanced return-rights window to ensure benefits and seniority are retained in the event that current CDCR employees want to work at the Receiver's Ventura health care facility.

In compiling these recommendation and mitigations, members of my staff have met with the CDCR, representatives of the California Correctional Peace Officers Association (CCPOA), the Service Employees International Union (SEIU), the American Federation of State, County and Municipal Employees (AFSCME), Union of American Physicians and Dentists (UAPD), the California Association of Professional Scientists, and the International Union of Operating Engineers (IUOE).

Timing of the Receiver's Site Evaluation in Ventura County

Finally, it is important to emphasize that the Receiver did not commence its preliminary evaluation of the Ventura site until after his construction staff were informed by CDCR officials that the Ventura Youth Correctional Facility would be closed, and that the Ventura site was not being considered as a future youth facility location. In fact, the construction team which examined the Ventura site in October 2007 was comprised of both CDCR and Receiver construction staff. Also, as late as November 26, 2007, *after* the on-site inspection, Bernard Warner, Chief Deputy Secretary for Juvenile Justice, confirmed in a string of emails that Ventura was not an appropriate location for the Southern California core juvenile facilities.

2. Public Safety

This new correctional medical facility will be safe and secure. The perimeter will be an impassable, lethal barrier known as an eFence. *No California prisoner has ever escaped from a correctional facility secured with an eFence.* These electrified barriers cannot be breached by an inmate and have an unobtrusive appearance. In addition, the facilities will have state-of-the-art security technology. It is likely that facial recognition software and RFID (Radio Frequency Identification) will be used to maintain a secure, safe environment.

Furthermore, many of the inmates housed at these proposed facilities will be aged, disabled and will suffer from chronic, incapacitating illnesses. For mentally ill patients, there will be extra measures taken within the facility to ensure not only the staffs' safety, but the community's. Further detail about security and safety measures will be highlighted as it becomes available.

3. "Staff Drain" from Local Medical Facilities

Because of the staffing needs of this medical facility, it would be unfair to your community for the Receivership not to plan carefully for training, recruitment and retention. Our facilities are *not* acute care hospitals – they are chronic care facilities, and we will be relying upon the local health care community for specialty and other care that we will not be providing directly. As a result, we share your interest in making sure that your local health care community is fully staffed for all local demands, including ours.

For all seven of the new health care facilities, located throughout the State of California, we have started to plan a significant workforce development effort. In the near term, our workforce development experts will work with local community colleges and others to expand training capabilities. Contrary to what we were initially told by local officials, there are significant opportunities to expand the health care workforce in Ventura County. We will hire – at our cost – additional instructors, make training space available and actively recruit from other regions. It is envisioned that our facility with its size and scope will greatly expand the Ventura regions' health care and medical infrastructure, not detract from it. So, by working with community partners, nursing and other allied medical workforce will be enhanced for the entire county.

The Receivership is keenly aware that if properly implemented, the new health care facility will generate substantial training opportunities and placement benefits for the local health care workforce.

4. Environmental Concerns

The Receiver will adhere to applicable state and federal environmental laws during the construction of these facilities, including CEQA. We have engaged several CEQA and environmental experts to ensure all significant impacts are properly mitigated. Also, the Environmental Impact Report period will be exhaustive and thorough.

5. Local Emergency Response and Hospital Services

In our early meetings, it has been made clear that there is a significant local concern about the impact that this medical facility will have on local emergency response and hospital services. The new facility will, however, have its own emergency facilities, making it as self-contained and unobtrusive as possible. Furthermore, we will work collaboratively with local emergency medical response agencies and hospital officials to ensure any impact is mitigated. Fair and reasonable contracts will be established to ensure local services are not left "holding the bag."

6. Impact on Local Infrastructure

In the construction of this facility, we will work to be a good neighbor. We will mitigate all identified significant impacts to roads, the local sewage system, water delivery system and other potential infrastructure issues. Roads will be widened, sewage systems updated and water issues addressed.

7. Earthquake Safety

Again, public safety and security is a top priority for the Receiver. As we progress through planning and CEQA, all due care and diligence will be taken to measure any and all earthquake and fault zone susceptibility. We take our responsibility to address these issues seriously and completely.

8. Appearance

Along with an unobtrusive but highly secure eFence, the facility will be built to "blend" into the surrounding architectural aesthetic of the region. The building itself will be one story. An effort will be made to keep existing trees and additional landscaping will be added to ease or eliminate the visual impact of the facility.

In the coming weeks, the Receivership will make available to all in the community renderings of how a facility will likely appear on the site.

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In Conclusion

I had originally planned for the Ventura site to be one of our "first three" facilities. Out of deference to the concerns expressed by community members, I have significantly delayed our work at the Ventura site so that I could make a more thorough evaluation of local concerns. Having done so, I remain convinced that the Ventura site is suitable for our purposes, none of the concerns raised so far appear to me to be insurmountable, and I hope to be able to work with local community leaders and others to mitigate any adverse significant impacts of the project to the extent feasible.

Therefore, my staff will be filing a formal Notice to Preparation in the next three or four weeks. This will trigger further site studies and preparation of environmental reports. I would anticipate that construction would not begin until late in 2009, and this timetable should give us all ample opportunity to thoughtfully and thoroughly implement our numerous community based mitigation plans. We look forward to working closely with the Ventura County community during this process to ensure a cooperative and timely construction process. Please continue to visit our website at www.CPHCS.ca.gov for up-to-date information on all of our projects.

Sincerely,



J. Clark Kelso
Receiver

To: State Superintendent of Schools
Members of the State Senate
Members of the State Assembly
Ventura County Board of Supervisors
Ventura County District Attorney
Ventura County Sheriff
City of Camarillo Mayor & City Council
Superintendent of Schools

Cc: City of Oxnard Officials
City of Moorpark Officials
Concerned Citizens Groups
California State University, Channel Islands
Ventura County California Community Colleges