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Your Responsibility When Using the Information Provided Below:

When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you want legal advice backed by a guarantee, try to hire a lawyer to address your specific problem. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in your institution's law library.

**INFORMATION REGARDING PRISON OVERCROWDING AND
THE RECENT FEDERAL COURT ORDERS IN
PLATA V. SCHWARZENEGGER AND *COLEMAN V. SCHWARZENEGGER*.**

(Updated 9/11/2007)

We are sending you this letter because you have asked for information about the recent federal court decisions concerning overcrowding in California's prisons. Because we receive a large volume of mail, we are unable to provide individualized responses to all the prisoners and parolees who write to us. In this letter, we will attempt to answer the most common questions about these issues.

Through two class-action lawsuits, attorneys representing California prisoners have shown that the medical and mental health care in California's prisons is so inadequate that it violates the federal constitution's Eighth Amendment ban on cruel and unusual punishment. The lawsuit that concerns medical care is *Plata v. Schwarzenegger* (N.D. Cal) No. C01-1351 TEH and the lawsuit that concerns mental health care is *Coleman v. Schwarzenegger* (E.D. Cal.) No. S90-0520 LKK JFM P. As a result of the lawsuits, the prison medical and mental health care systems have been monitored by the courts for years; in 2005, the judge overseeing the *Plata* case even took the drastic step of ordering that control of the prison medical care system be removed from the CDCR and placed in the hands of a court-appointed receiver.

Unfortunately, improvements in prison medical and mental health care have been slow and inconsistent, at best. Attorneys representing the prisoners believe that a big part of the problem is caused by severe overcrowding in the prisons. Starting in the Fall of 2006, the prisoners' attorneys in the *Plata* and *Coleman* cases began asking the federal courts to step in to address the overcrowding crisis.

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However, the Prison Litigation Reform Act requires that any court order that reduces or limits the state prison population must be made by panel of three judges. (18 U.S.C. § 3636(a)(3)(A) and (g)(4).)

On July 23, 2007, the federal judges in the *Plata* and *Coleman* cases took an important step toward addressing overcrowding. Both judges observed that they had previously and repeatedly entered remedial orders, but that medical and mental health care in the prisons is still far too poor to comply with the Eighth Amendment. The judges also found that California prison officials had already been given a reasonable amount of time to comply with the previous remedial orders. The judges further stated that the court-appointed receiver and special master in the two cases had indicated that overcrowding is a serious problem affecting their ability to reform the medical and mental health care systems. The judges decided that steps recently taken by the Governor and Legislature to reduce overcrowding (such as authorizing money to build more prison beds and moving prisoners to out-of-state facilities) were not necessarily likely to solve the problems.

After making these findings, the judges overseeing the *Plata* and *Coleman* cases ordered that a three-judge court be convened to consider placing limits on California's prison population. Governor Schwarzenegger attempted to appeal the orders, but the Ninth Circuit Court of Appeals dismissed the appeal. (*Coleman/Plata v. Schwarzenegger* (9th Cir.) No 07-16361, Order dated Sept. 11, 2007.)

The judges on the three-judge panel will be the Hon. Thelton Henderson and the Hon. Lawrence Karlton (the judges who oversee the *Plata* and *Coleman* cases), along with the Hon. Stephen Reinhardt of the Ninth Circuit Court of Appeals. The three-judge court is scheduled to hold its first session on September 24, 2007. The court will have the job of determining whether overcrowding is the primary cause of the constitutionally-deficient prison medical and mental health care and whether any action short of limiting the prison population can remedy the problem. (See 18 U.S.C. § 3636(a)(3)(E).) If the three-judge court were to find that population limits are necessary, the court would presumably be involved in deciding what types of limits would be imposed.

Further proceedings will take time, the outcome of the three-judge court's decision cannot be predicted and the state might appeal the court's ruling. Even if the court were to order the CDCR to reduce overcrowding, that does not necessarily mean that any prisoners will be re-sentenced to lower terms or released early. The courts and the CDCR might find other ways to solve the overcrowding problem; such methods might include, for example, reducing the number of parolees who are returned to prison for minor or technical parole violations. We will attempt to update this letter when there are further major developments on this issue.