

# **EXHIBIT A**

Population as of October 7, 2020

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions <sup>1</sup>	85,083	92,616	108.9%
Total housed in camps		1,773	
Total housed out of state		0	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	3,535	121.1%
California State Prison, Calipatria	2,308	2,931	127.0%
California Correctional Center*	3,883	2,524	65.0%
California Correctional Institution	2,783	3,082	110.7%
California State Prison, Centinela	2,308	3,145	136.3%
California Health Care Facility, Stockton	2,951	2,466	83.6%
California Institution for Men	2,976	2,283	76.7%
California Men's Colony	3,838	3,190	83.1%
California Medical Facility	2,361	2,082	88.2%
California State Prison, Corcoran	3,116	3,198	102.6%
California Rehabilitation Center	2,491	2,345	94.1%
Correctional Training Facility	3,312	4,377	132.2%
Chuckawalla Valley State Prison	1,738	1,911	110.0%
Deuel Vocational Institution	1,681	1,571	93.5%
Folsom State Prison	2,066	2,242	108.5%
High Desert State Prison	2,324	3,355	144.4%
Ironwood State Prison	2,200	2,914	132.5%
Kern Valley State Prison	2,448	3,529	144.2%
California State Prison, Los Angeles	2,300	2,863	124.5%
Mule Creek State Prison	3,284	3,805	115.9%
North Kern State Prison	2,694	1,856	68.9%
Pelican Bay State Prison	2,380	2,305	96.8%
Pleasant Valley State Prison	2,308	2,828	122.5%
RJ Donovan Correctional Facility	2,992	3,571	119.4%
California State Prison, Sacramento	1,828	2,240	122.5%
California Substance Abuse Treatment Facility, Corcoran	3,424	4,445	129.8%
Sierra Conservation Center*	3,836	3,010	78.5%
California State Prison, Solano	2,610	3,329	127.5%
California State Prison, San Quentin	3,082	2,912	94.5%
Salinas Valley State Prison	2,452	2,767	112.8%
Valley State Prison	1,980	2,756	139.2%
Wasco State Prison	2,984	1,809	60.6%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	1,948	97.2%
California Institution for Women*	1,398	1,173	83.9%
Folsom Women's Facility	403	92	22.8%

\* 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 - October 7, 2020 Weekly Population Report, available at: <https://www.cdcr.ca.gov/research/population-reports-2/>.

# **EXHIBIT B**

**OFFICE OF LEGAL AFFAIRS**

Jennifer Neill

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October 14, 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 October 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



## **OCTOBER 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 79th report submitted since the Court issued its population-reduction order, and the 67th 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 October 7, 2020, the State's prison population is 108.9 % 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.

2,245 inmates released in September earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 173.8 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 September 30, 2020, 22,467 referrals were made to the Board. As of September 30, 2020, 19,332 referrals have been reviewed on the merits, with 3,680 inmates approved for release and 15,652 denied. Additionally, 2003 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 September 30, 2020, 2,410 inmates have been referred to the Board for a parole consideration hearing, of which 51 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 650 hearings for indeterminately sentenced nonviolent offenders. The hearings resulted in 195 grants, 406 denials, and 49 stipulations to unsuitability. An additional 608 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.

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 2,204 inmates.

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

The State currently has contracted for 1,240 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>2</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 October 7, 2020, the Board has held 237 medical parole hearings under the revised procedures, resulting in 144 approvals and 93 denials. An additional 52 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 September 30, 2020, the Board held 4,838 hearings for inmates eligible for elderly parole, resulting in 1,377 grants, 3,010 denials, 451

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<sup>2</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.

stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 2,496 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 October 7, 2020, 292 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 October 7, 2020, no 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. Secretary Diaz extended the suspension of intake. For the period from March 24 through August 24, 2020, intake was mostly suspended, with only very limited intake occurring in May and June 2020. On an intermittent and limited basis, CDCR resumed intake the week of August 24, 2020.

Further to these efforts to reduce the population, in March 2020, 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 April 14, 2020, a total of 3,585 inmates were released as a result of the Secretary's directive and other natural attrition.

In addition, at the end of June 2020, CDCR implemented a new plan to further safely reduce the prison population under California Government Code section 8658. Under the plan, incarcerated people within 180 days of their release date are released on a rolling



basis provided they meet certain criteria. On July 10, 2020, CDCR formally announced this measure, along with additional plans for early releases. Further details can be found at <https://www.cdcr.ca.gov/news/2020/07/10/cdcr-announces-additional-actions-to-reduce-population-and-maximize-space-systemwide-to-address-covid-19/>. As of September 30, 2020, the high-risk medical early-release program described in this press release has been suspended. CDCR continues to process the releases of those approved through this program. Through October 7, 2020, 4,837 incarcerated people were released from CDCR institutions and camps as a result of the COVID-19 early-release programs announced by Defendants on July 10, 2020. As of October 7, 2020, 22,953 people had been released from CDCR institutions and camps since the beginning of March 2020.