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Governmental Relations & Legislative Advocacy

State's Response to Federal Three Judge Panel on Prison Overcrowding

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Governor Jerry Brown announced today the State of California has taken legal action to end a federal court order that caps the State's prison population and another that requires "intrusive supervision" of prison mental health care.

The California Department of Corrections and Rehabilitation (CDCR) announced their response for prison overcrowding this morning, following a court-ordered deadline of midnight on Monday to submit a new plan for relieving the state's overcrowded prisons.

Despite the federal court requirement that California outline plans to further reduce prison overcrowding, Governor [Jerry Brown](#) says there's no need to do more to reduce crowding in State prisons, and population caps should be lifted as conditions have improved sufficiently. The State response notes that "further court-ordered reductions are unnecessary because the underlying constitutional deficiencies in prison medical and mental health care have been remedied. For that reason, Defendants are filing, along with this response, a motion to vacate the population cap."

Governor Brown also announced that he has signed a proclamation ending the prison overcrowding emergency that has been in place since 2006. This will allow the state to phase out the use of private out-of-state prison beds for California inmates starting in July of 2013. At this time, there are approximately 8,900 California inmates in out-of-state prisons. You can view the proclamation [here](#).

The three judge panel must now determine the next step which may include accepting the State's position or ordering the State to release prisoners early.

Attached is the State's response to the three judge panel. While the State does not believe further court-ordered reductions of the prison population are needed, they still submitted measures that would achieve the current population cap for the purpose of complying with the Court's directive with the caveat that the options presented are "not good or advisable options; they are simply the least bad of the available options, but are still risky. The State does not endorse them and will

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challenge any order requiring their implementation.” Further, each of these proposed measures would require amendments or waiving state statutes and constitutional provisions.

These options can be summarized into the following categories:

1. Expansion of credits
 - a. Increase credit-earning for minimum custody facilities to the same level of credit earning for inmates in fire camps
 - b. Milestone completion credits for serious and violent inmates
 - c. Increased credit earning for violent and “second strike” felons
2. Changes to state sentencing laws
 - a. Require felons going to prison with nine months or less to serve the remainder in county jail
 - b. Change more felonies to be served in county jail
3. Other potential options to decrease population
 - a. Expand fire camp eligibility
 - b. Expand work furlough, restitution centers, and alternative custody programs
 - c. Slowed return of out-of-state placements
 - d. Increase use of contract private prison and leased county jail space in California
 - e. Court-ordered releases of convicted felons

We will continue to send you more information on next steps. Please don’t hesitate to contact us in the meantime.