[NAME], DISTRICT ATTORNEY

California State Bar No. [FILL]

[NAME], Assistant District Attorney

California State Bar No. [FILL]

Office of the District Attorney

[ADDRESS]

[CITY], California [ZIP]

Telephone: [FILL]

Attorneys for the People

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF [COUNTY]**

**CRIMINAL DIVISION**

|  |  |
| --- | --- |
| **THE PEOPLE OF THE STATE OF****CALIFORNIA,****PLAINTIFF,****vs.****[NAME],****DEFENDANT.** | **No. [Docket No.]****PEOPLE’S MOTION REQUESTING 1172.1 RECALL OF SENTENCE & RESENTENCING HEARING;****MEMORANDUM OF POINTS AND AUTHORITIES THEREOF; PROOF OF SERVICE** |

**TO THE SUPERIOR COURT OF [COUNTY NAME] COUNTY:**

 PLEASE TAKE NOTICE that on [Date of Hearing], at the hour of [Time of Hearing] or as soon thereafter as the matter may be heard in the courtroom of the Department of [Name of Dept.] of the above-entitled court, the People will move the court to recall the sentence of [NAME] and resentence him in the interests of justice. This motion is made upon the grounds that the circumstances of the case warrant that the court exercise its discretion and re-examine the disposition in the case. This motion is based on the pleadings in this action, the attached memorandum of points and authorities, the attached exhibits, and on such oral and documentary evidence as may be presented at the hearing on the motion.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this [Date]th\* of [Month], 20[year], at [Town/City], California.

[NAME]

Assistant District Attorney

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**REQUEST FOR RECALL AND RESENTENCING**

 TO THE HONORABLE JUDGE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF [COUNTY]:

The People request this court recall Defendant’s sentence and resentence him pursuant to Penal Code section 1172.1. Defendant has demonstrated exceptional post-conviction conduct, which is a critical factor in assessing his suitability for release. Defendant further has shown that he no longer presents a public safety risk such that his confinement is no longer in furtherance of justice. The People, therefore, request the Court recall and resentence Defendant to [INSERT PROPOSED SENTENCE].

**SUMMARY OF THE CASE**

On [CONVICTION DATE], Defendant [NAME] was convicted of felony violations of [CONVICTED COUNTS]. On [SENTENCING DATE] the court imposed an aggregate sentence of [AGGREGATE SENTENCE], and Mr. [LAST NAME] was committed to the custody of the California Department of Corrections and Rehabilitation (“CDCR”). [Describe further amendments or resentencing if applicable.]

In 202[\_], in partnership with For The People, a non-profit supporting California District Attorneys with identifying and reviewing cases that may warrant referral under Penal Code section 1172.1, the People notified Defendant [LAST NAME] that his case fell within the People’s preliminary review criteria. Defendant submitted a series of documents for consideration and review.

On [INSERT DATE], the People received a preliminary case evaluation and assessment on Defendant’s record of rehabilitation, disciplinary record, and other post-conviction evidence that suggested Defendant has made great strides while incarcerated.

The People now file a motion requesting the Court recall Defendant’s case and schedule a Resentencing Hearing, pursuant to the People’s authority granted in Penal Code section 1172.1.

**MEMORANDUM OF POINTS AND AUTHORITIES**

# LEGISLATIVE HISTORY, DISTRICT ATTORNEY AUTHORITY TO RECOMMEND RECALL AND JUDICIAL DISCRETION GRANTED UNDER PENAL CODE SECTION 1172.1

Penal Code[[1]](#footnote-1) section 1172.1 (formerly section 1170.03, originally section 1170, subdivision (d)(1)), authorizes a court to recall the sentence of a defendant committed to state prison and resentence that defendant to a lesser sentence upon the recommendation of, among other agencies, the District Attorney of the county in which the defendant was sentenced, where the court determines the defendant’s continued incarceration is no longer in the interest of justice.[[2]](#footnote-2) (§ 1172.1, subds. (a)(1), (a)(3).) Section 1172.1 provides that, in deciding whether to recall a prison sentence, the trial court may consider postconviction factors, such as a defendant’s “record of rehabilitation.” (§ 1172.1, subd. (a)(4).) Section 1172.1 creates a presumption in favor of recall and resentencing in such cases. (§ 1172.1, subd. (b)(2).)

A motion wherein the People move the Court to recall and resentence appears to be an issue of first impression in [County Name] County. Therefore, briefed below is an overview of the statute’s legislative history, the authority granted to the District Attorney, and the discretion granted to the Court.

## Purpose and Legislative History of Penal Code Section 1172.1

Section 1172.1 was originally enacted as section 1170(d) (later 1170(d)(1)), to provide prison officials authority to recommend a recall of sentence upon an evaluation of the defendant’s criminal record, life history, and potential threat to public safety. (*Dix v. Superior Court* (1991) 53 Cal.3d 442, 457, n.11.) In 2015 the legislature extended this authority to county jail administrators in the case of defendants sentenced to county jail under realignment. (Stats. 2015, ch. 378, §§ 1-2.) More recently the legislature extended the authority to recommend a recall of sentence to prosecuting agencies. (Stats. 2018, ch. 1001 (extending to the district attorney of the county where defendant was sentenced); Stats. 2021, ch. 719, §§ 3-3.1 (extending to the Attorney General in cases where the Department of Justice prosecuted the case).)

Prison officials interpreted the original Penal Code section 1170(d) as authorizing the recall of sentences based on circumstances that “arose after the original commitment,” an interpretation approved by the California Supreme Court. (*Dix v. Superior Court*, *supra*, 53 Cal.3d 442, 460-463.) Through the plain language of the statute and legislative history, the legislature has established its intent that recall and resentencing is permitted to account for the defendant’s rehabilitation, criminal justice reforms, and growing societal awareness of factors that contribute to criminal offenses.

In 2018, the Legislature amended the statute to expressly direct courts to consider “postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant’s risk for future violence, and evidence that reflects that circumstances have changed since the original sentencing so that the inmate’s continued incarceration is no longer in the interest of justice.” (Stats. 2018, ch. 36, §§ 17-18.)

In 2021, the Legislature moved the resentencing provisions of section 1170(d)(1) to a new section 1170.03 for legislative clarity, and extended relevant postconviction circumstances to explicitly include considerations of criminal justice reform. In Assembly Bill 1540, the Legislature instructed courts to “apply any changes in law that reduce sentences or provide for judicial discretion,” and stated its intent that trial courts “apply ameliorative laws passed by this body that reduce sentences or provide for judicial discretion, regardless of the date of the offense or conviction.” (Stats. 2021, ch. 719, § 1(i), 3-3.1.) Separately, in Assembly Bill 124, the Legislature directed courts to consider circumstances contributing to the underlying offense, including if the defendant had “experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth . . . at the time of the commission of the offense.” (Stats. 2021, ch. 695, §§ 5-6.)

## District Attorney’s Authority to Recommend Recall and Resentencing Through Passage of Assembly Bill 2942

The role of district attorneys in the administration of justice is axiomatic, and the passage of AB 2942 expanded that role in service of the legislative aims provided in AB 1812 of 2018, regarding reduction of prison populations in California. (Assem. Com. on Budget, Rep. on Assem. Bill No. 1812 (2017-2018 Reg. Sess.) as amended Jun. 12, 2018.) In essence, AB 2942 added district attorneys to the small list of persons vested with authority to recommend recall and resentencing to the court. (§ 1172.1, subd. (a)(1); see also Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill 2942 (2017-2018 Reg. Sess.) as amended Aug. 17, 2018, p. 3.)

AB 2942 addresses situations in which district attorneys become aware of defendants for whom recall and resentencing to a lesser term may be appropriate in the interest of justice. (Sen. Com. on Pub. S., Analysis of Assem. Bill No. 2942 (2017-2018 Reg. Sess.) Jun. 26, 2018.) While it does not vest any specific power within a district attorney to commence resentencing proceedings, AB 2942 provides district attorneys with a procedure to reevaluate and where appropriate, make a recommendation to the court for recall and resentencing, thereby triggering the power of the court and the defendants’ resulting procedural rights. (§ 1172.1.)

The extension of the recommendation authority reflects a legislative intent to rely upon the knowledge and insight prosecutors have of postconviction factors that might justify recall and resentencing of an inmate. This intent was made explicit in 2021 in AB 1540, which created a presumption in favor of resentencing upon recommendation by prison officials, county jail administrators, or prosecutors. (Stats. 2021, ch. 719.) “These law enforcement agencies devote significant time, analysis, and scrutiny to each referral that they make . . . . It is the intent of the Legislature for judges to recognize the scrutiny that has already been brought to these referrals by the referring entity.” (Stats. 2021, ch. 719, § 1(g)-(h).)

Accordingly, the District Attorney requests that this Court recall Mr. [LAST NAME] for resentencing so that these post-conviction factors can be given appropriate weight in crafting a just sentence.

## Court’s Jurisdiction and Judicial Discretion to Recall Sentence and Resentence Defendant Is Triggered by the People’s Recommendation Pursuant to Penal Code Section 1172.1

The trial court may recall a sentence under section 1172.1 “for any reason rationally related to lawful sentencing.” (*Dix v. Superior Court*, *supra*, 53 Cal.3d 442, 456.) After 120 days from the date of sentencing has passed, the trial court regains the authority to recall a sentence and resentence the defendant if it receives a recommendation from an empowered actor, including the district attorney of the county in which the defendant was sentenced. (§ 1172.1, subd. (a)(1).) Section 1172.1 also creates a rebuttable “presumption favoring recall and resentencing of the defendant, which may only be overcome if a court finds the defendant is an unreasonable risk of danger to public safety, as defined in subdivision (c) of Section 1170.18.” (§ 1172.1, subd. (b)(2).)

Upon recall, the trial court has broad discretion to resentence the defendant “as if they had not previously been sentenced.” (§ 1172.1, subd. (a)(1).) The sentencing court may, in the interest of justice, “reduce a defendant’s term of imprisonment by modifying the sentence,” or “vacate the defendant’s conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, and then resentence the defendant to a reduced term of imprisonment, with the concurrence of both the defendant and the district attorney . . . .” (§ 1172.1, subd. (a)(3).)

Under Penal Code section 1172.1, the court can recall and resentence cases involving indeterminate sentences (when the sentence has a range, such as a 25-to-life sentence) and determinate sentences (when the sentence is a set number of years, such as a 15-year sentence). The entire sentence may be reconsidered, (*In re Guiomar* (2016) 5 Cal.App.5th 265, 274; *People v. Garner* (2016) 244 Cal.App.4th 1113, 1118), and the court can use all of its judicial powers available at the time of the resentencing hearing, including such familiar considerations as: (1) which term of imprisonment should be imposed; (2) whether any enhancements charged should be stricken under Penal Code section 1385 (*Romero*); and (3) for multiple charges, whether a sentence should run consecutively or concurrently.

As compared with its original sentencing power, the court’s resentencing power is restricted in only a few ways. “First, the resentence may not exceed the original sentence. Second, the court must award credit for time served on the original sentence.” (*Dix v. Superior Court*, *supra*, 53 Cal.3d 442, 456; see also *People v. Torres* (2008) 163 Cal.App.4th 1420, 1428-29; §1172.1, subds. (a)(1) & (a)(5).) During resentencing, the court must rely on the ordinary sentencing rules promulgated by the Judicial Council and apply changes in law that reduce sentences or provide for judicial discretion, so as to avoid disparity of sentences. (§ 1172.1, subd. (a)(2).) Lastly, the court broadly has the ability to apply ameliorative laws passed by the Legislature that reduce sentences or provide for judicial discretion in sentencing. (Stats. 2021, ch. 719, §1(i); *People v. Pillsbury* (2021) 69 Cal.App.5th 776, 785-86.)

The Legislature has also provided explicit guidelines to the resentencing court when exercising its discretion to recall and resentence. The court may consider the post-conviction factors articulated in section 1172.1, including the defendant’s prison disciplinary record, his or her age, risk of future violence, and other evidence that reflects rehabilitation. (§ 1172.1, subd. (a)(4).) The resentencing court must also consider factors underlying the offense, including “if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth . . . at the time of the commission of the offense. (*Ibid.*) Lastly, the resentencing court must follow the direction of section 1170, subdivision (a)(1), which declares the purpose of sentencing as “punishment, rehabilitation, and restorative justice” and explains that “this purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances.” (§ 1170, subd. (a)(1).)[[3]](#footnote-3)

# DEFENDANT’S POST-CONVICTION FACTORS SHOW FURTHER CONFINEMENT IS NO LONGER IN THE INTEREST OF JUSTICE

Mr. [LAST NAME] has established an overwhelming record of rehabilitation in satisfaction of the considerations for recall and resentencing contemplated under Penal Code section 1172.1. Mr. [LAST NAME]’s in-prison record demonstrates “sustained compliance with departmental regulations, rules, and requirements, as well as prolonged participation in rehabilitative programming.” (Cal. Code Regs., tit. 15, § 3076.1, subds. (a)(1) and (b)(1).)

## Defendant’s Disciplinary Record

The Court may consider a defendant’s prison disciplinary record as one factor among others in evaluating whether he should be resentenced. (§ 1172.1, subd. (a)(4).) Here, . . . .

[DISCUSS RVRs HERE]

Mr. [LAST NAME]’s exemplary prison record is also reflected in his Classification Score (“CS”), CDCR’s in-prison security and disciplinary designation. The CS is a measurement that CDCR uses to track inmate behavior over time. It is measured annually and reflects a broad variety of factors, including RVRs, current term length of incarceration, and prior incarcerations. The CS also accounts for positive factors such as performance in work, school, and vocational programs. (See Cal. Code Regs., tit. 15, § 3372.) An inmate will have points added to his CS for rules violations and disciplinary infractions and points subtracted for sustained periods of good behavior and active participation in rehabilitative programs. (*Ibid.*) A lower CS indicates the incarcerated person is less of a risk to institution security. Typically, an incarcerated person with a score below thirty (30) is considered low-risk. (Cal. Code Regs., tit. 15, § 3375.1(a).)

Mr. [INSERT NAME] received a CS of [INSERT CS] at intake in [\_\_\_]. (Ex. \_\_, p. X.) Since his time in custody, Mr. [INSERT NAME]’s CS has been on a continual downward trajectory, due to positive programming and periods free from disciplinary violations. In [INSERT YEAR], Mr. [INSERT NAME] succeeded in reducing his CS to nineteen (19), which is the lowest possible score for an individual serving a life sentence[[4]](#footnote-4). (*Ibid*.) Therefore, by CDCR’s own designation, Mr. [INSERT NAME] is considered a low-risk to institutional safety.

## Defendant’s Record of Rehabilitation

An inmate’s suitability for release may be premised upon a showing of “overwhelming” evidence of rehabilitation. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1191.) Here, . . . .

[DISCUSS PROGRAMMING / WORK / EDUCATION & VOCATIONAL ACHIEVEMENTS HERE]

## Significant Evidence Shows “Low-Risk” For Future Violence (or to Public Safety)

An inmate’s “subsequent behavior” and “current mental state” are primary considerations in determining whether an individual, if released, would pose a threat to public safety. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1219.)

### Mr. [INSERT NAME] Has the Lowest Possible Security and Disciplinary Classification Score Designation

As stated previously, Mr. [INSERT NAME] has the best-possible prison security designation, which reflects his positive institutional behavior. CDCR regulations provide a low CS indicates “an enhanced ability to function within the law upon release.” (Cal. Code Regs. tit. 15 § 2281(d)(9).) Furthermore, according to California case law, Mr. [INSERT NAME]’s CS reflects a “very low security risk.” (*In re Stoneroad* (2013) Cal.App.4th 596, 605.) Because Mr. [INSERT NAME]’s CS shows a low-risk to institutional safety, this is a positive indication that Mr. [INSERT NAME] presents a low-risk of future violence upon release.

### Mr. [INSERT NAME] Is Low-Risk to Reoffend According to CDCR’s Validated Risk Assessment Tool

The California Static Risk Assessment (CSRA) “is a validated risk assessment tool that utilizes a set of risk factors which are most predictive of recidivism” and “that computes the likelihood to re-offend.” (Cal. Code Regs., tit. 15, § 3768.1.) It is a tool that CDCR uses to “predict the likelihood that an offender will incur a felony arrest within a three-year period after release to parole” based on objective and static risk factors, such as “age, gender, criminal misdemeanor and felony convictions, and sentence/supervision violations.” (*Ibid.*)

Here, according to the CSRA, Mr. [INSERT NAME] presents a “low risk” to commit any crime involving drugs, property, or violence if released from custody. Mr. [INSERT NAME] has a score of 1, which is the best-possible score on the CSRA. (Ex. \_\_, p. X.) In terms of general risk assessment, Mr. [INSERT NAME] has a documented “0 – low” likelihood for criminal personality, educational problem, and employment problems. (*Ibid.*)

## Defendant’s Age, Time Served, and Diminished Physical Condition Have Reduced Risk for Future Violence

The Court may consider evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate’s risk for future violence as one factor among others in evaluating whether he should be resentenced. (§ 1172.1.)

### Mr. [INSERT NAME]’s Age and Diminished Physical Condition Weigh Heavily in Support of His Resentencing and Early Release

CDCR regulations and California case law recognize that inmates of a certain age present a “dramatically” reduced risk of recidivism. (See *In re Stoneroad*, *supra*, 215 Cal.App.4th 596, 634 & fn. 21 (noting that “criminality . . . declines drastically after age 40 and even more so after age 50.”); Cal. Code Regs. tit. 15, § 2281(d)(7).) Here, Mr. [INSERT NAME] is currently [INSERT AGE] years old, well above the threshold age of 40 discussed in *In re Stoneroad*.

Moreover, Mr. [INSERT NAME] also suffers from various medical conditions that warrant additional consideration in light of the widespread outbreaks of COVID-19 throughout California’s prisons. Specifically, . . . .

## Circumstances Have Changed Since Original Sentence and Continued Incarceration of Defendant Is No Longer in the Interest of Justice

Presently, there is no statutory definition of what qualifies as being in “furtherance of justice.” (*People v. Superior Court* (*Romero*)(1996) 13 Cal.4th 497, 530.) However, when dismissing criminal charges prior to conviction, it is established that such considerations require weighing and balancing a Mr. [INSERT NAME] constitutional rights against the general interests of society. (*People v. Superior Court* (*Flores*)(1989) 214 Cal.App.3d 127, 144.) When determining whether the appropriate circumstances exist to justify resentencing, at minimum, there must be an identifiable reason for doing so that is sufficient to “motivate a reasonable judge.” (*Romero*, *supra*, 13 Cal.4th 497, 530-31.)

Mr. [INSERT NAME]’s positive transformation, as well as his ability to find meaning and purpose from his current confinement illustrate just how much circumstances have changed since the time he was sentenced to prison. [DISCUSS CHANGED CIRCS SINCE TIME OF SENTENCING]

### Mr. [LAST NAME]’s Relapse Prevention Plan Demonstrates an Understanding of His Triggers, Coping Skills, and Insight into Circumstances of his Crime.

In addition to the above, Mr. [LAST NAME]’s robust relapse prevention plan demonstrates he understands his triggers and has developed positive coping mechanisms for stressors and insight into the circumstances of crime, all of which further underscore how circumstances have changed from the time he was sentenced such that his continued incarceration is no longer in furtherance of justice. (*Romero*, *supra*, 13 Cal.4th 497, 530.)

[DISCUSS RPP HERE IF AVAILABLE]

### Mr. [LAST NAME]’s Remorse Letters Demonstrate He Understands the Impacts of His Crimes and Feels Deep Remorse.

[DISCUSS REMORSE LETTERS HERE IF AVAILABLE]

## Mr. [LAST NAME]’s Post-Release Comprehensive Wraparound Reentry Plan and Family Support Show He is Prepared to Reenter Society Successfully

If resentenced by this court, Mr. [LAST NAME] will . . . , providing him with the support and supervision necessary for successful reintegration into society. (Ex. \_\_; seeCal. Code Regs., tit. 15, § 2281, subd. (d)(8) [providing that “realistic plans for release” is a factor tending to show that a prisoner is suitable for parole].)

### Mr. [LAST NAME] Has Secured Stable and Reliable Housing.

[DISCUSS REENTRY HERE]

### Family Members Support Mr. [LAST NAME]’s Release and Commit to Providing Financial Support to Assist Reentry.

[DISCUSS REENTRY HERE]

### Employment Prospects.

 [DISCUSS REENTRY HERE]

### Addiction & Recovery Support.

[DISCUSS REENTRY HERE]

### Transportation from Court / Custody

[DISCUSS REENTRY HERE]

# FACTORS UNDERLYING MR. [LAST NAME]’S OFFENSE SUPPORT RECALL AND RESENTENCING

Section 1172.1 requires a resentencing court to consider whether the defendant has experienced psychological, physical, or childhood trauma, was a youth, as defined, at the time of the commission of the offense, or was a victim of intimate partner violence or human trafficking. (PC § 1172.1, subd. (a)(4).) Here, [brief synopsis of relevant facts] warrants the considerations required by section 1172.1.

[DISCUSS RELEVANT TRAUMA AND/OR AGE HERE. INCLUDE ANY EVIDENCE OF IP’S GROWTH & UNDERSTANDING OF THESE FACTORS IN THE OFFENSE]

# THE COURT SHOULD USE ITS BROAD DISCRETION UNDER PENAL CODE SECTIONS 1172.1 & 1385 TO STRIKE PRIOR(S) TO RESENTENCE TO TIME SERVED AND ORDER IMMEDIATE RELEASE

A court’s discretion to dismiss in furtherance of justice is statutory in nature and effective to the full extent not expressly prohibited by the Legislature. (*People v. Williams* (1981) 30 Cal.3d 470, 482.) It is well established that this statutory power operates in conjunction with the statutes providing criminal punishments. (See *Romero*, *supra*, 13 Cal.4that p. 518.) The additional factors available for consideration in determinations under Penal Code section 1172.1 are, thus, an expansion of the Court’s existing broad authority to ensure just sentencing of criminal defendants. (§ 1172.1; see also Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill 2942 (2017-2018 Reg. Sess.) as amended Aug. 17, 2018, p. 3.)

# VICTIM INPUT

[FOR DA TO FILL]

**CONCLUSION**

For all of the foregoing reasons, the People respectfully request the Court to Resentence Defendant, Mr. [NAME], [INSERT PROPOSED SENTENCE].

Dated: Respectfully Submitted,

 [NAME]

 Assistant District Attorney

**[Add Proof of Service]**

[NAME], DISTRICT ATTORNEY

California State Bar No. [FILL]

[NAME], Assistant District Attorney

California State Bar No. [FILL]

Office of the District Attorney

[ADDRESS]

[CITY], California [ZIP]

Telephone: [FILL]

Attorneys for the People

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF [COUNTY]**

**CRIMINAL DIVISION**

|  |  |
| --- | --- |
| **THE PEOPLE OF THE STATE OF****CALIFORNIA,****PLAINTIFF,****vs.****[NAME],****DEFENDANT.** | **No. [Docket No.]****EXHIBITS IN SUPPORT OF PEOPLE’S MOTION REQUESTING 1172.1 RECALL OF SENTENCE & RESENTENCING HEARING** |

**TABLE OF EXHIBITS**

|  |  |
| --- | --- |
| **EXHIBIT** | **DESCRIPTION** |
| A |  |
| B |  |
| C |  |
| D |  |
| E |  |
| F |  |

1. All further statutory references are to the Penal Code unless otherwise indicated. [↑](#footnote-ref-1)
2. The full list of entities which may recommend recall and resentencing of a defendant are the Secretary of CDCR the Board of Parole Hearings (for those defendants incarcerated in state prison), the administrator of a local county jail (for those defendants incarcerated in a local jail), the prosecuting District Attorney, and the Attorney General in cases prosecuted by the Department of Justice. [↑](#footnote-ref-2)
3. The mandate for proportionality in the California Penal Code for both sections 1172.1 and 1385 is reinforced by the guarantees against disproportionate punishment in the Eighth Amendment of the United States Constitution and Article 1, Section 17 of the California Constitution. (See *People v. Williams* (1998) 17 Cal. 4th 148, 160, as modified on denial of reh’g, (Feb. 25, 1998) (citing *People v. Superior Court* (*Romero*) (1996) 13 Cal. 4th 497, 504).) [↑](#footnote-ref-3)
4. The CDCR has a mandatory minimum Classification Score of 19 for incarcerated people serving a life sentence, unless certain “exceptional criteria” are met. (See Cal. Code Regs., tit. 15, § 3375.2; subds. (a)(8)-(a)(10)(I).) [↑](#footnote-ref-4)