

Open Letter to Governor Jerry Brown

Stop the Torture Now

October 16, 2012

Dear Gov. Brown:

We oppose the CDCR's policies and practices relating to our subjection to decades of "status"-based, indefinite isolation (SHU confinement); this includes our opposition to CDCR's proposed policy changes, entitled, "Security Threat Group Prevention, Identification, and Management Strategy." We would appreciate your supportive intervention on this issue.

We are the four principal prisoner representatives confined in the Pelican Bay State Prison SHU, Short Corridor, and we present you with this request on behalf of ourselves and all similarly situated prisoners who are subject to torturous, indefinite SHU/Ad-Seg confinement. Our commonality as a collective group—able to effectively represent our own interests, as well as those of the thousands of prisoners similarly situated—lies in our continued indefinite SHU confinement for *more than 25 years*, which is based on "status," rather than illegal behavior. (Notably, our decades of SHU isolation is based on CDCR gang classification, i.e. status, without ever being found guilty of committing a gang-related, criminal act!)

Our gang validations, and related decades of SHU isolation, are based on what CDCR claims to be "intelligence-based evidence of criminal gang activity" consisting of: (a) *innocent* associational/political type activity; and/or (b) confidential prisoner informants' *unsubstantiated allegations* of involvement in criminal activity.

Beginning in February 2010, we became united in our efforts to collectively expose, and peacefully bring an end to, the CDCR policies and practices referenced above, based on our position that they constitute a form of torture and a violation of basic human rights principles. This is when we created our "Formal Complaint" document, copies of which were sent to numerous lawmakers, organizations, groups, and individuals, including former governor Schwarzenegger and CDCR Secretary Cate. (To review our Formal Complaint, go to prisonerhungerstrikesolidarity.wordpress.com/formal-complaint.)

As of early 2011, the Formal Complaint had resulted in no relief, and our conditions in SHU had become *more* oppressive; therefore, we decided our sole avenue for gaining mainstream exposure and outside support for our cause to end our torture was for us to put our lives on the line via a peaceful protest hunger strike action. In May/June 2011, we served your office (and Secretary Cate) with another copy of our Formal Complaint, and our Final Notice of the July 1st hunger strike (with the Five Core Demands). (Available at www.prisons.org/documents/FinalNoticewith5CoreDemands.doc)

True to our word, we began our hunger strike July 1, 2011, which lasted until July 20, 2011 (and included supportive participation by more than 6600 prisoners across the state). Our hunger strike action was temporarily suspended on July 20th in response to our face-to-face meetings with top CDCR officials, who admitted early on in the negotiation process that our five core demands “were all reasonable,” and CDCR “should have made changes twenty years ago,” and who promised to make timely, substantively meaningful changes, responsive to all five demands.

All parties understood that CDCR needed to change policies so that SHU confinement would be reserved for prisoners who are charged with, and found guilty of, committing a serious rule violation, meriting a determinate SHU term, i.e. a system based on *individual behavior*.

As of early September 2011, we believed CDCR was not acting in good faith... resulting in our return to hunger strike on September 26, 2011. The response was to subject fifteen of us to additional torture (Todd Ashker, C58191; Arturo Castellanos, C17275; Charles Coleman, C60680; Mutope Duguma/James Crawford, D05996; Sitawa Nantambu Jamaa/Dewberry, C35671; J. Brian Elrod, H25268; George Franco, D46556; Antonio Guillen, P81948; Paul Jones, B26077; Louis Powell, B59864; Paul Redd, B72683; Alfred Sandoval, D61000; Danny Troxell, B76578; James Baridi Williamson, D34288; and Ronnie Yandell, V27927). We were placed in *more isolative* Ad-Seg strip cells, without adequate clothing or bedding, and with ice-cold air blasting out of the air vents; then Warden Lewis informed us, “as soon as you eat, you can go back home to your SHU cells.”

This second hunger strike action was joined by more than 12,000 prisoners at its peak. It was again temporarily suspended on October 13, 2011, after CDCR made a presentation of their good faith efforts toward the policy changes agreed to in July which was satisfactory to our outside Mediation Team.

In the year since October 13, 2011, the CDCR has failed to honor their end of our prior agreements to change SHU policies and practices including (but not limited to) those listed below:

- 1) We remain in SHU, subject to the torturous conditions therein, including, but not limited to, all of the conditions described in our Formal Complaint and other written statements. (See prisonerhungerstrikesolidarity.wordpress.com)
- 2) The CDCR’s March 2012 proposed policy changes actually do not change anything for those prisoners whom CDCR has classified as validated gang members, who will continue to be subject to indefinite SHU isolation based on “intelligence information” alleged to indicate the prisoner’s participation in “criminal gang activity” (but in fact often *innocent* associational/political type activity). The “intelligence” includes confidential informants’ *unsubstantiated allegations* of involvement in criminal activity—notably, carrying *zero* formal charges! This is the same policy/practice used and abused by CDCR to keep us in SHU for more than 25 years. (See, e.g., “intelligence” references in March 1, 2012 proposal at pp. 7-8, 25; “intelligence” categories references at pp. 19-24. Compare to CCR, Title 15, sec. 3378(c)(6), 3378(c)(8), and 3378(e).)

- 3) The CDCR's March 2012 proposed policy changes include a four-year minimum step-down program, which prisoners may participate in to earn their way out of SHU. This is also unacceptable! Four years is too long, and the incentives for each step are not adequate. Any step-down program should have a maximum limit of 18 months and require meaningful incentives from the start, such as *increased* opportunity for out-of-cell contact with other prisoners, additional programs and privileges, including regular phone calls and contact visits.

Notable are the following additional facts supporting our position that CDCR has violated our July/Oct 2011 agreement and acted in bad faith, thereby requiring us to request your supportive intervention.

- A. In March 2012, we presented CDCR with our written rejection of their proposed policy changes, and we included our **counterproposal**. (Available at prisonerhungerstrikesolidarity.wordpress.com/pelican-bay-human-rights-movement-short-corridor-collectives-counter-proposal-to-cdcr/)
- B. Our outside Mediation Team and the Prison Law Office also presented CDCR with related written oppositions to the proposal. (The Mediation Team's critique is available at www.prisons.org/documents/MTreviewofSTGplan5.5.pdf)

The CDCR failed to respond to these opposition points.

- C. This past June 19, 2012, U.S. Senator Durbin held a congressional hearing about the overuse of isolation cells in the nation's penal system. The next day, Illinois Gov. Quinn announced that he would close down Timms Correctional Facility, the notorious SuperMax that opened in 1995 and held prisoners in long-term isolation—some of them since the prison's inception. His decision was based on the enormous operational costs and evidence suggesting such isolative confinement profoundly and irreparably damages the prisoners exposed to such harsh treatment.

Other states have also made significant reductions in their use of SHU-type units, reserving such cells for prisoners found guilty of serious rule violations, where they serve minimal time periods; these states include Mississippi, Maine, and Colorado. (See www.aclu.org/blog/prisoners-rights/closing-tamms-supermax-chance-reevaluate-solitary-confinement) Reducing their use of isolation is saving these states millions of dollars.

Yet California's Department of Corrections and Rehabilitation remains committed to keeping thousands of prisoners in costly SHU/Ad-Seg isolation cells for decades, solely based on *status* rather than a chargeable, charged offense and a finding of guilt for serious misconduct.

And we believe that the March 2012 "Security Threat Group..." proposal will ultimately result in many more prisoners being subject to years of torture in isolation cells.

Gov. Brown, back in May/June of 2011 we respectfully made you personally aware of the serious problems. Your failure to take appropriate corrective action has enabled our decades of torturous pain and suffering to continue. Remember, we are talking about the illegal torture of thousands of male and female prisoners (and their family members). The perception is that you are condoning this mass prisoner torture program going on in CDCR's system, and the related ongoing million-dollar fraud being carried out by your appointees, Secretary Cate, et al.—by your failure to stop it.

The policies and practices at issue violate basic human rights principles and are clear violations of the Constitution and international law, which bans torture for any reason.

All this comes, as you know, at an enormous cost to all California taxpayers: at least \$73,000 per year for each SHU/Ad-Seg prisoner, compared to approximately \$52,000 for a general population prisoner—while every other citizen in the state has had social services slashed!

Meanwhile, we continue to work for constructive change. Since the PBSP SHU became operational in December 1989, the entire state prison system has had an explosion of riots, etc., to the point where level fours are locked down most of the time, without meaningful rehabilitation programs, opportunities, etc. To change this, **we have just launched an initiative to reduce the violence in the CDCR system by calling on all prisoners to end hostilities between various groups.** (See www.prisons.org/documents/agreement-to-end-hostilities.pdf) **We hope for your cooperation in this effort; we will communicate with you further about it soon.**

Gov. Brown, the barbaric, inhumane treatment of prisoners in this state has gone on for far too long now. We are asking you to take corrective action today by ordering Secretary Cate to immediately halt such practices consistent with our points presented above, and thereby end the unnecessary pain and suffering such practices cause to prisoners, their loved ones outside, and the rest of the majority of the 40 million Californians who have a conscience.

Sincerely,

Todd Ashker, Arturo Castellanos, Sitawa Nantambu Jamaa/Dewberry, Antonio Guillen

PBSP SHU, Short Corridor Prisoner Representatives

P.S. We (prisoners) reject version 7.0 (June 29, 2012) of the “Security Threat Group Prevention, Identification, and Management Strategy,” as prisoners rejected version 5.5 (March 1, 2012).