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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  
 17 **v.**  
 18 **GAVIN NEWSOM, et al.,**  
 19 Defendants.

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

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

C01-1351 JST  
**THREE-JUDGE COURT**  
**DEFENDANTS' FEBRUARY 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 February 13, 2019, 113,954 inmates were housed in the State's 34 adult institutions  
9 and 1,609 inmates were housed in out-of-state facilities.<sup>1</sup> (Ex. A.) The State's prison population  
10 is approximately 133.9% of design capacity. (Ex. A.)

11  
12 Dated: February 15, 2019

XAVIER BECERRA  
Attorney General of California

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

15  
16 Dated: February 15, 2019

HANSON BRIDGETT LLP

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18 By: /s/ *Paul B. Mello*  
PAUL B. MELLO  
Attorneys for Defendants

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<sup>1</sup> The data in Exhibit A is taken from CDCR's February 13, 2019 weekly population report, available on CDCR's website at <https://sites.cdcr.ca.gov/research/population-reports/>.

# **Exhibit A**

## Population as of February 13, 2019

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions <sup>1</sup>	85,083	113,954	133.9%
Total housed in camps		3,371	
Total housed out of state		1,609	
<b>Individual CDCR Institutions - Men</b>			
Avenal State Prison	2,920	4,104	140.5%
California State Prison, Calipatria	2,308	3,490	151.2%
California Correctional Center*	3,883	4,176	107.5%
California Correctional Institution	2,783	4,049	145.5%
California State Prison, Centinela	2,308	3,404	147.5%
California Health Care Facility, Stockton	2,951	2,661	90.2%
California Institution for Men	2,976	3,666	123.2%
California Men's Colony	3,838	3,665	95.5%
California Medical Facility	2,361	2,345	99.3%
California State Prison, Corcoran	3,116	3,308	106.2%
California Rehabilitation Center	2,491	2,347	94.2%
Correctional Training Facility	3,312	5,341	161.3%
Chuckawalla Valley State Prison	1,738	2,731	157.1%
Deuel Vocational Institution	1,681	2,527	150.3%
Folsom State Prison	2,066	2,927	141.7%
High Desert State Prison	2,324	3,243	139.5%
Ironwood State Prison	2,200	2,595	118.0%
Kern Valley State Prison	2,448	3,725	152.2%
California State Prison, Los Angeles	2,300	3,164	137.6%
Mule Creek State Prison	3,284	3,987	121.4%
North Kern State Prison	2,694	4,164	154.6%
Pelican Bay State Prison	2,380	2,550	107.1%
Pleasant Valley State Prison	2,308	3,147	136.4%
RJ Donovan Correctional Facility	2,992	3,782	126.4%
California State Prison, Sacramento	1,828	2,074	113.5%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,580	163.0%
Sierra Conservation Center*	3,936	4,105	104.3%
California State Prison, Solano	2,610	4,231	162.1%
California State Prison, San Quentin	3,082	3,904	126.7%
Salinas Valley State Prison	2,452	3,375	137.6%
Valley State Prison	1,980	3,178	160.5%
Wasco State Prison	2,984	4,686	157.0%
<b>Individual CDCR Institutions - Women</b>			
Central California Women's Facility	2,004	2,846	142.0%
California Institution for Women*	1,398	1,811	129.5%
Folsom Women's Facility	403	437	108.4%

\* 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 -February 13, 2019 Weekly Population Report, available at: <https://sites.cdcr.ca.gov/research/population-reports/>.

# **Exhibit B**

**OFFICE OF LEGAL AFFAIRS**

Howard E. Moseley  
General Counsel (A)  
P.O. Box 942883  
Sacramento, CA 94283-0001



February 15, 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 February, 2019 Status Update for Three-Judge Court proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "H. Moseley".

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

Attachments:



## **FEBRUARY 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 61st report submitted since the Court issued its population-reduction order, and the 49th 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 February 13, 2019, the State's prison population is 133.9% 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 increases and opportunities, was approved by voters in November 2016.

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

[https://www.cdcr.ca.gov/Regulations/Adult\\_Operations/docs/NCDR/2017NCR/17-05/Adopted-Regulations-Effective-May-1-2018.pdf](https://www.cdcr.ca.gov/Regulations/Adult_Operations/docs/NCDR/2017NCR/17-05/Adopted-Regulations-Effective-May-1-2018.pdf).

In December, the Office of Administrative Law approved emergency regulations amending the nonviolent offender parole process to distinguish between determinately and indeterminately sentenced offenders and implement a parole consideration process for indeterminately-sentenced, nonviolent offenders. The emergency regulations 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 regulations include:

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

1,670 inmates released in January earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 121.5 days of additional credit.<sup>1</sup>

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

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 January 31, 2019, 10,216 referrals were made to the Board. As of January 31, 2019, 8,400 referrals have been reviewed on the merits, with 1,729 inmates approved for release and 6,671 denied. Additionally, 1,323 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 January 31, 2019, 470 inmates have been referred to the Board for a parole consideration hearing.

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 2,435 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:

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 1,609, 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 February 9, 2019, the Board has held 133 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 January 31, 2019, the Board held 3,217 hearings for inmates eligible for elderly parole, resulting in 901 grants, 2,039 denials, 277 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 1,468 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 February 13, 2019, 631 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 February 13, 2019, 390 female inmates are participating in the CCTRP.