

KAMALA D. HARRIS  
Attorney General of California  
GERALD A. ENGLER  
Chief Assistant Attorney General  
JULIE L. GARLAND  
Senior Assistant Attorney General  
STEVE OETTING  
Supervising Deputy Attorney General  
TAMI FALKENSTEIN HENNICK  
Deputy Attorney General  
State Bar No. 222542  
600 West Broadway, Suite 1800  
San Diego, CA 92101  
P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 738-9223  
Fax: (619) 645-2012  
Email: Tami.Hennick@doj.ca.gov  
*Attorneys for Plaintiff and Respondent*

**SUPREME COURT  
FILED**

**OCT 14 2016**

**Jorge Navarrete Clerk**

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**Deputy**

**In the Supreme Court of the State of California**

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

Plaintiff and Respondent,

v.

**LEONEL CONTRERAS and WILLIAM  
STEVEN RODRIGUEZ,**

Defendant and Appellant.

Case No. S224564

Appellate District Division One, Case No. SCD236438  
San Diego County Superior Court, Case No. D063428  
The Honorable Peter C. Deddeh, Judge

**RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

Respondent respectfully moves this court, pursuant to Evidence Code sections 452 and 459 and California Rules of Court, rules 8.252(a) and 8.630(h), to take judicial notice of the relevant documents, which are appended to this motion as Exhibits 1 and 2, include the following:

1. National Vital Statistics Reports, Volume 63, Number 7, United States Life Tables 2010 ([http://www.cdc.gov/nchs/data/nvsr/nvsr63/nvsr63\\_07.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr63/nvsr63_07.pdf)); and
2. The Board of Parole Hearings Elderly Parole Program June 16, 2014 memorandum, included in the record in *Plata v. Davis*, No. 3:01-cv-01351-THE ([http://www.cdcr.ca.gov/BOPH/docs/Policy/Elderly\\_Parole\\_Program\\_Overview.pdf](http://www.cdcr.ca.gov/BOPH/docs/Policy/Elderly_Parole_Program_Overview.pdf)).

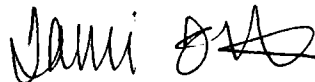
Each of the above attached is the proper subject of judicial notice under Evidence Code section 452. Subdivision (d) of that provision provides that judicial notice may be taken of “Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States,” and subdivision (h) provides that judicial notice may be taken of “Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Pursuant to this authority, it is appropriate to take judicial notice of the National Vital Statistics Reports, and the Board of Parole Hearings Memorandum in *Plata v. Davis*.

Dated: October 13, 2016

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GERALD A. ENGLER  
Chief Assistant Attorney General  
JULIE L. GARLAND  
Senior Assistant Attorney General  
STEVE OETTING  
Supervising Deputy Attorney General



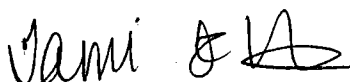
TAMI FALKENSTEIN HENNICK  
Deputy Attorney General  
*Attorneys for Plaintiff and Respondent*

**CERTIFICATE OF COMPLIANCE**

I certify that the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE** uses a 13 point Times New Roman font and contains 201 words.

Dated: October 13, 2016

KAMALA D. HARRIS  
Attorney General of California

A handwritten signature in black ink, appearing to read "Tami" followed by a stylized monogram or initials.

TAMI FALKENSTEIN HENNICK  
Deputy Attorney General  
*Attorneys for Plaintiff and Respondent*

# **EXHIBIT 1**

## United States Life Tables, 2010

by Elizabeth Arias, Ph.D., Division of Vital Statistics

Production errors in the previous version of the report have been corrected.

### Abstract

**Objectives**—This report presents complete period life tables for the United States by race, Hispanic origin, and sex, based on age-specific death rates in 2010.

**Methods**—Data used to prepare the 2010 life tables are 2010 final mortality statistics; April 1, 2010 population estimates based on the 2010 decennial census; and 2010 Medicare data for persons aged 66-99. The methodology used to estimate the 2010 life tables was first implemented with data year 2008. The methodology used to estimate the life tables for the Hispanic population remains unchanged from that developed for the publication of life tables by Hispanic origin for data year 2006.

**Results**—In 2010, the overall expectation of life at birth was 78.7 years. Between 2009 and 2010, life expectancy at birth increased for all groups considered. Life expectancy increased for both males (from 76.0 to 76.2) and females (80.9 to 81.0) and for the white population (78.8 to 78.9), the black population (74.7 to 75.1), the Hispanic population (81.1 to 81.4), the non-Hispanic white population (78.7 to 78.8), and the non-Hispanic black population (74.4 to 74.7).

**Keywords:** life expectancy, survival, death rates, race, Hispanic origin

### Introduction

There are two types of life tables: the cohort (or generation) life table and the period (or current) life table. The cohort life table presents the mortality experience of a particular birth cohort—all persons born in the year 1900, for example—from the moment of birth through consecutive ages in successive calendar years. Based on age-specific death rates observed through consecutive calendar years, the cohort life table reflects the mortality experience of an actual cohort from birth until no lives remain in the group. To prepare just a single complete cohort life table requires data over many years. It is usually not feasible to construct cohort life tables entirely on the basis of observed data for real cohorts due to data unavailability or incompleteness (1). For example, a life table representation of the mortality experience of a cohort of persons born in 1970 would

require the use of data projection techniques to estimate deaths into the future (2,3).

Unlike the cohort life table, the period life table does not represent the mortality experience of an actual birth cohort. Rather, the period life table presents what would happen to a hypothetical cohort if it experienced throughout its entire life the mortality conditions of a particular period in time. For example, a period life table for 2010 assumes a hypothetical cohort that is subject throughout its lifetime to the age-specific death rates prevailing for the actual population in 2010. The period life table may thus be characterized as rendering a “snapshot” of current mortality experience and shows the long-range implications of a set of age-specific death rates that prevailed in a given year. In this report the term “life table” refers only to the period life table and not to the cohort life table.

Life tables can be classified in two ways according to the length of the age interval in which data are presented. A complete life table contains data for every single year of age. An abridged life table typically contains data by 5- or 10-year age intervals. A complete life table, of course, can easily be aggregated into 5- or 10-year age groups (refer to the Technical Notes at the end of this report for instructions). Other than the decennial life tables, U.S. life tables based on data prior to 1997 are abridged life tables constructed by reference to a standard table (4). This report presents complete period life tables by race, Hispanic origin, race for the non-Hispanic population, and sex. The life tables by Hispanic origin are based on death rates that were adjusted for Hispanic origin misclassification (See Technical Notes for a detailed description of the methodology used to estimate Hispanic origin life tables).

### Data and Methods

The data used to prepare the U.S. life tables for 2010 are final numbers of deaths for the year 2010, April 1, 2010 population estimates based on the 2010 decennial census, and age-specific death and population counts for Medicare beneficiaries aged 66-99 for the year 2010 from the Centers for Medicare & Medicaid Services (CMS). Data from the Medicare program are used to supplement vital statistics and census data for ages 66 and over. (See Technical Notes for a detailed description of the data sets used.)



## Expectation of life

The most frequently used life table statistic is life expectancy ( $e_x$ ), which is the average number of years of life remaining for persons who have attained a given age ( $x$ ). Life expectancy and other life table values for each age in 2010 are shown for the total population by race, Hispanic origin, and sex in Tables 1-18. Life expectancy is summarized by age, race, Hispanic origin, and sex in Table A.

Life expectancy at birth ( $e_0$ ) for 2010 for the total population was 78.7 years. This represents the average number of years that the members of the hypothetical life table cohort can expect to live at the time of birth (Table A).

## Survivors to specified ages

Another way of assessing the longevity of the period life table cohort is by determining the proportion that survives to specified ages. The  $l_x$  column of the life table provides the data for computing this proportion. Table B summarizes the number of survivors by age, race, Hispanic origin, and sex. To illustrate, 57,188 persons out of the original 2010 hypothetical life table cohort of 100,000 (or 57.2%) were alive at exact age 80. In other words, the probability that a person will survive from birth to age 80, given 2010 age-specific mortality, is 57.2%. Probabilities of survival can be calculated at any age by simply dividing the number of survivors at the terminal age by the number at the beginning age. For example, to calculate the probability of surviving from age 20 to age 85, one would divide the number of survivors at age 85 (41,497) by the number of survivors at age 20 (98,910), which results in a 42.0% probability of survival.

## Explanation of the columns of the life table

**Column 1. Age (between  $x$  and  $x + 1$ )**—Shows the age interval between the two exact ages indicated. For instance, "20-21" means the 1-year interval between the 20th and 21st birthdays.

**Column 2. Probability of dying ( $q_x$ )**—Shows the probability of dying between ages  $x$  and  $x + 1$ . For example, for males in the age interval 20-21 years, the probability of dying is 0.001084 (Table 2). This column forms the basis of the life table; all subsequent columns are derived from it.

**Column 3. Number surviving ( $l_x$ )**—Shows the number of persons from the original hypothetical cohort of 100,000 live births who survive to the beginning of each age interval. The  $l_x$  values are computed from the  $q_x$  values, which are successively applied to the remainder of the original 100,000 persons still alive at the beginning of each age interval. Thus, out of 100,000 female babies born alive, 99,445 will complete the first year of life and enter the second; 99,301 will reach age 10; 99,102 will reach age 20; and 48,344 will live to age 85 (Table 3).

**Column 4. Number dying ( $d_x$ )**—Shows the number dying in each successive age interval out of the original 100,000 live births. For example, out of 100,000 males born alive, 667 will die in the first year of life; 107 between ages 20 and 21; and 963 after reaching age 100 (Table 2). Each figure in column 4 is the difference between two successive figures in column 3.

**Column 5. Person-years lived ( $L_x$ )**—Shows the number of person-years lived by the hypothetical life table cohort within an age interval  $x$  to  $x + 1$ . Each figure in column 5 represents the total time

(in years) lived between two indicated birthdays by all those reaching the earlier birthday. Thus, the figure 98,674 for males in the age interval 20-21 is the total number of years lived between the 20th and 21st birthdays by the 98,727 males (column 3) who reached their 20th birthday out of 100,000 males born alive (Table 2).

**Column 6. Total number of person-years lived ( $T_x$ )**—Shows the total number of person-years that would be lived after the beginning of the age interval  $x$  to  $x + 1$  by the hypothetical life table cohort. For example, the figure 5,636,907 is the total number of years lived after attaining age 20 by the 98,727 males reaching that age (Table 2).

**Column 7. Expectation of life ( $e_x$ )**—The expectation of life at any given age is the average number of years remaining to be lived by those surviving to that age, based on a given set of age-specific rates of dying. It is derived by dividing the total person-years that would be lived beyond age  $x$  by the number of persons who survived to that age interval ( $T_x/l_x$ ). Thus, the average remaining lifetime for males who reach age 20 is 57.1 years (5,636,907 divided by 98,727) (Table 2).

## Results

### Life expectancy in the United States

Tables 1-18 show complete life tables for 2010 by race (white and black), Hispanic origin, race for the non-Hispanic population, and sex. Table A summarizes life expectancy by age, race, Hispanic origin, and sex. Life expectancy at birth for 2010 represents the average number of years that a group of infants would live if they were to experience throughout life the age-specific death rates prevailing in 2010. In 2010, life expectancy at birth was 78.7 years, an increase of 0.2 years from 78.5 years in 2009 (Figures for 2009 used in this report are based on updated life tables using revised intercensal population estimates: [http://www.cdc.gov/nchs/data/dvs/LEWK3\\_2009.pdf](http://www.cdc.gov/nchs/data/dvs/LEWK3_2009.pdf)).

Changes in mortality levels by age and cause of death have a major effect on changes in life expectancy. Life expectancy at birth increased 0.2 years in 2010 from 2009 because of decreases in mortality from heart disease, Influenza and pneumonia, and cancer. Increases in life expectancy in 2010 from 2009 for the total population were slightly offset by increases in mortality from suicide, Alzheimer's disease, and Chronic liver disease and cirrhosis. Decreases in mortality from heart disease, Influenza and pneumonia, and cancer generated an increase in life expectancy among the male population. This increase in life expectancy for males was offset somewhat by increase in mortality from suicide and Chronic liver disease and cirrhosis. Similarly, the increase in life expectancy for the female population was mainly brought about by decreases in mortality from heart disease, Influenza and pneumonia, and cancer. For females, however, the increase in life expectancy was offset slightly by increases in mortality from unintentional injuries and Alzheimer's disease (5).

The difference in life expectancy between the sexes was 4.8 years in 2010, declining from 4.9 years in 2009. From 1900 to 1975, the difference in life expectancy between the sexes increased from 2.0 years to 7.8 years (Table 19). The increasing gap during these years is attributed to increases in male mortality due to ischemic heart disease and lung cancer, both of which increased largely as the

**Table A. Expectation of life by age, race, Hispanic origin, race for the non-Hispanic population, and sex: United States, 2010**

Age	All races and origins			White			Black			Hispanic			Non-Hispanic white			Non-Hispanic black		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
	0	78.7	76.2	81.0	78.9	76.5	81.3	75.1	71.8	78.0	81.4	78.7	83.8	78.8	76.4	81.1	74.7	71.4
1	78.1	75.7	80.5	78.4	76.0	80.7	75.0	71.8	77.8	80.8	78.2	83.2	78.2	75.8	80.5	74.6	71.3	77.5
5	74.2	71.8	76.6	74.4	72.1	76.7	71.1	67.9	73.9	76.9	74.2	79.3	74.3	71.9	76.6	70.7	67.5	73.6
10	69.3	66.8	71.6	69.5	67.1	71.8	66.1	62.9	69.0	71.9	69.3	74.3	69.3	67.0	71.6	65.8	62.5	68.7
15	64.3	61.9	66.6	64.5	62.1	66.8	61.2	58.0	64.0	67.0	64.3	69.4	64.4	62.0	66.6	60.8	57.6	63.7
20	59.5	57.1	61.7	59.7	57.3	61.9	56.4	53.3	59.1	62.1	59.5	64.4	59.5	57.2	61.7	56.0	52.9	58.8
25	54.7	52.4	56.9	54.9	52.7	57.0	51.7	48.8	54.3	57.3	54.8	59.5	54.7	52.5	56.9	51.4	48.4	54.0
30	50.0	47.8	52.0	50.1	48.0	52.2	47.1	44.3	49.5	52.5	50.0	54.6	50.0	47.9	52.0	46.7	43.9	49.2
35	45.2	43.1	47.2	45.4	43.3	47.4	42.4	39.7	44.7	47.7	45.3	49.7	45.3	43.2	47.2	42.1	39.4	44.5
40	40.5	38.5	42.4	40.7	38.7	42.6	37.8	35.2	40.1	42.9	40.6	44.9	40.6	38.6	42.5	37.6	34.9	39.8
45	35.9	33.9	37.7	36.0	34.1	37.9	33.4	30.8	35.5	38.2	36.0	40.1	36.0	34.0	37.8	33.1	30.5	35.3
50	31.4	29.6	33.2	31.6	29.7	33.3	29.1	26.6	31.1	33.6	31.4	35.4	31.5	29.7	33.2	28.8	26.3	31.0
55	27.2	25.4	28.8	27.3	25.5	28.8	25.1	22.7	27.0	29.2	27.1	30.8	27.2	25.5	28.8	24.9	22.5	26.8
60	23.1	21.5	24.4	23.1	21.6	24.5	21.3	19.2	23.0	24.9	23.0	26.4	23.1	21.5	24.4	21.2	19.0	22.9
65	19.1	17.7	20.3	19.2	17.8	20.3	17.8	15.9	19.3	20.8	19.1	22.1	19.1	17.7	20.3	17.7	15.8	19.1
70	15.5	14.2	16.5	15.5	14.2	16.4	14.6	12.9	15.8	16.9	15.4	18.0	15.4	14.2	16.4	14.5	12.8	15.7
75	12.1	11.0	12.9	12.1	11.0	12.8	11.6	10.2	12.5	13.4	12.0	14.2	12.0	11.0	12.8	11.6	10.1	12.5
80	9.1	8.2	9.7	9.0	8.2	9.6	9.0	7.8	9.6	10.1	9.0	10.8	9.0	8.1	9.6	8.9	7.8	9.6
85	6.5	5.8	6.9	6.5	5.8	6.9	6.8	5.9	7.1	7.4	6.4	7.8	6.5	5.8	6.9	6.7	5.9	7.1
90	4.6	4.1	4.8	4.5	4.0	4.8	5.0	4.4	5.2	5.2	4.5	5.4	4.5	4.0	4.8	5.0	4.4	5.2
95	3.2	2.9	3.3	3.2	2.8	3.3	3.7	3.3	3.8	3.6	3.2	3.7	3.2	2.8	3.3	3.8	3.3	3.8
100	2.3	2.1	2.3	2.3	2.0	2.3	2.8	2.5	2.8	2.6	2.3	2.6	2.3	2.0	2.3	2.8	2.5	2.8

SOURCE: CDC/NCHS, National Vital Statistics System.



# **EXHIBIT 2**

# Memorandum

Date : June 16, 2014

Subject: **ELDERLY PAROLE PROGRAM**

The purpose of this memorandum is to provide an overview of the new Elderly Parole Program. On February 10, 2014, the Three Judge Panel in the *Plata/Coleman* class action lawsuit ordered CDCR to finalize and implement a new parole process whereby elderly inmates will be referred to the Board of Parole Hearings (board) to determine suitability for parole. The procedures for the new Elderly Parole Program will affect parole suitability hearings scheduled on or after October 1, 2014.

## **Eligibility**

Inmates who are 60 years or older and who have been incarcerated for 25 years or more are eligible for the Elderly Parole Program. Eligible inmates may be serving an indeterminate or a determinate sentence.

## **Scheduling of Hearings**

Eligible inmates who are not currently in the board's hearing cycle (i.e., those who are serving a determinate term or serving an indeterminate term and have not yet had their initial parole suitability hearing), will be referred by CDCR to the board and scheduled for an initial suitability hearing.

Eligible inmates who are currently in the board's hearing cycle (i.e., those who have already had their initial suitability hearing or will have it before October 1, 2014) will be considered for a new hearing consistent with the California Supreme Court's decision in *In re Vicks*, meaning the board will initially focus its resources on those inmates who are most likely to be found suitable for parole. This will be accomplished through administrative review of the inmate's record by the board for possible advancement of the inmate's next hearing date, if the board finds a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the inmate. Eligible inmates may also continue to petition to advance their next hearing pursuant to the provisions of Penal Code section 3041.5(d).

During the administrative review and the petition to advance processes, the board will give special consideration to eligible inmates' advanced age, long-term confinement, and diminished physical condition, if any. The board will also consider all other relevant information when determining whether or not there is a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the inmate, including institutional behavior and input from victims and victims' next-of-kin. If an eligible inmate is denied parole, the denial length will be set pursuant to Penal Code section 3041.5(b)(4) ("Marsy's Law") for 3, 5, 7, 10, or 15 years.

**Risk Assessments**

Inmates who are 60 years of age or older and who have served a minimum of 25 years and who are scheduled for a hearing on or after October 1, 2014, will receive a new or revised risk assessment, which will specifically address how the inmate's advanced age, long-term confinement, and diminished physical condition, if any, may impact the inmate's potential risk for future violence.

**Panels and Procedure**

Hearings will be conducted by two or three person panels; at least one panel member will be a Commissioner. All other parole suitability hearing procedures not impacted by the provisions outlined herein will be applied to elderly parole hearings.

**Decision Review**

Parole suitability hearing decisions for elderly parole inmates will be reviewed in the same manner as all other parole suitability hearing decisions.

**Term Calculations**

Inmates who are found suitable for elderly parole and who are serving an indeterminate term will be released to parole when their grant becomes final (after all applicable reviews). Inmates who are found suitable for elderly parole and who are serving a determinate term will be released to parole when their grant becomes final.

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **People v. Leonel Contreras, et al  
and William Rodriguez, et al**  
No.: **S224564**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266.

On October 13, 2016, I served the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Diego, California, addressed as follows:

Nancy J. King  
Attorney at Law  
1901 First Ave., Suite 138  
San Diego, CA 92101  
Attorney for Appellant Contreras

Daniel J. Kessler  
Attorney at Law  
Kessler & Seecof, LLP  
2254 Moore St., Ste. 201  
San Diego, CA 92110  
Attorney for Appellant Rodriguez

The Hon. Peter C. Deddeh, Judge  
c/o San Diego Superior Court Clerk  
220 West Broadway  
San Diego, CA 92101-3409  
\  
Bonnie M. Dumanis  
District Attorney – San Diego County  
Hall of Justice  
330 West Broadway, Ste. 1300  
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 13, 2016, at San Diego, California.

Carole McGraw  
\_\_\_\_\_  
Declarant

  
\_\_\_\_\_  
Signature