

1 XAVIER BECERRA  
Attorney General of California  
2 WILLIAM C. KWONG  
Acting 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

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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' JUNE 2017 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 June 14, 2017, 115,089  
13 inmates were housed in the State’s 34 adult institutions and 4,408 inmates were housed in out-of-  
14 state facilities.<sup>1</sup> (Ex. A.) The State’s prison population is approximately 135.3% of design  
15 capacity if the 2,376 infill beds are counted at 137.5%, and approximately 136.7% of design  
16 capacity if the 2,376 infill beds are counted at 100%. (Ex. A.)

17  
18 Dated: June 15, 2017 XAVIER BECERRA  
Attorney General of California

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

22 Dated: June 15, 2017 HANSON BRIDGETT LLP  
23 By: /s/ Paul B. Mello  
24 PAUL B. MELLO  
25 Attorneys for Defendants

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27 <sup>1</sup> The data in Exhibit A is taken from CDCR’s June 14, 2017 weekly population report, available  
28 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 June 14, 2017

Institution	Design Capacity*	Actual Population	Population as % of design capacity*
Total housed in adult institutions <sup>1</sup>	85,083	115,089	135.3%
Total housed in camps		3,732	
Total housed out of state		4,408	
<b>Individual CDCR Institutions - Men</b>			
Avenal State Prison	2,920	3,721	127.4%
California State Prison, Calipatria	2,308	3,842	166.5%
California Correctional Center**	3,883	4,250	109.5%
California Correctional Institution	2,783	3,792	136.3%
California State Prison, Centinela	2,308	3,543	153.5%
California Health Care Facility, Stockton	2,951	2,401	81.4%
California Institution for Men	2,976	3,599	120.9%
California Men's Colony	3,838	3,951	102.9%
California Medical Facility	2,361	2,498	105.8%
California State Prison, Corcoran	3,116	3,096	99.4%
California Rehabilitation Center	2,491	2,654	106.5%
Correctional Training Facility	3,312	5,050	152.5%
Chuckawalla Valley State Prison	1,738	2,759	158.7%
Deuel Vocational Institution	1,681	2,296	136.6%
Folsom State Prison	2,066	2,629	127.3%
High Desert State Prison	2,324	3,789	163.0%
Ironwood State Prison	2,200	3,015	137.0%
Kern Valley State Prison	2,448	3,691	150.8%
California State Prison, Los Angeles	2,300	3,345	145.4%
Mule Creek State Prison	3,284	3,610	109.9%
North Kern State Prison	2,694	4,611	171.2%
Pelican Bay State Prison	2,380	2,046	86.0%
Pleasant Valley State Prison	2,308	3,162	137.0%
RJ Donovan Correctional Facility	2,992	3,798	126.9%
California State Prison, Sacramento	1,828	2,298	125.7%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,679	165.9%
Sierra Conservation Center**	3,936	4,164	105.8%
California State Prison, Solano	2,610	3,912	149.9%
California State Prison, San Quentin	3,082	3,996	129.7%
Salinas Valley State Prison	2,452	3,610	147.2%
Valley State Prison	1,980	3,547	179.1%
Wasco State Prison	2,984	5,216	174.8%
<b>Individual CDCR Institutions - Women</b>			
Central California Women's Facility	2,004	2,932	146.3%
California Institution for Women**	1,398	1,873	134.0%
Folsom Women's Facility	403	446	110.7%

\*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 136.7% 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 - June 14, 2017 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



June 15, 2017

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 June 2017 Status Update for Three-Judge Court proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick R. 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



### JUNE 15, 2017 UPDATE TO THE THREE-JUDGE COURT

This report reflects CDCR's efforts as of June 15, 2017 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.

In February and March 2016, CDCR activated 1,584 infill beds and corresponding administrative and health care support facilities at Mule Creek State Prison. In December 2016, CDCR activated an additional 792 infill beds and corresponding administrative and health care support facilities at Richard J. 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. As of June 14, 2017, the State's prison population is approximately 135.3% of design capacity if the 2,376 infill beds are counted at 137.5% for the compliance calculation. If the 2,376 infill beds are counted at 100% for the compliance calculation, the prison population is approximately 136.7% 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 2,372 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 4,408 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 May 31, 2017, the Board held 3,028 youth offender hearings, resulting in 780 grants, 1,850 denials, 398 stipulations to unsuitability, and there are currently no split votes that require referral to the full Board for further consideration. An additional 1,683 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 June 13, 2017, approximately 2,276 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 May 31, 2017, approximately 4,682 inmates have been released under Proposition 47.

On December 16, 2016, the California Secretary of State certified that The Public Safety and Rehabilitation Act of 2016 (the "Act") was passed by the voters.<sup>1</sup> The Act will serve as a durable remedy and gives the State authority to implement many of the court-ordered reforms through regulations. The Act reforms California's juvenile and adult criminal justice systems by: (1) establishing a parole consideration process for convicted non-violent felons upon completion of the full term for their primary offense; (2) expanding current and creating new credit earning programs that authorize CDCR to award credits earned for good behavior and approved rehabilitative or educational achievements, and (3) requiring hearings in juvenile court for all juvenile offenders before they may be transferred to adult court. Initial estimates are that, as a result of the Act, the average daily adult inmate population will be reduced by approximately 2,000 inmates in Fiscal Year 2017-2018, growing to an inmate reduction of approximately 9,500 by Fiscal Year 2020-2021. It is projected that these anticipated reductions will enable the return of all 4,900 inmates from out-of-state facilities by 2020.

On March 24, 2017, CDCR submitted emergency regulations implementing the parole and credit changes set forth in the Act to the Office of Administrative Law. The Office of

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<sup>1</sup> Statement of Vote November 8, 2016 General Election (<http://elections.cdn.sos.ca.gov/sov/2016-general/sov/2016-complete-sov.pdf>)



Administrative Law approved the regulations on April 13, 2017. On May 1, 2017, Defendants implemented Good Conduct Credits that are awarded to eligible inmates who comply with all prison rules and perform duties as assigned on a regular basis. These regulations codify the court-ordered credit earning increases for non-violent second strike offenders and minimum custody inmates, as well as increase credit earning opportunities all other inmates except the condemned and those serving life without parole. Full details about the expanded credits can be found on CDCR's website at <http://www.cdcr.ca.gov/proposition57/>. Defendants expect that the Act's remaining credit processes will be implemented in the coming months.

Defendants are implementing the Act's non-violent parole process on July 1, 2017. The non-violent parole process overlaps significantly with the Court-ordered non-violent second-striker parole process in several substantive respects. The non-violent parole process uses the same public safety screening criteria and notification procedures for registered victims and prosecuting agencies that CDCR uses for the court-ordered process. The Board of Parole Hearings will apply the same legal standard for reviewing an inmate's suitability for release under the non-violent parole process as is currently used. Defendants expect that approximately 27,000 inmates are eligible for the new process based on their commitment offenses, the majority of whom were also eligible for the court-ordered process. Maintaining both processes will lead to confusion among inmates and require significant overlap and duplication of work by the Board of Parole Hearings and the Department. For these reasons, and because this parole process eliminates the need for the Court's state law waivers, Defendants intend to replace the court-ordered process on July 1. To that end, on June 6, 2017, the Parties submitted a Stipulation and [Proposed] Order Regarding Modification of February 10, 2014 Order for this Court's approval. The Parties agreed that the nonviolent parole process will go into effect on July 1, 2017, and Defendants will stop referring inmates to the Board for the court-ordered parole process on June 30, 2017. The Parties further agreed that Defendants will report to the Court regarding the status of the nonviolent second strike parole measure and will report when the Board processes all referrals received before July 1, 2017 under the court-ordered parole process.

Additionally, CDCR has added 2,376 beds with corresponding administrative and health care support facilities at Mule Creek State Prison and Richard J. Donovan Correctional Facility. 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.<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.

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

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-strike 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 May, 378 inmates were released as a result of the court-ordered credit increases.<sup>3</sup> These inmates earned an estimated average of 165.6 days of additional credit. Of the 378 inmates released in May, 241 earned milestone completion credits toward their advanced release date. Since April 2014, approximately 8,242 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 3,854 inmates who are currently eligible under this program. Since January 1, 2015, 19,103 total inmates have been released receiving expanded 2-for-1 earnings.<sup>4</sup>

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 May 31, 2017, 12,337 non-violent second-strike inmates were referred to the Board for review for parole. During this time period, the Board approved 4,091 inmates for release and denied release to 4,659 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. As discussed above, the Parties have agreed to replace the court-ordered process with the new non-violent parole process under the Act effective July 1, 2017, per the terms of their Stipulation and Proposed Order.

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

<sup>3</sup> Of the 378 inmates, 246 were released to Post Release Community Supervision and 132 were released to parole.

<sup>4</sup> As of the May 2017 reporting period, CDCR re-coded the program used for reporting offenders released and prospectively eligible for expanded 2-for-1 credit earning. This change did not affect offenders' eligibility to earn the additional credits; rather, the updated reporting methodology more accurately captures the offenders who actually earned credit.

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 June 9, 2017, the Board has held 103 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 May 31, 2017, the Board has held 2,035 hearings for inmates eligible for elderly parole, resulting in 517 grants, 1,361 denials, 157 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 919 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

Assembly Bill 1448 (Weber) would enact an elderly parole program for inmates age 60 or older who have served at least 25 years of incarceration. The bill recently passed the Assembly and is pending scheduling of a hearing before the Senate Public Safety Committee. Details concerning AB 1448 can be found at the following link: [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB1448&search\\_keywords=elderly+parole](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1448&search_keywords=elderly+parole).

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 June 13, 2017, 480 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 June 12, 2017, 319 female inmates are participating in the CCTRP.