

August 1, 2008

Dan Dunmoyer, Cabinet Secretary  
Office of the Governor  
State Capitol  
Sacramento, CA 95814

Michael C. Genest, Director  
Department of Finance  
State Capitol, Room 1145  
Sacramento, CA 95814

Dear Mr. Dunmoyer and Mr. Genest,

After a careful review of the Executive Order of July 31, 2008, S/09/08, and following discussion with my staff and officials from California Department of Corrections and Rehabilitation (CDCR), I have concluded, as the Receiver appointed by the Honorable Thelton Henderson in *Plata vs. Schwarzenegger*, that the preservation and protection of human life and safety, as well as the efficacy of numerous federal court orders, requires that all functions and all CDCR staff with responsibility for *CDCR Adult Institutions* be exempt from the provisions and consequences of the Executive Order. My decision encompasses all staff and all functions performed at every CDCR adult prison and at all CDCR offices with regional and statewide responsibilities for CDCR Adult Institutions. My decision also encompasses all aspects of the Order, including exemption from the paragraphs in the Order which direct a reduction in salary for most employees to federal minimum wage levels in order to secure compliance with the California Supreme Court's decision in *White v. Davis*.

I have made this determination because of the pervasive interconnectedness between the delivery of prison health care, for which I am primarily responsible, and the multifaceted services and functions performed by CDCR staff responsible for adult institutions. It simply is not possible to neatly disentangle the delivery of prison health care from the many other functions and services provided by the CDCR, including its custody functions as well as all of its attendant executive, administrative and support systems (e.g., fiscal, accounting, procurement, human resources, information technology and so on). Thus, all correctional, medical, mental health, dental, and executive and administrative staff with responsibility for adult institutions, and all related functions, shall be exempt from the Order to ensure the preservation and protection of human life and safety within California's adult prisons and to preserve the efficacy of multiple federal court orders.

I render this decision under authority granted me by the Plata Orders of February 14, 2006, January 23, 2008, and the Court's Order approving the Turnaround Plan of Action, filed June 16, 2008. Furthermore, I base my decision on the following joint Federal Court "coordination orders": 1) Order filed May 29, 2007, 2) Order filed February 28, 2007, 3) August 24, 2007, and 4) Order filed February 26, 2008.

Please be assured that both my staff and those employees who report to Secretary Cate appreciate the serious nature of California's current budget crisis and the need for immediate fiscal restraint. I will continue to work closely with Secretary Cate to appropriately manage expenses and limit immediate expenditures consistent with our constitutional obligations.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Clark Kelso", written in a cursive style.

J. Clark Kelso

Cc: State Controller John Chiang  
State Treasurer Bill Lockyer  
Matt Cate, Secretary, Department of Corrections and Rehabilitation  
Dave Gilb, Director, Department of Personnel Administration