

1 XAVIER BECERRA  
 Attorney General of California  
 2 MONICA N. ANDERSON  
 Senior Assistant Attorney General  
 3 DAMON MCCLAIN, SBN 209508  
 Supervising Deputy Attorney General  
 4 NASSTARAN RUHPARWAR, SBN 263293  
 Deputy Attorney General  
 5 455 Golden Gate Avenue, Suite 11000  
 San Francisco, CA 94102-7004  
 6 Telephone: (415) 510-4435  
 Fax: (415) 703-1234  
 7 E-mail: nasstaran.ruhparwar@doj.ca.gov  
*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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 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' JUNE 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 June 10, 2020, 106,965 inmates were housed in the State's 34 adult institutions and  
9 no inmates<sup>1</sup> were housed in out-of-state facilities. (Ex. A.<sup>2</sup>) The State's prison population is  
10 approximately 125.7% of design capacity. (Ex. A.)

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12 Dated: June 15, 2020

XAVIER BECERRA  
Attorney General of California

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

16 Dated: June 15, 2020

HANSON BRIDGETT LLP

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

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27 <sup>1</sup> 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 <sup>2</sup> The data in Exhibit A is taken from CDCR's June 10, 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 June 10, 2020

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions <sup>1</sup>	85,083	106,965	125.7%
Total housed in camps		3,171	
Total housed out of state		0	
<b>Individual CDCR Institutions - Men</b>			
Avenal State Prison	2,920	4,114	140.9%
California State Prison, Calipatria	2,308	3,119	135.1%
California Correctional Center*	3,883	3,947	101.6%
California Correctional Institution	2,783	3,752	134.8%
California State Prison, Centinela	2,308	3,383	146.6%
California Health Care Facility, Stockton	2,951	2,701	91.5%
California Institution for Men	2,976	3,046	102.4%
California Men's Colony	3,838	3,688	96.1%
California Medical Facility	2,361	2,366	100.2%
California State Prison, Corcoran	3,116	3,612	115.9%
California Rehabilitation Center	2,491	3,210	128.9%
Correctional Training Facility	3,312	4,908	148.2%
Chuckawalla Valley State Prison	1,738	2,237	128.7%
Deuel Vocational Institution	1,681	1,763	104.9%
Folsom State Prison	2,066	2,885	139.6%
High Desert State Prison	2,324	3,575	153.8%
Ironwood State Prison	2,200	3,236	147.1%
Kern Valley State Prison	2,448	3,701	151.2%
California State Prison, Los Angeles	2,300	3,134	136.3%
Mule Creek State Prison	3,284	4,016	122.3%
North Kern State Prison	2,694	2,449	90.9%
Pelican Bay State Prison	2,380	2,569	107.9%
Pleasant Valley State Prison	2,308	3,261	141.3%
RJ Donovan Correctional Facility	2,992	3,799	127.0%
California State Prison, Sacramento	1,828	2,379	130.1%
California Substance Abuse Treatment Facility, Corcoran	3,424	4,872	142.3%
Sierra Conservation Center*	3,836	4,052	105.6%
California State Prison, Solano	2,610	3,727	142.8%
California State Prison, San Quentin	3,082	3,551	115.2%
Salinas Valley State Prison	2,452	2,919	119.0%
Valley State Prison	1,980	3,052	154.1%
Wasco State Prison	2,984	2,774	93.0%
<b>Individual CDCR Institutions - Women</b>			
Central California Women's Facility	2,004	2,589	129.2%
California Institution for Women*	1,398	1,503	107.5%
Folsom Women's Facility	403	247	61.3%

\* 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.

<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 10, 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



June 15, 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 June 2020 Status Update for the Three-Judge Court proceeding.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Neill". The signature is written in a cursive, flowing style.

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



## **JUNE 15, 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 75th report submitted since the Court issued its population-reduction order, and the 63rd 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 June 10, 2020, the State's prison population is 125.7% 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.

The Nonviolent Offender Package went into effect on January 1, 2019. 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/](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 reduced 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.

868 inmates released in May earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 152.7 days of additional credit.<sup>1</sup>

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 May 31, 2020, 19,542 referrals were made to the Board. As of May 31, 2020, 17,269 referrals have been reviewed on the merits, with 3,367 inmates approved for release and 13,902 denied. Additionally, 1,895 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 May 31, 2020, 1,893<sup>2</sup> inmates have been referred to the Board for a parole consideration hearing, of which 53 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 363 hearings for indeterminately sentenced nonviolent offenders. The hearings resulted in 111 grants, 217 denials, and 35 stipulations to unsuitability. An additional 369 hearings were scheduled but were postponed, waived, continued, or cancelled. The remaining referrals are pending parole suitability hearings.

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<sup>1</sup> This number does not include inmates released from fire camps.

<sup>2</sup> The number of referrals previously reported included multiple referrals for many inmates based on the application of public safety screening criteria, which have since been eliminated. The reporting methodology has been changed to reflect the number of individual inmates referred to the Board.



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 2,208 inmates.

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

The State currently has contracted for 2,118 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.<sup>3</sup> 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 June 9, 2020, the Board has held 167 medical parole hearings under the revised procedures, resulting in 100 approvals and 67 denials. An additional 41 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 May 31, 2020, the Board held 4,544 hearings for inmates eligible for elderly parole, resulting in 1,280 grants, 2,822 denials, 441 stipulations to unsuitability, and there currently are no split votes that require further review by the full

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<sup>3</sup> 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 2,210 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 June 10, 2020, 433 inmates are housed in Male Community Reentry Program facilities.

5. Expanded alternative custody program:

The State's expanded alternative custody program for females, Custody to Community Treatment 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 June 10, 2020, 277 female inmates are participating in the CCTRP.

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 extended the suspension of intake by an additional 30 days. CDCR plans to resume intake of new inmates on or about June 22, 2020. Further to these efforts, Secretary Diaz exercised his independent authority under California Government Code § 8658 to transition inmates for whom CDCR staff 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 were not serving a current term for a violent felony, or for a domestic violence offense, and were not required to register as a sex offender had 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 were released as a result of the Secretary's directive and other natural attrition.