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11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**  
13 **AND THE NORTHERN DISTRICT OF CALIFORNIA**

14 **UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES**  
15 **PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE**

16 RALPH COLEMAN, et al.,

17 Plaintiffs,

18 v.

19 EDMUND G. BROWN, JR., et al.,

20 Defendants.

CASE NO. 2:90-cv-00520 LKK JFM P

**THREE-JUDGE COURT**

21 MARCIANO PLATA, et al.,

22 Plaintiffs,

23 v.

24 EDMUND G. BROWN JR., et al.,

25 Defendants.

CASE NO. C01-1351 TEH

**THREE-JUDGE COURT**

**DEFENDANTS' STATUS REPORT IN  
RESPONSE TO JUNE 30, 2011, APRIL 11,  
2013, AND JUNE 20, 2013 ORDERS**

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1 Defendants are continuing to diligently develop the measures in the court-ordered plan.  
2 (Decl. Jeffrey Beard Supp. Aug. 29 Status Report (Beard Decl.) ¶ 2.)

3 Defendants, however, have recently begun to pursue an additional means of complying  
4 with the population cap to avoid placing undue stress on the state's criminal justice system. (*Id.*)  
5 The amended court-ordered plan will result in the release of thousands of inmates by the end of  
6 the year, either through the implementation of retroactive credits or the early-release system.  
7 (Beard Decl. ¶ 3.) Local officials, including sheriffs, police chiefs, probation chiefs, district  
8 attorneys, mental health providers, county alcohol and drug administrators, and county  
9 supervisors, have advised Defendants that they are facing enormous challenges just carrying out  
10 the far reaching mandates of Realignment, California's historic prison reform. (*Id.*) They have  
11 repeatedly warned Defendants that they lack the institutional capacity at this time to absorb more  
12 offenders than they are currently handling under Realignment. (*Id.*) Releasing inmates into  
13 communities that lack resources to provide the necessary supervision, treatment, and reentry  
14 services will degrade existing services, heighten risks to public safety, and make it far more  
15 difficult to build upon Realignment with further lasting reforms. (*Id.*) For all of these reasons, the  
16 Legislature is now actively engaged in considering additional prison capacity and further longer  
17 term solutions. (*Id.*)

18 On August 27, 2013, Governor Edmund G. Brown Jr., joined by Assembly Speaker John  
19 A. Perez, Republican leaders from both legislative houses, and top law enforcement and local  
20 government officials, announced pending legislation to eliminate the need for the mass release of  
21 inmates while committing the State to develop more thoughtful, longer term reforms to address  
22 prison capacity, control the prison population, and reduce recidivism. (Beard Decl. ¶ 4.) This  
23 legislation is currently under consideration in the Assembly.<sup>1</sup> (*Id.*) The legislation will provide  
24 an immediate means of achieving compliance with the population cap by authorizing the State to  
25 lease additional prison capacity in California and in private prisons out of state. (*Id.*) Moreover,

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27 <sup>1</sup> On August 29, 2013, the Assembly Budget Committee approved the legislation for consideration  
28 by the full Assembly. (Beard Decl. ¶ 4.)

1 the legislation expressly requires the State to build upon the significant criminal justice  
2 improvements that have already been achieved:

3 The additional prison capacity authorized by this bill is an immediate measure to  
4 avoid early release of inmates and allow the state to comply with the federal court  
5 order. The measure will also provide time to develop additional thoughtful,  
6 balanced and effective long-term solutions with input from our local government  
7 and justice partners who are still adjusting to the recent criminal justice reforms of  
8 realignment. The long term changes will build upon the transition of lower level  
9 offenders to local jurisdiction, the construction of new prison health care  
10 facilities, and improvements to existing health care facilities throughout the prison  
11 system. The administration shall begin immediately, in consultation with  
12 stakeholders, including appropriate legislative committees, to assess the state  
13 prison system, including capacity needs, prison population levels, and recidivism  
14 rates and, factors affecting crime levels. Not later than January 10, 2015, the  
15 Department of Finance shall develop and report to the Legislature regarding  
16 balanced solutions that are cost effective and protect public safety.

17 (*Id.*; Senate Bill 105, sec. 1, attached as Ex. A to Beard Decl.)

18 Because a reduction of the prison population necessarily shifts responsibility for offenders  
19 who would otherwise be in prison to local officials, successful and durable reforms must be  
20 developed in collaboration with law enforcement and local government leaders. (Beard Decl.¶ 5.)  
21 If enacted, this legislation will meet the immediate requirement of the population cap while  
22 allowing substantial reforms to be developed in a manner that will ensure their durability. (*Id.*)

23 As for the current state prison population, Exhibit A sets forth the current design bed  
24 capacity, population, and population as a percentage of design bed capacity for each state prison  
25 and for all state prisons combined. Exhibit A shows that as of August 21, 2013, 119,792 inmates  
26 were housed in the State’s 34 adult institutions, which amounts to 146.9% of design bed capacity.<sup>2</sup>

27 **COURT-ORDERED AMENDED POPULATION REDUCTION PLAN**

28 **I. MEASURES IN THE COURT’S AMENDED PLAN**

**A. New Construction**

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30 <sup>2</sup> The data in Exhibit A is taken from CDCR’s August 21, 2013 weekly population report,  
31 available on CDCR’s Web site at  
32 [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/WeeklyWed/TPOP1A/TPOP1Ad130724.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad130724.pdf)

1 Defendants began admitting patients to the California Health Care Facility in Stockton on  
2 July 22, 2013. (Toche Decl. Supp. Aug. 1 Status Report, ECF 2690/4728 ¶ 2.) Inmates with the  
3 most severe and long-term medical care and mental health needs are treated at the Stockton  
4 facility. See California Department of Corrections and Rehabilitation,  
5 [http://www.cdcr.ca.gov/Facilities\\_Locator/CHCF.html](http://www.cdcr.ca.gov/Facilities_Locator/CHCF.html) (last visited August 15, 2013). As of  
6 August 21, 2013, 368 inmates have been transferred to CHCF-Stockton. (Exhibit A.)

7 **B. Expanding Fire Camp Capacity**

8 As Defendants reported in the July 18, 2013 Status Report, this measure has been  
9 accomplished. (ECF 2679/4697 at 2-3.) CDCR currently houses 3,951 inmates in fire camps.  
10 (Exhibit A.) CDCR intends to continue to house at least 3,800 inmates in fire camps consistent  
11 with the Court's Amended Plan. (ECF 2679/4697 at 2-3.)

12 **C. Increasing Prison Credits**

13 CDCR has developed a tentative process to implement increased prison credits and to  
14 address related logistical and policy concerns. (Decl. Toche Supp. Aug. 29 Status Report (Toche  
15 Decl.) ¶ 3.) CDCR has also identified inmates who appear to be eligible to receive increased  
16 credits. (*Id.*) CDCR has determined that a statewide tracking system will be necessary to limit  
17 duplicative reviews and enable the most efficient implementation of this measure. (*Id.*)

18 **D. Expanding Criteria for Medical Parole**

19 Defendants have been working diligently to prepare for the implementation of the  
20 expanded medical parole program in the Court's amended plan. (See Toche Decl. ¶ 4.) As  
21 previously reported CDCR and the Receiver's Office have agreed to prioritize the review of  
22 inmate-patients based on level of care needs and the ability be housed in available community care  
23 facilities, such as skilled nursing facilities. (*Id.*) To date, medical staff have identified an initial  
24 group of 42 inmates eligible under the expanded criteria for medical parole. (*Id.*) CDCR, the  
25 Board, and the Receiver's Office continue to refine the process and discuss the priority of inmate-  
26 patients for consideration and the other logistics related to implementing this measure. (*Id.*)

27 **E. Establishing New Parole Process for Low-Risk Elderly Inmates**

28 CDCR has identified approximately 1,300 inmates who meet the age and sentence criteria,

1 but who must be further screened for, among other factors, risk. (Toche Decl. ¶ 5.) The review of  
2 candidates for medical parole has revealed substantial overlap between inmate-patients eligible for  
3 medical parole, and inmate-patients that meet the criteria for elderly parole. (*Id.*) CDCR  
4 continues to develop a means to address the potential overlap of inmates who are eligible for both  
5 elderly parole and medical parole. (*Id.*)

6 **F. Slowing Return of Out-Of-State Inmates**

7 Defendants housed 8,757 inmates in out-of-state facilities as of August 21, 2013. (Exhibit  
8 A.) As Defendants previously reported in their July 18, 2013 Status Report, CDCR extended its  
9 contracts to continue to house these inmates in out-of-state facilities for up to three years. (ECF  
10 2679/4697 at 5; Beard Decl. Supp. July 18, 2013 Status Report, ECF 2680/4698 ¶ 8.)

11 **G. County Jail Capacity**

12 As Defendants reported in their July 18, 2013 Status Report and as discussed above,  
13 Defendants are continuing to pursue the viability of contracting with county jails for additional  
14 bed space. (ECF 2679/4697 at 5.)

15 **II. DEVELOPMENT OF A COURT-ORDERED EARLY RELEASE SYSTEM**

16 Consistent with the Three-Judge Court's June 20, 2013 Order, Defendants have finalized  
17 the framework for the court-ordered early release system, which identifies and categorizes  
18 offenders based on a number of criteria, including their California Static Risk Assessment Risk  
19 Score, prior felonies, and in-prison behavior. (Toche Decl. ¶ 6. ) Defendants will further report on  
20 the status of the court-ordered early release system in their September 16, 2013, as required by the  
21 Court's August 9, 2013 order. (*Id.*)

22  
23 DATED: August 29, 2013

HANSON BRIDGETT LLP

24  
25 By:                   /s/ Paul B. Mello                    
26 PAUL B. MELLO  
27 Attorneys for Defendants  
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1 DATED: August 29, 2013

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