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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 TEH
THREE-JUDGE COURT
**DEFENDANTS' SEPTEMBER 2016
 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 February and March of 2016, CDCR activated 1,584 infill beds and corresponding
9 administrative and health care support facilities at Mule Creek State Prison. (See Ex. B.) The
10 parties are currently engaged in the Court-ordered meet-and-confer process to reach an agreement
11 on how such capacity should be counted for purposes of determining compliance with the Court’s
12 population reduction order. (Id.) As of September 14, 2016, 113,674 inmates were housed in the
13 State’s 34 adult institutions and 4,821 inmates were housed in out-of-state facilities.¹ (Ex. A.)
14 The State’s prison population is approximately 134.9% of design capacity if the 1,584 infill beds
15 are counted at 137.5%, and approximately 135.5% of design capacity if the 1,584 infill beds are
16 counted at 100%. (Ex. A.)

17
18 Dated: September 15, 2016

KAMALA D. HARRIS
Attorney General of California

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

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22 Dated: September 15, 2016

HANSON BRIDGETT LLP

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

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27 ¹ The data in Exhibit A is taken from CDCR’s September 14, 2016 weekly population report,
28 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 September 14, 2016

Institution	Design Capacity*	Actual Population	Population as % of design capacity*
Total housed in adult institutions ¹	84,291	113,674	134.9%
Total housed in camps		3,576	
Total housed out of state		4,821	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	3,265	111.8%
California State Prison, Calipatria	2,308	3,841	166.4%
California Correctional Center**	3,883	4,027	103.7%
California Correctional Institution	2,783	3,493	125.5%
California State Prison, Centinela	2,308	3,623	157.0%
California Health Care Facility, Stockton	2,951	2,454	83.2%
California Institution for Men	2,976	3,716	124.9%
California Men's Colony	3,838	4,128	107.6%
California Medical Facility	2,361	2,546	107.8%
California State Prison, Corcoran	3,116	3,223	103.4%
California Rehabilitation Center	2,491	2,992	120.1%
Correctional Training Facility	3,312	5,198	156.9%
Chuckawalla Valley State Prison	1,738	2,362	135.9%
Deuel Vocational Institution	1,681	2,230	132.7%
Folsom State Prison	2,066	2,499	121.0%
High Desert State Prison	2,324	3,823	164.5%
Ironwood State Prison	2,200	3,174	144.3%
Kern Valley State Prison	2,448	3,844	157.0%
California State Prison, Los Angeles	2,300	3,439	149.5%
Mule Creek State Prison	3,284	3,500	106.6%
North Kern State Prison	2,694	4,379	162.5%
Pelican Bay State Prison	2,380	2,335	98.1%
Pleasant Valley State Prison	2,308	3,215	139.3%
RJ Donovan Correctional Facility	2,200	3,009	136.8%
California State Prison, Sacramento	1,828	2,315	126.6%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,273	154.0%
Sierra Conservation Center**	3,936	4,219	107.2%
California State Prison, Solano	2,610	4,013	153.8%
California State Prison, San Quentin	3,082	3,869	125.5%
Salinas Valley State Prison	2,452	3,741	152.6%
Valley State Prison	1,980	3,450	174.2%
Wasco State Prison	2,984	4,869	163.2%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,849	142.2%
California Institution for Women**	1,398	1,847	132.1%
Folsom Women's Facility	403	490	121.6%

*In February and March of 2016, CDCR activated 1,584 infill beds and corresponding administrative and health care support facilities at Mule Creek State Prison. 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 1,584 beds as part of systemwide design capacity. If the 1,584 infill beds are counted at 100% for the compliance calculation, the prison population is approximately 135.5% of systemwide design capacity.

** The individual Design Capacity and Actual Population figures for California Correctional Center, Sierra Conservation Center and California Institute 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 - September 14, 2016 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
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September 15, 2016

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 September 2016 Status Update for Three-Judge Court proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "PRM II", is written over the typed name of Patrick R. McKinney II.

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

Attachments



SEPTEMBER 15, 2016 UPDATE TO THE THREE-JUDGE COURT

This report reflects CDCR's efforts as of September 15, 2016 to develop and implement measures to comply with the Three-Judge Court's population reduction order. Because this is an evolving process, CDCR reserves the right to modify or amend its plans as circumstances change.

On February 22, 2016, CDCR activated 792 infill beds and corresponding administrative and health care support facilities at Mule Creek State Prison. An additional 792 beds and corresponding administrative and health care support facilities were activated at Mule Creek on March 28, 2016. 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. As of September 14, 2016, the State's prison population is approximately 134.9% of design capacity if the 1,584 infill beds are counted at 137.5% for the compliance calculation. If the 1,584 infill beds are counted at 100% for the compliance calculation, the prison population is approximately 135.5% of design capacity.

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 1,919 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 4,821 and has closed the Oklahoma out-of-state facility.

2. Newly-enacted legislation/update on durability:

In response to the Court's March 4, 2016 Order, Defendants will continue to report on enacted and pending legislation, policies, and construction that will ensure that compliance with the Court-ordered population cap is durable.

The State continues to implement Senate Bill 260 (2013) and Senate Bill 261 (2015), which allows inmates whose crimes were committed before the age of 23 to appear before the Board of Parole Hearings (the Board) to demonstrate their suitability for release after serving at least fifteen years of their sentence. From January 1, 2014 through August 31, 2016, the Board held 1,766 youth offender hearings, resulting in 480 grants, 1,073 denials, 213 stipulations to unsuitability, and there are currently no split votes that require referral to the full Board for further consideration. An additional 984 hearings were scheduled during this time period, but were waived, postponed, continued, or cancelled.

On October 3, 2015, the State also enacted Senate Bill 230, which provides that life inmates who are granted parole will be eligible for release, subject to applicable review periods, upon reaching their minimum eligible parole date. Life inmates will no longer be granted parole with future parole dates.

Proposition 36, passed by the voters in November 2012, revised the State's three-strikes law to permit resentencing for qualifying third-strike inmates whose third strike was not serious or violent. As of August 31, 2016, approximately 2,220 third-strike inmates have been released.

On November 4, 2014, the voters passed Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing. As of August 31, 2016, approximately 4,642 inmates have been released under Proposition 47.

On January 27, 2016, Governor Brown announced The Public Safety and Rehabilitation Act of 2016 (the "Act"), which if passed by the voters will serve as a durable remedy and further the goals of enhancing public safety and promoting rehabilitation.¹ The Act proposes to reform the juvenile and adult criminal justice system in California by (1) creating a parole consideration process for non-violent offenders who have served the full term for their primary criminal offense in state prison, (2) authorizing CDCR to award credits earned for good behavior and approved rehabilitative or educational achievements, and (3) requiring judges to determine whether juveniles charged with certain crimes should be tried in juvenile or adult court. CDCR will draft and adopt regulations to implement the parole and credits provisions after a period of public review and comment. CDCR's Secretary is also required to certify that the regulations protect and enhance public safety.

Additionally, CDCR is adding 2,376 beds with corresponding administrative and health care support facilities at Mule Creek State Prison and Richard J. Donovan Correctional Facility. As described above, 1,584 of these beds at Mule Creek have already been

¹ The Public Safety and Rehabilitation Act will appear on the November 2016 ballot as Proposition 57.

activated. CDCR continues to expand community reentry bed usage and is exploring options for increasing reentry bed use, including modifying statutory requirements to enable CDCR to place inmates in reentry facilities up to six months before their release dates, two months earlier than is currently permitted.

As of July 1, 2016, the State is expanding reentry services programming to each of the Department's institutions.² This new statewide reentry model will eliminate the need to transfer inmates to designated hub-institutions and allow any inmate with an assessed need for reentry services to access programming at their current institution. CDCR is currently in the process of contracting for services at all institutions.

3. Prospective credit-earning increase for non-violent, non-sex registrant second-strike offenders and minimum custody inmates:

Effective from the date of the Court's February 10, 2014 Order, non-violent, non-sex second-striker offenders are earning credits at the rate of 33.3% (increased from the previous rate of 20%) and are also eligible to earn milestone credits for rehabilitative programs. The State's automated systems have been modified and the court-ordered credits are being automatically applied, including milestone credits. In August, 371 inmates were released as a result of the court-ordered credit increases.³ These inmates earned an estimated average of 159 days of additional credit. Of the 371 inmates released in August, 240 earned milestone completion credits toward their advanced release date. Since April 2014, approximately 6,204 inmates who have been released as a result of this credit measure earned milestone credits toward their advanced release date.

As of January 1, 2015, Defendants expanded 2-for-1 credit earnings for all inmates designated Minimum Custody A or B pursuant to California Code of Regulations Title 15 Section 3377.1 who are currently eligible to earn day-for-day (50%) credits. These credits are being applied prospectively to the 3,393 inmates who are currently eligible under this program. Since January 1, 2015, 11,358 total inmates have been released receiving expanded 2-for-1 earnings.

4. New parole determination process whereby non-violent second-strikers will be eligible for parole consideration by the Board once having served 50% of their sentence:

Classification committees are reviewing inmates for eligibility and referring them to the Board. From January 1, 2015 through August 31, 2016, 8,515 non-violent second-strike inmates were referred to the Board for review for parole. During this time period, the Board approved 2,914 inmates for release and denied release to 2,790 inmates. Many cases are pending review because the 30-day period for written input from inmates, victims, and prosecutors has not yet elapsed. Others are pending review until the inmate is within 60 days of his or her 50 percent time-served date.

5. Parole determination process for certain inmates with indeterminate sentences granted parole with future parole dates:

² As a result of the expansion of statewide reentry services, the State has eliminated the reentry hub section of this report.

³ Of the 371 inmates, 237 were released to Post Release Community Supervision and 134 were released to parole.

As mentioned above, on October 3, 2015, the State enacted Senate Bill 230, which provides that life inmates who are granted parole will be eligible for release, subject to applicable review periods, upon reaching their minimum eligible parole date.

6. 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 September 9, 2016, the Board has held 88 medical parole hearings under the revised procedures. An additional 27 were scheduled, but were postponed, continued, or cancelled.

7. 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 August 31, 2016, the Board has held 1,525 hearings for inmates eligible for elderly parole, resulting in 389 grants, 1,012 denials, 115 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 696 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

8. Reentry programs:

Contracts for the 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 September 14, 2016, 237 inmates are housed in reentry facilities.

9. 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 one of four facilities located in San Diego, Santa Fe Springs (LA), Bakersfield, and Stockton. As of September 14, 2016, 278 female inmates are participating in the CCTRP.