



For Informational Purposes

Three-Judge Court Population Reduction Measures

Background

Under a U.S. Supreme Court ruling, California must maintain its prison population at or below 137.5 percent of facility design capacity, or 115,306¹ inmates. In February 2014, a federal Three-Judge Court ordered CDCR to develop and implement a number of population-reduction measures to help achieve and maintain the population cap. If the state prison population grows and exceeds the population cap, a court-appointed officer has unilateral authority to release state inmates in numbers sufficient to get below the population cap.

Court-Ordered Measures

Expanded 2-for-1 Credits for Minimum-Custody Offenders

- The court ordered an expansion of 2-for-1 credits for eligible minimum-custody inmates, previously available only to inmates in the fire camp program.
- Eligible inmates receive two days credit towards their sentence for every day served. Under the court order, this measure was implemented prospectively on January 1, 2015.

Increased Good-Time Credits for Non-Violent, Non-Sex Registrant, Second-Strike Offenders

- The court ordered a credit increase from 20% to 33.3% for second-strike offenders whose commitment offense(s) is not a violent felony as defined in Penal Code section 667.5, subdivision (c), and the inmate is not required to register as a sex offender under Penal Code section 290.
- The court also ordered that these inmates would be eligible for milestone credits received through the completion of rehabilitative programs (a maximum of six weeks credit within a 12-month period).

¹CDCR 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. CDCR's design bed capacity will continue to increase as CDCR adds additional beds. For example, CDCR will add an additional 792 beds and corresponding administrative and health care support facilities at RJ Donovan in October 2016.

Increased Parole Eligibility

- ***New Parole Process for Non-Violent, Non-Sex Registrant, Second-Strike Offenders (NVSS)²***
 - The court ordered the implementation of a new parole consideration process for certain non-violent offenders. "Second-Strike" inmates are eligible for parole consideration if their current commitment offense(s) is not a violent felony as defined under Penal Code section 667.5, subdivision (c); if they are not required to register as a sex offender under Penal Code section 290; and if they have completed 50 percent of their sentence. Under the court order, NVSS inmates must also pass a public safety screening. The public safety screenings exclude inmates who meet any of the following criteria:
 - Currently in a restricted housing assignment due to serious misconduct or conduct endangering the safety of others or the security of the institution;
 - Have been housed in restricted housing in the past five years for disciplinary reasons or due to participation in gang activity;
 - Have been denied privileges (*i.e. family visits, ability to receive packages, and yard access*) as a result of refusing to accept assigned housing or a work assignment in the past 12 months;
 - Have been found guilty of violent behavior, rape, arson, possession of a weapon or attempted escape within the past five years while in custody;
 - Have been found guilty of two or more in-prison violations within the past 12 months involving criminal misconduct such as drug possession or other administrative misconduct such as use of alcohol or work-related offenses;
 - Have been found guilty of in-prison violations due to participation in gang activity within the past 12 months;
 - Have been found guilty of a drug-related offense or refused to provide a urine sample within the past 12 months.
 - Inmates who meet the public safety criteria are referred to the Board of Parole Hearings for parole consideration. If an inmate is granted parole, normal pre-release processes are followed, and law enforcement agencies and victims are notified pursuant to statute. (Normal pre-release processes include but are not limited to: a comprehensive audit of sentencing documents and verification of release dates; submission of any applicable offender registrations required by the Department of Justice; review of any pending holds, warrants, or detainers on file from Immigration and Customs Enforcement or other law enforcement agencies; preparation and service of parole conditions on the inmate.)

² For more information on the process, see NVSS fact sheet.

- **Expanded Medical Parole**

- The court ordered an expansion of parole eligibility for medically incapacitated inmates with a medical condition that renders the inmate permanently unable to perform activities of basic daily living;
- Appropriate placement is made for these offenders in facilities that address their medical needs;
- The court-ordered expansion was determined in consultation with the court-appointed *Plata* Receiver and it expanded the definition of who is eligible and the methodology for determining eligibility based on medical needs.
- If the individual's medical condition improves significantly, the offender is returned to prison.

- **Elderly Parole**

- The court ordered a new parole consideration process for inmates who are age 60 years or older and who have served at least 25 years of their sentence.
- At the parole suitability hearing held by the Board of Parole Hearings, consideration is given to the inmate's advanced age and long-term confinement, and diminished physical condition, if any, that may impact the inmate's potential risk for future violence. All other parole suitability hearing rights and processes apply to elderly parole.

Monthly status reports to the Three-Judge Court on these measures are at:

<http://www.cdcr.ca.gov/News/3-judge-panel.html>