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

15 **RALPH COLEMAN, et al.,**
 16 Plaintiffs,
 17 v.
 18 **EDMUND G. BROWN JR., et al.,**
 19 Defendants.
 20

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

21 **MARCIANO PLATA, et al.,**
 22 Plaintiffs,
 23 v.
 24 **EDMUND G. BROWN JR., et al.,**
 25 Defendants.
 26

C01-1351 JST
THREE-JUDGE COURT
**DEFENDANTS' FEBRUARY 2018
 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 In 2016, CDCR activated 2,376 infill beds and corresponding administrative and health
 9 care support facilities at Mule Creek State Prison and Richard J. Donovan Correctional Facility.
 10 (See Ex. B.) The parties are currently engaged in the Court-ordered meet-and-confer process to
 11 reach an agreement on how such capacity should be counted for purposes of determining
 12 compliance with the Court's population reduction order. (*Id.*) As of February 14, 2018, 113,939
 13 inmates were housed in the State's 34 adult institutions and 4,211 inmates were housed in out-of-
 14 state facilities.¹ (Ex. A.) The State's prison population is approximately 133.9% of design
 15 capacity if the 2,376 infill beds are counted at 137.5%, and approximately 134.9% of design
 16 capacity if the 2,376 infill beds are counted at 100%. (Ex. A.)

17
 18 Dated: February 15, 2018

XAVIER BECERRA
 Attorney General of California

19
 20 By: /s/ *Maneesh Sharma*
 MANEESH SHARMA
 Deputy Attorney General
 Attorneys for Defendants

21
 22 Dated: February 15, 2018

HANSON BRIDGETT LLP

23
 24 By: /s/ *Paul B. Mello*
 PAUL B. MELLO
 Attorneys for Defendants

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 26
 27
 28 ¹ The data in Exhibit A is taken from CDCR's February 14, 2018 weekly population report,
 available on CDCR's Web site at [http://www.cdcr.ca.gov/Reports_Research/
 Offender_Information_Services_Branch/Population_Reports.html](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html).

Exhibit A

Population as of February 14, 2018

Institution	Design Capacity*	Actual Population	Population as % of design capacity*
Total housed in adult institutions ¹	85,083	113,939	133.9%
Total housed in camps		3,538	
Total housed out of state		4,211	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	4,194	143.6%
California State Prison, Calipatria	2,308	3,694	160.1%
California Correctional Center**	3,883	4,453	114.7%
California Correctional Institution	2,783	3,348	120.3%
California State Prison, Centinela	2,308	3,306	143.2%
California Health Care Facility, Stockton	2,951	2,495	84.5%
California Institution for Men	2,976	3,498	117.5%
California Men's Colony	3,838	3,924	102.2%
California Medical Facility	2,361	2,453	103.9%
California State Prison, Corcoran	3,116	3,135	100.6%
California Rehabilitation Center	2,491	2,523	101.3%
Correctional Training Facility	3,312	5,230	157.9%
Chuckawalla Valley State Prison	1,738	2,931	168.6%
Deuel Vocational Institution	1,681	2,154	128.1%
Folsom State Prison	2,066	2,408	116.6%
High Desert State Prison	2,324	3,437	147.9%
Ironwood State Prison	2,200	2,786	126.6%
Kern Valley State Prison	2,448	3,514	143.5%
California State Prison, Los Angeles	2,300	3,315	144.1%
Mule Creek State Prison	3,284	4,129	125.7%
North Kern State Prison	2,694	4,309	159.9%
Pelican Bay State Prison	2,380	2,668	112.1%
Pleasant Valley State Prison	2,308	2,908	126.0%
RJ Donovan Correctional Facility	2,992	3,855	128.8%
California State Prison, Sacramento	1,828	2,111	115.5%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,665	165.4%
Sierra Conservation Center**	3,936	4,251	108.0%
California State Prison, Solano	2,610	3,756	143.9%
California State Prison, San Quentin	3,082	3,800	123.3%
Salinas Valley State Prison	2,452	3,509	143.1%
Valley State Prison	1,980	3,554	179.5%
Wasco State Prison	2,984	4,989	167.2%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,966	148.0%
California Institution for Women**	1,398	1,814	129.8%
Folsom Women's Facility	403	395	98.0%

*In 2016, CDCR activated 2,376 infill beds and corresponding administrative and health care support facilities at Mule Creek State Prison and RJ Donovan Correctional Facility. The parties are currently engaged in the Court-ordered meet-and-confer process to reach an agreement on how such capacity should be counted for purposes of determining compliance with the Court's population reduction order. "Population as a % of design capacity" is calculated including the 2,376 beds as part of systemwide design capacity. If the 2,376 infill beds are counted at 100% for the compliance calculation, the prison population is approximately 134.9% of systemwide design capacity.

** 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.

¹ 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 14, 2018 Weekly Population Report, available at:

http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html.

Exhibit B

OFFICE OF LEGAL AFFAIRS

Patrick R. McKinney II

General Counsel

P.O. Box 942883

Sacramento, CA 94283-0001



February 12, 2018

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

Dear Mr. Mello:

Attached, please find California Department of Corrections and Rehabilitation's February 2018 Status Update for Three-Judge Court proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "PR McKinney II". The signature is stylized and written over a faint circular stamp or watermark.

Patrick R. McKinney II
General Counsel, Office of Legal Affairs
California Department of Corrections and Rehabilitation

Attachments



FEBRUARY 15, 2018 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 & 2767.) This report is CDCR's 49th report submitted since the Court issued its population-reduction order, and the 37th report submitted since February 2015, when Defendants informed the Court that the population was below the court-ordered reduction. (ECF No. 2838, filed February 17, 2015.) It has now been more than three years since Defendants have been in full compliance with the population-reduction order. As of February 14, 2018, the State's prison population is approximately either 133.9% or 134.9% of design capacity depending on how additional bed capacity is counted for the compliance calculation.¹

A. Update on durability:

Defendants' prior reports discuss in detail the prior significant measures they have implemented to comply with the population-reduction orders, including the following:

- Assembly Bills 1308 and 1448, and Senate Bills 180 and 394 (2017).
- Proposition 57, The Public Safety and Rehabilitation Act of 2016.
- Senate Bill 260 (2013) and Senate Bill 261 (2015).
- Senate Bill 230 (2015).
- Proposition 47 (2014).
- Proposition 36 (2012).

Rather than continue to repeat that discussion, this report focuses on Defendants' implementation of Proposition 57, the State's durable remedy which enacts many of the Court-ordered reforms. The regulations have been effective since April 13, 2017, and include:

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

Proposition 57 codifies and expands the February 10, 2014 Court-ordered credit increases. Proposition 57's Milestone Completion, Rehabilitative Achievement, Educational Merit, and Extraordinary Conduct Credits have also been implemented. 1,625 inmates released in January earned credit authorized by Proposition 57 towards

¹ In 2016, CDCR activated 2,376 infill beds and corresponding administrative and health care support facilities at Mule Creek State Prison and Richard J. Donovan Correctional Facility. Defendants proposed a stipulation to Plaintiffs to count this additional capacity at 137.5% of design bed capacity, but the parties have not yet reached an agreement.

their advanced release date. These inmates earned an estimated average of 99.1 days of additional credit.²

2. Proposition 57's nonviolent offender parole process.

CDCR began referring inmates to the Board for this process on July 1, 2017. From July 1, 2017 through January 31, 2018, 4,976 referrals were made to the Board (including 457 inmates who had previously been referred to the Board under the nonviolent second-striker parole consideration process, but were eligible for an earlier review under the nonviolent offender parole process). As of January 31, 2018, 3,838 referrals have been reviewed on the merits, with 774 inmates approved for release and 3,064 denied. Many referrals are pending review, including the 30-day period for written input from inmates, victims, and prosecutors and the Board's jurisdictional review process.

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 2,303 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 4,211 and has closed the Oklahoma out-of-state facility.

2. Parole determination process whereby nonviolent second-strikers will be eligible for parole consideration by the Board once having served 50% of their sentence:

As authorized by the Court's June 20, 2017 Order, Defendants stopped referring inmates to the Board for this parole process on June 30, 2017. From January 1, 2015 through

² This number does not include inmates released from fire camps.

June 30, 2017, 12,677 referrals were made to the Board for review. From January 1, 2015 through January 31, 2018, the Board approved 4,539 inmates for release and denied release to 5,471 inmates. Some cases are pending review until the inmate is within 60 days of his or her 50 percent time-served date. 457 inmates pending review under this measure have transitioned to the new nonviolent offender parole process because they were eligible for an earlier review under the new process.

3. 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, 2018, the Board has held 120 medical parole hearings under the revised procedures. An additional 28 were scheduled, but were postponed, continued, or cancelled.

4. 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, 2018, the Board held 2,536 hearings for inmates eligible for elderly parole, resulting in 664 grants, 1,663 denials, 209 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 1,165 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.

5. 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 14, 2018, 628 inmates are housed in reentry facilities.

6. 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 14, 2018, 324 female inmates are participating in the CCTRP.