

1 KAMALA D. HARRIS  
 Attorney General of California  
 2 JONATHAN L. WOLFF  
 Senior Assistant Attorney General  
 3 JAY C. RUSSELL  
 DANIELLE F. O'BANNON  
 4 Supervising Deputy Attorneys General  
 MANEESH SHARMA, State Bar No. 280084  
 5 Deputy Attorney General  
 455 Golden Gate Avenue, Suite 11000  
 6 San Francisco, CA 94102-7004  
 Telephone: (415) 703-5553  
 7 Fax: (415) 703-1234  
 E-mail: maneesh.sharma@doj.ca.gov  
 8 *Attorneys for Defendants*

Hanson Bridgett LLP  
 PAUL B. MELLO, State Bar No. 179755  
 SAMANTHA D. WOLFF, State Bar No. 240280  
 425 Market Street, 26th Floor  
 San Francisco, California 94105  
 Telephone: (415) 777-3200  
 Fax: (415) 541-9366  
 E-mail: pmello@hansonbridgett.com

9  
 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' OCTOBER 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 October 12, 2016, 113,845 inmates were housed in the  
13 State’s 34 adult institutions and 4,707 inmates were housed in out-of-state facilities.<sup>1</sup> (Ex. A.)  
14 The State’s prison population is approximately 135.1% of design capacity if the 1,584 infill beds  
15 are counted at 137.5%, and approximately 135.7% of design capacity if the 1,584 infill beds are  
16 counted at 100%. (Ex. A.)

17  
18 Dated: October 17, 2016

KAMALA D. HARRIS  
Attorney General of California

19

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

20

21

22 Dated: October 17, 2016

HANSON BRIDGETT LLP

23

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

24

25

26

27 <sup>1</sup> The data in Exhibit A is taken from CDCR’s October 12, 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 October 12, 2016

| Institution   | Design Capacity* | Actual Population | Population as % of design capacity* |
|---|------------------|-------------------|-------------------------------------|
| Total housed in adult institutions <sup>1</sup>         | 84,291           | 113,845           | 135.1%                              |
| Total housed in camps                                   |                  | 3,553             |                                     |
| Total housed out of state                               |                  | 4,707             |                                     |
| <b>Individual CDCR Institutions - Men</b>               |                  |                   |                                     |
| Avenal State Prison                                     | 2,920            | 3,272             | 112.1%                              |
| California State Prison, Calipatria                     | 2,308            | 3,853             | 166.9%                              |
| California Correctional Center**                        | 3,883            | 4,075             | 104.9%                              |
| California Correctional Institution                     | 2,783            | 3,600             | 129.4%                              |
| California State Prison, Centinela                      | 2,308            | 3,606             | 156.2%                              |
| California Health Care Facility, Stockton               | 2,951            | 2,460             | 83.4%                               |
| California Institution for Men                          | 2,976            | 3,695             | 124.2%                              |
| California Men's Colony                                 | 3,838            | 4,072             | 106.1%                              |
| California Medical Facility                             | 2,361            | 2,532             | 107.2%                              |
| California State Prison, Corcoran                       | 3,116            | 3,276             | 105.1%                              |
| California Rehabilitation Center                        | 2,491            | 2,868             | 115.1%                              |
| Correctional Training Facility                          | 3,312            | 5,247             | 158.4%                              |
| Chuckawalla Valley State Prison                         | 1,738            | 2,387             | 137.3%                              |
| Deuel Vocational Institution                            | 1,681            | 2,210             | 131.5%                              |
| Folsom State Prison                                     | 2,066            | 2,419             | 117.1%                              |
| High Desert State Prison                                | 2,324            | 3,760             | 161.8%                              |
| Ironwood State Prison                                   | 2,200            | 3,261             | 148.2%                              |
| Kern Valley State Prison                                | 2,448            | 3,896             | 159.2%                              |
| California State Prison, Los Angeles                    | 2,300            | 3,339             | 145.2%                              |
| Mule Creek State Prison                                 | 3,284            | 3,514             | 107.0%                              |
| North Kern State Prison                                 | 2,694            | 4,466             | 165.8%                              |
| Pelican Bay State Prison                                | 2,380            | 2,275             | 95.6%                               |
| Pleasant Valley State Prison                            | 2,308            | 3,169             | 137.3%                              |
| RJ Donovan Correctional Facility                        | 2,200            | 3,007             | 136.7%                              |
| California State Prison, Sacramento                     | 1,828            | 2,314             | 126.6%                              |
| California Substance Abuse Treatment Facility, Corcoran | 3,424            | 5,285             | 154.4%                              |
| Sierra Conservation Center**                            | 3,936            | 4,153             | 105.5%                              |
| California State Prison, Solano                         | 2,610            | 4,185             | 160.3%                              |
| California State Prison, San Quentin                    | 3,082            | 3,815             | 123.8%                              |
| Salinas Valley State Prison                             | 2,452            | 3,740             | 152.5%                              |
| Valley State Prison                                     | 1,980            | 3,517             | 177.6%                              |
| Wasco State Prison                                      | 2,984            | 4,943             | 165.7%                              |
| <b>Individual CDCR Institutions - Women</b>             |                  |                   |                                     |
| Central California Women's Facility                     | 2,004            | 2,854             | 142.4%                              |
| California Institution for Women**                      | 1,398            | 1,839             | 131.5%                              |
| Folsom Women's Facility                                 | 403              | 494               | 122.6%                              |

\*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 135.7% 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.

<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 - October 12, 2016 Weekly Population Report, available 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 B**

**OFFICE OF LEGAL AFFAIRS**

Patrick R. McKinney II  
General Counsel  
P.O. Box 942883  
Sacramento, CA 94283-0001



October 17, 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 October 2016 Status Update for Three-Judge Court proceeding.

Sincerely,

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

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

Attachments



### OCTOBER 17, 2016 UPDATE TO THE THREE-JUDGE COURT

This report reflects CDCR's efforts as of October 17, 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 October 12, 2016, the State's prison population is approximately 135.1% 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 135.7% 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 1,975 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 4,707 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 September 30, 2016, the Board held 1,880 youth offender hearings, resulting in 502 grants, 1,150 denials, 228 stipulations to unsuitability, and there are currently no split votes that require referral to the full Board for further consideration. An additional 1,075 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 September 29, 2016, approximately 2,230 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 September 30, 2016, approximately 4,650 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.<sup>1</sup> 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 activated. CDCR continues to expand community reentry bed usage and is exploring

---

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

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.<sup>2</sup> 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 September, 355 inmates were released as a result of the court-ordered credit increases.<sup>3</sup> These inmates earned an estimated average of 154.4 days of additional credit. Of the 355 inmates released in September, 210 earned milestone completion credits toward their advanced release date. Since April 2014, approximately 6,414 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 3,561 inmates who are currently eligible under this program. Since January 1, 2015, 11,856 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 September 30, 2016, 8,876 non-violent second-strike inmates were referred to the Board for review for parole. During this time period, the Board approved 3,040 inmates for release and denied release to 2,945 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.

---

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

<sup>3</sup> Of the 355 inmates, 223 were released to Post Release Community Supervision and 132 were released to parole.

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

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 October 9, 2016, the Board has held 89 medical parole hearings under the revised procedures. An additional 28 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 September 30, 2016, the Board has held 1,572 hearings for inmates eligible for elderly parole, resulting in 408 grants, 1,046 denials, 118 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 727 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

8. 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 October 11, 2016, 296 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 facilities located in San Diego, Santa Fe Springs (LA), Bakersfield, and Stockton. As of October 11, 2016, 279 female inmates are participating in the CCTRP.