

No. S232642

ORIGINAL
SUPREME COURT
FILED

MAR 01 2016

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

Frank A. McGuire Clerk

GOVERNOR EDMUND G. BROWN JR., MARGARET R. PRINZING,^{Deputy}
and HARRY BEREZIN,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO,

Respondent.

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION,
ANNE MARIE SCHUBERT, an individual and in her personal capacity,
and KAMALA HARRIS, in her official capacity as
Attorney General of the State of California,

Real Parties in Interest.

Writ Regarding Order by the Sacramento County Superior Court,
Case No. 34-2016-80002293-CU-WM-GDS, Department 24,
Phone No.: (916) 874-6687, The Honorable Shelleyanne Chang, Presiding

**REQUEST FOR JUDICIAL NOTICE;
DECLARATION OF MICHAEL NARCISO**

CRITICAL DATE: FEBRUARY 26, 2016

Robin B. Johansen, State Bar No. 79084
James C. Harrison, State Bar No. 161958
REMCHO, JOHANSEN & PURCELL, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201
Email: rjohansen@rjp.com

Attorneys for Petitioners
Governor Edmund G. Brown Jr.
Margaret R. Prinzing, and Harry Berezin

REQUEST FOR JUDICIAL NOTICE

Pursuant to California Rule of Court 8.252 and California Evidence Code section 452, petitioners Governor Edmund G. Brown Jr., Margaret R. Prinzing, and Harry Berezin hereby request that the Court take judicial notice of the following documents:

1. The February 10, 2014 Order Granting in Part and Denying in Part Defendants' Request for Extension of December 31, 2013 Deadline from the three-judge court convened from the Northern District of California, *Plata, et al. v. Brown, et al.* (No. 3:01-cv-01351-TEH) and the Eastern District of California, *Coleman, et al. v. Brown, et al.* (No. 2:90-cv-00520 KJM-KJM), attached as Exhibit 1 to the Declaration of Michael Narciso.

2. Defendants' February 2016 Status Report in Response to February 10, 2014 Order in the Northern District of California case, *Plata, et al. v. Brown, et al.* (No. 3:01-cv-01351-TEH) and the Eastern District of California case, *Coleman, et al. v. Brown, et al.* (No. 2:90-cv-00520 KJM-KJM), attached as Exhibit 2 to the Declaration of Michael Narciso.

Exhibits 1 and 2 are official court records and are the proper subject of judicial notice under California Evidence Code section 452(d). (*In re Marquez* (2003) 30 Cal.4th 14, 18, fn. 2 [taking judicial notice of court records]). Exhibit 1 is relevant to show that the state must find a durable solution to prison over-crowding. Exhibit 2 is relevant to show the current in-state and out-of-state adult prison populations.

Based upon the above authorities, petitioners request that the Court take judicial notice of Exhibits 1 and 2 attached to the Declaration of Michael Narciso.

Dated: March 1, 2016

Respectfully submitted,

REMCHO, JOHANSEN & PURCELL, LLP

By: 
Robin B. Johansen

Attorneys for Petitioners
Governor Edmund G. Brown Jr.,
Margaret R. Prinzing, and Harry Berezin

DECLARATION OF MICHAEL NARCISO

I, Michael Narciso, declare under penalty of perjury that:

1. I am the paralegal at Remcho, Johansen & Purcell, LLP, attorneys for petitioners Governor Edmund G. Brown, Margaret R. Prinzing, and Harry Berezin in this case. I submit this declaration in support of the reply in support of petition for writ of mandate filed by petitioners.

2. Attached as Exhibit 1 is a true and correct copy of the February 10, 2014 Order Granting in Part and Denying in Part Defendants' Request for Extension of December 31, 2013 Deadline from the three-judge court convened from the Northern District of California case, *Plata, et al. v. Brown, et al.* (No. 3:01-cv-01351-TEH) and the Eastern District of California case, *Coleman, et al. v. Brown, et al.* (No. 2:90-cv-00520 KJM-KJN). A copy of this order was obtained on March 1, 2016 from PACER through the Northern District of California's website at <https://ecf.cand.uscourts.gov/>.

3. Attached as Exhibit 2 is a true and correct copy of Defendants' February 2016 Status Report in Response to February 10, 2014 Order in the Northern District of California case, *Plata, et al. v. Brown, et al.* (No. 3:01-cv-01351-TEH) and the Eastern District of California case, *Coleman, et al. v. Brown, et al.* (No. 2:90-cv-00520 KJM-KJN). A copy of this status report was obtained on March 1, 2016 from PACER through the Northern District of California's website at <https://ecf.cand.uscourts.gov/>.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I

could and would testify competently thereto. Executed this 1st day of
March, 2016, in San Leandro, California.


MICHAEL NARCISO

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

RALPH COLEMAN, et al.,
Plaintiffs,
v.
EDMUND G. BROWN JR., et al.,
Defendants.

NO. 2:90-cv-0520 LKK DAD (PC)
THREE-JUDGE COURT

MARCIANO PLATA, et al.,
Plaintiffs,
v.
EDMUND G. BROWN JR., et al.,
Defendants.

NO. C01-1351 TEH
THREE-JUDGE COURT
ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANTS' REQUEST FOR
EXTENSION OF DECEMBER 31,
2013 DEADLINE

WHEREAS the Court has read and considered the parties' filings in response to this Court's January 13, 2014 Order;

WHEREAS defendants have represented that, in conformance with the terms of this order, they will develop comprehensive and sustainable prison population-reduction reforms and will consider the establishment of a commission to recommend reforms of state penal and sentencing laws;

1 WHEREAS defendants have represented that they will not appeal or support an
2 appeal of this order, any subsequent order necessary to implement this order, or any order
3 issued by the Compliance Officer to be appointed in conformance herewith that is consistent
4 with the duties of the Compliance Officer as specified in this order, and will not move or
5 support a motion to terminate the relief contained in this order until at least two years after
6 the date of this order and such time as it is firmly established that compliance with the
7 137.5% design capacity benchmark is durable;

8 WHEREAS this order is issued in reliance on defendants' representations; and

9 WHEREAS the Court finds that the order below is narrowly tailored to the
10 constitutional violations identified by the *Plata* and *Coleman* courts, extends no further than
11 necessary to remedy those violations, and is the least intrusive possible remedy.

12 IT IS HEREBY ORDERED that:

13 1. The Court GRANTS defendants' request for an extension of time, but only to
14 February 28, 2016, to comply with this Court's June 30, 2011 Order to reduce California's
15 prison population to 137.5% design capacity.

16 2. The deadline to achieve the ordered reduction in the in-state adult institution
17 population to 137.5% design capacity is extended to **February 28, 2016**. Defendants will
18 meet the following interim and final population reduction benchmarks:

19 (a) 143% of design bed capacity by **June 30, 2014**;

20 (b) 141.5% of design bed capacity by **February 28, 2015**; and

21 (c) 137.5% of design bed capacity by **February 28, 2016**.

22 3. During the extension period, and as long as this Court maintains jurisdiction,
23 defendants shall not increase the current population level of approximately 8,900 inmates
24 housed in out-of-state facilities. Defendants shall also explore ways to attempt to reduce the
25 number of inmates housed in out-of-state facilities to the extent feasible.

26 4. The Court acknowledges that defendants intend to comply with this order in
27 part through a combination of contracting for additional in-state capacity in county jails,
28 community correctional facilities, and a private prison, and through newly enacted programs

1 including the development of additional measures regarding reforms to state penal and
2 sentencing laws designed to reduce the prison population. Defendants shall also immediately
3 implement the following measures:

4 (a) Increase credits prospectively for non-violent second-strike offenders
5 and minimum custody inmates. Non-violent second-strikers will be eligible to earn good
6 time credits at 33.3% and will be eligible to earn milestone credits for completing
7 rehabilitative programs. Minimum custody inmates will be eligible to earn 2-for-1 good time
8 credits to the extent such credits do not deplete participation in fire camps where inmates also
9 earn 2-for-1 good time credits;

10 (b) Create and implement a new parole determination process through
11 which non-violent second-strikers will be eligible for parole consideration by the Board of
12 Parole Hearings once they have served 50% of their sentence;

13 (c) Parole certain inmates serving indeterminate sentences who have
14 already been granted parole by the Board of Parole Hearings but have future parole dates;

15 (d) In consultation with the Receiver's office, finalize and implement an
16 expanded parole process for medically incapacitated inmates;

17 (e) Finalize and implement a new parole process whereby inmates who are
18 60 years of age or older and have served a minimum of twenty-five years of their sentence
19 will be referred to the Board of Parole Hearings to determine suitability for parole;

20 (f) Activate new reentry hubs at a total of 13 designated prisons to be
21 operational within one year from the date of this order;

22 (g) Pursue expansion of pilot reentry programs with additional counties and
23 local communities; and

24 (h) Implement an expanded alternative custody program for female inmates.

25 5. Defendants will report to this Court monthly on the status of measures being
26 taken to reduce the prison population, and on the current in-state and out-of-state adult prison
27 populations. The first report shall be submitted on the 15th of the month following the date
28 of this order and shall continue until further order of the Court.

1 6. The Court will appoint a Compliance Officer for the purpose of bringing
2 defendants into compliance with any missed benchmark by ordering inmate releases. If
3 compliance with any benchmark is not achieved within a 30-day period following the
4 expiration of any missed benchmark, the Compliance Officer shall, within seven days, direct
5 the release of the number of inmates necessary to achieve compliance with the missed
6 benchmark and the measures to be followed in selecting the prisoners to be released. The
7 authority of the Compliance Officer shall extend no further than ordering defendants to
8 release inmates necessary to ensure defendants' compliance with any missed benchmark.

9 (a) In selecting inmates for release, the Compliance Officer shall consider
10 public safety by minimizing any risk of violent re-offense. The Compliance Officer shall not
11 be authorized to order the release of condemned inmates or inmates serving a term of life
12 without the possibility of parole.

13 (b) The Compliance Officer shall have access to all necessary CDCR data
14 and personnel regarding the California prison population, including population projections,
15 risk assessments, recidivism data, statistical data, and prisoner files, and shall receive
16 administrative support from CDCR to the extent needed to carry out the Compliance
17 Officer's duties. In addition, the Compliance Officer may engage the services of a part-time
18 assistant and/or a part-time secretary upon a showing of good cause within the discretion of
19 this Court at a rate of pay to be approved by this Court should the parties disagree. If the
20 Compliance Officer finds good cause to question the accuracy of any data presented to him
21 or her, the Compliance Officer shall have the authority to verify the accuracy of such data.

22 (c) The Compliance Officer shall be compensated for all work or services
23 necessary to ensure compliance with a benchmark, should a benchmark be missed, and all
24 work or services necessary to verify the accuracy of any data presented to him or her by the
25 CDCR, should the Compliance Officer find good cause to question the accuracy of such data.
26 Defendants shall reasonably compensate the Compliance Officer on an hourly basis and for
27 reasonable expenses, and the provisions of 18 U.S.C. § 3626(f) shall not apply.

28

1 7. The Compliance Officer shall retain all powers, access to information, and
2 compensation granted under this order after the final 137.5% benchmark is reached and until
3 it is firmly established that defendants' compliance with the 137.5% benchmark is durable.
4 During this period after compliance with the final benchmark and before such compliance is
5 durable, if two of defendants' monthly reports, consecutive, report a prison population above
6 137.5% design capacity, the Compliance Officer shall, within seven days, direct the release
7 of the number of inmates necessary to bring the prison population to 137.5% design capacity.

8 8. The parties shall meet and confer to attempt to make a joint recommendation to
9 the Court regarding the selection of the Compliance Officer and an appropriate hourly rate of
10 compensation, which may be subject to increase annually. If the parties are not able to agree,
11 they may each recommend up to two candidates for the Court's consideration and a proposed
12 hourly rate. The parties shall file their recommendations, including a description of any
13 recommended candidate's qualifications and an explanation of any proposed hourly rate,
14 within 30 days of the date of this order. The selection of the Compliance Officer and
15 compensation rate rests solely within the Court's discretion, and the Court will not be limited
16 to the parties' recommendations, whether separate or joint.

17 9. To the extent that any state statutory, constitutional, or regulatory provisions,
18 except the California Public Resources Code, impede the implementation of this order or
19 defendants' ability to achieve the population reduction benchmarks, all such laws and
20 regulations are waived. Although the Court does not issue a general waiver of the Public
21 Resources Code, defendants may request waivers, as the need arises, of these statutory
22 provisions that are tailored to specific projects.

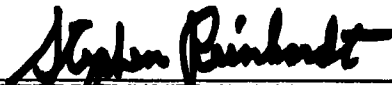
23 10. This Court shall maintain jurisdiction over this matter for as long as is
24 necessary to ensure that defendants' compliance with the 137.5% final benchmark is durable,
25 and such durability is firmly established.

26 11. Defendants shall, within 60 days of the date of this order, file with the
27 Compliance Officer under seal, the categories of prisoners who are least likely to reoffend or
28 who might otherwise be candidates for early release (the "Low Risk List") that this Court

1 previously ordered them to create. The Low Risk List shall not be viewed by the
2 Compliance Officer unless and until he or she is ordered to do so by this Court. Similarly,
3 this Court will not inspect the list unless circumstances so warrant. Defendants shall file an
4 amended list every 60 days, should changes to the list become appropriate.

5
6 **IT IS SO ORDERED.**

7
8 Dated: 02/10/14




STEPHEN REINHARDT
UNITED STATES CIRCUIT JUDGE
NINTH CIRCUIT COURT OF APPEALS

9
10
11
12 Dated: 02/10/14



LAWRENCE K. KARLTON
SENIOR UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF CALIFORNIA

13
14
15
16 Dated: 02/10/14



THELTON E. HENDERSON
SENIOR UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA

17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 2

1 KAMALA D. HARRIS
 Attorney General of California
 2 JONATHAN L. WOLFF
 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

9
 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.

2:90-cv-00520 KJM KJN PC

THREE-JUDGE COURT

21 **MARCIANO PLATA, et al.,**

22 Plaintiffs,

23 v.

24 **EDMUND G. BROWN JR., et al.,**

25 Defendants.

C01-1351 TEH

THREE-JUDGE COURT

**DEFENDANTS' FEBRUARY 2016
 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 reduce the prison population in response to the
3 Court's February 10, 2014 Order Granting in Part and Denying Part Defendants' Request for
4 Extension of December 31, 2013 Deadline (February 10, 2014 Order).

5 Exhibit A sets forth the current design bed capacity, population, and population as a
6 percentage of design bed capacity for each state prison and for all state prisons combined. As of
7 February 10, 2016, 112,887 inmates were housed in the State's 34 adult institutions, which
8 amounts to 136.5% of design bed capacity, and 5,088 inmates were housed in out-of-state
9 facilities.¹ The current population is 835 inmates below the final court-ordered population
10 benchmark of 137.5% of design bed capacity, and has been under that benchmark since February
11 2015. (*See* Ex. A.) Exhibit B sets forth the status of the measures detailed in the February 10,
12 2014 Order that Defendants have implemented to reduce the prison population. (ECF 2766/5060
13 at ¶¶ 4-5.)

14
15 Dated: February 16, 2016

KAMALA D. HARRIS
Attorney General of California

16
17 By: /s/ *Maneesh Sharma*
MANEESH SHARMA
Deputy Attorney General
Attorneys for Defendants

18
19 Dated: February 16, 2016

HANSON BRIDGETT LLP

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

21
22
23
24
25
26
27 ¹ The data in Exhibit A is taken from CDCR's February 10, 2016 weekly population report,
28 available on CDCR's Web site at http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad160210.pdf

Exhibit A

Exhibit A
Population as of February 10, 2016

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions ¹	82,707	112,887	136.5%
Total housed in camps		3,593	
Total housed out of state		5,088	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	3,310	113.4%
California State Prison, Calpatria	2,308	3,795	164.4%
California Correctional Center*	3,883	3,896	100.3%
California Correctional Institution	2,783	3,522	126.6%
California State Prison, Centinela	2,308	3,481	150.8%
California Health Care Facility, Stockton	2,951	2,193	74.3%
California Institution for Men	2,976	3,464	116.4%
California Men's Colony	3,838	4,121	107.4%
California Medical Facility	2,361	2,527	107.0%
California State Prison, Corcoran	3,116	4,124	132.3%
California Rehabilitation Center	2,491	2,926	117.5%
Correctional Training Facility	3,312	5,078	153.3%
Chuckawalla Valley State Prison	1,738	2,417	139.1%
Deuel Vocational Institution	1,681	2,524	150.1%
Folsom State Prison	2,066	2,381	115.2%
High Desert State Prison	2,324	3,593	154.6%
Ironwood State Prison	2,200	3,454	157.0%
Kern Valley State Prison	2,448	3,963	161.9%
California State Prison, Los Angeles	2,300	3,567	155.1%
Mule Creek State Prison	1,700	2,809	165.2%
North Kern State Prison	2,694	4,061	150.7%
Pelican Bay State Prison	2,380	2,284	96.0%
Pleasant Valley State Prison	2,308	3,140	136.0%
RJ Donovan Correctional Facility	2,200	3,184	144.7%
California State Prison, Sacramento	1,828	2,294	125.5%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,385	157.3%
Sierra Conservation Center*	3,936	4,340	110.3%
California State Prison, Solano	2,610	3,833	146.9%
California State Prison, San Quentin	3,082	3,826	124.1%
Salinas Valley State Prison	2,452	3,598	146.7%
Valley State Prison	1,980	3,361	169.7%
Wasco State Prison	2,984	4,852	162.6%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,825	141.0%
California Institution for Women*	1,398	1,864	133.3%
Folsom Women's Facility	403	488	121.1%

* 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.

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 - February 10, 2016 Weekly Population Report, available at:

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



February 16, 2016

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

Dear Mr. Mello:

Attached please find the California Department of Corrections and Rehabilitation's February 2016 Status Update for the Three-Judge Court proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "P. McKinney II".

Patrick R. McKinney II
General Counsel, Office of Legal Affairs
California Department of Corrections and Rehabilitation

Attachments



FEBRUARY 16, 2016 UPDATE TO THE THREE-JUDGE COURT

In response to the Three-Judge Court's February 10, 2014 Order, CDCR Staff report on the status of the following measures being taken to reduce the State's adult inmate population. This report reflects CDCR's efforts as of February 16, 2016 to develop and implement measures to comply with the population reduction order. Because this is an evolving process, CDCR reserves the right to modify or amend its plans as circumstances change. At present, the State's prison population is approximately 136.5% 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 1,813 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 5,088 and has closed the Oklahoma out-of-state facility. Under the Fiscal Year 2015-16 budget, approximately 188 additional out-of-state beds will be reduced by the end of June 2016.

2. **Reentry Hubs:**

The State continues to maintain thirteen prison-based reentry hubs.

3. **Newly-enacted legislation:**

The State continues to implement Senate Bill 260 (2013), which allows inmates whose crimes were committed as minors 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 January 31, 2016, the Board held 1,003

youth offender hearings, resulting in 270 grants, 627 denials, 106 stipulations to unsuitability, and there are currently no split votes that require referral to the full Board for further consideration. An additional 536 hearings were scheduled during this time period, but were waived, postponed, continued, or cancelled. On October 3, 2015, the State enacted Senate Bill 261, which expands the youth offender parole process described above to include inmates who committed their controlling offense before the age of 23. Inmates who are immediately eligible for a hearing will receive a hearing date by January 1, 2018, if sentenced to an indeterminate life term, and by December 31, 2021, if sentenced to a determinate life term.

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 January 28, 2016, approximately 2,176 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 February 3, 2016, approximately 4,553 inmates have been released under Proposition 47.

4. 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-striker 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 January, 231 inmates were released as a result of the court-ordered credit increases.¹ These inmates earned an average of 154.8 days of additional credit. Of the 231 inmates released in January, 133 earned milestone completion credits toward their advanced release date. Since April 2014, approximately 3,815 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 613 inmates who are currently eligible under this program. Since January 1, 2015, 2,776 total inmates have been released receiving expanded 2-for-1 earnings.

¹ Of the 231 inmates, 132 were released to Post Release Community Supervision and 99 were released to parole.

5. 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 January 31, 2016, 5,915 non-violent second-strike inmates were referred to the Board for review for parole.² During this time period, the Board approved 1,846 inmates for release and denied release to 1,747 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.

6. 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. As a result, effective January 1, 2016, life inmates will no longer be granted parole with future parole dates. In addition, all inmates who (1) had been granted parole with a future release date prior to January 1, 2016, (2) reached their minimum eligible parole date, and (3) had no outstanding holds, detainers, warrants, or *Thompson* terms have been processed for release.

7. 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 February 9, 2016, the Board has held 67 medical parole hearings under the revised procedures. An additional 20 were scheduled, but were postponed, continued, or cancelled.

8. 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 January 31, 2016, the Board has held 1,130 hearings for inmates eligible for elderly parole, resulting in 302 grants, 743 denials, 85 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 525 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

9. Reentry programs:

Contracts for the San Francisco, Marin, Los Angeles, Kern County, and Butte County reentry programs are in place. The State continues to review and refer eligible inmates to county officials for consideration for placement. As of February 10, 2016, the 150-bed

² Defendants recently discovered that the data query they utilize each month to calculate the total number of referrals excluded referrals for inmates who were subsequently released from CDCR. Defendants have updated the data query, resulting in the significant increase in the number of total referrals reported this month as compared to previous reports. The total number of decisions and the outcome of those decisions were not affected.

facility in Los Angeles County houses 109 inmates, the 50-bed facility in Kern County houses 20 inmates, and the 20-bed Butte County facility houses 3 inmates..

10. Expanded alternative custody program:

The State's 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 one of three facilities located in San Diego, Santa Fe Springs (LA), and Bakersfield.

As of February 12, 2016, the 82-bed San Diego facility houses 74 female inmates, the 82-bed Santa Fe Springs (LA) facility houses 77 female inmates, and the 75-bed Bakersfield facility houses 75 female inmates.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On March 1, 2016, I served a true copy of the following document(s):

**Request for Judicial Notice;
Declaration of Michael Narciso**

on the following party(ies) in said action:

Constance Lynn Lelouis
Supervising Deputy Attorney General
Office of the Attorney General
P.O. Box 944255
Sacramento, CA 94244
Phone: (916) 322-9357
Email: connie.lelouis@doj.ca.gov
(By Overnight Delivery and Email)

Non-Title Respondent

Thomas W. Hiltachk
Brian T. Hildreth
Bell, McAndrews & Hiltachk, LLP
455 Capitol Mall, Suite 600
Sacramento, CA 95814
Phone: (916) 442-7757
Email: tomh@bmhlaw.com
Email: bhildreth@bmhlaw.com
(By Overnight Delivery and Email)

*Attorneys for Real Parties in Interest
California District Attorneys Association
and Anne Marie Schubert*

Paul E. Stein
Deputy Attorney General
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Phone: (415) 703-5500
Email: paul.stein@doj.ca.gov
(By Overnight Delivery and Email)

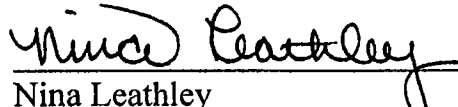
*Attorneys for Real Party in Interest
Attorney General of the State of
California and Kamala Harris*

Clerk to the
Honorable Shelleyanne Chang
Sacramento County Superior Court
720 Ninth Street, Department 24
Sacramento, CA 95814
(By Overnight Delivery)

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
- depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.

BY EMAIL TRANSMISSION: By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on March 1, 2016, in San Leandro, California.



Nina Leathley

(00269175-3)