

Brown v. Plata: Prison Overcrowding in California

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California's prisons are currently designed to house approximately 85,000 inmates. At the time of the U.S. Supreme Court's 2011 decision in *Brown v. Plata*, the California prison system housed nearly twice that many (approximately 156,000 inmates). The Supreme Court held that California's prison system violated inmates' Eighth Amendment rights. The Court upheld a three-judge panel's order to decrease the population of California's prisons by an estimated 46,000 inmates. They determined that overcrowding was the primary cause of the inmates' inadequate medical and mental health care. As a result, the California Department of Corrections and Rehabilitation (CDCR) has been working to redistribute inmates and parolees safely and decrease the overall population to the mandated levels. These large-scale adjustments to California's penal system create potential opportunities to study the long-term effects on affected inmates.

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Inmate rights have evolved substantially over the past 35 years. *Estelle v. Gamble*,¹ a 1976 U.S. Supreme Court decision, first established that an inmate's Eighth Amendment rights were violated if prison personnel demonstrated "deliberate indifference" to a prisoner's "serious illness or injury" (Ref. 1, p 105). The Court reasoned, "An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met" (Ref. 1, p 103). The Supreme Court further clarified the definition of deliberate indifference in the 1994 case of *Farmer v. Brennan*.² Deliberate indifference must involve the unnecessary and wanton infliction of pain and must offend evolving standards of decency. In the Court's *Farmer* decision, Justice Thomas noted, "*Estelle* loosed the Eighth Amendment from its historical moorings" (Ref. 2, p 860), meaning that the decision significantly broadened the definition of the Eighth Amendment. *Farmer* also established the subjective recklessness standard as the *mens rea* necessary to establish deliberate indifference to an inmate's constitutional rights. Under this standard, prison of-

ficials would be found deliberately indifferent to an inmate's needs if they knew of a problem (i.e., subjective awareness) and disregarded the information.

In the years following *Estelle*, inmates increasingly filed lawsuits under 42 U.S.C. § 1983,³ claiming civil rights violations.⁴ § 1983 lawsuits became so common that Congress passed the Prison Litigation Reform Act (PLRA) of 1995,⁵ in part to curtail the number of frivolous lawsuits filed. The PLRA targeted frivolous lawsuits by limiting waivers for the requirement that inmates pay filing fees, restricting attorneys' fees, and requiring inmates to exhaust all available administrative remedies before filing a lawsuit. In 2005, Schlanger⁶ noted a sharp decline in the rate of inmate civil rights lawsuits following the passage of the PLRA. This downward trajectory was in contrast to nearly 25 years of increased inmate civil rights lawsuits noted before the PLRA was introduced. Although the decline in lawsuits may represent a decrease in frivolous litigation, it is also possible that some genuine court cases will be deterred due to hurdles created by the PLRA.⁷

Physical security, medical treatment, and physical conditions represent three of the five most common complaints raised in inmates' § 1983 lawsuits.⁴ Prison overcrowding can potentially be linked with all three of them. The Supreme Court first addressed the constitutionality of overcrowding in the 1979 case of *Bell v. Wolfish*.⁸ Since the complainants were pretrial detainees, the Eighth Amendment did not

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apply because they were not convicted inmates and therefore were not subject to punishment. Because the Eighth Amendment did not apply, the Court determined that potential deprivation of the detainees' rights needed to be evaluated using the Due Process Clause of the Fifth Amendment. The Court evaluated the specific conditions in the Metropolitan Correctional Center (MCC) in New York City. At MCC, detainees were generally housed short term, were given adequate space to sleep, and were allowed out of their cells from 6:30 a.m. to 11:00 p.m. Based on these factors, the Court determined that the detainees in MCC were not being punished, and therefore the practice of double-celling (i.e., placing two or more individuals in a cell designed for one) detainees was constitutional under those circumstances.

The Supreme Court next addressed overcrowding in the 1981 decision of *Rhodes v. Chapman*.⁹ Unlike *Wolfish*, this case involved convicted inmates rather than pretrial detainees. Therefore, the Eighth Amendment's prohibition against cruel and unusual punishment was the constitutional standard that the Court considered. As general background, the Southern Ohio Correctional Facility (SOCF) quickly became overcrowded with inmates. At the time of the Court's decision, approximately two-thirds of the inmates were double celled. However, the Court determined that the SOCF provided adequate food, ventilation, temperatures, noise control, medical care, and physical protection of inmates. In his majority opinion in *Chapman*, Justice Powell opined that double-celling inmates was constitutional in this case. He noted that the practice was made necessary by the unanticipated increase in prison populations. Although the Court did not forbid the practice of double-celling, none of the justices suggested that this practice was desirable. Instead, the Court determined that the discomfort experienced by inmates in this case did not rise to the level of unnecessary and wanton infliction of pain.

The 2011 case of *Brown v. Plata*¹⁰ focused on the California prison system, which had been closely monitored for more than three decades. In 1979, California prison authorities expressed concerns about an overall occupancy of 96 percent, since they were approaching maximum capacity. The total inmate population in California at the time was slightly over 18,000. In the early 1980s, three state senators introduced legislation that would legitimize the practice of double-celling in California, to address

the growing inmate population. Although this legislation did not pass, double-celling became commonplace in the following years. California's prisons are currently designed to house approximately 85,000 inmates.¹¹ At the time of the Supreme Court's 2011 decision in *Plata*, the California prison system housed nearly twice that many (approximately 156,000 inmates).¹⁰

Case Summary

Two federal class action lawsuits addressed alleged constitutional violations committed by the California Department of Corrections and Rehabilitation (CDCR). The first case, *Coleman v. Schwarzenegger*,¹² involved inmates with serious mental health conditions. The second, *Plata v. Schwarzenegger*,¹³ involved inmates with serious medical conditions. The chief judge for the Ninth Circuit Court of Appeals formed a three-judge panel consisting of the district judges from *Coleman* and *Plata* and a third judge from the Ninth Circuit. The three-judge panel ordered California to reduce its prison population to 137.5 percent of capacity, requiring an estimated population reduction of 46,000 inmates. The state appealed the decision to the U.S. Supreme Court. One important question in this appeal was whether the three-judge panel had the authority under the PLRA to order the state of California to decrease its prison population.

The Supreme Court, in a five-to-four decision, affirmed the three-judge panel's ruling. The Court held that the California prison system was indeed committing serious constitutional violations that were primarily due to overcrowding and upheld that panel's authority to mandate a decrease in the prison population in accordance with the PLRA. In his majority opinion, Justice Kennedy noted, "After years of litigation, it became apparent that a remedy for the constitutional violations would not be effective absent a reduction in the prison system population" (Ref. 10, p 1922).

The Court cited the Corrections Independent Review Panel, a group of consultants appointed by the governor, who concluded that California's prisons were "severely overcrowded, imperiling the safety of both correctional employees and inmates" (Ref. 10, p 1924). Expert consultants from outside California offered similar opinions. Doyle Wayne Scott, the former executive director for the Texas Department of Criminal Justice, described the conditions in Cal-

ifornia's prisons as "appalling" (Ref. 10, p 1924). Ronald Shansky, the former medical director of the Illinois state prison system, concluded that extreme departures from the standard of care were "widespread" (Ref. 10, p 1925).

The Court referenced several individual examples of inadequate medical and mental health treatment. A psychiatric expert reported observing a man who had been detained in a telephone-booth-sized cage with no toilet, in a pool of his own urine, for nearly 24 hours while awaiting transfer to a psychiatric treatment bed. An inmate with severe abdominal pain died after a five-week delay in referral to a specialist. An inmate with extreme chest pain died after an eight-hour delay in evaluation. Another inmate died of testicular cancer after complaining of testicular pain for 17 months.

The Court noted that inadequate medical facilities were one component of the problem. Physician staffing presented another challenge. The ongoing budget crisis in California made it unfeasible for the state to build additional prison facilities on a scale that would significantly address the problem. Also, at the time of the *Plata* trial, reported position vacancy rates included 25 percent for physicians and 54 percent for psychiatrists. The three-judge panel determined that conditions related to overcrowding, including violence and large caseloads, made it challenging to hire and retain competent physicians. The panel went so far as to accuse the California prison system of hiring any physician who had "a license, a pulse and a pair of shoes" (Ref. 10, p 1927).

The state claimed that the three-judge panel had been appointed prematurely, without allowing them ample time to address the concerns. The Court noted that by the time the three-judge panel was convened, 12 years had passed since the appointment of the *Coleman* Special Master and five years had passed since the approval of the *Plata* consent decree. The Court also dismissed the state's claim that the three-judge panel did not allow them to present the most up-to-date evidence about the conditions in the prisons, noting that the panel allowed discovery until a few months before trial. They also wrote that the state failed to produce any updated evidence that would have changed the outcome of the proceedings.

The state further questioned whether the three-judge panel's decision was consistent with the PLRA of 1995. To remain in accordance with the PLRA, the three-judge panel had to determine, by clear and

convincing evidence, that overcrowding was the primary cause of the constitutional violations, and that reducing the overcrowding was the only way to remedy the problems. The Court acknowledged that although several factors contributed to the violations, they could all generally be traced to overcrowding. The Court also recognized alternative solutions to the California prison system's problems other than releasing thousands of inmates, but doubted their feasibility. The Court clarified that if the state is able to address the problem in ways other than limiting the prison population, they could seek a modification or termination of the court order.

The Court addressed specific concerns about the premature release of thousands of inmates. The order allowed the state ample flexibility in deciding which inmates to release. The order did not require each facility to comply with the 137.5 percent limit, but rather the system as a whole. Prison officials were allowed to shift inmates from severely understaffed facilities to those more equipped to handle overcrowding. The Court cited statistical evidence that prison populations had been lowered without adversely affecting public safety in several jurisdictions, including certain counties in California, in the past. Strategies had included increased good-time credits, diversion to drug treatment programs, and providing early release to inmates who posed the least risk of reoffending. By the time of oral arguments, California had already begun shifting thousands of inmates from the prison system to the county jails, reducing the total prison population by approximately 9,000.

In his dissenting opinion, Justice Scalia described the majority's decision as "what is perhaps the most radical injunction issued by a court in our Nation's history" (Ref. 10, p 1950). He added,

The proceedings that led to this result were a judicial travesty. I dissent because the institutional reform the District Court has undertaken violates the terms of the governing statute, ignores bedrock limitations on the power of Article III judges, and takes federal courts wildly beyond their institutional capacity [Ref. 10, p 1951].

Justice Scalia noted that the mere existence of an inadequate system did not automatically subject the entire prison population to cruel and unusual punishment. The possibility of creating constitutional violations differed significantly from the existence of actual violations. Individuals who had been subjected to treatment below constitutional standards may have individual claims, but that did not extend

to all other inmates housed in California's prison system.

Justice Scalia suggested that most of the 46,000 inmates who would directly benefit from the court order were likely not involved in either the *Coleman* or *Plata* decisions. He wrote, "Most [prematurely released inmates] will not be prisoners with medical conditions or severe mental illness; and many will undoubtedly be fine physical specimens who have developed intimidating muscles pumping iron in the prison gym" (Ref. 10, p 1953). He opined that a court order should not grant an inmate's release unless the court determined that a prisoner's constitutional rights had been violated and that his release, and no other relief, could remedy the violations.

Justice Alito authored a separate dissenting opinion focused on his belief that the three-judge panel exceeded its authority under the Constitution and the PLRA. He wrote,

Instead of crafting a remedy to attack the specific constitutional violations that were found—which related solely to prisoners in the two plaintiff classes—the lower court issued a decree that will at best provide only modest help to those prisoners but that is very likely to have a major and deleterious effect on public safety [Ref. 10, p 1959].

Justice Alito also opined that the standard of deliberate indifference, as established in *Farmer*, was not appropriately utilized in evaluating the alleged constitutional violations committed within the California prison system.

Discussion

One fact that can easily be overlooked when focusing on overcrowding is that the Supreme Court affirmed the lower federal court's authority to mandate that California's prison population be decreased under the PLRA. Ultimately, however, overcrowding was a central focus of the *Plata* ruling. Nobody has argued that inmates experience benefits from overcrowding. Rather, overcrowding most likely adds to the already stressful experience of being incarcerated.¹⁴ Institutional control is one problem that appears to become more challenging in overcrowded prisons. One study showed a substantial increase in both the number and rate of disciplinary infractions corresponding with decreased square footage of living space per inmate.¹⁵ There are also possible medical and mental health sequelae related to overcrowding. For example, communicable diseases are significantly more prevalent in overcrowded

facilities.^{16–18} However, evidence regarding the mental health sequelae secondary to overcrowding is less clear.¹⁹ Cox and colleagues²⁰ reported increased rates of suicide and psychiatric commitment in prisons with increased populations that did not have proportionally enlarged facilities. While one can assume that overcrowding affects the mental health of the inmates, few published studies support that conclusion in a systematic way.

In their *Plata* decision, the Supreme Court ruled that overcrowding in California's prisons caused the unnecessary and wanton infliction of pain on the inmates. One important consideration is therefore how the *Plata* decision differed from *Chapman*,⁹ the Supreme Court's 1981 decision which deemed the practice of double-celling constitutional. The answer appears to be based on the overall conditions within the facilities. In *Chapman*, the Court clearly referenced the appropriateness of the physical environment and medical care provided. However, in *Plata*, the Court frequently discussed inadequacies of the physical environment and medical care provided. The Court determined that these factors were so deficient that they caused the unnecessary and wanton infliction of pain on the inmates.

The CDCR now faces the challenge of improving prison conditions in the face of California's ongoing budget crisis. Budgetary concerns create problems including difficulties with recruiting psychiatrists and with providing them clinical space and ample resources to administer effective clinical care. The correctional system needs more psychiatrists. However, in the past, California prisons have struggled to maintain an adequate number of providers on staff, despite offering competitive salaries.

California initially appeared to be facing potentially the largest federally mandated release of inmates in U.S. history. However, many groups expressed concerns about the possible impact on California's residents. One well-documented example of a federally mandated prisoner release occurred in Philadelphia in the early 1990s. At that time, Philadelphia's correctional system was placed under a federal consent decree. The mayor agreed to release nonviolent offenders using a strictly charge-based system. According to the guidelines established at that time, nonviolent offenses included stalking, carjacking, robbery using a baseball bat, burglary, drug dealing, manslaughter, terrorist threats, and gun charges. The mayor decided not to consider individ-

ual factors in each case. This list clearly includes crimes, such as manslaughter, that most consider potentially violent in nature, suggesting that some of the “nonviolent” offenders released were indeed violent. Within a single 18-month period (January 1993 to June 1994), Philadelphia rearrested 9,732 previously released defendants for new crimes. These crimes included 79 murders, 90 rapes, and 959 robberies.²¹

In *Plata*, both the lower court and Supreme Court allowed state officials discretion on how to address the overcrowding. After careful consideration, the CDCR decided against releasing any inmates solely in response to the Court’s ruling. Instead, they formulated alternative approaches to decrease the overall prison population. These alternatives included transferring inmates to other states, moving inmates back to the local jails, and diverting select offenders into specialized programs.

Any dramatic change in a large correctional system can yield important results. The study of 969 *Baxstrom* patients (individuals transferred from institutions for the criminally insane to civil psychiatric hospitals after the Supreme Court’s decision in *Baxstrom v. Herold*)²² in the 1960s provided information about the movement and criminal behaviors of this population after their release from the maximum-security facilities. Henry Steadman and his colleagues^{23–25} noted that the future violence of this population had been markedly overpredicted. These studies made clear that there was a need for significant improvements in the methods used to assess the risk of violence. Several structured instruments were developed and implemented over subsequent decades.

Tracking the long-term outcomes of inmates who are diverted from the California prisons in light of the *Plata* decision may assist in further understanding factors related to criminal recidivism. In addition, reviewing the care provided to a smaller inmate population with the same resources may provide guidance on staff-inmate ratios and how decreasing overcrowding affects the delivery of mental health services to inmates.

Before 2011, the Supreme Court had never explicitly equated mental health needs to physical health needs. In the 1999 case of *Wakefield v. Thompson*,²⁶ the Ninth Circuit Court of Appeals concluded that an inmate’s § 1983 lawsuit for deliberate indifference, based on the correctional facility’s failing to

provide his prescribed antipsychotic medications, was legitimate. The Ninth Circuit thus equated mental health and physical health needs. The *Plata* decision is the first example of the U.S. Supreme Court clearly discussing mental health and physical health needs in the same light. With community mental health resources being cut drastically throughout the country, many mentally ill individuals have incidentally been diverted into the criminal justice system. One potential advantage of the *Plata* decision is improving the quality of mental health care that is provided to inmates. However, the overall effects of the Supreme Court’s decision are unclear. They will undoubtedly become apparent over the coming years.

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