

PS Committee chair, Assemblyman Tom Ammiano (TA): I want to thank the members of the academy particularly; I assume we will see some day "Pelican Bay: The Movie." I don't mean to make light of the situation we are here to address. As you know, we had a hearing here a while back that we believe were good-faith attempts to address at least some of the issues that were brought up. A very, very poignant hearing, a very long hearing, family members having bake sales to afford the bus fare to get here to Sacramento, and I was very very humbled by that.

I myself and some of my staff, we did visit Pelican Bay a few weeks ago. We all learned a lot. Some expectations were not what we thought they might be, on the good side; and then it's always, in situations like this, some expectations were left with gray areas. It's true when people know you're coming they put on their best face. I think of my family, when coming over to dinner, we put on our best face, we always tried to make sure the kids were dressed and behaved, and sometimes they did and sometimes they didn't.

We know the area itself is very controversial, it's very emotional. I think the best thing is we are putting the issue on the radar. And the hearing that we had previously did do some good. However there are still some questions about the effectiveness of what some of the changes are, which is to be expected.

We're gonna hear from perspectives of the CDCR reps, prison rights advocates, and then family members of current Pelican Bay SHU inmates. There are some divergent points of view, and I would ask witnesses to keep within time limits, we tried to set the agenda so everyone has an opportunity to speak.

Please keep in mind this is not the last hearing we will have. I look at this as a conversation has been started, particularly by the advocates, and now needs to be continued and monitored. So saying that, I'm going to bring up our first one-person panel, and that is Renee Hansen, who's going to give us an overview. So Ms. Hansen, welcome. And I'm also joined by my committee members: Assemblyman Bill Quirk, Assemblywoman Melissa Melendez, Assemblyman Reggie Jones-Sawyer, and if any of you have a comment to make, feel free to do so during the testimony.

RENEE HANSEN, Deputy Inspector General, Office of the Inspector General (OIG)

Good afternoon ... I'm a deputy inspector general and also the legislative liaison with the Office of the Inspector General. The OIG is the oversight agency for the state (too far from mike) ... and also give an overview of a report that the OIG did on the 2011 hunger strike.

The Department of Corrections and Rehabilitation currently houses over 5,000 inmates in Security Housing Units in five institutions. Those are Corcoran State Prison, Pelican Bay State Prison, California Correctional Institution in Tehachapi, California State Prison Sacramento, and the California Institution for women. A little over 2,400 of those inmates are serving indeterminate SHU terms.

So I'm going to describe the current criteria for a SHU placement and I understand the department will brief the committee on its pilot program relating to indeterminate SHU terms.

So currently, California regulations Title 15, which covers Segregated program Housing Units provides in part ? for an inmates whose conduct endangers the he safety of others or the security of the institution to be placed in a secured housing unit. Inmates may be placed in a Security Housing Unit for either a determinate or indeterminate term. Inmates sentenced to a determinate term in SHU are those who have been found guilty through a formal disciplinary process to have committed one or more specified serious offense, ranging from murder, which has a 5-year high term, to threatening institution security, which has a 6-month high term.

Indeterminate Security Housing Unit terms are given to validated prison gang members and associates who are deemed a severe threat to the safety of others or the security of the institution. A validated prison gang member or associate may be considered for release from SHU after the inmate is verified as a gang dropout

through a debriefing process. An inmate categorized as inactive or validated as a drop-out and placed in the general population may be returned to segregation based upon one reliable source either identifying the inmate as a currently active gang member or associate of a prison gang. These are the current regulations that the department has addressed in its pilot program. So when they comes up to testify they can walk you through the changes and the steps in the two-year pilot program which was approved in October 2012.

So in 2011, September of 2011, as a result of a pending re-initiation of inmate hunger strikes, the OIG was authorized by the Senate to review and assess CDCR's response to the inmate hunger strike occurring between July 1 and July 20, 2011. It was requested that we put out an expedited report, as there was another expected hunger strike to be initiated around September of 2011.

During the event, inmates at Pelican Bay State Prison led other inmates from across the state in a mass hunger strike to protest the conditions of the Security Housing Unit confinement. On July 1, 2011, approximately 5,300 inmates at nine institutions began refusing meals, and the number of inmates peaked to more than 6,500 two days later. The number of inmate participants gradually decreased until the strike concluded on July 20th, 2011.

On Sept. 26, 2011, PBSP inmates re-initiated the hunger strike, but it ended right around the time we released our report, which was in October of 2011.

There were five major issues that inmate leaders published that they wanted addressed.

They wanted individual accountability rather than group punishment, indefinite SHU terms, and restricted privileges.

They wanted to abolish the debriefing policy and modify active-inactive gang status criteria.

And they wanted the department to comply with the U.S. Commission's 2006 recommendations regarding an end to long-term solitary confinement, they wanted adequate food, and they wanted to expand and provide constructive programming and privileges for indefinite SHU status inmates.

So the department, the Office of the Inspector General conducted a review. It was apparent from the interviews we conducted that the inmates' main complaint may have based upon their concerns that CDCR's review and revise the policies for the gang validation process.

So during our review, we had five major findings. Our report is on our OIG website.
<http://www.oig.ca.gov/pages/reports.php>

1) We found that the department's working group was indeed an encouraging start in the effort to address the inmates' primary concerns regarding SHU policies and validation processes.

2) We found that the department had made good faith efforts to provide the privileges promised at the end of the July hunger strike.

3) We found that the CDCR's ombudsman's office and ourselves reviewed food services and found that it was in compliance with food service requirements.

4) While there's no specific instance of retaliation that we could substantiate, there was limited statistical evidence to suggest that there was an increase of enforcement of rules violation reports, disciplinaries, by Pelican Bay State Prison after the July hunger strike for gang violations. The post-hunger strike rules violations were examined and it while they appeared to be legitimately justified, the increase in enforcement immediately after the first hunger strike indicated that inmates were being treated differently.

5) Fifth, we found that hunger strike policies prior to July 2011 were inconsistent at best throughout CDCR, and as a result of the July 2011 hunger strike the department has made progress in establishing policies for medical services and other procedures to be followed statewide relative to hunger strikes.

We made several recommendations.

1) One was that the department should continue to develop and implement consistent policies for dealing with statewide hunger strikes.

2) The department should continue good faith efforts and work towards new step-down processes for SHU inmates, which they are and have, and a system that better defines in ways necessary points in the validation process.

3) We recommended that the department continue their working group to review validation and debriefing policies, which they did, and

4) to review SHU inmate programming, criteria for SHU placement, retention and release in SHU, and improvement in inmates' due process protections in relation to gang validation and SHU placement.

5) There were a couple of other findings one of which was that the Office of the Inspector General themselves should continue to monitor the implementation and review of these policies. So what the Office of the Inspector General did was we embedded one of our own inspectors-general into the process to monitor real-time as the department, reviewed over about a one year process, and revised their gang validation-related policies and procedures.

So as I started out saying, the department implemented a two-year pilot project in October of 2012. Last year in July when the Legislature approved the Blueprint – CDCR's blueprint-- which included language related to Security Housing and prison-based gang members – they added language to the Penal Code regarding the Office of the Inspector General. What they did was they directed us to – the Legislature directed the Office of the Inspector General to periodically review the delivery of the reforms identified in the Blueprint, including the department's establishment of and adherence to their prison gang management system, including changes to the department's current policies for identifying prison gang members and associates and the use and conditions associated with the department's Security Housing Units. That's how Penal Code section 1626 reads.

So in December and January, the Office of the Inspector General began its point in time review of the department's process for implementing all five phases of the Blueprint. The blueprint includes not only the Security Housing Unit language but also standardized staffing, rehabilitation, reforms, housing criteria, and a couple of other areas.

We sent our monitors out into the institutions, and as part of our review, we met with the department staff. We visited each of the Secure Housing Units, and we reviewed the central files of validated affiliates.

Assemblyman Tom Ammiano (TA): You mentioned the word "embedded," and every time these visitations and interviews happened, there was no surprise or unannounced visits?

Renee Hansen (RH): Yes, there was heads-up given to the warden that we would be going and doing our reviews but we did not tell them which inmate C- files we would be pulling and we did not tell them the exact dates, just a date range. We didn't tell them exactly what we were looking for either. But it's laid out in the Penal Code what the Legislature expects us to review and monitor.

So those were just conducted in December and January. As I said, the pilot project just began in October so we don't have a lot right now to review or report on other than the implementation and the origination and publication of the policies, which are in pilot form. So we are just now getting that information back, and we should have a draft report in the next couple of weeks that I'll be glad to brief the committee on.

Ammiano: as I mentioned earlier, this will be a hearing that will have further follow-up.

TA: With the rule violations, are there any new ones in the changes that have happened?

Renee Hansen: We did not hear any follow-up issues or complaints related specifically to retaliatory RVRs so we did not do a follow-up to those statistics.

TA: OK we will ask the next panel. Assemblymember Quirk?

Bill Quirk (BQ): Thank you. I thought it was a very well done report, I appreciate your being so thorough, and I found it a very good review of the process. Second, you talk about this concern about retaliation, and the only place you see this might be possible is the gang related activity, which went from three before, in a two-month period to eight in a two-month period. My only concern there is, whether or not, given the numbers are so small, any conclusion can be drawn from that? Does this number typically bounce around from 3 to 8, and to 10 and back down to 4, is this sort of a change unusual, or do numbers tend to jump around when you have small numbers?

RH: That's a good question. As we said in our report, it was statistically sort of unmeasurable because it's so small, but it is certainly something we can look at after the fact and see how things have gone in the year since as far as those particular numbers to see if there is a pattern.

TA: Thank you Ms. Hansen, very thorough and we appreciate it. we're going to move into our second panel. This is the California Department of Corrections and Rehabilitation. We are going to have Mr. Michael Stainer, Deputy Director Division of Adult Institutions, and Kelly Harrington, Associate Director High Security, Transitional Programming, and Mr. Michael Ruff, Special Agent, in charge Office of Correctional Safety.

CDCR officials who testified are: Michael Stainer, Deputy Director of the Division of Adult Institutions; Kelly Harrington, Associate Director of High Security Transitional Programming; and Michael Ruff, Special Agent in Charge, Office of Correctional Safety.

Michael Stainer (MS): Good afternoon. My name is Michael Stainer. I'm the Deputy Director of the Department of Corrections Division of Adult Institutions.

With me today, accompanying me, is Michael Ruff. He's a senior Special Agent in Charge for the Office of Correctional Safety. Mike has over 27 years' experience with the Department of Corrections. He provides direct oversight to over 30 special agents and senior special agents responsible for monitoring gang activities and intelligence. Mike is a subject matter expert when it comes to gang intelligence, the validation process, as well as the debriefing process.

On my right is Kelly Harrington. Kelly is the Associate Director over the High Security mission. Kelly has over 25 years of experience in the Department of Corrections. Prior to being appointed as Associate Director, he was appointed as a warden at Kern Valley State Prison in Delano. Kelly's role as Associate Director - he provides oversight to 9 high-security state prisons, including the 4 prisons which have our SHU programs.

Again, I'm Mike Stainer. A little background on me. I have over 26 years' experience in the department starting as a correctional officer. I do have some supervisory as well as some management experience in segregated housing units, including administrative segregation and the security housing units. Prior to being appointed the Deputy Director, I was the appointed warden at the California Correctional Institution in Tehachapi and that is a SHU facility.

The four Secure Housing Units in California right now house approximately 3,800 of California's most dangerous offenders. This number represents only 3% of all offenders housed, incarcerated within all of the male prisons.

The offenders designated for placement within the SHU have demonstrated their inability to be safely integrated with other offenders mainly by way of violent acts against staff or other inmates. Some of the offenders, as Ms. Hansen stated, approximately 2,400 of them – 2,400 – are actually validated as affiliates of some of the most dangerous, predatory, and sophisticated criminal organizations in the nation.

Placement in the SHU of these affiliates is necessary to protect the 97% of other offenders who wish to safely program with the general populations, to protect the staff, as well as the communities, in California.

Over the past 18 months, as a result of the commitments made at the conclusion of the July 2011 hunger strike, CDCR made several steps to enhance the delivery of services to all SHU offenders. Some of these enhancements include – we've implemented educational opportunities for all inmates in the SHU. Just last week, we had almost 1,100 inmates that are housed in the SHU enrolled in either college courses, general education, GEDs, or various levels of adult basic education.

Other enhancements include – we standardized as well as added additional items in the allowable personal property as well as items available for purchase from the SHU canteens. For inmates who remain disciplinary free, additional privileges consisting of being able to take an annual photograph and mail it home to their family members as well as to participate in art programs and purchase art supplies, they are permitted. By May of this year, we anticipate that exercise equipment will be installed in all of the small management yards as well as phones will be available for annual phone calls for inmates housed within the SHU facilities.

On October 18 of last year, the Security Threat Group Pilot Program was authorized and approved by the Office of Administrative Law for implementation. This pilot program contains a number of revisions in the manner in which CDCR manages its gangs. One of the most significant is this is a behavior-based program. It places a very heavy emphasis on individual accountability rather than accountability based upon identification alone.

For example, affiliates that are identified as associates will no longer be considered for direct placement into the Security Housing Unit unless there is a nexus to confirm this behavior and found guilty and with a nexus to Security Threat Group activities.

The Pilot program has also resulted in a 5-step incremental step-down program which will replace our 6-year inactive process. The step-down program will provide graduated housing with corresponding enhancements, privileges, personal property allowances, programs, and interpersonal interaction with the ultimate goal of re-integrating participating affiliates back into the general population.

Pilot program also now incorporates a weight-based point value system when reviewing offenders for validation.

The Pilot program will result in the implementation of the new Security Threat Group unit classification. This will provide an enhanced due process review when reviewing the initial validations of affiliates. Kind of like the last step; Once they've been validated, we will have a committee to review that entire validation. Again, this is an enhanced due process. The unit classification committee for the Security Threat Groups will also provide reviews of offenders that have debriefed and then found guilty of subsequent behaviors that do have a nexus to gang activities.

On Oct. 25, 2012, based upon the pilot project, we began case-by-case reviews of associates housed within the SHU programs. To date, we have 144 reviews. These reviews have resulted in 75 offenders being identified for release to the general population or step 5 of our step-down program. 52 of these offenders have been designated and identified for participation within steps 1 through 4, which are conducted within the SHU program itself. 17 offenders have been retained in the SHU, either because of self-proclaimed safety concerns, invalidated safety concerns, or because they have chosen themselves to debrief.

It is our intent to continue the incremental implementation of this Security Threat Group pilot program and prior to the expiration of the two-year term of the pilot, we will be filing the proposed regulations for permanent adoption in Title 15.

Q&A:

Assemblyman Tom Ammiano: Thank you that was very thorough, a lot of good information. I have a couple of questions particularly for you, but if they're not in your purview, then perhaps the other gentlemen sitting by you ... On the classification committee, who's going to sit on that?

Michael Stainer: That will be chaired by a facility captain and then also a CC-2 – correctional counselor 2 supervisor – a CC-1 and the institutional gang investigator.

Ammiano: So they're all internal?

Stainer: Correct.

Ammiano: So just throwing this out here, then how can then – if they're internal, how can we ensure that there is any real review of the process?

Stainer: Generally, the CC-2 and the facility captain are nowhere involved in the actual validation process or the investigative process that would lead one to be validated. So again this does provide a new set of eyes, a different perspective in ensuring that all due process – kind of a more or less an independent review of the validation.

TA: Is the Step Down program available to inmates who are considered prison gang leaders?

MS: It will be ...

TA: So those inmates will not indefinitely be housed unless they debrief?

Stainer: That's correct. The step-down program is a voluntary program. An inmate has to – what it does, it provides them another avenue, it provides them the opportunity to demonstrate both to staff as well as themselves and other inmates that they can successfully and safely program with other inmates and be released ultimately out to the general population through avenues other than debriefing or the inactive process.

Ammiano: So then under the new rules are there any real limitations to how long someone can remain in the step-down program?

Stainer: There are. If an inmate refuses to participate within the step-down program or if they exhibit behaviors, they have ties and a nexus to gang activities, they will not be permitted to progress.

TA: I do have other questions and comments about the process, but I do want to thank you. Any committee members?

Bill Quirk: First of all, anybody who works in a prison has my immense respect. It's gotta be one of the toughest jobs out there, if not THE toughest, so thank you for all the men and women who serve, and for you who've been doing this for so long. You said you went through the process with 144 inmates as part of the pilot Program. How long would it take before you went through the process with the 2400 who are in there now?

MS: We anticipate it could take upwards of two years.

BQ: OK. Um, well I'm very pleased that you have the step down program. I think if it's well done, anything we can do, such as your education programs and art programs that can lead to the rehabilitation of prisoners, bringing them back into, if not into, even if they're never out of prison, at least if they're out in the general population, I think is critical, and I hope that we can go further in this.

TA: Thank you Assemblymember. I want to welcome Assemblywoman Holly Mitchell.

MS: We came prepared today all to be available to questions from the Assembly rather than prepared statements from Mr. Ruff or Mr. Harrington.

Ammiano: In terms of the validation process, previously an inmate needed three source items to be validated. The new validation process, as I understand it, consists of a weighted point system requiring 10 points for validating an inmate. The point values seem exceedingly high so that you can meet the 10 points with 2 items. For instance, legal documents – if the inmate has legal documents – that counts for 7 points. A book could count for 4 points. Would that inmate still need a third source item or is that it, is it the quantitative part?

Stainer: Yes, they would still need three items to total at least 10 points.

Ammiano: But if they reach the 10 points with two items, they'd still need three?

Stainer: They'd still be required to have three independent sources.

Ammiano: So then why are the points weighted so high? Is that a decision that was researched and ...?

Michael Ruff: Well, when we went through the process of determining the point system, we had a group of wardens and a group of experts in that area. We looked at each one of the points to determine the inmate's involvement.

You mentioned the legal document. The legal document usually if the individual has been convicted of 18622 where a jury or jury of his peers – have actually been convicted of a crime that had a gang nexus to it. We hold a lot more value to something along those lines where the inmate had additional due process.

If an inmate has a tattoo, which we give a high number of points to, an inmate that places a tattoo on his body in the gang is very serious and the individual places that tattoo on his body and is not authorized to have it, he could place himself in danger. So those are things we looked at when we made determination on the point value.

Ammiano: Just from an outsider's viewpoint: The high points make it seem that this might be a little more unfair than the old policy. However, to be determined

I'm also concerned about the vagueness of some of the source items, the three items that are needed to get a rebuke. Specifically being in possession of legal documents, which you mentioned that that would evidence the kind of behavior that's not desired. Just rhetorically, shouldn't inmates be allowed to be in possession of their own legal documents or even in possession of another inmate's legal documents to help file an appeal or a brief?

Ruff: Well, if they obtained the permission. But I think just for clarification, when we're talking about, it's not possession of a legal document, it would be if that individual had legal documentation that indicated he was convicted of a crime that had a gang nexus. So if an individual for a particular gang was convicted by the state or county for doing something on behalf of a gang, and he was given a trial by a jury of his peers or so, and he was found guilty and that information would be in his file. That information could be used against him as a point of validation – not necessarily having legal documentation in his cell. No.

Ammiano: But you look at each prisoner differently?

Ruff: Yes...

TA: As to why they're there, and some might luck out and keep their legal if it didn't have the implications that you're talking about.

MR: Well, not so much. Like I said, it's not them having the document in their possession. Inmates have legal documentations in their possession. In regards to your other question about whether or not they're allowed to correspond or if they've received permission from the wardens to – we've had inmates in the past who've helped represent other inmates and they received permission to do that. But for the purpose of the validation, what we're looking at is actual legal documentation that indicates that the inmate was charged with a gang crime.

Kelly Harrington: It's actually the documentation within the documents not the documents themselves.

Ammiano: Yeah, you can see why it's vague. Under the new rules, aren't you using the same exact kinds of evidence or information to make a finding about being a gang member or not? You know, the books, the tattoos, etc.? Is there no new estimate of those categories, or you're feeling those are the categories you want to stick with, even under the new rules?

Stainer: These are the types of evidence that have become throughout the history of the process, these are the indicative items. These are the different types of identification that have been utilized by us as well as other agencies to identify affiliates of Security Threat Groups. What we've done is we've then based upon the significance of the items, we've applied the point scale or point value.

Ammiano: Believe me, I appreciate the move that you're making, but I'm just being the devil's advocate here, it's like, you are giving me the impression, this is good, this is improvement, this is different. And then from the outside, some of it seems the same to me; and that is not to demean, you know, your perspectives, you are the men and the women who are on the ground. So I'm asking these questions because I'm trying to figure out where the common ground is on the part of the advocates and you as part of the officials, and so I guess you could say, I'm on a fishing trip.

Are there any rules violations added under the revised violations that were not considered rule violations in the past?

Stainer/Ruff: Not sure...Not that I'm aware of...

Ammiano: Okay, because that would make it a lot harder for the prisoners to get out of the SHU.

Kelly Harrington: If I could, I think the important part of it is that even though the validation and the points may add up to that, that an individual that is validated as an associate he's not automatically going to go into the SHU. So he still has to have some type of...

Ammiano: That's the difference, then?

Harrington: Right.

Ammiano: And then if the inmates wanted to appeal their validation, will there be an outside entity or one within CDCR for the appeal?

Harrington: They actually have the same appeal process that any inmate has. So it goes through an independent appeal process through our Office of Appeals and then the inmate, if they don't agree with that, can also take that further all the way to the courts.

Ammiano: And if there was legal documents around that, there wouldn't be a problem?

Harrington: No, inmates are allowed to have legal documentations in their cell all the time...

Ammiano: Except if there was ...

Stainer: Even then they can possess it. Even if the inmate didn't possess the legal documents within his cell, we would still – those documents would still be contained within the central file, and it's what they say, again as Agent Ruff was stating, that inmate's been convicted of a gang offense with a nexus to the gang. It might be, for example, let's use LA County as an example. Say the guy was an 18th Street gang member and they tied this offense to gang activity committed by 18th Street gang members, that would be contained within the legal documentation of the conviction, so therefore that would be one source item against the inmate and the point value...

Ammiano: Based on a conviction or on a speculation?

Stainer: On a conviction. and again, at that stage he's had a very high level of due process, consultation with an attorney.

Ammiano: Based on the current review, a high percentage of the SHU inmates are being recommended for release into the general population, and that would appear to say that this evidences the old policy was flawed. Is the new policy enough to make the people who do not belong in the SHU not end up in the SHU again aside from, you know, personal behavior?

Stainer: Well, again, I'll take your question in two parts. Number one is does that mean based upon the fact we released 75 of the offenders that we've reviewed – over 50% – to the general population – step 5 of the step-down program – does that mean that our prior policy was flawed? and I want to say unequivocally no. However what we are doing today, We are applying the criteria of our pilot program to review of these offenders and if they don't have any serious criminal activity that would result in a serious rule violation that would result in their placement within the SHU program based upon the act itself, then they would be qualified within the last 4 years, then they'd be approved for release to the general population where they're monitored.

Ammiano: I guess my concern is that there are a good number of prisoners who've been in the SHU for so many, many years, and then only is it now that we're saying perhaps that was a mistake or that there could be some redemption. So by the way, members, I have a number of questions but that can wait. I want to welcome Assemblymember Nancy Skinner.

Assemblywoman Holly Mitchell: Thank you very much Mr. Chair, and thanks for convening yet another hearing. The hearing we held before was very telling, and I found it very enlightening. I concluded that I could be in the SHU in that I am African American, I do have a tattoo -- it's not gang-affiliated – I hail from LA County and have been known to have incendiary reading materials on my bookshelf. So I'm glad to see we're back here and perhaps have another shot. I want to acknowledge the work CDC has done, and acknowledge the fact that, and I'm reading directly from a document prepared for us by committee staff, that STG associates will no longer be considered for direct administrative replacement into a SHU based only on their validation to an STG. On my recollection from our first hearing, that is a major major step from our first hearing, and I want to acknowledge that.

I want to wrap my head around what seems to be a complex process, weighing the three sources, coupled with the weighting system, I need to sort that out. But the other piece of what I need to hear from you, to see if there really is a difference from the previous policy, deals with the amount of time an inmate stays in the SHU. Because when I walked away from the last hearing feeling it was completely indeterminate, which shook me to my core, this notion there was no gauge, there was no average, there was no policy, or no accountability on the part of CDC around amount of time.

SO In your pilot as you have fashioned is there a way to limit the time or has the pilot addressed length of stay in the SHU at all?

Michael Stainer: At this point, the individual can get out of the SHU in a 4-year period by progressing. If they were placed in step 1 ...

Mitchell: In the step program.

Stainer: Yes and if they participate and they – again, this is voluntary. The individual has every opportunity; prior to this step-down program the individual had two choices outside of parole, which was either to go through the inactive review and show there was no behavior or documentation to demonstrate a continued active role within the gang; or they could debrief, renounce the gang and disassociate themselves. With today's program – the pilot program – the individual, if they choose to do so, they have the opportunity now to get out of the SHU in 4 years. That could also be accelerated based upon their behavior and positive demonstration to a three-year period. The first two steps are really an observation period where they're going to be participating in journaling. They will have enhanced privileges, and as they move from step 1 to step 2, and when they get into steps 3 and 4 is when we're going to start implementing a lot of programs for these individuals.

This is a big culture change, not just for the staff but for the inmates as well. This is what we had for the last 25 years – 26, 27 years, is this policy. And we're making – you know, we're not changing because it was wrong.

But we've done a national research to determine what are the best practices, we haven't found any best practices. What we've found is that each state, each agency based upon their dynamics and their population, has their own policy and it works for them. So we picked a hybrid of all of those. We've spoken with national gang experts and experts and secretaries from other agencies throughout the United States. We petitioned all 49 states for their policies so we could review them, and find out what works for them and what could work for us.

But we truly believe that we are making the steps in the right direction. And we're providing the opportunity – the individual doesn't have to participate though, but we're providing that opportunity – to provide another avenue for them to demonstrate their positive behavior and their ability to program safely and be re-integrated into the general population.

HM: You mentioned the national survey that you did, and I appreciate that it's not a perfect apples-to-apples comparison, but in that research, did you get a sense, could you compare our average length of stay in the SHU compared to other states? Not the design of their SHU, not the contributing factors that get you sent to the SHU, but just the average length of stay in any kind of secure housing unit compared to other states?

(48m) MS: are you speaking to our new step down in the length of stay?

HM: No, just the SHU, not the step down program, just the SHU.

MS: no, that may have been done, and I'd have to get back to you on that (wrote it down).

HM: My final question, I want to make sure I understand, in order to participate in the step down program, you have to sign a contract?

Harrington: Well, real quick clarification. Everyone will be placed in Step 1, so they don't have to sign the contract in Step 1. The future steps they would have to [in order to] move on.

HM: correspondence I've gotten from some prisoner advocacy groups, that Many prisoners have refused to sign the contract. Is that true? Or is that because you're not far enough along in the pilot to even have enough people at steps 2 and 3 that would require the contract? How would you respond to that claim?

Kelly Harrington: I think what's occurred and what Mr. Stainer said also is that this is a culture change for the inmates also. And so we're educating them on the step-down program is, along with our staff. So there have been some individuals that have chosen not to sign the contract.

Mitchell: Have they said why?

Michael Ruff: I'm participating in some of the case-by-case review, and an example is we were at Pelican Bay, I think, the day before Mr. Ammiano visited doing the DRV and case by case reviews. We had an inmate who was told he was going into step 5 and he refused to sign the contract, I'm not gonna participate in the step-down. When he was given a little bit more information – that he was going to be in general population, then he was in agreement. He still wasn't going to sign the contract but he was in agreement. I think it's a cultural thing s Kelly has pointed out before – whether they're not trusting or just don't want to participate in something. But I think that may change over time.

HM: that was a surprise to me, given the number of letters I received in my office, Mr. Ammiano. I'm sure in large part because of my comments in the last hearing. I'm just surprised that inmates wouldn't be interested in participating in any kind of structure program that would shorten their time in the SHU. I was just struck by that because that certainly is not the tone and tenor of the literally hundreds of letters I've received in my district office. So when you talk about culture, and when you use the example about once it was explained to him, I wonder about the process of communicating what the entire plan is and making sure people understand from soup to nuts what's expected of them, what intended and unintended consequences may be.

Ruff: I can say, just in participating in the ones I've participated in, every individual, when asked have you seen the instructional memo, have you reviewed it, and then explain them again verbally what the process is. And if they're not at the right reading level, there's someone there to assist them.

Michael Stainer: To address your concerns at this point of this step-down program. You know, in two years from now, this is regulations, as we move forward. If an inmate refuses to sign the contract, that offender will go back to committee and be placed in step 1 program for refusal to participate or for not volunteering to participate. But today, because we do understand that this is something new, and we are actually taking great lengths to go out and have that communication. Mr. Harrington and myself have had this discussion; we've had several inmates from Corcoran that have been identified to participate in various steps of the step-down program. And I'm gonna be honest with the panel here – the committee here – there's also intelligence that these inmates are being instructed not to participate in this program.

Assemblywoman Holly Mitchell: By?

Stainer: By leaders.

Mitchell: From inside.

Stainer: Absolutely.

Mitchell: And what would be the motivation – tell me?

Stainer: Again, we built the program, we provided another avenue outside of the debriefing. It's a legitimate program. It's in its infancy stages right now. But this will provide – enact a process – ok you've got 6 years clean, go to the main line. This is actually going to have incremental programs of behavior –cognitive behavioral-type programs to help the individual make the adjustment. Like you stated, Why would they refuse that? To you and I, it's – I don't know

HM: so the "leaders" (quote unquote) wouldn't want them to go through the program cuz they don't want them to basically be gang affiliated?

MS: These contracts ask – do not require the offender to renounce the gang. It doesn't require any of that. There are step-down programs throughout the nation that they are called step-down programs but they require the offender not only to renounce, but to disassociate or debrief. We're not asking that, we're not trying to take away their ... (inaudible ... opportunity? Identity?)

TA: The perception within the SHU would be different though, just having a contract incriminates. I get the bind ...

MS: All the contract is asking is that they will not participate in Security Threat Group activities.

Assemblyman Reginald B. Jones-Sawyer, Sr.: I'm new to this process, what I've been reading about the long terms that people have been spending in the SHU, obviously it's quite disconcerting. You made a comment that you have a program, and as long as people volunteer and cooperate .. and now I'm hearing there may be some impediments to that. The purpose of this exercise, I hope, is to get everyone out of the SHU back into general population. And if you're not able to get to that level, what would be the conditions of the people there? Or will re-enact people in the SHU 5, 10-, 15 years because of whatever?

Michael Stainer: As this program is in its infancy stages, we are tackling this on a day-to-day basis as we move forward. I don't have that answer for you right away. I do know that if offenders continue to display the type of behavior, they refuse to participate, they will plateau within the program ...

JS: And they'll stay within ...

MS: step 1 or step 2.

TA: Thank you. Assemblywoman Skinner ...

Assemblywoman Nancy Skinner, District 15, Berkeley, D: What confuses me, and it confused me at the last hearing, though I do appreciate there's been some revisions. But the part that is confusing to me, as I understand it, there's not an analogous program, say, at San Quentin. Either the step-down or the STG.

MS: the step down programs will be completed within the SHUs as well as general populations for step 5.

NS: Only at pelican bay.

MS: No, at all four male institutions.

NS: So the kind of procedures you're describing are now being utilized at all of our state prison facilities?

MS: The validation and identification processes, yes.

NS: Reason I ask, is because, what both the original hearing we had and just both press reports and communications from inmate advocacy groups etc., there's not the kinds of what would be considered either arbitrary or excessive use of say, SHU, was not present at any facilities other than at Pelican Bay. I'm raising this confusing because although I don't have the data before me, I would imagine the data would show that if not a majority, close to a majority of our inmates in those 4 facilities, we probably have some documentation of gang relationship. And yet we don't apply this to all of our inmates.

KH: All the inmates are under the security threat group program if they're involved, either an associate or member of a prison gang, or security threat group. And so it is being implemented statewide. Pelican bay has just been designated as step 1 and 2 of the program, and then step 3 and 4 of the program will be at SCP Sac, Corcoran State Prison, CCI and Tehachapi. But all of the inmates in all the institutions, if they participate in gang activity or are validated, they would be placed in administrative segregation unit there. So it would be equal throughout the state. Pelican Bay, that's just where most of the prison gang associates and members are housed at. So I think that's why, you know, that's the one that most people recognize.

NS: I know there are certain criteria that land a inmate in Pelican Bay vs. the others, but I don't know if we've seen data that actually shows that what might call the equal treatment of prison gang-related affiliates or associates. Maybe I'm not articulating well, but when I look at this document and see what you're describing, it seems it applies to either evidence in the conviction report of this gang-related activity, and yet I would surmise that that could probably be found for a great number of additional inmates than who are falling under this particular treatment.

So it's hard for members like myself to not see this as somewhat arbitrary.

Assemblyman Tom Ammiano: If I could piggyback on that ... There was a Supreme Court decision in 2012 that I understand changed the interpretation of what was sufficient evidence to sustain a conviction of criminal street gang activity. So as to the legal documentation, and I think Assemblymember Skinner was heading in the direction of, is it arbitrary? Is it a double standard? So given that Supreme Court decision, are you now reviewing the C-files to determine if there was something valid on a qualifying condition? Because the interpretation of that has now been changed, since those C-files were ...

Michael Ruff: I'm not familiar with the Supreme Court decision you're referring to – but I can say that each case that's being reviewed, in the case-by-case review, each point is being reviewed to determine whether or not they meets the criteria to retain the inmate.

Assemblyman Tom Ammiano:
Is it made through the lens of the new interpretation?

Michael Ruff:
The case-by-case reviews are, yes.

Ammiano: Let me ask you this: Would a non-violent hunger strike qualify for an STG violation?

Kelly Harrington: Well, you would have to have the information to indicate that they were the leaders or they were perpetuating that, that it was, and you would have to have a gang nexus to it. But being involved in a hunger strike can be viewed as violating institutional security and those type of things.

Ammiano: We're gonna wrap up here, and then Assemblymember Melendez ... Does this new policy make any changes in the conditions of the SHU?

Michael Stainer: It does provide additional privileges as I spoke to earlier at the opening. Again, each step will provide additional enhanced privileges, again, as a result of commitments made at the conclusion of the hunger strike, we have implemented several things to improve the delivery of services. Education alone – almost one-third of our inmates confined within SHU are now participating in some form, at some level or another with an educational arena, which is ...

Ammiano: One little finish, when we were talking about the contract and what that meant: Here it says for step I believe it's 5, that you, meaning the inmate, would have the responsibility to report STG or criminal activity when known or observed by you. So that is part of the contract for Step 5. Could that be one of the hang-ups aside from leaders ostensibly saying we don't want you to do this?

Stainer: Could be. [Crowd laughter]

Assemblywoman Melissa A. Melendez District 67, Lake Elsinore, R, Committee Vice Chair:
Thank you very much. First of all, I have been in solitary confinement, not in prison, but in military environment in survival school, so I know what it feels like to be in that type of environment for long periods of time, and I find this it fascinating, some of the information about the psychological effects of being in solitary confinement, I really do. Still think it's necessary, let me be clear on that. For SHU inmates typically, for those who are in there for extended periods of time, are these people ever going to get out of prison or are these folks gonna spend their lives in prison, whether it's in a SHU or not?

Kelly Harrington: some of the individuals will spend, their terms are life terms, so it'll depend on the Board of Prison hearings if they will be removed out of, you know, go to parole. Some of them do have release dates, but the majority in the SHU programs have extended periods of time ...

MM: My second question is, Would it be safe to say that there are certain members of the prison population that really do need to be in some sort of isolated environment in order to protect the public and the prison population itself and the staff? Would that be safe to say – that there are some people who are so dangerous, so violent, and so insidious in how they approach life and try to get other to go along with them, that they really need to be isolated?

Michael Stainer: Absolutely. That's why we have segregated housing it's not by the terms of solitary confinement, and I respect what you stated. However, These individuals are removed from communities because of what they do and what their threat to that community is. We have those same type of individuals. We're designed to house those type of offenders, but then we even have offenders within our populations that need to be segregated from the general population. These offenders – put them on the phone for 5 minutes, we run the risk of them conducting their criminal enterprises, calling hits, murders, extortions. We have these offenders within our SHU programs that are calling for assassinations at other prisons. So yes, to answer your question, these are our most dangerous offenders – this 3% of our population.

Holly Mitchell: I wanted to follow up on your really good question about the hunger strikers. Your comment, Mr. Harrington, is that it wouldn't be counted against them if there as no correlation to gang activity but all I ever read in the press, the materials provided to us, letters written, that the whole focus of the hunger strike is the condition – living conditions within the SHU. I've never seen any correlation between gang activity and the hunger strike. So I guess I want to just reaffirm and get clarity on your response to the Chairman's question, about if participation in a civil act of disobedience – a peaceful act of disobedience-- would count against your time, particularly if you're in the step program?

Harrington: I don't believe at this point it would count against them inside the step program. And, the demands of the hunger strikers – that was some of the core demands, was the individual accountability of being the SHU and getting rid of the debrief process and that. Those are some of their core demands, and that was the issue of getting out. But it would be individual accountability on each of those cases. I can't paint a broad brush that everybody would be, receive a rules violation report for those instances. So it's difficult to answer the question without it occurring.

TA: Gentlemen thank you, I want to thank the members of the Committee for engaging, and we'll be in contact.

Our next panel is perspectives from advocates of SHU inmates: Charles Carbone, a personal prison rights lawyer; Laura Magnani, assistant regional director, AFSC, American Friends Service Committee; Irene Huerta, family member of an inmate at Pelican Bay; and Marie Levin, family member of an inmate at Pelican Bay.

CHARLES CARBONE

Good afternoon, Mr. Chairman and committee members. My name is Charles Carbone, and I'm a prisoner rights attorney from San Francisco.

I've spent the last 15 or so years visiting supermax prisons in the state. In fact, I think I've litigated more gang validation cases and visited more validated inmates than any other attorney in the state. I was also lead counsel in the Castillo case and now in the Ruiz litigation that is presently in the U.S. District Court before the Chief Justice of the Court.

It's from this particular experience that I'm thankful to offer views on the reforms as they're proffered by the department on its gang validation policies and the use of security housing units [SHU] in the state. I will focus my comments particularly on what has changed and what has not changed pursuant to these reforms.

Before I move to my public comments, however, I would like to just clarify two points that came up – salient points that came up in the line of questioning.

Number one, it is unmistakable that the present regulations contemplate both the participation in a hunger strike as both a valued-source item for placement in a security housing unit and to be placed back in a lower step in the step down program. There's no mistake of that according to the regulations.

Second point is pursuant to your question, Chairman, about the legal documents. The department would have you believe that the 7 points are only assessed at that high level because a jury of the convicted individual's peers found them guilty of a gang-related crime. If you look at the proposed regulation, it's page 20 of the 7.0 version, it talks about court transcripts, probation officers' reports, and "other legal documents evidencing security threat group conduct." So I would say it is an utter misrepresentation of the rules to say that we would only be assessing 7 points when a jury found someone guilty essentially of a gang enhancement. If you have a probation officer opining in a case that there were gang dimensions to the crime, clearly that could be used as a 7-point legal document.

Now, what has not changed? CDCR has every intent of maintaining the very controversial debriefing program, which requires inmates to undermine their personal safety and their family's safety as basically a non-confidential informant. Everyone else in the SHU knows who has "snitched" and who has not-at great peril to that person. That program remains. And as the Chairman noted in his very astute comment, that debriefing element is actually now incorporated into the step-down program, adding another dimension to debriefing.

Secondly, inmates can still be validated and placed in the SHU – that is members – without ever committing a single unlawful act. In other words, mere membership or engaging in communications with gang associates regardless of the content of those communications is still sufficient evidence to validate the inmate and to place them in a security housing unit. Basically, the department has now availed itself both of normal association-based source items and conduct-based source items – not "or," as it relates to members.

And, as others have questioned today, indeterminate sentences remain, which means that California prisoners can be legally held indeterminately, which is basically a fancy way of saying in perpetuity.

We know that in Pelican Bay alone we have 248 who've been there for 5 to 10 years; 218 who've been there for 10 to 20 years; and almost 100 prisoners in California who have been in isolation for more than 20 years.

The fourth thing that has not changed: CDCR maintains that it can still rely upon stale evidence. This is something they are not telling you. Under their current interpretation and proposed interpretation and, in fact, they recently affirmed this as of about three weeks ago in open court, they believe that only one of the source items needs to be less than six years old. So you have 2 source items that are 20 years older and one that is within the last 6 years, and that would somehow constitute not only a current gang validation but that would evidence a current danger based on evidence that is 20 years old.

And then lastly, the underlying conditions in the SHU have not changed, and these are the resoundingly condemned conditions that folks like Amnesty International and others have critiqued (Ammiano: you're referring to the physical conditions?) Yes, the physical conditions. And if we believe that some expansion of what is known as "allowable personal property" like a handball – like a rubber ball – is a substantial change in those underlying conditions, then I think we need re-examine what constitutes cruel and unusual punishment.

As we looked at the changes, there are 2 bizarre claims within those changes.

The department's preamble to the report says that they have – despite their “recent successes” in both quelling gang violence and properly validating inmates – that's the preamble. Well, we learned that they actually had, as it relates to associates, they actually had a 50% – over 50% failure rate on those associates warranting SHU confinement. They told you they've reviewed 144 cases; more than half of those cases were sent back to a main line. And they've also incredulously told you that this is going to take another 2 years to possibly release those 50% associates, who according to their own flawed standards don't belong there.

And secondly, they've made the very peculiar claim that all of these rules – these “reforms,” which are actually regressive in nature – were being done pursuant to realignment – that they really weren't being done in response to considerable outcry, protest, and legislative scrutiny. I don't know how these proposed changes relate to any matter to realignment, but that's what they've said.

So let's look at the changes.

Number one. The changes actually vastly expand – not restrict – who can be validated. We used to have – it was prison gang members or associates. They've actually now created four categories: security threat group associates, members, suspects, and persons monitored. And we don't just have prison gangs, because the department, without any real data, said for years that prison gang members or associates are inherently more dangerous than street gangs – the security threat group 2 – and so therefore they warrant this indeterminate long-term confinement. Without any data whatsoever, they have changed that position, and said we now want to essentially expand the pool of potential validated inmates to include security threat group 2. Well, then, who is in security threat group 2? It's literally thousands of prisoners who claim or are being charged of being a part of that group – the Crips, Nortenos, the Bloods, “white supremacists,” Sureno gangs ...

Assemblyman Tom Ammiano: I'm sorry – the Crips – but that's not a prison gang...

Charles Carbone: That's now known as a security threat group category II, which is also eligible for SHU confinement.

Only is the department of corrections capable of calling something a reform when actually it's an expansion of its power in this capacity. So one has to ask why does CDCR opening the floodgates to SHU confinement under the guise of reform? I think it's two things.

Number one, it realizes that the policy of over-valuing the danger of prison gangs was wrong. And two, that that policy essentially allowed real criminal enterprises – non-prison-gang criminal enterprises – to thrive on prison main lines because of this flawed policy; and they now want to correct that.

Two, there's been some cosmetic changes to the use and valuation of the source items, but the basic parameters governing source items are entirely intact. The only real changes – and I ran it through every calculus I could find on the source items, doing different configurations of these items – the only real changes are: CDCR can now not validate inmate solely based on 3 confidential informants or 3 debriefing reports. I won't bore you with the details but that was basically already prohibited because of something called the “single-source rule.”

Ammiano: I don't mean to be rude but I need you to wrap up so we can get to other people.

Carbone: Certainly. Let me then focus my comments on the step-down program, if I could, and then I'll move on to my colleagues, and just identify the flaws of that particular program.

Number one, success for that program includes things like maintaining proper hygiene; and as incredulous as it sounds – I'm not making this up – whether the prisoner has made their bed or not. That doesn't like the kind of reliable criteria we want.

And secondly, something they're not telling you – they mentioned this notion of a nexus to whether an administrative council chrono or lesser rule violation or serious rules violation can be relied on if it bears a

nexus to gang activity. That's true for placement in the SHU but it's not true for the step-down program. So any rules violation, regardless of its connective tissue, will warrant the prisoner going back in the step-down program.

And lastly, this step-down program essentially concentrates the worst prison gang members in Pelican Bay. There's supposed to all be in step 1 or step 2. Something that hasn't been brought up from the standpoint of safety and security, it may be unwise – and it's the reason they integrated them in the past – it may be unwise to create a powder keg at Pelican Bay by concentrating influential gang leaders capable of greater communication in that environment. And it's no coincidence that Pelican Bay is the prison that's undoubtedly the harshest.

And lastly, and this will be the last thing, the state has said, "Well, our step-down program in later steps will offer education." This is something unheard of. They are now codifying the denial of educational "privileges" to gang members. It's not being done because of the lack of resources. By operation of law, the department will now say gang members and leaders are being denied education. And on that I would close and thank you for your time.

LAURA MAGNANI

Thank you, Mr. Chair, members of the committee. Laura Magnani with the American Friends Service Committee. I hate to tell you how long I've been doing this prison work. Let's just say it goes back to the '70s and that the AFSC has been doing it for over 50 years.

I'm a member of the Pelican Bay Hunger Strike Solidarity Coalition – a proud member – and also of the mediation team that's been trying to facilitate communication between the prisoners going on hunger strike, and the department. I really, really want to thank you for holding this second hearing. It's essential that the Legislature continue to monitor these situations. There's no real hope unless you play that role.

I'm particularly grateful to you, Mr. Chair, for making the trip up to Pelican Bay a couple of weeks ago. You can tell how difficult – it's not an easy trip to make, and so that shows real commitment.

Having watched CDCR make changes in the past or respond to court mandates, I know how slow that tends to be. And I can only imagine what it would be like to be sitting in isolation while these changes are theoretically rolling out. It's pretty excruciating.

The mediation team has been working with Mr. Giurbino on these regulations and trying to be in these conversations. And it seems like at least two recommendations that grew out of the hunger strike are in these changes, although as Mr. Carbone says, not necessarily successfully.

One is to separate the ... make the distinction between association and behavior, and the other is to create a step-down program. Now that the department is beginning to hold these hearings and release so many people could either look like a success story or ghastly in terms of why have those people been there for so long. And I think that's already been spoken to, but it is rather appalling to contemplate.

I testified at the last hearing about that we believe that these conditions constitute torture. It's pretty well established in international law. But for anybody who wasn't at the hearing last time, we do have our report which shows you where it is in international law as well as other information about the mental impact of being in isolation and the numbers of people that we isolate, so I'd be glad to leave that behind for people.

Looking specifically at the new policies, we want to point out some of our concerns as well as make some recommendations, and some of them have already been spoken to so I'll try not to repeat.

Although the new matrix appears to distinguish association from behavior, when you look closely you realize that behavior is defined so broadly that it virtually rules - any rules violation becomes behavior. Behavior is no longer confined to gang situations; but to any behavior in the prison. That makes it way bigger – as I think

Mr. Carbone began to say, and it really makes a mockery of the distinction between association and behavior. We were looking for something like violent behavior as a behavior that might be problematic, or promoting hatred among groups; but it appears the department is really giving itself a huge amount of discretion to decide what constitutes behavior with regard to being assigned to the SHU.

Maybe these statistics of releasing 50% to general population will continue as this pilot project continues, and we'll be pleasantly surprised we have some worries that might not be the case.

Unless the determination of who should be remanded to SHU is wrested away from the Internal Gang Investigators and the Office of Correctional Safety and this internal process, we really can't believe we're going to see a lot of changes. We believe strongly that there has to be independent review of who is being validated. And independent doesn't mean independent within the department; independent means outside, it means due process, it means an opportunity to look at the evidence against people.

The shift to the STG [Security Threat Groups] framework, building on what Mr. Carbone said, is a potential for expanding, not contracting, gang validations. Our organization – my organization, AFSC, has offices around the country and some states like New Jersey and Massachusetts and Michigan, where we have offices, have been living with this STG framework for quite a few years and it's quite scary. Because it reaches down into communities, it's no longer now confined to prison gangs. It looks at the people in the community and it basically validates people who are on the streets so that by the time they get to the prison they're already under suspicion and being treated that way. And I think my colleagues will say from their perspective how it's playing out for them. So we're very concerned about switching to this STG framework.

As far as the step-down program is concerned, I have to say it took my breath away to see that it was a 4-year process. I mean, we were trying to limit the number of people and the length of time people were doing. And the idea that a step-down would be 4 years – The first 2 years are total dead time. First 2 years are straight up isolation. There's nothing new that happens to you there.

And then beginning in the third year is when they began this thing they called programming; well, we got a copy of one of these workbooks. (called "The Con Game: Step Down Program.") this is the third year, you get to have workbooks alone in your cell to work through, and the things that you write in your workbook – this is called a journal – could be used to keep you there longer if you don't answer properly.

But the other thing that's really upsetting to me about this one that we've seen anyway, is that it's more blame and shame curriculum. It's more how bad you are, you better get in touch with how bad you are, you have no legitimate reasons for why you're here, so on and so forth and so on. And you're supposed to get better from using these materials.

Now, I want to say that I have co-authored a curriculum that's being used by the Federal Women's Prison in Dublin. It's been used for about 5 years, and it qualifies as a pre-release program there. We've been serving about 25 women per cycle, and it's all about building people up, not kicking them to the ground; it's all about trying to get people enough respect so they can start thinking about what they want to change in their lives or what behaviors are working and what aren't working. But you don't do that by having people write in a workbook about how awful they are. So it's really a point of passion for me. I had to tell you that.

The AFSC is hoping to work with my colleagues in Arizona to come up with a different kind of step-down program because there's plenty of places around the country where this is being done effectively, and Security Housing Units are being emptied. but it's not going to be done in a workbook kinds of curriculum.

The recommendations: Our basic belief as a coalition and as AFSC is that long-term isolation should not exist, does constitute torture, and it's very damaging to all concerned, including staff. If it continues to exist, there needs to be a cap placed on the amount of time a person can be held in these conditions. Absolutely and unequivocally there needs to be a cap. Many of these have been spelled out. Many of the kinds of ways of putting these limitations have been spelled out by the prisoners themselves in the materials they've provided to you, and in the demands they originally made.

I think you know to achieve a cap would have to require legislation. It's not going to happen from the department. The department doesn't see it that way, and we are hoping that you will be inspired to step in.

Secondly, we say that people need to stay in touch with their families, to correspond, to send pictures, to visit to the greatest extent possible. This cannot solely be privilege-based; it is a human right. The idea that, you know, coming between people and their families is a Correctionally positive thing – there's just no justification for that whatsoever. And if you tell me that after good behavior in a step-down program of a year or two years you get get one phone call a year?? I don't know about your family relationships, but that wouldn't go through very far in mine, and I think we have to think seriously about what we're doing to people.

Statistics must be kept under racial breakdown of people in security housing units because it's the most segregated part of the system. And we know from police stops in the community that if you don't keep statistics on the racial breakdown of people being stopped by police, you have no way of holding police accountable. It's the exact same thing. This process of security housing units, ladies and gentlemen, is a racist process. It is deeply, deeply wrapped around gang stuff, which is interpreted so racially, that unless we start looking at the statistics and getting a handle on it, we won't be able to make any progress.

There must be due process, this is the next recommendation, before anyone is remanded to any of these units, including the right to see evidence against them and the right to be represented by counsel and I already said, it should be before an independent review. And if they are being re-validated for continuation or for going back to step one, in perpetuity, they need to have an opportunity to be presented with the evidence and know why that's happening. There needs to be due process.

And as I said at the last hearing and the Chair followed up, we'd like to see the press access bill reintroduced, so there can be some sunlight into these institutions. The press access bill was passed by the legislature now 9 times and vetoed by the governors 9 times, and you know, that's just too disrespectful of you all. There needs to be a change. And The press needs to get – have the right to get in because without that tool, we don't have democracy.

Thank you.

IRENE HUERTA, wife of an inmate at Pelican Bay's Secure Housing Unit

Good afternoon. Thank you for assembling here today, Mr. Chair, in order to discuss the changes the CDC began to implement following the Pelican Bay peaceful protests of 2011. I feel that it's crucial that CDC is closely monitored while they are implementing new policies and procedures.

I myself, like many, have been at the mercy of CDC along with my husband, who has courageously suffered through two hunger strikes to expose the horrendous, de-humanizing experience of solitary confinement under the control of CDC.

In 1983, my husband was judged by his peers and found guilty and therefor sentenced. Gabriel Huerta has been in solitary confinement since 1986 initially for an alleged memorandum that connected him to a prison gang. This memorandum has never been produced. My husband and I both acknowledge the sentence he was given. He had every intention in serving his time. However, we did not know his rights as an American citizen and inalienable human rights would be stripped from him at every turn.

Our issue is not about doing time. The concern is how he's doing the time.

My husband often writes to me about the torture of isolation. His letters have expressed desperation to the point of letting himself become comfortably numb.

He states, "Many people may not know what it's like to be isolated for so long. The way that we've been here and I would say that it's like being locked in the trunk of a car with just enough weather stripping removed so

you can breathe and with enough food and water stuffed in everyday inside so that you can physically survive. You're soon going to realize what it actually means when it's said that we're social beings. You're going to crave social interaction and human contact. Soon you're just hollering out there, you can talk even for a brief time. Just like the Pink Floyd song says, "Hey you out there beyond the walls, can you hear me?" And yet every time you talk, every time you act like a human being and interact with other human beings, you're told that it's a gang activity and you have to stay another 6 years now before your next review."

These are the written words of my husband who has been in solitary confinement for 28 years.

And I'm not speaking solely for the benefit of my husband but for countless men and women in SHU and their family members. What I'm trying to convey as a story, which happens to be a similar story for the thousands of others who have been imputed as gang members and associates, on the rare occasion that I and other family members are allowed to visit, which is a 1,500 round-trip, the SHU inmates are transferred from one confined space to another, are placed in a 4 by 4 room, where we must visit behind glass for a maximum of 1 hour and 45 minutes.

The CDC has made the determination that my husband is one of hundreds deemed "the worst of the worst." What role has CDC been given in educational training to make an evaluation of my husband or thousands of others "the worst of the worst"?

These are our loved ones.

Since CDC's assessment, my husband and I have been under examination. I have had my letters viewed without reason or provocation. I have had to write several appeals for reason unbeknownst to me. During my frustration, my husband wrote, "This is all designed in an effort to frustrate and disrupt any bonds we may have with family members or friends on the outside."

Under the new step-down program, he would have to serve 4 more years as an alleged gang member, in which he has already served 28. What type of rehabilitation can be done under these types of living conditions? The damage that has been done by these type of confinement cannot be determined. Long-term isolation is torture.

I refuse to use the "R" in CDCR because there is no meaningful rehabilitation programs for SHU.

In talking with family members and hearing from other loved ones in Pelican Bay SHU, we agree the new regulations in the step-down program make it harder for them to get out of solitary confinement, especially those that the IGI has labeled the gang members.

Even though the LA Times did write an article on recent releases to general population, none of our loved ones in Pelican Bay have heard or seen any of the reviews or the releases, and when they ask the guards especially during hearings, they are always told they don't know anything about it.

Here's just some of what we've heard to the responses: Prisoners validated as a Security Threat Group prison gang members will continue to be subject to automatic SHU confinement solely based on validation. A formal charge of gang-related misconduct doesn't have to be filed and a formal hearing doesn't have to take place to determine guilt or innocence per their preponderance of credible evidence standards as required by CDCR's formal rule violation hearing process.

Inmates are saying the only way out of SHU is to parole, grow old, die, go insane, debrief, or successfully complete the 4-year minimum step-down program. Those who have already been in for decades don't believe they have to prove themselves any longer, especially for those who have been in disciplinary free for years and who have educated and better themselves, determined to survive in what they call the hell hole.

There's no independent oversight for IGI or OCS; no internal policy mechanism to make sure that the decisions are fair, accurate or objective.

The pilot program establishes the minimum but no maximum time limit in SHU doesn't guarantee an inmate will complete the process in 4 years or automatically get out of the SHU even after 4 years.

If CDC is serious about meaningful reform and rehabilitation, and family contact to maintain healthy family bond. That we ask to be allowed a minimum to have one phone call a month, extended SHU visits with contact, more efficient SHU processing in visits, since we are coming a long distance.

And in closing, all we are asking is for our loved ones to be treated like human beings.

MARIE LEVIN, member of the Prison Hunger Strike Solidarity Coalition

Thank you for this opportunity to speak to all of you. My name is Marie Levin and I'm a native of Oakland, California. I'm a member of the Prison Hunger Strike Coalition.

My brother is Ronnie Dewberry, who goes by the name of Sitawa Nantambu Jamaa. He is housed in the Pelican Bay Security Housing Unit – the SHU. He is one of the 4 representatives.

It was very painful for me to visit my brother for many years. I visited my brother through my mother and my sister. It was painful because when I – the very first time that I saw him – you see people handcuffed all the time, but you don't see people with chains on their ankles, and my brother when I seen him behind the window, this was at San Quentin – he ... I mean, that just disturbed me so much and I had to walk away and cry about the situation. I came back, but through those years from when he first was incarcerated up until now. 15 plus years I was unable to visit my brother. So I visited through my mother and my sister.

My mother had three strokes, and the last stroke left her paralyzed on her right side, and so she's been in a hospital facility. My sister died. So the question was then, who's gonna see about my brother? So it fell on me. I'm the only one here. My other sister's in Florida.

So I got involved with the Prison Hunger Strike Solidarity Coalition when I found out that my brother, along with thousands of other inmates, who were about to go on a hunger strike, and this is in my brother's words: "I am doing it because of dehumanizing circumstances; myself and many other fellow prisoners are willing to do a hunger strike – some until our death. We hope it doesn't come to that but it's something we're willing to do."

This hunger strike showed many of us how serious these inmates were about changing their dehumanizing and inhumane conditions. My brother has been locked up for 32 years, originally for a crime he did not commit. He has been in solitary confinement for 29 of those years for being labeled a gang member, and that gang being the BGF, which is the Black Guerrilla Family.

I am here today to address the issues of the pilot program. My brother, Sitawa, is a political thinker. I want to make that clear. He's a political thinker and a student of history – his history. The Black American knowledge that he has gained, he used to educate those inmates, which includes all racial groups. Because of this, my brother, Sitawa, was labeled this Black Guerrilla Family Member, which is a gang.

CDCR has unlimited discretion to do whatever they choose to do with an inmate, such as trivial write-ups, not liking how a man answers questions in the workbook, and saying a man is insincere are all potential reasons to keep a man in the SHU for the rest of his life. I want to add I'm a little nervous so just bear with me ...

The workbooks that they are being given are assuming that a man is a gang member. If a man is not in a gang, he would have to lie to answer in a way that CDCR will say is satisfactory. These workbooks are demeaning, inappropriate for my brother as well as for many of the other older inmates who have been in there for decades. This is both an insult to their intelligence and their dignity. Some could still remain in the SHU for decades. And I'm trusting, I don't know how many of you in here believe in The Lord. I do and I believe that one day my brother will be free but under these circumstances and conditions, I don't believe that that would happen.

No one who is labeled as a gang member will be reviewed in the first two years of the program. My brother has been given the label of gang member. That's two more years where nothing will change for him. That's not right. Placed in prison for a crime as I stated before that he did not commit and placed in solitary confinement because he is being a political thinker.

Calling men a part of a Security Threat Group is labeling men like my brother in an unfair way. Many of the men in the SHU are not a threat to anyone.

I want to speak on the telephone calls that have been mentioned. My mother was given the opportunity – or I should say my brother was given the opportunity to get a phone call through to my mother. My mother, based on the doctor's report, has one month to a year or so to live, and this report was given in December. And so my brother was given the opportunity, based on a lot of things that were through the doctors, and the lawyers making this happen, my mother was – my brother was given the opportunity to speak to my mother for a total of 30 minutes in December, and I'm very grateful for that, and so is he and my mother. But given the fact of these new regulations, it would be after the second year that my brother would be able to get a phone call through, and that is unacceptable.

I believe that if they're concerned about families being in touch with the inmates, if they're really concerned about these inmates being in touch with their families, then that phone call my brother never would have gotten, for one, but that phone call that he would not be able to receive in another two years is far too long.

I want to end by saying that my brother as well as the other representatives are doing all that they can to promote racial unity and peace among the prisoners.

Assemblyman Tom Ammiano: I want to thank all the members of the panel. I don't know if there are any comments or questions from Committee members?

Assemblywoman Holly Mitchell: I heard my colleague Ms. Melendez comment, and I really wanted to give this panel the opportunity ... I think there are three issues: It's circumstances that sends one to the SHU; it's the duration of time in the SHU; and the living conditions in the SHU. Three issues. I think on the first panel we spent a lot of time talking about the structure of the new program and didn't talk about conditions in the SHU.

But my question to you – if you were in a position to separate yourself from your loving family member – if you feel secure housing is appropriate to have in the state's institutions? And if so, under what circumstances?

Charles Carbone: I'll take the first try at it. I think I share the opinion of the former director of the Department of Corrections, Jeannie Wood, who was asked a similar question, and she said it is entirely appropriate to segregate inmates according to different classifications considerations, including whether they would be a threat to other inmates. But there is no penological reason to have that segregation be punitive in nature. And that's what we're creating in SHU units; we're creating an environment that is designed to maximize sensory deprivation. In fact it's more oriented to that end than it is truly is to segregation. So I share the assemblywoman's concern that we promote safety and security within our prison system. Heck I gotta go there and visit prisoners all the time, so I want my lifers who are programming well and trying to get out of prison to be in a good environment. And they can attain that through segregation, but not the type of segregation – and that's what I spoke to earlier – where we're literally codifying the punishment that is inclusive in that segregation.

Laura Magnani: Can I just add one thing? That goes back to the fact that the prisoners asked that there be some kind of way to get out of the SHU other than debriefing. That they be able to prove that they could work with people of all groups as a way of getting out of the SHU without debriefing. But what's noticeable about the new regulations is that even if you got through the step down program and were transferred, you still have the identification as an STG member. You cannot get rid of that without debriefing. That is still a fact with these new regulations.

Ammiano: We've understood that a new hunger strike may be initiated this year, and if that is the case, could you just give us some details about the conditions within the SHU that the inmates would like to see changed? I think we've hit on a number of recommendations with the new processes, but if there is in fact a motivation to have another hunger strike, what would that be around, what are some of the conditions they would like to see changed?

Carbone: I think it's actually an issue of a challenge to the indeterminate nature of their confinement, as much as it is to the particular manner of that confinement, Chairman, that the inmates are protesting. I don't think it's as simple as curing the conditions by adding a few programs ...

Ammiano: I could hear that in the presentations of our two other witnesses. OK, if there are no other questions or comments, I'm gonna open this up to public comment. We have maybe 20 minutes or so. Because of the time constraints we are going to ask you to be very brief, express your support or opposition, and please understand we will be having further hearings. If you just want to give your name and make a statement.

PUBLIC COMMENTS (selected)

Public Comment #1: Thank you. My partner has been in Pelican Bay SHU for 18 years. In his words, "Critics say that prisoners in solitary are animals and beyond rehabilitation so the public doesn't dare question how we are treated. We made some bad decisions and are paying for it now, but we're human beings first. When a person makes mistakes in life, it doesn't mean he is stupid or a disgrace to society." California Penal Code Section 597 (t) makes it a crime to maliciously and intentionally maim, torture, wound, torment, deprive of necessary food, drink or shelter, subject to needless suffering, inflict unnecessary cruelty or abuse, or fail to provide an adequate exercise area for animals confined in an enclosed area.")The National Academy of Sciences allows significantly ... excuse me I'm really upset ... more square footage to house a head of cattle than prisoners enjoy in solitary confinement. Prisons are a taxpayer-funded institution. They do have their place but we ask that you pay very careful attention to the language in the new SDP. It's very imprecise. It can be interpreted very arbitrarily. And we ask that you very deeply consider an end to SHU confinement. Thank you so much.

Ammiano: Thank you very much, next speaker please, and I do appreciate the brevity.

Public Comment #2: My name is Michelle, my husband is (name withheld). He's 49 years old, he's been incarcerated for 31 years, 26 years in Pelican Bay. I'd like to read this to you: "I went to classification the other day and asked them where I stood in terms of the step-down program. Has my file been reviewed? What step according to what's in my file am I likely to end up in? They told me my file had not yet been reviewed and to justify the delay that they were reviewing the files of those who have been in the SHU the longest. When I told them that I had been in the SHU since 1987, for 26 years, they got all quiet, glanced down at my file for a second, and they quickly looked up and said, 'Well, uh, we should be getting to you soon.'" The step-down program is just like the previous 6-year inactive, two aspects of it are exactly the same. It's the use of innocuous material with no documentation or connection to gang activity. They've used on my husband an Easter card that he wrote to his niece and on an Easter egg had a trimming of some detailed decoration on the Easter egg and they said that that was connected to Aztec something and it was a gang activity. That's no activity. Also, there's no outside review. That's the second thing. They're going to continue to do this and find these things, and they're going never gonna to meet the criteria to progress to the next step.

Public Comment #3: My name is Cary and I'm here on behalf of Amnesty International, who in 2011 visited the SHUs in Pelican Bay, Corcoran, and Valley State Prison, and published the findings in a report you should have ("The Edge of Endurance"), my colleagues sent them to you. We were granted access in Pelican Bay to what is known as the short corridor, and were allowed into a housing pod to speak to the inmates. For some, we were the first outsiders they had seen in many years. We sat in a cell with the lights off and the door closed to experience first-hand the environmental deprivation inherent in such confinement. Despite the clear blue skies outside the prison, the cell was gloomy, reading without a light would have been difficult for all but a short period as the highly perforated door blocked out much of the light coming from the skylight

beyond the cell tier. These conditions which are designed to minimize human contact and reduce visual stimulation are gratuitously harsh and there can be no justifiable reason penologically. Conditions with in California's SHUs violate a raft of international standards and treaties governing treatment of prisoners.

Public comment #4: About a year ago, I found myself standing next to you at a stop light. We exchanged a couple of words, and we walked across the street. That neither made me your friend nor a politician. But yet, my son is considered an associate with people that he didn't even talk to. So the major concern that we have is that being an associate – the associates are concerned about family members being categorized in one of these STG groups, expanding beyond them and penalizing them and us as families further by not allowing us to have our visits, not allowing my son to see his son. You know, those are very strong concerns for us. We would really like to see the contact visits returned. Thank you.

Public Comment #5: My name is Dolores Canales and I have a son that's being held in Pelican Bay solitary confinement. In 2010, Aug. 26, 2010 Bioquel was cited for being in violation of federal law because the National Institute of Health and federal law prohibit research chimpanzees to be held in solitary confinement, citing that solitary confinement is seen as detrimental to their mental and physical health for a chimpanzee. And how much more of a social being is my son in comparison to a chimpanzee? And I would just like to close with I myself have been labeled as the "worst of the worst" by CDC. I myself have been labeled as a "program failure." I myself have spent 20 years within the system but thank God I was not held in Pelican Bay SHU or I would still be there. Instead, I've been out here for 11 years – very productive member of society.

Public Comment #6: This is a picture of my son in Pelican Bay, he's been there 11 years. He was sent to Pelican Bay SHU because somebody went through a debrief program, and mentioned that my son had some kind of artifacts in his room or whatever, art stuff. So California Department of Corrections where he was in the south, they put him on a potty watch for three days, he didn't pass anything, therefore they went to the city's judge and got a warrant for search. It wasn't a warrant to search his cell, it was to search his body cavities. They laid my son down on his face, strapped him down, went and violated his body, did not remove nothing, now he's in Pelican Bay, because they did not find nothing, as a validated gang member.

Public Comment #7: My name is Melissa, my husband is (name withheld). He's asked me to read this letter on his behalf.

"I've been incarcerated for 27 years. I've been at Pelican Bay for 23 years and 20 of those years in solitary confinement here at Pelican Bay. We are being kept in solitary confinement for things that have nothing to do with gang activities, such as drawings, photocopies of art work, saying hi to someone, lending a book or magazine to someone. These are things that the majority of us are being kept in solitary confinement. And due to these long years of sitting in a windowless cell about the size of a restroom for 23 hours a day has resulted in many physical and mental health issues, such as lack of sun, no human contact, eye problems, skin disorders, allergies, breathing problems, high blood pressure, heart problems, and mental issues, which are brought on or made worse due to being kept in solitary confinement for decades. Being kept in solitary confinement is affecting our chance at freedom. Many of us are serving life with the possibility of parole, which means we can go up in front of the board to get a date and be released from prison. But since we are here in the SHU, the board uses that reason to deny us a date, and now under the new law, a denial could cost us 5,10 or 15 years." Assemblymembers, us as (x's) family are also affected by our loved ones being kept in the SHU. The stress and worry has caused collateral damage to me and my family and especially to my mother-in-law.

Public Comment #8: Hi my name is Karen, and I'm here to speak on behalf of my fiancé (name withheld), who is in the SHU for 6 years. I just want to touch on the things that are very important, he told me to speak from my heart today, but I need to be sure that I speak the facts today. Number one, that last week he went for his six-year inactive review, and I want to quote what he was told. First of all they found five things on him: two of those were that his name was on a roster in someone else's cell. 2: He was charged twice for a drawing from 2008 that they found in his cell that had an Aztec shield with a G on it that they are determining designates him as a gang member. And the other situation was from an inmate who pc'd up, meaning that he debriefed, and he gave my fiancé's name as an active member. They had absolutely nothing on (x) to keep him there.

Ammiano: All right, I'm gonna need you to conclude, I'm sorry.

Karen: OK, but just let me tell you what was told to him by his counselor. She asked him how long he's been in the SHU, he said six years. She said, "Oh, you're just a youngster. You have at least four more years to do here." And, the IGI told him that they are not going to abide by the new program until the court forces them to do so.

Public Comment #9: My name is Gilbert, I'm here on behalf of my brother who's in Corcoran SHU. Two comments I heard earlier – why, my brother was validated for two things. One for participating in the hunger strike, and another was being on the list of somebody's in good standing with a prison gang, somebody he didn't even know, they found that in somebody else's cell. And also he mentioned to me too that he does not want to participate in the step-down program because they want him to admit that he's a member of a gang that he's not even part of.

Public Comment #10: Good afternoon. I have a son that's in Pelican Bay SHU. I just want to say that in government we have checks and balances, so why then is CDC able to make policies without independent review other than themselves? Any agency who responsible for policing themselves will never be fair but only act as a dictatorship. In court, you must have evidence to bring up charges; in the prison system, it's whatever they say goes. We cannot allow this anymore. How come they are not complying with the agreement? It's because they're allowed to get away with it. I care about all human rights, and I'm not selective in choosing one. We cannot say we care about human rights and stand by and watch the atrocities committed by the CDC. Thank you.

Public Comment #11: Hi my name is Amber, and my brother is an inmate of the Pelican Bay SHU. I just wanted to share with you an experience I had yesterday visiting him. It was a conversation right before we left, and he informed me visiting would no longer take place after the Fourth of July, the hunger strike would resume on the 8th. I was kind of shocked, trying to register I'm not gonna see him for a while. He said don't come back until January because I don't want anybody to see me in those conditions. So it hits .. this is real. This really gonna happen, people are gonna die, and people are gonna starve themselves, you know, it's all because of their human rights. The 8th amendment states ... they should be covered under that.

Public Comment #12: Hi, my name is Brandy and my brother is serving an indeterminate SHU after no new incidents, and I can honestly say where he was ready to come out a different prisoner, and unfortunately received the indeterminate SHU. In his book "Hell Hole," Sen. John McCain is quoted as saying "It's an awful thing, solitary. It crushes your spirit and weakens your resistance more than any other form of mistreatment." MISreatment. Chief Justice Sandra Day O'Connor outlined: "Prison walls don't form barriers separating inmates from the protections of the Constitution." Currently, we spend over \$43,000 per year housing each prisoner. None of the money spent goes for rehabilitation. Instead, we are spending this money creating a situation which fosters the deterioration of the minds and mental states of humans – people you plan to one day release back into society. The current system is unjust, unconscionable, and unacceptable, and must be fixed now. Writing for the majority in 2011, Supreme Court Justice argued "the system was incompatible with the concept of human dignity and has no place in society."

Public Comment #13: My name is Ibrahim Moss and I have no family or friends in any California Corrections SHU. I was listening earlier to the CDC and it was like listening to a movie, and I literally couldn't believe it, that these are people who are part of criminal justice corrections system who act as though they're criminals. The process of placing people in jail in jail, a double punishment, is unconscionable to me. some review has to happen. The second thing is we have to take a look at the nexus between the punishment they're receiving in jail, and the end that they seek. There isn't any. If you decide to put someone in jail for 20 years, and then in solitary confinement on top of that, what end goal is that? It's only to punish. The third is a question, of definitions: how is a gang defined, and why is it used so frequently to validate someone to be stuck in the SHU?

Public Comment #14: Thank you Chairman Ammiano, I'm Jim Winberg with the Friends Committee on Legislation in California. We think it's imperative that the placement of any prisoner into solitary confinement

must be based on the commission of specific acts, as opposed to mere association with others. We're very concerned that the new regs are extremely broad in how they define behavior. Because of the serious nature of long-term isolation, prisoners should receive full due process, it should be adjudicated by an independent body, before they are placed into the SHU. Lastly we think there must be a clear path for prisoners to be released from the SHU lasting no more than 18 months.

Public comment #15: My name is Randy Levin, my wife is Marie Levin, and I'm here because I love my brother. My brother has not had a write-up for 16 years, there is no negative thing they could say about him, but there's no positive way he can demonstrate he's a changed man. He's validated because of what he reads and writes. I tell him I'm so proud of him that he hasn't gone crazy. And the reason he hasn't gone crazy is because he constantly reads and writes, and occupying his mind for productive things. He's made a point to make the representatives to be working together. Torture is torture, and it should be stopped.

Public Comment #16: My name is Nancy Stoller, I'm the chair of the jail and prison health committee of the American Public Health Association and a member of the governing council of the APHA. The APHA has a longstanding policy opposing torture of all kinds on both public health and human rights grounds. Our position is that indeterminate solitary confinement is a form of torture. Last summer I met with one of the prisoners in the SHU; he told me that although he had a very long record of not violating any rules, he was just about to get permission to get a photo sent to his daughter, or of course he could debrief. One photo. If this isn't a kind of torture, I would like to know what is. We in the APHA urge the Legislature to act to end this indeterminate solitary confinement.

Ammiano: We need to be out of this room by 4, and believe me there will be a lot more discussions and more hearings, so I hope you don't feel cheated.

Public Comment #17: My name is Sheila Pinkola, and I'm an emeritus professor from Pomona College and a member of CURB. The UN has determined being held over 15 days in solitary confinement constitutes cruel and inhumane treatment. The average term in the SHU at Pelican Bay is 7.5 years. I write to somebody in the SHU who's been in solitary for over 25 years for no justifiable reason. This arbitrary imposition of solitary confinement by prison guards with no civil or judicial external, oversight is criminal, undemocratic, inhumane, and needs to stop.

Public Comment #18: My name is Cynthia Machado. My brother Alex Machado was in solitary confinement almost two years. I have documentation of Alex's unnecessary placement in solitary confinement. Unsubstantiated evidence of prison gang validation. I have documented proof of his mental health deteriorating while being housed in solitary confinement. Signed by the CDC mental health department. My brother was in Kern Valley and transferred to Pelican Bay. The way that my brother's torture ended was by suicide. On Oct. 24, 2011, where is the rehabilitation in solitary confinement? And I'd also like to know where is the rehabilitation in driving someone to suicide? (crying and applause)

Public Comment #19: My name is Danny Rocco and I'm a prison and human rights activist. The hugest threat to the CDCR is not a validated gang member or associate but an educated person. Many of these men are in the SHU because they want to self-rehabilitate and become socially mobilized. I give immense respect to anyone who can survive just one day in the SHU. I have a statement from a man currently in Calpatia State Prison: [Readout of statement from SHU prisoner]
"I'm currently being held in an administrative housing unit. I've been housed in ASU for over 4 years, pending transfer to Pelican Bay Secure Housing Unit due to my alleged association with a prison gang. I'm reaching out to you not as a mindless animal as we are so often portrayed by CDCR and the media, but as a human being desperately holding on to his humanity. being in prison is hard enough but solitary confinement is simply cruelty. Everyday spent in isolation is a slow torturous day that chips at your humanity and crushes your soul. So far, my worst experience in ASU has been watching how these people – how this place can break a person's will to live and cause them to take their own life. I'll never forget the day when correctional officers and medical staff dragged out the lifeless body of a man who once had hopes and dreams.

Public Comment #20: I'm a psychologist, educator, and member of the Coalition:
[Readout of statement from SHU prisoner, from Sacramento]

"I'd like to say that CDCR has decided to play by its own rules for the way they handle new Africans, Latinos, Mexicans, and poor whites who may feel they are a threat or have influence on others by teaching history, culture, prison reform, and assisting each other with legal cases. They call us who are all over 40, gang members, and think certain pieces of literature we read and study promote violence. How so? We as a coalition change our idealism from criminally minded to revolutionaries, and being educated is the only way we'll get liberated. We rehabilitate ourselves, not the system. We're trapped behind enemy lines in Secure Housing Units and AdSeg for learning and becoming knowledgeable men. We study economics, politics, psychology, sociology, history, and the ways of the unjust system that tries to keep us buried alive in these concrete tombs – some for 20, 30, and 40 years. We chose to sacrifice ourselves by way of a peaceful hunger strike twice in 2011 to bring attention to our oppressors; that we have certain demands that we'd like met. And mind you, there are things that we already have coming that they took away..."

Public Comment #21: My name is Marilyn McMahon. I'm an attorney and executive director of California Prison Focus. I'd like to just summarize a point in our letter from a Pelican Bay SHU prisoner to me. He finds it funny that the rationale CDCR gives for their validation program is that STGs in California are, quoting CDCR, "the most violent and sophisticated" and that they're responsible for "trafficking narcotics, committing and/or threatening violence against staff and offenders within the institutions." Yet, you compare that with the source criteria that gets someone into the SHU – tattoos, art with cultural symbols in them, reading the wrong books – what does that have to do with the rationale?

Public Comment #22: [Readout of statement from an inmate in solitary confinement for 32 years]
"I believe that it's imperative for us as prisoners who have endured the blunt forces of this deprivation to articulate its torturous impositions upon our very humanity with the intent to dull our natural senses of touch, smell, tasting, seeing and hearing while simultaneously attempting to suffocate our human spirit, facilitating our unnatural deaths within the catacomb of this concrete construct serving as our burial as they introduce their step-down pilot program, which is the equivalent of scripting the obituaries to the demise of our humanity."

Public Comment #23: My name is Jerry Elster, formerly incarcerated, I did 26.5 years on a life sentence, and I can say it was the first time I could walk into a forum and speak on humanity. I've been in some of those disciplinary hearings that CDC is having, I saw the disproportionality of it, I see how many ... first of all, we need to get back to humanity, and it's a shame that in these days and times we are still using these cruel ways in which to treat our people. Two things: if we look at the caliber of men and the tools that they're using to get their message out now, we'll be able to realize that they are humane, they ask for 5 core demands, human demands, to be treated like humans. Secondly, these are the same men they say are the worst of the worst, recently put out a thing to cease racial hostility, against racial violence that's going on in the prison.

Public Comment #24: My name is Anjelica, I'm a student at University of California Riverside, and I just want to urge the board to put a stop to the step down program because what it's doing is leaving the doors open to criminalize a whole new generation of youth. And I'd like to warn you that prior to the hunger strike, CDC released a proposal to add more than 500 SHU cells, so this is officially generating a use to fill those cells, you can find it on their website (see OIG report above), and their budget is already \$180 million just for Pelican Bay, please consider alternatives for this money, what we could do for men in those cells but also for the next generation.

Public Comment #25: My name is Linda Evans. I work with Legal Services for Prisoners with Children and All of Us or None. I am formerly incarcerated and have done many months myself in solitary confinement, although not under the most brutal conditions that I find here. I have a statement I will send to you because we don't have time for it to be read from the SHU in Corcoran. They've been 100 years in prison, with 67 of those in the SHU. We appreciate this hearing but we feel very strongly that you must do something and that there must be an external review of all of the prisoners that are in the SHU – something independent so that the internal racism and the internal regulations inside CDCR will not be used to prolong the torture of these people.

Public Comment #26: My name is Joanne Warwick, I'm an attorney, a living example of someone who is falsely accused by the Department on the outside ... they withheld exonerating information and lied about it

... it's not because I want you to feel sorry for me but I want you to understand if they would do this to me, an attorney on the outside accused of being a threat, what do you think they are doing to people on the inside? I would like to reiterate the absolute need for external review and external due process and I urge you to continue serious and meaningful oversight.

Public Comment #26: My name is Lisa O and I'm an advocate, I flew up from San Diego this morning to attend this hearing and the rally, and I just wanted to say that the CDC said that there is determinate, that the highest sentence you could get is five years for murder, true? but that there's indeterminate, and you could be put in there forever for something that you might do.

Tom Ammiano: I know it's been a long hearing, and I do appreciate all the different perspectives. We're taking a little bite out of a big apple, and we will continue to work with the CDCR and certainly take the input from the various viewpoints that we've heard today. I think the most important thing is that the issue is now on the radar (applause) and the kind of collaboration we get is probably gonna be the answer to bigger and better solutions, but in the meantime these baby steps are frustrating for everybody, no matter what side you're on.

But it's the way we work up here. I do think this has become a populist issue – bigger than the Legislature, bigger than the CDCR. I always, whether it's something I agree with or not I always encourage that because it informs us and teaches us all.

Holly Mitchell: Chairman, if you would allow me, I just hope that in our next conversation, the next opportunity this committee has to discuss this issue, that we can really delve more deeply into living conditions in the SHU. We really talked a lot about the new plan of action in terms of moving people through the process. But when I read what for me feel to be very reasonable expectations, requests like an additional 2 ounces of food, 4 servings of fruits and vegetables a week instead of two – they really feel to me as very simple, humane, that won't require legislative direction or oversight, that could be done either at the individual institutional level, or at the cabinet level, I really hope we have the opportunity to talk about the living conditions in the SHU, because that's really what the public seems to be talking about mostly, in addition to the amount of time spent. So I hope we can have that conversation, Mr. Chair.

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