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 9 IN THE UNITED STATES DISTRICT COURTS  
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 11 AND THE NORTHERN DISTRICT OF CALIFORNIA  
 12 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES  
 13 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

14 **RALPH COLEMAN, et al.,**  
 15  
 Plaintiffs,  
 16  
 v.  
 17  
 18 **GAVIN NEWSOM, et al.,**  
 19  
 Defendants.

2:90-cv-00520 KJM-DB  
**THREE-JUDGE COURT**

20 **MARCIANO PLATA, et al.,**  
 21  
 Plaintiffs,  
 22  
 v.  
 23  
 24 **GAVIN NEWSOM, et al.,**  
 25  
 Defendants.

C01-1351 JST  
**THREE-JUDGE COURT**  
**DEFENDANTS' MAY 2019 STATUS  
 REPORT IN RESPONSE TO FEBRUARY  
 10, 2014 ORDER**

1 The State submits this status report on the current in-state and out-of-state adult prison  
 2 populations and the measures being taken to comply with the Court’s February 10, 2014 Order  
 3 Granting in Part and Denying in Part Defendants’ Request for Extension of December 31, 2013  
 4 Deadline (February 10, 2014 Order). Exhibit A sets forth the current design bed capacity,  
 5 population, and population as a percentage of design bed capacity for each state prison and for all  
 6 state prisons combined. Exhibit B sets forth the status of the measures Defendants have  
 7 implemented as required by the February 10, 2014 Order. (ECF 2766/5060 at ¶¶ 4-5.)

8 As of May 8, 2019, 114,471 inmates were housed in the State’s 34 adult institutions and  
 9 677 inmates were housed in out-of-state facilities.<sup>1</sup> (Ex. A.) The State’s prison population is  
 10 approximately 134.5% of design capacity. (Ex. A.)

12 Dated: May 15, 2019

XAVIER BECERRA  
 Attorney General of California

By: /s/ Maneesh Sharma  
 MANEESH SHARMA  
 Deputy Attorney General  
 Attorneys for Defendants

16 Dated: May 15, 2019

HANSON BRIDGETT LLP

By: /s/ Paul B. Mello  
 PAUL B. MELLO  
 SAMANTHA D. WOLFF  
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28 <sup>1</sup> The data in Exhibit A is taken from CDCR’s May 8, 2019 weekly population report, available at <https://sites.cdcr.ca.gov/research/population-reports-2/>.

# **Exhibit A**

## Population as of May 8, 2019

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions <sup>1</sup>	85,083	114,471	134.5%
Total housed in camps		3,468	
Total housed out of state		677	
<b>Individual CDCR Institutions - Men</b>			
Avenal State Prison	2,920	3,938	134.9%
California State Prison, Calipatria	2,308	3,537	153.2%
California Correctional Center*	3,883	4,058	104.5%
California Correctional Institution	2,783	3,885	139.6%
California State Prison, Centinela	2,308	3,526	152.8%
California Health Care Facility, Stockton	2,951	2,633	89.2%
California Institution for Men	2,976	3,643	122.4%
California Men's Colony	3,838	3,389	88.3%
California Medical Facility	2,361	2,541	107.6%
California State Prison, Corcoran	3,116	3,198	102.6%
California Rehabilitation Center	2,491	2,780	111.6%
Correctional Training Facility	3,312	5,601	169.1%
Chuckawalla Valley State Prison	1,738	2,779	159.9%
Deuel Vocational Institution	1,681	2,363	140.6%
Folsom State Prison	2,066	2,979	144.2%
High Desert State Prison	2,324	3,164	136.1%
Ironwood State Prison	2,200	2,660	120.9%
Kern Valley State Prison	2,448	3,702	151.2%
California State Prison, Los Angeles	2,300	3,203	139.3%
Mule Creek State Prison	3,284	4,072	124.0%
North Kern State Prison	2,694	3,899	144.7%
Pelican Bay State Prison	2,380	2,609	109.6%
Pleasant Valley State Prison	2,308	3,416	148.0%
RJ Donovan Correctional Facility	2,992	3,817	127.6%
California State Prison, Sacramento	1,828	2,116	115.8%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,568	162.6%
Sierra Conservation Center*	3,936	4,095	104.0%
California State Prison, Solano	2,610	4,412	169.0%
California State Prison, San Quentin	3,082	3,988	129.4%
Salinas Valley State Prison	2,452	3,274	133.5%
Valley State Prison	1,980	2,948	148.9%
Wasco State Prison	2,984	5,053	169.3%
<b>Individual CDCR Institutions - Women</b>			
Central California Women's Facility	2,004	2,856	142.5%
California Institution for Women*	1,398	1,765	126.3%
Folsom Women's Facility	403	471	116.9%
California State Prison, San Quentin	1	1	0.0%

\* The individual Design Capacity and Actual Population figures for California Correctional Center, Sierra Conservation Center and California Institution for Women include persons housed in camps. This population is excluded from the "Total housed in adult institutions" included on Exhibit A.

<sup>1</sup> The "Actual Population" includes inmates housed in medical and mental health inpatient beds located within Correctional Treatment Centers, General Acute Care Hospitals, Outpatient Housing Units, and Skilled Nursing Facilities at the State's 34 institutions. Many of those beds are not captured in "Design Capacity".

Source - May 8, 2019 Weekly Population Report, available at <https://sites.cdcr.ca.gov/research/wp-content/uploads/sites/9/2019/05/Tpop1d190508.pdf>.

# **Exhibit B**

**OFFICE OF LEGAL AFFAIRS**

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P.O. Box 942883  
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May 14, 2019

Paul Mello  
Hanson Bridgett  
1676 N. California Blvd., Suite 620  
Walnut Creek, CA 94596

Dear Mr. Mello:

Attached please find the California Department of Corrections and Rehabilitation's May, 2019 Status Update for the Three-Judge Court proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Moseley", is written over a faint, larger version of the signature.

HOWARD E. MOSELEY  
General Counsel, Office of Legal Affairs (A)  
California Department of Corrections and Rehabilitation

Attachments:



## MAY 15, 2019 UPDATE TO THE THREE-JUDGE COURT

On February 10, 2014, the Three-Judge Court extended the deadline to achieve the court-ordered reduction in the in-state adult institution population to 137.5% of design capacity to February 28, 2016. (ECF Nos. 2766/5060 & 2767/5061.) This report is CDCR's 62nd report submitted since the Court issued its population-reduction order, and the 50th report submitted since February 2015, when Defendants informed the Court that the population was below the court-ordered reduction. (ECF No. 2838/5278, filed February 17, 2015.) It has now been four years since Defendants have been in full compliance with the population-reduction order. As of May 8, 2019, the State's prison population is 134.5% of design capacity.

### A. Update on durability:

As previously reported, Proposition 57, the State's durable remedy that enacts many of the Court-ordered reforms as well as expands credit earning opportunities, was approved by voters in November 2016.

On May 1, 2018, regulations for Proposition 57 were approved and made permanent. Those regulations can be found at:

[https://www.cdcr.ca.gov/Regulations/Adult\\_Operations/docs/NCDR/2017NCR/17-05/Adopted-Regulations-and-FSOR-17-05.pdf](https://www.cdcr.ca.gov/Regulations/Adult_Operations/docs/NCDR/2017NCR/17-05/Adopted-Regulations-and-FSOR-17-05.pdf)

Subsequently, in December 2018, the Office of Administrative Law approved two emergency regulation packages which: (1) amend the nonviolent offender parole process to distinguish between determinately and indeterminately sentenced offenders and implement a parole consideration process for indeterminately-sentenced, nonviolent offenders ("Nonviolent Offender Package"); and (2) expand credit earning opportunities ("Credit Earning Package") for inmates who achieve a High School diploma or its equivalent and/or who complete 52 hours of programming under the Rehabilitative Achievement Credit program. The Credit Earning Package also reduces the minimum amount of time an inmate must serve until released following a sudden award of substantial credit.

The Nonviolent Offender Package went into effect on January 1, 2019, and can be found at <https://oal.ca.gov/wp-content/uploads/sites/166/2018/12/2018-1211-01EON.pdf>

The Credit Earning Package went into effect on January 9, 2019, and can be found at [https://oal.ca.gov/wp-content/uploads/sites/166/2019/01/2018-1220-03EON\\_APP-1.pdf](https://oal.ca.gov/wp-content/uploads/sites/166/2019/01/2018-1220-03EON_APP-1.pdf)

Both sets of emergency regulations are in the process of being approved to be made permanent.

The impact of the above-described regulations include:

1. Increased credit earning opportunities for all inmates except the condemned and those serving life without parole.

1,490 inmates released in April earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 127.9 days of additional credit.<sup>1</sup>

2. Determinately Sentenced Nonviolent Offender Parole Process.

CDCR began referring inmates to the Board for this process on July 1, 2017, pursuant to the emergency regulations promulgated on April 13, 2017. From July 1, 2017 through April 30, 2019, 11,245 referrals were made to the Board. As of April 30, 2019, 9,194 referrals have been reviewed on the merits, with 1,882 inmates approved for release and 7,312 denied. Additionally, 1,416 referrals have been closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The remaining referrals are pending review, including the 30-day period for written input from inmates, victims, and prosecutors and the Board's jurisdictional review process.

3. Indeterminately Sentenced Nonviolent Offender Parole Process.

CDCR began screening indeterminately-sentenced, nonviolent offenders for eligibility in January 2019. As of April 30, 2019, 1,658 inmates have been referred to the Board for a parole consideration hearing, of which 103 were closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The remaining referrals are pending parole suitability hearings.

B. Update on Other Measures Defendants Continue to Implement:

1. Contracting for additional in-state capacity in county jails, community correctional facilities, private prison(s), and reduction of out-of-state beds:

Defendants have reduced the population in CDCR's 34 institutions by transferring inmates to in-state facilities.

- a. Private Prison (California City):

The current population of California City is approximately 2,429 inmates.

- b. Community correctional facilities (CCFs) and modified community correctional facilities (MCCFs):

The State currently has contracted for 4,218 MCCF beds that are in various stages of activation and transfer.

- c. County jails:

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<sup>1</sup> This number does not include inmates released from fire camps.



The State continues to evaluate the need for additional in-state jail bed contracts to house CDCR inmates.

d. Reduction of inmates housed out-of-state:

On February 10, 2014, the Court ordered Defendants to “explore ways to attempt to reduce the number of inmates housed in out-of-state facilities to the extent feasible.” Since that time, the State has reduced the out-of-state inmate population to 677, including closing the Oklahoma and Mississippi out-of-state facilities.

2. Parole process for medically incapacitated inmates:

The State continues to work closely with the Receiver's Office to implement this measure. The Receiver's Office is continuing to review inmates and is sending completed recommendations to CDCR. Recommendations received from the Receiver's office are reviewed by DAI and referred to the Board for a hearing. As of May 9, 2019, the Board has held 136 medical parole hearings under the revised procedures. An additional 29 were scheduled, but were postponed, continued, or cancelled.

3. Parole process for inmates 60 years of age or older having served at least 25 years:

The Board continues to schedule eligible inmates for hearings who were not already in the Board's hearing cycle, including inmates sentenced to determinate terms. From February 11, 2014 through April 30, 2019, the Board held 3,426 hearings for inmates eligible for elderly parole, resulting in 950 grants, 2,177 denials, 297 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 1,540 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

As discussed in prior reports, the State enacted Assembly Bill 1448 on October 11, 2017, authorizing an elderly parole program for inmates age 60 or older who have served at least 25 years of incarceration. The State will continue to implement the Court-ordered elderly parole process until this matter is terminated or the February 10, 2014 Order is modified.

4. Reentry programs:

Contracts for the San Diego, San Francisco, Los Angeles, Kern County, and Butte County reentry programs are in place. The State continues to review and refer eligible inmates for placement consideration. As of May 8, 2019, 615 inmates are housed in reentry facilities.

5. Expanded alternative custody program:

The State's expanded alternative custody program for females, Custody to Community Transitional Reentry Program (CCTRP), provides female inmates with a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support. Female inmates in the CCTRP are

housed at facilities located in San Diego, Santa Fe Springs (LA), Bakersfield, and Stockton. As of May 8, 2019, 388 female inmates are participating in the CCTRP.