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 9 IN THE UNITED STATES DISTRICT COURTS
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11 AND THE NORTHERN DISTRICT OF CALIFORNIA
 12 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
 13 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

14 **RALPH COLEMAN, et al.,**
 15 Plaintiffs,
 16
 17 v.
 18 **GAVIN NEWSOM, et al.,**
 19 Defendants.

2:90-cv-00520 KJM-DB
THREE-JUDGE COURT

20 **MARCIANO PLATA, et al.,**
 21 Plaintiffs,
 22
 23 v.
 24 **GAVIN NEWSOM, et al.,**
 25 Defendants.

C01-1351 JST
THREE-JUDGE COURT
**DEFENDANTS' APRIL 2020 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 As of April 8, 2020, 111,868 inmates were housed in the State’s 34 adult institutions and
9 no inmates¹ were housed in out-of-state facilities. (Ex. A.²) The State’s prison population is
10 approximately 131.5% of design capacity. (Ex. A.)

11
12 Dated: April 15, 2020

XAVIER BECERRA
Attorney General of California

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14 By: /s/ *Nasstaran Ruhparwar*
NASSTARAN RUHPARWAR
15 Deputy Attorney General
Attorneys for Defendants

16 Dated: April 15, 2020

HANSON BRIDGETT LLP

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

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27 ¹ This statistic only concerns inmates in out-of-state contract beds and does not include inmates
housed in other states under interstate compact agreements.

28 ² The data in Exhibit A is taken from CDCR’s April 8, 2020 weekly population report, available
on CDCR’s website at <https://www.cdcr.ca.gov/research/population-reports-2/>.

EXHIBIT A

Exhibit A

Population as of April 8, 2020

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions ¹	85,083	111,868	131.5%
Total housed in camps		2,943	
Total housed out of state		0	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	4,259	145.9%
California State Prison, Calipatria	2,308	2,998	129.9%
California Correctional Center*	3,883	4,188	107.9%
California Correctional Institution	2,783	3,590	129.0%
California State Prison, Centinela	2,308	3,333	144.4%
California Health Care Facility, Stockton	2,951	2,814	95.4%
California Institution for Men	2,976	3,431	115.3%
California Men's Colony	3,838	3,786	98.6%
California Medical Facility	2,361	2,435	103.1%
California State Prison, Corcoran	3,116	3,051	97.9%
California Rehabilitation Center	2,491	3,758	150.9%
Correctional Training Facility	3,312	5,024	151.7%
Chuckawalla Valley State Prison	1,738	2,736	157.4%
Deuel Vocational Institution	1,681	1,844	109.7%
Folsom State Prison	2,066	2,754	133.3%
High Desert State Prison	2,324	3,322	142.9%
Ironwood State Prison	2,200	2,909	132.2%
Kern Valley State Prison	2,448	3,570	145.8%
California State Prison, Los Angeles	2,300	3,187	138.6%
Mule Creek State Prison	3,284	3,981	121.2%
North Kern State Prison	2,694	3,732	138.5%
Pelican Bay State Prison	2,380	2,630	110.5%
Pleasant Valley State Prison	2,308	3,120	135.2%
RJ Donovan Correctional Facility	2,992	3,837	128.2%
California State Prison, Sacramento	1,828	2,381	130.3%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,143	150.2%
Sierra Conservation Center*	3,836	4,179	108.9%
California State Prison, Solano	2,610	4,120	157.9%
California State Prison, San Quentin	3,082	3,935	127.7%
Salinas Valley State Prison	2,452	2,888	117.8%
Valley State Prison	1,980	3,000	151.5%
Wasco State Prison	2,984	4,218	141.4%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,730	136.2%
California Institution for Women*	1,398	1,601	114.5%
Folsom Women's Facility	403	327	81.1%

* The individual Design Capacity and Actual Population figures for California Correctional Center, Sierra Conservation Center and California Institution 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 - April 8, 2020 Weekly Population Report, available at: <https://www.cdcr.ca.gov/research/population-reports-2/>.

EXHIBIT B

OFFICE OF LEGAL AFFAIRS

Jennifer Neill
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001



April 10, 2020

Paul Mello
Hanson Bridgett
1676 N. California Boulevard, Suite 620
Walnut Creek, CA 94596

Dear Mr. Mello:

Attached please find the California Department of Corrections and Rehabilitation's April 2020 Status Update for the Three-Judge Court proceeding.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Neill".

JENNIFER NEILL
General Counsel, Office of Legal Affairs
California Department of Corrections and Rehabilitation



APRIL 20, 2020 UPDATE TO THE THREE-JUDGE COURT

On February 10, 2014, the Three-Judge Court extended the deadline to achieve the court-ordered reduction in the in-state adult institution population to 137.5% of design capacity to February 28, 2016. (ECF Nos. 2766/5060 & 2767/5061.) This report is CDCR's 73rd report submitted since the Court issued its population-reduction order, and the 61st report submitted since February 2015, when Defendants informed the Court that the population was below the court-ordered reduction. (ECF No. 2838/5278, filed February 17, 2015.) It has now been over five years since Defendants have been in full compliance with the population-reduction order. As of April 8, 2020, the State's prison population is 131.5% of design capacity.

A. Update on durability:

As previously reported, Proposition 57, the State's durable remedy that enacts many of the Court-ordered reforms as well as expands credit earning opportunities, was approved by voters in November 2016.

On May 1, 2018, regulations for Proposition 57 were approved and made permanent. Information about these regulations can be found at: <https://www.cdcr.ca.gov/proposition57/>.

Later, in December 2018, the Office of Administrative Law approved two emergency regulation packages which: (1) amend the nonviolent offender parole process to distinguish between determinately and indeterminately sentenced offenders and implement a parole consideration process for indeterminately sentenced, nonviolent offenders ("Nonviolent Offender Package"); and (2) expands credit earning opportunities ("Credit Earning Package") for inmates who achieve a High School diploma or its equivalent or who complete 52 hours of programming under the Rehabilitative Achievement Credit program. The Credit Earning Package also reduces the minimum amount of time an inmate must serve until released following a sudden award of substantial credit.

The Credit Earning Package went into effect on January 9, 2019, and can be found at https://oal.ca.gov/wp-content/uploads/sites/166/2019/01/2018-1220-03EON_APP-1.pdf.

The Nonviolent Offender Package went into effect on January 1, 2019, and can be found at <https://oal.ca.gov/wp-content/uploads/sites/166/2018/12/2018-1211-01EON.pdf>. Following the Court of Appeal's decision *In re McGhee*, effective July 9, 2019, CDCR no longer applies the previously mandated public safety screening criteria to eligible nonviolent offenders. All eligible (determinately and indeterminately sentenced) nonviolent offenders are now referred to the Board of Parole Hearings for consideration, regardless of their in-prison behavior. On September 10, 2019, the Office of Administrative Law approved the emergency regulations repealing the public safety screening criteria for determinately sentenced, nonviolent offenders. On March 26, 2020, the Office of Administrative Law made the emergency regulations

permanent. The notices of approval and publication can be found here:

<https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2020/04/Adopted-NCR-19-06.pdf?label=Adopted%20Regulations%20for%20Supplemental%20Reforms%20to%20Parole%20Consideration%20for%20Determinately-Sentenced%20Nonviolent%20Offenders&from=https://www.cdcr.ca.gov/regulations/cdcr-regulations/new-rules-page/> .

In addition, in response to the COVID-19 pandemic, pursuant to Governor Newsom's March 24, 2020 Executive Order N-36-20 and CDCR's Secretary Ralph Diaz's independent authority under California Government Code § 8658, CDCR has begun implementing processes to reduce the inmate population at CDCR's institutions.

The impact of the above-described regulations include:

1. Increased credit earning opportunities for all inmates except the condemned and those serving life without parole.

1,734 inmates released in March earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 137.4 days of additional credit.¹

2. Determinately Sentenced Nonviolent Offender Parole Process.

CDCR began referring inmates to the Board for this process on July 1, 2017, pursuant to the emergency regulations promulgated on April 13, 2017. From July 1, 2017 through March 31, 2020, 19,401 referrals were made to the Board. As of March 31, 2020, 15,260 referrals have been reviewed on the merits, with 2,983 inmates approved for release and 12,277 denied. Additionally, 1,854 referrals have been closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The remaining referrals are pending review, including the 30-day period for written input from inmates, victims, and prosecutors.

3. Indeterminately Sentenced Nonviolent Offender Parole Process.

CDCR began screening indeterminately-sentenced, nonviolent offenders for eligibility in January 2019. As of January 31, 2020, 2,838 inmates have been referred to the Board for a parole consideration hearing, of which 124 were closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The Board conducted 210 hearings for indeterminately sentenced nonviolent offenders. The hearings resulted in 14 grants, 168 denials, and 28 stipulations to unsuitability. An additional 231 hearings were scheduled but were postponed, waived, continued, or cancelled. The remaining referrals are pending parole suitability hearings.

¹ This number does not include inmates released from fire camps.

B. Update on Other Measures Defendants Continue to Implement:

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 2,026 inmates.

b. Community correctional facilities (CCFs), modified community correctional facilities (MCCFs), and Female Community Reentry Facility (FCRFs):

The State currently has contracted for 2,818 MCCF and FCRF 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 zero.² The last inmates in out-of-state contract beds returned to California at the end of June 2019.

2. 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 April 9, 2020, the Board has held 163 medical parole hearings under the revised procedures, resulting in 97 approvals and 66 denials. An additional 40 were scheduled, but were postponed, continued, or cancelled.

3. 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 March 31, 2020, the Board held 4,375 hearings for inmates eligible for elderly parole, resulting in 1,219 grants, 2,722 denials, 434 stipulations to unsuitability, and there currently are no split votes that require further review by the full

² This statistic only concerns inmates in out-of-state contract beds and does not include inmates housed in other states under interstate compact agreements.

Board. An additional 2,043 hearings were scheduled during this period but were waived, postponed, continued, or cancelled.

As discussed in prior reports, the State enacted Assembly Bill 1448 on October 11, 2017, authorizing an elderly parole program for inmates age 60 or older who have served at least 25 years of incarceration. The State will continue to implement the Court-ordered elderly parole process until this matter is terminated or the February 10, 2014 Order is modified.

4. Male Community Reentry Programs:

Contracts for the San Diego County, Los Angeles County, Kern County, and Butte County Male Community Reentry Programs are in place. The State continues to review and refer eligible inmates for placement consideration. As of April 8, 2020, 542 inmates are housed in Male Community Reentry Program facilities. The State of California's 2019-2020 Budget allocates \$7.5 million General Fund for CDCR's reentry facilities, a portion of which are allocated to expand the Male Community Reentry Program facility in Los Angeles by 10 beds.

5. 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, Bakersfield, Stockton, and Sacramento. As of April 8, 2020, 341 female inmates are participating in the CCTRP. The State of California's 2019-2020 Budget allocates \$7.5 million General Fund for CDCR's reentry facilities, a portion of which are allocated to establish two new 60-bed female CCTRP facilities in Los Angeles and Riverside.

6. Reduction of inmate population in response to COVID-19 pandemic:

On March 24, 2020, Governor Newsom issued an Executive Order N-36-20 suspending the intake of new inmates into CDCR facilities for 30 days subject to one further 30-day extension as needed in order "to protect the health, safety, and welfare" of CDCR inmates and staff. Secretary Diaz will extend the suspension of intake by an additional 30 days. Further to these efforts, Secretary Diaz has exercised his independent authority under California Government Code § 8658 to transition inmates for whom CDCR staff have determined that public safety risk does not preclude release to early parole or Post Release Community Supervision. Inmates with 60 days or less remaining on their sentence (as of March 30, 2020) who are not serving a current term for a violent felony, or for a domestic violence offense, and are not required to register as a sex offender will have their release to parole or Post Release Community Supervision accelerated under Secretary Diaz's direction. As of the end of the day on April 14, 2020, a total of 3,585 inmates have been released as a result of the Secretary's directive and other natural attrition.