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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2015/07/01/four-years-after-the-first-hunger-strike-reforms-have-come-to-californias-prisons-and-left-thousands-behind/>

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by [Sal Rodriguez](#) | July 1, 2015

Four years ago today, approximately 6,600 people in California prisons launched a hunger strike in protest of long-term solitary confinement. The protest would be the first of three large-scale actions by state prisoners to bring awareness to the issue of long-term solitary confinement.

At the epicenter was Pelican Bay State Prison in Crescent City, home of the states oldest and most notorious Security House Unit (SHU), where people deemed the worst of the worst spend 22 hours a day in small, windowless cells, some for decades.

At the heart of the hunger strike were the so-called Five Core Demands:

The hunger strike lasted nearly three weeks, ending on July 21, 2011. It generated national attention, and on August 23rd the California Assemblys Public Safety Committee held a hearing on the practice of long-term segregation.

While state lawmakers and corrections officials signaled some interest in reviewing and revising procedures, little concrete progress was made. Two more hunger strikes would follow, one in September of 2011 and another in July 2013, the latter involving the participation of 30,000 people throughout Californias prison system.

The system has seen some changes since the first hunger strike. Where once there were close to 11,000 individuals in some form of isolated confinement, today there are about 8,000. But that number still leaves California with more isolated prisoners than almost any other prison system in the nation, and for advocates of abolishing solitary confinement, much work remains to be done.

The Effects of Isolation

It has been known for decades that conditions in Californias SHUs have the potential cause significant harm to individuals placed in them.

Just four years after it opened, Pelican Bay was the subject of investigation as part of the *Madrid v. Gomez*, a class action lawsuit by Pelican Bay inmates alleging widespread abuses. Dr. Stuart Grassian, a psychiatrist, conducted interviews with many in the Pelican Bay SHU. Based on these interactions, Dr. Grassian [suggested](#) that individuals in the SHU for prolonged periods of time indicate high rates of anxiety, nervousness, obsessive ruminations, anger, violent fantasies, nightmares, trouble sleeping, as well as dizziness, perspiring hands, and heart palpitations.

In 2006, the US Commission on Safety and Abuse in Americas Prisons issued a [report](#) blasting the prolonged use of solitary confinement. The commission determined that segregation was used too often, for lengthy periods of time, often on people with serious mental health problems, and called for limits on the use of the practice.

We dont have solitary confinement, CDCR spokesperson Terry Thornton told Solitary Watch. We segregate. Inmates are segregated from inmates for specific reasons: they may be administratively placed there or they may be placed there if they killed their cellmate for example. The semantics of the practice aside, it is the case that those in the SHU are deliberately kept apart from others.

Ashker v. Brown

One of the major developments since July 1, 2011, is the class action [lawsuit](#) filed by the Center for Constitutional Rights on behalf of those who have spent decades in the SHU at Pelican Bay.

The lawsuit, filed May 31, 2012, alleges that prolonged solitary confinement violates the Eighth Amendments prohibition against cruel and unusual punishment, and that the absence of meaningful review for SHU placement violates the prisoners rights to due process. The case is set for trial in December.

It is really unclear what is going on other than that *Ashker [v. Brown]* has thrown them into upheaval, said Prisoner Hunger Strike Solidarity Coalition member Kim Rohrbach. What has happened is that CDCR is transferring people around willy nilly.

Betty, whose husband has been in the SHU for over a decade, told Solitary Watch that she has heard the same thing. Lots of individuals who have been housed many years in Pelican Bay SHU have been shuffled around to the other SHUs (Corcoran in particular) without any regard to the DRB process, she said. They have not been DRBed nor are they being given any position in the step down process. The DRB process refers to case-by-case reviews of individuals in the SHU by the Departmental Review Board (discussed in more detail below).

CDCR disputes these sorts of comments, saying that people are simply transferred to more appropriate facilities.

How Often Segregation Is Used

At the August 2011 hearing in Sacramento, Scott Kernan, Undersecretary of Operations for the CDCR [said](#), The segregation of prison gang members and associates is critical to protect inmates who want to program and rehabilitate 3,000 out of 165,000. In addition to the thousands of people in SHU for gang affiliation, there were people in SHU for disciplinary reasons on fixed terms.

In the time since 2011, the number of people in the SHU and ASU system-wide has declined significantly, though thousands remain.

In [October 2012](#), the month CDCR began implementing reforms to segregation, there were 3,923 people in SHUs and 7,007 in Administrative Segregation Units (ASUs), the latter of which are designed for shorter terms. There were 1,849 single-celled in SHUs and 1,547 single-celled in ASUs.

As of April 2015, according to COMPSTAT (with the exception of LAC), there were 3,361 people in SHUs and 4,928 in ASUs. There 1,743 single-celled in the SHU and 883 single-celled in ASUs.

Different factors have driven these changes: the overall reduction in the prison population in the past three years, reforms to segregation practices, and the implementation of the Step Down Program, among others.

Gang Management

One of the primary causes of the hunger strike was CDCR's management of prison gang, or Security Threat Group (STG), affiliates. The hunger strike was led by purportedly high-ranking members of the Mexican Mafia, Nuestra Familia, the Aryan Brotherhood and the Black Guerilla Family.

At the time, state prison officials placed individuals validated as affiliates of one of seven prison gangs in the SHU, indefinitely. The most seriously involved were sent to Pelican Bay, though validated prisoners were also primarily placed in the SHUs at California State Prison, Corcoran and California Correctional Center, Tehachapi, as well as being held in Administrative Segregation Units throughout the state pending the opening of SHU cells. They were sent to isolation without a clear or easily achievable pathway out.

At the August 2011 hearing, it became known that of the 1,111 people in the Pelican Bay SHU, 544 had been in the SHU for more than five years but less than years; 513 had served 10 or more years in the SHU; and 78 had been in the SHU for 20 years or more.

Thus, snitch, parole or die became the shorthand for the primary ways one could get out of indefinite SHU terms. Snitch refers to the process of debriefing or leaving one's gang and reporting all intelligence to prison officials. Individuals engaged in the debriefing process were incentivized with the potential of getting out of the SHU to identify generic xanax difference individuals with sometimes only the loosest of affiliations to prison gangs as affiliates. This often resulted in those named to be placed in the SHU, with minimal due process. Hence, the first item of the core demands called for an end to the debriefing process.

In September 2012, Amnesty International issued a [report](#) on the SHU, arguing that the existing policies for validating prison gang members were insufficient for ensuring appropriate use of segregation. The criteria for SHU assignment for STG members should be based on concrete evidence of illegal, gang-related activity rather than membership or association alone, with prisoners given a fair opportunity to rebut the evidence used to validate such assignments, concluded the report.

Segregation Reforms

Beginning in 2007, the CDCR began studying how other states manage prison gangs. Staff at California State University, Sacramento, reviewed policies in the Federal Bureau of Prisons, Arizona, New Mexico, Colorado, Texas, Florida, Connecticut and New York. We began looking at best practices nationwide. We wanted to be doing the right thing, said Thornton. To us, that meant going from an affiliation-based system to a behavior-based system.

In October 2011, a Wardens Advisory Group was created to again review best practices, including revisiting the findings of the 2007 study, and in March 2012 [announced](#) proposed reforms. Major [changes](#) announced included a new STG system that no longer mandated placement in the SHU for simple affiliation and the creation of a Step Down Program (SDP) enabling individuals in the SHU to be released to general population. Additionally, the point system used for validating individuals as gang associates was updated and revised to give less weight to debriefing reports.

Key to the new system is a focus on behavior rather than simple affiliation. If they're affiliated with a gang what we're asking is that they refrain from criminal gang activity, said Thornton. But if there is a clear nexus to criminal gang activity then we are going to place them in segregated housing. There will be consequences for that type of behavior.

One of the most significant reforms directly impacting the lives of individuals in the SHU is the creation of the SDP and case-by-case reviews of all individuals in the SHU for gang affiliation. The five stage process works with an ascending amount of privileges and freedoms, with Step 1 being strict SHU housing and Step 5 being placement in general population in a maximum security facility.

As part of implementing reforms, CDCR began case-by-case reviews in early 2013, to determine which step individuals should be placed in. Despite this and other changes, there were whispers of a new hunger strike being planned.

On February 25, 2013, state legislators convened another [hearing](#) to assess what changes had been made in the 18 months since the previous hearing. On July 8th of that year, the third and final hunger strike was launched, largely disrupting the case-by-case reviews.

If there is one notably positive shift, it's the number of individuals in the SHU or ASU (pending transfer to a SHU) who have been immediately released from segregation upon their reviews. According to the latest figures from CDCR: As of June 12, 2015, CDCR has conducted 1,274 case-by-case reviews of validated inmates housed in security housing units and administrative segregation units (ASU). Of those, 910 have been released to the general population, 321 were placed in various phases of the Step-Down Program, 34 were retained in an ASU for various reasons and nine are going through the debriefing process. These reviews are ongoing.

Ongoing Problems

Despite the progress that has taken place in the past four years, many issues persist.

In a recent [letter](#) published by the San Francisco Bay View, hunger strike leader Mutope Duguma argued that the various reforms are insufficient, writing, We have been able to examine, evaluate and investigate the STG and SDP policies and we unanimously reject them, because, simply put, they are more of the same. They empower the previous policies that we were initially peacefully protesting.

Echoing these [sentiments](#) is fellow strike leader Sitawa Nantambu Jamaa, who has raised concerns about implementation of the SDP at California Correctional Institution. As of two weeks ago, we are being denied the use of a razor, or should I say we have a choice to take a five-minute shower or a five-minute shave, but not both, he wrote. Now 90 percent of all SDP privileges have been denied us from January 2014 to May 2015. This is a failed program and all of the heads of CDCR know what is going on here at CCI (California Correctional Institution) in Tehachapi.

The wife of an individual in the SHU at Pelican Bay has also raised concerns about how reforms are being implemented. K.s husband has been in the SHU for over a decade and participated in all three hunger strikes. Despite being recognized as an inactive gang associate, he has remained in the SHU, but remains optimistic that he will be released to the general population when his turn comes to see the DRB.

He has been completely by himself this whole time, said K., who makes the 14 hour drive to see her husband as often as she can. I think there is hope that the newer guys won't have to spend years and years in SHU like my husband did.

The Road Ahead

I think the hunger strike opened up the dialogue between inmates, the people who advocate for them and our department, said Thornton. I believe the hunger strikes gave some the opportunity to have some dialogue. We've maintained that openness and transparency.

Most advocates, however, remain anything but satisfied with the CDCR's actions. Since the hunger strikes began, grassroots movements have sprung up in support of policy change and to raise awareness. The [Prisoner Hunger Strike Solidarity Coalition](#) is one of the most prominent and has recently been working on Statewide Coordinated Actions To End Solitary Confinement. Another has been California Families Against Solitary Confinement, which works to mobilize and provide support for family members of people in long-term segregation.

One recent reform advocates must keep an eye on are a package of [regulatory changes](#) announced June 19th. According to CDCR, the changes will reduce the lengths of segregation terms as well as the number of segregation cases. The changes have already been implemented since June 1, but it will be important to see whether they produce a significant outcome.

While there has undoubtedly been significant changes, those opposed to solitary confinement have plenty of work left to do. In particular, advocates are resisting the contention that simply reducing the number of people in segregation, even by significant percentages, satisfies the need for reform. The damaging effects of solitary confinement, they say, apply to everyone, and for thousands of people in solitary including the hunger strike leaders these conditions remain virtually unchanged. We do not want to have to see them starve themselves to death to get changes, said Rohrbach.

Sal Rodriguez was Solitary Watch's first and most prolific intern. Based in Los Angeles, he served as an editorial writer and columnist for the Orange County Register and the Press-Enterprise, and is now the opinion editor for the Southern California News Group.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

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by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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Scott Kernan, Undersecretary of Operations for the CDCR said,
The segregation of prison gang members and associates is critical to
protect inmates who want to program and rehabilitate 3,000 out of
165,000

Interesting is he implying those forced into a social status created by the prison environment, arent also desiring rehabilitation programs?
Simply ludicrous

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