

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2016/02/08/legal-settlement-is-having-a-transformative-effect-on-solitary-confinement-in-california-prisons/>

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by [Sal Rodriguez](#) | February 8, 2016

Californias historic settlement ending the use of indefinite solitary confinement in the state prison system is now official.

On January 26, U.S. District Court Judge Claudia Wilken [approved](#) the settlement agreement reached between California prison officials and lawyers for individuals who had spent more than ten years in solitary confinement in the prison systems Security Housing Units (SHUs). The decision finalizes the settlement in the civil rights class-action lawsuit *Ashker v. Brown*, filed in May 2012 by the Center for Constitutional Rights in and other legal groups on behalf of prisoners held in the SHUs.

At issue was the states policy of indefinitely isolating thousands of people on the basis of prison gang affiliation. While many in the SHU have surely been affiliated with prison gangs, the system of confinement devised by prison officials provided for minimal due process, and even fewer options for getting out of isolation, resulting in hundreds of men being isolated for over a decade, and many for over 20 years. Plaintiffs in the case argued this practice amounted to cruel and unusual punishment and deprived the prisoners in question of their right to meaningful due process.

On September 1, 2015, a tentative [agreement](#) was reached in the case. Under the terms of the agreement, the California Department of Corrections and Rehabilitation agreed to expedite reviews of individuals in the SHU to determine whether they should be held there at all, end the practice of indefinite isolation, and create a new unit, the Restricted Custody General Population Unit, to hold men who otherwise would have been put in the SHU, but grant them more freedoms and opportunities to socialize with others.

The agreement called for the timely review of 1,813 men in the SHU, and so far seems to be resulting in the release of most of them from isolation. According to numbers released by CCR, since October 2015, 686 out of a total of 1,813 individuals up for review have already been reviewed, with 546 of them cleared for release to the general population, including 437 released from solitary confinement. Those not cleared are awaiting further reviews.

While there is still much work to be done, these early numbers are an encouraging indication of the transformative effect this settlement is having on Californias solitary confinement population, CCR President Jules Lobel [said](#) before the final hearing. Hundreds of men who have not had any meaningful contact with another human being in years often in decades have finally been able to hug their loved ones and to interact with other prisoners.

The conclusion of the case marks the end of a tumultuous battle which began in July 2011, when thousands of prisoners across the state launched a hunger strike in protest of long-term solitary confinement and indefinite isolation.

The epicenter of the hunger strike, and the subsequent lawsuit, was the Pelican Bay State Prison SHU in Crescent City, California. At the time of the first hunger strike, the Pelican Bay SHU held over 1,100 men in isolated confinement, primarily for gang affiliation. Thousands more were held in SHUs at three other facilities across the state. Administrative Segregation Units held even more in isolated confinement, sometimes for prolonged periods of time pending the opening of SHU beds.

The first hunger strike lasted three weeks, leading to a historic California Assembly [hearing](#) on the SHUs, which had never received much scrutiny. While the CDCR has officially denied it despite [clear evidence](#), the hunger strike of July 2011 forced CDCR to craft and implement reforms to the SHU, including the creation of a new set of criteria for placement in the SHU, moving more towards a behavior-based system in which simple gang affiliation was no longer sufficient for indeterminate placement in the SHU.

The pace of change was slow, however, and a second hunger strike took place between September and October of 2011, adding greater pressure for reforms to take place. In March 2012, CDCR [announced](#) it was creating a step-down program for individuals to transition out of the SHU, revising its gang management policies. Under these reforms, people in the SHU were expected to wait for sometimes [years](#) before ever being reviewed, and if placed in a beginning step of the step-down program could spend years more in solitary.

Due to the slow movement of these reforms, hunger strike leaders, in partnership with outside legal groups like the CCR, filed the

lawsuit on May 31, 2012, that ultimately took the name of plaintiff and hunger strike leader Todd Ashker.

In October 2012, the reforms CDCR announced were implemented, and prison officials began conducting case-by-case reviews of all individuals in the SHU to determine which stage in the step-down program people should be placed. Most of those reviewed were released from the SHU and placed in the general population, a pattern which has repeated itself with the post-*Ashker* reviews.

In April 2013, Californias motion to dismiss the lawsuit was rejected.

On July 8, 2013, the third hunger strike was launched with 30,000 prisoners across the state refusing meals, garnering international attention. The strike lasted 60 days before being [called off](#). Joint Public Safety Committee hearings in the state legislature were held in October 2013 and [February 2014](#), which put added pressure on CDCR to continue with reform.

After a relatively quiet 2014, in June 2015 CDCR [announced](#) it was revamping regulations pertaining to the use of segregation units, providing greater due process for inmates and discretion for prison officials. From here, the numbers tell the story.

On July 1, 2015, CDCR reported holding 2,944 (male) prisoners in SHUs and 4,058 in ASUs.

On the eve of the September 1 announcement of a settlement in the *Ashker* lawsuit, on August 31, 2015, CDCR had 2,858 people in SHUs and 3,611 in ASUs. In the time since the settlement was announced, the latest figures, indicate this downward trend is continuing. As of January 28, 2016, CDCR reported 2,211 people held in SHUs and 2,643 in ASUs.

These drops clearly reflect the ongoing reviews of men in the SHU and the reform of regulations CDCR proposed over the summer of 2015, perhaps anticipating the conclusion of the *Ashker* case.

There are discussions about converting SHU facilities to other purposes, including sensitive needs yard facilities and Level IV general population, CDCR spokesperson Terry Thornton told Solitary Watch. However, the plans are not finalized just yet.

Drops in the solitary population have prompted the state to project savings of [\\$28 million](#) by converting some solitary units to these other sorts of units. Meanwhile, the *Ashker*-mandated Restricted Custody General Population Unit, designed to house 84 men, is now operational at Pelican Bay, with six endorsed for transfer there so far.

With thousands of people still in segregation units, there is still more to do and keep an eye on. But the approval of the settlement marks a critical stage in the movement against solitary confinement in California.

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.

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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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