



Assembly Public Safety Committee
Honorable Tom Ammiano, Chair

Senate Public Safety Committee
Honorable Loni Hancock, Chair

INFORMATIONAL HEARING

California Department of Corrections and Rehabilitation's
Proposed New Policies on Inmate Segregation:
The Promise and Imperative of Real Reform

Tuesday, February 11, 2014
State Capitol, Room 4202
9:30 a.m. – 12:00 p.m.

AGENDA

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State Capitol, Room 4202

CDCR'S Proposed New Policies on Inmate Segregation: The Promise and Imperative of Real Reform

I) *Welcome and Introductions*

- Assembly Member Ammiano, Chair, Assembly Public Safety Committee
- Senator Hancock, Chair, Senate Public Safety Committee
- Other members of the Committees

II) *The New CDCR "Security Threat Group Policy": Presentation by the Department of Corrections and Rehabilitation* (40 minutes)

Department witnesses will describe the difference between CDCR's new "Security Threat Group Policy" and the policy it is replacing. Specifically, witnesses will explain the key differences between the old and new policies, including 1) how inmates are determined to be subject to SHU ("Security Housing Unit") placement; 2) how inmates can be released or "stepped down" from the SHU; 3) how inmates can contest a SHU placement; and 4) the conditions of confinement in the SHU. CDCR also will describe the implementation of the new policies, which were introduced in 2012 as a pilot.

- George Giurbino, Chief Deputy Administrator, Special Project Team, Division of Adult Institutions
- Suzan Hubbard, Chief Deputy Administrator, Special Project Team, Division of Adult Institutions

AGENDA - continued

III) *The Continuing National Dialogue: Expert Discussion of State and Federal Prison Policies on How, When and If Segregation and Isolation should be Used as a Prison Management Tool* (50 minutes)

National experts will discuss prison segregation and isolation policies in other states and federal prisons, and assist Committee members with understanding California's past and proposed policies in the broader context of effective approaches undertaken in other jurisdictions.

- Hope R. Metcalf, Associate Research Scholar in Law; Director, Arthur Liman Program; and Lecturer in Law, Yale Law School
- Professor Craig Haney, University of California, Santa Cruz

IV) *The California Inmate Experience Today: Observations and Perspectives of Attorneys Representing Prison Inmates* (30 minutes)

Prisoner rights and civil rights attorneys will provide testimony about their experiences representing inmates under the new Security Threat Group policy and the Step Down Program. The speakers will offer alternatives to the program as well as best practices from other states.

- Anne Weills, Esq., Civil Rights Attorney
- Charles Carbone, Esq., Prisoner Rights Attorney

V) *Final Remarks Regarding the New Security Threat Group Policy: California Department of Corrections and Rehabilitation* (10 minutes)

VI) *Public Comment* (20 minutes)

Witness Biographies

WITNESS BIOGRAPHIES

Charles Carbone, Esq.

Charles Carbone is a prisoner rights attorney who specializes in high security prisoners, those serving life sentences, and the law of parole for the last nearly 15 years. Before this, he was a consumer class action attorney with some of the largest judgments in U.S. history under his belt. Carbone has been before the U.S. Supreme Court and has won cases before the 9th Circuit Court of Appeals. He also has taught in law schools in California and Europe. In his "spare" time, Carbone is a weekly radio host at KPOO 89.5 FM in San Francisco.

George Giurbino, Chief Deputy Administrator, Special Project Team, Division of Adult Institutions, Department of Corrections and Rehabilitation

George Giurbino began his career with the California Department of Corrections as a Correctional Officer at the California Rehabilitation Center, Norco in November 1980, where he worked for the next 13 years as a Correctional Officer, Sergeant and Lieutenant. In May of 1993, he was promoted to Correctional Captain at Centinela State Prison in the Imperial Valley, where he was developed and managed custody operations during the activation of this new institution. He was promoted to Correctional Administrator at Centinela State Prison in 1997, where he was assigned to manage Business, Housing, and Custody Operations. In February 2000, Mr. Giurbino returned to Centinela State Prison as Chief Deputy Warden at the institution in April 2000, and as Acting Warden and eventually as Warden in July 2001.

Mr. Giurbino was appointed as Associate Director, High Security Institutions in July 2006, where he managed oversight of the CDCR's seven High Security institutions, including a male inmate population of approximately 31,000, and executive management responsibilities for over 7,000 uniformed peace officers and support personnel. This assignment also included oversight of the department's three Security Housing Units at Tehachapi, Corcoran and Pelican Bay State Prisons. In April 2009, Mr. Giurbino was assigned Deputy Director for the Division of Adult Institutions, and in December 2009, he became Director of the Division of Adult Institutions. In this assignment, Mr. Giurbino was in charge of all male and female adult institutions, as well as providing management oversight of Mission Support, Operations Support, Out of State Facilities, Inmate Appeals Branch, Case Records, Classification, Population Management and State Transportation. As Director, Mr. Giurbino provided oversight for the development of operational procedures and policies for statewide implementation, participation as a Board Member for Deadly Force Review Board actions, oversight of modified programs, use of force occurrences, inmate deaths/suicides, and Departmental Review Board actions.

Mr. Giurbino retired from his position as Director in December 2011, and has continued to serve as a Retired Annuitant for Executive Special Projects, to include the

development and implementation of a statewide revised Security Threat Group Management Policy and Procedure. Mr. Giurbino is a past member of the American Correctional Association, and has been a subject matter consultant and training facilitator with the National Institute of Corrections since June 2013 in the fields of Security Operational Practices, Management of High Risk and Violent Offenders, Management of Administrative Segregation Units, and Security Threat Group/Gang Management Programming and Strategies. During his 33 year tenure within the Department of Corrections and Rehabilitation, Mr. Giurbino earned an Associate of Science Degree in the field of Administration of Justice at Chaffey Community College, and he earned a Bachelor of Science Degree in Criminology the California State University, Fullerton.

Suzan Hubbard, Chief Deputy Administrator, Special Project Team, Division of Adult Institutions, Department of Corrections and Rehabilitation

Suzan L. Hubbard began her career with the California Department of Corrections (CDC) as a Correctional Officer at San Quentin State Prison in 1979, where she worked for the next ten years in various positions, including Correctional Counselor, Correctional Lieutenant, and Program Administrator. In August 1989, Ms. Hubbard promoted to Correctional Administrator at the California State Prison, Solano, where she was responsible for all aspects of custodial operations for 4,000 men in the medium security prison. In 1993 she was appointed to the position of Chief Deputy Warden at California State Prison, Sacramento and Warden in October 1996, where she was involved in the activation of CDC's first Level IV Mental Health Delivery Service Program. She has also served as Warden and acting Warden of several state prisons, including Mule Creek State Prison, California State Prison, Solano, Central California Women's Facility, Northern California Women's Facility, and California Medical Facility.

Ms. Hubbard was appointed as the Regional Administrator, Institutions Division, in December 2002, where she was responsible for ten institutions in Southern California, and also served as the Assistant Deputy Director of the Institutions Division. In December of 2004, she assumed the position of acting Deputy Director for the Institutions Division and was responsible for 32 correctional institutions, 42 conservation camp operations, and 12 community correctional facilities with a population of approximately 165,000. She also served as acting Associate Director for High Security and Transitional institutions from July 2005 through July 2006, where she was responsible for overseeing the operations of seven high security institutions including Pelican Bay State Prison, High Desert State Prison, California Correctional Institution, California State Prison, Corcoran, California State Prison, Sacramento, Kern Valley State Prison, and Salinas Valley State Prison. In November 2007, Ms. Hubbard received a gubernatorial appointment as Director, Division of Adult Institutions, and assumed responsibility for the management of 170,000 male and female inmates housed in 33 institutions, 39 conservation camps, 13 community correctional facilities, and the California Out-of-State Correctional Facility program, and was also involved as the chairperson for the Departmental Review Board for reviewing inmates with complex case

factors; a member of the Deadly Force Review Board; and provided oversight to the review of use of force occurrences, and inmate deaths and suicides.

Ms. Hubbard retired from her position as Director in December of 2009 and has continued to serve as a Retired Annuitant, joining the Special Project Team of CDCR in December of 2011 where she has been involved in the development and implementation of revised policy and regulations for Security Threat Group management. Ms. Hubbard received a Bachelor of Arts degree in Social Work from the University of California at Berkeley.

Craig Haney, Professor, University of California, Santa Cruz

Craig Haney is a Professor of Psychology and Director of the Program in Legal Studies at the University of California, Santa Cruz. Haney holds Ph.D. and J.D. degrees from Stanford University, and served as one of the principal researchers on the highly publicized “Stanford Prison Experiment” in 1971. He has been studying the psychological effects of living and working in prison environments since then, and many of his analyses of those issues appear in his widely praised book, Reforming Punishment: Psychological Limits to the Pains of Imprisonment, published by the American Psychological Association in 2006, and nominated for a National Book Award. His work has taken him to numerous maximum security prisons across the United States and in several different countries where he has evaluated conditions of confinement and interviewed prisoners about the mental health and other consequences of incarceration. In the late 1970s, Professor Haney began to study the unique psychological effects of solitary-type confinement. Over the last several decades he has conducted systematic, in-depth assessments of representative samples of literally hundreds of solitary or “supermax” prisoners in a number of different states, including California. As a result, he has become one of the leading international experts on the topic. Professor Haney has served as an expert witness in several landmark cases addressing the constitutional rights of prisoners, including Toussaint v. McCarthy (1983), Madrid v. Gomez (1995), Coleman v. Gomez (1995), and Ruiz v. Johnson (1999), and Brown v. Plata (2011). In 2012 he was appointed to a National Academy of Sciences Committee studying the causes and consequences of mass incarceration in the United States and also testified at an historic hearing before the U.S. Senate examining the nature and effects of solitary confinement.

Hope R. Metcalf, Associate Research Scholar in Law; Director, Arthur Liman Program; and Lecturer in Law, Yale Law School

Hope Metcalf is Director of the Arthur Liman Public Interest Program and co-teaches the Lowenstein International Human Rights Clinic. As Liman Director, she administers postgraduate Liman Fellowship for Yale Law School graduates and the Liman Summer Fellowship for Yale undergraduates. She organizes public interest events at the Law School, including the annual Liman Colloquium, and leads the weekly Liman Workshop, a public interest seminar open to all members of the Yale community. Metcalf’s own teaching and research focus on criminal justice reform and U.S.-based human rights

violations. Recent projects, with students in the Lowenstein Clinic and Liman Practicum, include a report on children serving long sentences in Connecticut, a report on abuses by U.S. cities of homeless residents, administrative advocacy to reform the use of long-term isolation in Connecticut prisons and elsewhere, a study of the effects of child support payment system on recidivism in Connecticut, and a guidebook on family law for incarcerated people in Connecticut. Metcalf formerly directed the National Litigation Project of the Allard K. Lowenstein International Human Rights Clinic, which was founded in 2002 to respond to infringements on civil liberties and human rights arising out of U.S. counterterrorism policy. Current research interests include prisoners' rights, accountability for torture, and using human rights laws and strategies domestically. She is co-chair of the ABA Subcommittee on Solitary Confinement and a board member of Junta for Progressive Action, a New Haven-based immigrants' rights organization. Metcalf is a graduate of Yale College and New York University School of Law, and she clerked for the Honorable Virginia Long of the New Jersey Supreme Court

Anne Butterfield Weills, Esq.

Anne Butterfield Weills is of counsel to Siegel & Yee in Oakland. She has been a civil rights activist since her teenage years and was one of the first organizers of the women's liberation movement in the San Francisco Bay Area. She also spent a decade organizing against the Vietnam War.

Weills is co-counsel with attorneys from the Center for Constitutional Rights, Weil, Gotshal & Manges, and other Bay Area attorneys in the *Ashker v. Brown* litigation, challenging CDCR's use of solitary confinement and indefinite detention in the Security Housing Unit (SHU) at Pelican Bay State Prison. The *Ashker* case argues that spending years in solitary violates the Eighth Amendment's prohibition against cruel and usual punishment and that CDRR's procedures for confining and keeping prisoners in the SHU violates due process.

California Department of Corrections and Rehabilitation
Security Threat Group Regulatory Package
(Supplemental documents not included.)

Notification Date: January 31, 2014

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the Department), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3000, 3023, 3043.4, 3044, 3077, 3139, 3269, 3269.1, 3314, 3315, 3321, 3323, 3334, 3335, 3341.5, 3375, 3375.2, 3375.3, 3376, 3376.1, 3377.2, 3378, 3378.1, 3378.2, 3378.3, 3504, 3505, 3545, 3561, 3651 and 3721 and to adopt Sections 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 and 3378.9 of the California Code of Regulations (CCR), Title 15, concerning Security Threat Groups (formerly referred to as prison gangs).

PUBLIC HEARING:

Date and Time: **April 3, 2014 - 8:00 a.m. to 12:00 p.m.**
Place: East End Complex
Auditorium
1500 Capitol Avenue
Sacramento, CA 95811
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close **April 3, 2014, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or e-mail at m_STGRegulation@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**Josh Jugum
Regulation and Policy Management Branch
Telephone (916) 445-2228**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Nancy Hardy
Division of Adult Institutions
Telephone (916) 324-0791**

AUTHORITY AND REFERENCE

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any other code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

This action will:

- Replace references in the regulations to prisons gangs, street gangs and similar disruptive groups with the term Security Threats Groups (STGs). This term is used in the Federal correctional system and in many other correctional jurisdictions.
- Amend the Department's current STG (gang) management policy, which identifies STG members and associates and separates them from the General Population, to focus on identifying, interdicting, and managing STG leadership and behavior. The Department will move from a status-based process (i.e., gang affiliation) to a behavior-based process that separates gang affiliates from the General Population based on STG-related disciplinary violations and/or confirmed membership.
- Establish a process for the certification by the Department of a group or gang as a STG-I, and the recognition of a group/gang as a STG-II, based on criteria specified in the regulations. This process will differentiate between STG-Is, which are the more "traditional" prison type gangs that are considered the greatest threat to staff and institution security, and STG-IIs, which are other groups such as street gangs or other disruptive groups.
- Establish additional due process and a weighted criteria scale in the procedures used to validate an offender as an affiliate of an STG.
- Differentiate between STG-I Members and other offenders such as Associates who are affiliated with an STG but not a member. Only STG-I Members confirmed by an Institution Classification Committee will be placed in Security Housing Units (SHU) based on validation alone. Affiliated offenders will be placed in SHU if they have engaged in documented STG behavioral violations.
- Establish a five-step Step Down Program which will allow inmates housed in the SHU as a result of STG related behavior to return to a General Population setting provided they meet specified criteria and remain free of disciplinary violations.
- Incorporate enhanced privileges for inmates electing to participate through the Step Down Program.
- Establish a process to address classification and housing of validated STG affiliates who have paroled or discharged from CDCR jurisdiction and return to custody.
- Adopt definitions for several new terms related to Security Threat Groups and the Step Down Program.

- Incorporate into the regulations the STG Disciplinary Matrix, which will be used to determine Step Down Program placement when specified validated offenders commit STG-related disciplinary violations.
- Establish a process for the termination of an offender's status as a validated STG affiliate when specified criteria are met.
- Establish the responsibilities of various Department staff and committees as part of the STG policy.

FORMS INCORPORATED BY REFERENCE

CDCR 128-G1 (11/13) Security Threat Group Unit Classification Committee – Results of Hearing
 CDC 115 (07/88) Rules Violation Report
 CDC 812 (11/13) Notice of Critical Case Information – Safety of Persons (Non-Confidential Enemies)
 CDC 128-B (4/74) General Chrono
 Security Threat Group Certification Worksheet
 CDCR 128-B3 (11/13) Security Threat Group Identification Score Sheet
 CDCR 128-B4 (11/13) Evidence Disclosure and Interview Notification
 CDCR 1030 (11/13) Confidential Information Disclosure Form
 CDCR 128- B5 (11/13) Security Threat Group Validation Chrono
 CDCR 128-B2 (11/13) Security Threat Group Validation / Rejection Review
 CDCR 128B SDP1 (11/13) Step Down Program Notice of Expectations (Step 1)
 CDCR 128B SDP2 (11/13) Step Down Program Notice of Expectations (Step 2)
 CDCR 128B SDP3 (11/13) Step Down Program Notice of Expectations (Step 3)
 CDCR 128B SDP4 (11/13) Step Down Program Notice of Expectations (Step 4)
 CDCR 128B SDP5 (11/13) Notice of Conditions of Monitored Status
 CDC 128-G (10/89) Classification Chrono

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department anticipates that these regulations will help to reduce STG (gang) violence and activity within California prisons, and eventually help to reduce gang violence in communities as well. The criminal activities of prison STGs extend beyond prison walls into many local communities, and STGs are often associated with, and in some cases control, street gangs.

The proposed regulations provide for additional due process in the procedures used to “validate” inmates as affiliates of STGs. This should help to reduce expensive litigation, as inmates will have the opportunity to challenge their validation through the Department’s processes rather than relying on the courts.

EVALUATION OF CONSISTENCY / COMPATIBILITY WITH EXISTING LAWS/REGULATIONS

The Department has researched existing statutes and regulations regarding Security Threat Groups / prison gangs and has determined that these proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

Currently, Department policy regarding STGs and the Step Down Program is under the authority of the STG Pilot Program, which went into effect in October 2012. This pilot program will remain in effect until these proposed regulations are permanently adopted.

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

FISCAL IMPACT STATEMENT:

- Cost to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT:

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no affect on the health of California residents, worker safety, or the state's environment, because they relate strictly to the internal management of CDCR institutions.

The Department has determined that the proposed regulations may have an indirect positive impact upon the welfare of California residents by helping to reduce gang activity in local communities.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, than the proposed regulatory action. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to amend the California Code of Regulations, Title 15, Division 3, Sections 3000, 3023, 3043.4, 3044, 3077, 3139, 3269, 3269.1, 3314, 3315, 3321, 3323, 3334, 3335, 3341.5, 3375, 3375.2, 3375.3, 3376, 3376.1, 3377.2, 3378, 3378.1, 3378.2, 3378.3, 3504, 3505, 3545, 3561, 3651 and 3721 and to adopt Sections 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 and 3378.9 concerning changes to the Department's Gang Management policy.

The management of gangs nationally in both communities and custodial settings has created an enormous challenge for law enforcement agencies. Gangs jeopardize public safety as they facilitate violence, drug trafficking, extortion and create substantial harm in prisons, jails and local communities. Managing criminal gangs requires a comprehensive strategy to identify involved gang members, target interdiction strategies, and remove their threat towards others.

CDCR historically has approached gang identification and management through intervention and suppression strategies and has been successful in reducing the impact sophisticated gang members have in CDCR facilities. To combat gangs, CDCR has identified the gangs with the greatest propensity for violence and has separated the affiliated offenders from the general population by placing them into a Security Housing Unit (SHU) environment. Currently, these gangs are referred to as prison gangs as they have originated and have their roots in the CDCR or another prison system. Within the new policy, prison gangs, street gangs, and disruptive groups will be referred to as Security Threat Groups (STG). This is a term that is used in the Federal Correctional system and in many other states across the nation.

Despite the successes the CDCR has had in removing violent and disruptive STG affiliates from the general population settings of the institutions, the Department has recognized a need to evaluate current strategies and implement new approaches to address evolving STG trends consistent with security, fiscal, and offender population management needs. Fortunately, the inmate population reductions associated with *Public Safety Realignment* is affording CDCR the opportunity to reconstruct aspects of its STG policy that are consistent with successful models used in other large correctional agencies. The Public Safety Realignment will result in easing overcrowding and providing CDCR with more housing options to support this effort.

CDCR's regulatory policy for identifying STG members and associates and separating them from the general population will be replaced with a model that identifies, targets and manages STGs leadership and activities and utilizes a behavior based "Step Down" Program (SDP). This program will afford offenders the opportunity to work their way from a restricted program back to a general population setting by demonstrating a willingness and commitment to discontinue STG related activity while in a CDCR facility. In addition, STG associates will no longer be considered for direct administrative placement into a SHU based only upon their validation, unless there exists corresponding confirmed disciplinary behavior with an STG nexus. Members of the most dangerous groups (STG-Is) will be considered for placement in SHU after confirmation of their validation by ICC.

In developing these proposed regulations the Department consulted a variety of stakeholders, including prisoner advocacy organizations

Background

CDCR manages arguably the most violent and sophisticated STG members and associates in the nation. California STGs are routinely and consistently connected to major criminal activities

in communities, including such crimes as homicides, drug trafficking, prostitution, human trafficking, and extortion. As such, the responsibility and challenges facing CDCR relative to the management of STGs are immense.

STG problems throughout the country have grown more serious in both the local communities and correctional settings. STGs are largely responsible for criminal activities within the institutions, to include the trafficking of narcotics, committing and/or directing violence against staff and offenders, and directing criminal activity between the correctional institutions and the community.

Prisons are especially vulnerable to internal disruption by STG affiliates who, through their violent nature, routinely victimize each other, uninvolved offenders and staff, in addition to creating heavy demands on personnel and fiscal resources.

Efficient and effective STG management within prisons requires a comprehensive STG prevention, identification, and management policy that include interdiction and rehabilitation. CDCR's regulatory strategy, which was initially developed more than 25 years ago, is that of a crime prevention strategy through suppression. The Department recognizes a need to evaluate those strategies and adopt new approaches to addressing constantly evolving STG trends.

This new STG policy introduces a comprehensive strategy designed to:

- Provide graduated housing with increased program and privileges based on positive programming, as well as, consequences for non-compliance associated with STG related behaviors.
- Enable an offender to engage in reintegration from a SHU environment back to general population or sensitive needs yard (SNY) through a SDP.
- Support and educate offenders desiring to disavow and/or disengage from the STG lifestyle.
- Prevent or reduce STG influence and STG violence.
- Provide additional levels of due process in the validation process.
- Promote safe and efficient prison operations.
- Weaken the organization and communication of the STG through intelligence and behavior based management strategies.
- Curtail the ability of STGs to participate in crimes that transcend the boundaries of the institution into the community.
- Provide programs designed to promote social values and behaviors in preparation for the offenders' return to the community.

Essential to achieving these goals is the continuing evolution of our existing intelligence network to identify and document STG related activities/behaviors and track STG trends. A sound strategy supported by reliable intelligence will enhance the prison managers' ability to anticipate, prevent, respond and control STG problems proactively rather than relying on defensive or reactive means of suppression and intervention.

This policy includes an enhanced intelligence based identification system needed to identify members, associates, and suspects who are believed to present a clear threat to the safety of staff, offenders, and the security of the institutions. This, in association with documented STG related behavior will provide prison managers the necessary information to make decisions regarding the appropriate housing and program needs for the offender. This policy supports the CDCR strategic plan through effective classification of offenders and placement of the right offender, in the right program, at the right time.

The policy changes are based on recommendations made by subject matter experts within the CDCR as well as consideration of strategies and best practices used by agencies outside of California. This complex retooling of CDCR's STG management strategy will require significant changes to regulations, practices, and institutional culture to ensure success. Any change of this magnitude and its associated potential risk must be done thoughtfully, methodically and deliberately. The policy will support California's efforts toward establishing a updated model of managing STGs in a prison environment.

Although several correctional systems employ similar strategies, there is no one "best practice". Success of any STG strategy requires an objective evaluation of specific STG dynamics and development of methods to meet these needs. Operational strategies and methods of carrying them out must be systematically integrated. Of particular importance is the development of STG policies that differentiate between STG and non-STG related behaviors and their seriousness for particular correctional programs. The Department believes that this policy recognizes the distinction between these behaviors.

Litigation

Castillo vs. Alameida: Castillo's original lawsuit was filed in August 1994. Plaintiff challenged the constitutionality of the STG validation procedures; the evidence used in his individual validation; and whether or not his validation was the result of retaliation by prison officials for his jailhouse lawyering and peace proposal activities. Plaintiff also challenged some of the physical conditions in the SHU at PBSP, as well as the psychological effects of long-term SHU confinement, which was dismissed on summary judgment in January 2004.

A Settlement Agreement was reached in September 2004 which outlined the following due process procedures to be provided to each offender at the pre-validation and inactive review stage. CDCR will provide the offender with at least 24-hour advanced notice of the source items being relied upon for validation. CDCR will record the offender's opinion on each of the source items and forward in written form along with the validation package to OCS. A copy of the written document will be provided to the offender before being sent to OCS. Reliance on specific source items would be modified and/or better articulated. CDCR agreed that a single, STG-related incident or conduct that is described or documented by multiple sources, confidential or otherwise, shall constitute one source item only. CDCR agreed that exclusive reliance on hearsay from a confidential source will not be used as a source item for validation. Lastly, the Department agreed that an offender would not receive an SHU term as a validated STG member or associate without first being found to be a current, active STG member or associate consistent with the procedural safeguards established in the Settlement Agreement.

In adopting these new STG management policies and proposed regulations, the Department continues to adhere to the legal standards set forth in such cases.

Anticipated Benefits

The Department anticipates that these regulations will help to reduce STG (gang) violence and activity within California prisons, and eventually help to reduce gang violence in communities as well. The criminal activities of prison STGs extend beyond prison walls into many local communities, and STGs are often associated with, and in some cases control, street gangs.

The proposed regulations provide for additional due process in the procedures used to "validate" inmates as affiliates of STGs. This should help to reduce expensive litigation, as inmates will have the opportunity to challenge their validation through the Department's processes rather than relying on the courts.

Determinations of Impact on Business and Small Business

The Department has made an initial determination no reasonable alternatives to the regulations have been identified or brought to the attention of the Department which would lessen any adverse impact on small business.

The Department has made an initial determination the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination. The proposed regulations affect the internal management of prisons only, and place no requirements or restrictions on businesses.

ECONOMIC IMPACT ASSESSMENT

The Department has determined the proposed regulations will have no impact on the creation or elimination of jobs within the state. The proposed regulations affect the internal management of prisons only.

The Department has determined the proposed regulations will have no impact on the creation of new businesses or the elimination of existing businesses within California. The proposed regulations affect the internal management of prisons only, and place no requirements or restrictions upon businesses.

The Department has determined the proposed regulations will have no impact on the expansion of businesses currently doing business in California. The proposed regulations affect the internal management of prisons only, and place no requirements or restrictions on businesses.

The Department has determined the proposed regulations may benefit the health and welfare of California residents by reducing gang activity in local communities. The Department has determined the proposed regulations will have no impact on worker safety or the state's environment as they affect the internal management of prisons only.

REPORTS, STUDIES, AND DOCUMENTS RELIED UPON

The policy changes that form the basis for these proposed regulations are founded on recommendations made by subject matter experts within CDCR as well as consideration of strategies and practices used by agencies outside of California. Although there are similarities

in the field of STG management amongst correctional jurisdictions, there is not a nationally recognized “best practice”, due in large part to disparities in STG traits, evolution, violence, sophistication, establishment, influence, and size within each jurisdiction.

As a result, CDCR did not rely wholly on any single report, policy, or practice in its entirety; but instead considered them in light of the inherently unique characteristics of California's STG population and penological system. The following research studies and policies were considered by a combined group of correctional experts in developing these proposed regulations for managing STGs in California prisons. Therefore, only relevant elements and components of the following reports, studies, and procedures have been relied upon in creating the proposed policy changes:

- Vohryzek-Bolden, Miki, *Security Threat Group Identification and Management*, California State University, Sacramento (CSUS) Division of Criminal Justice, 2007
- Vohryzek-Bolden, Miki, *National Best Practices to Address Prison Violence*, CSUS Division of Criminal Justice, March 2011
- Vohryzek-Bolden, Miki, *Overview of California Department of Corrections and Rehabilitation Policies and Procedures: Gang Management, Lockdown Protocols, and Secure Housing Placement*, CSUS Division of Criminal Justice, January 2011
- Vohryzek-Bolden, Miki, *Recommendations to the California Department of Corrections and Rehabilitation to Address Violence in Male Prisons*, CSUS Division of Criminal Justice, June 2011
- Settlement Agreement, *Castillo v. Alameida, Jr. et al*, United States District Court Northern District of California, Case No C-94-2847-MJJ-JCS
<http://www.courts.ca.gov/opinions/revpub/F059511.PDF>
- Arizona Department of Corrections, *Department Order Manual: Security Threat Groups (STGs)*, Department Order 806, November 2009
<http://www.azcorrections.gov/Policies/800/0806.pdf>
- Colorado Department of Corrections, Security Threat Administrative Review Program, RN 600-07, November 1, 2011
- Connecticut Department of Correction, *Administrative Directive: Security Risk Groups*, Directive Number 6.14
<http://www.ct.gov/doc/LIB/doc/PDF/AD/ad0614.pdf>
- Federal Bureau of Prisons, *Special Management Units*, Policy Statement No. P5271.01, November 2008
http://www.bop.gov/policy/progstat/5217_001.pdf
- Mississippi Department of Corrections, *Security Threat Group Management*, 16-19 (05-01-09) and 16-19-01 (11-04-11); *Security Threat Group Management, Movement of*

Leaders, 16-19-03 (02-01-07); and *Security Threat Group Management-Renunciation Program*, 16-19-07 (06-01-11)

- New Mexico Corrections Department, *CD No. 143000: Prison Security Levels V and VI*, June 2012 and *CD No. 143001: Criteria, Placement, and Review*, June 2012
<http://corrections.state.nm.us/policies/docs/CD-143000.pdf>
- Ohio Department of Rehabilitation and Correction, *Level 5 Classification*, April 2012

Copies of these documents are available for review as a part of the rulemaking file.

ALTERNATIVES CONSIDERED

1. Take No Action

CDCR remains committed to its mission of rehabilitation of offenders without sacrificing the safety of inmates, staff, its institutions, or the community. Taking no action and retaining existing regulations would leave validated STG members and associates without a definitive method to demonstrate their commitment and willingness to refrain from STG behavior through individual accountability and participation in rehabilitative efforts, in spite of their status. Taking no action would also provide no process for reintegration of an inmate from segregated housing to a general population setting, and such incremental reintegration is necessary for a successful transition to general population, or similarly in preparation for an inmate's potential release back to a community setting. It is also hoped that this new stepped approach to reintegration will reduce in-prison recidivism.

2. Eliminating STG SHU Sentences

To eliminate STG SHU sentences would result in the automatic return to the general population of inmates who continue to exhibit violent behavior, orchestrate others to commit violence and other crimes within the institution, across institutions, and in the community thereby endangering the safety of others. Further, the assessment of STG SHU sentences for validated inmates is reserved for those who have proven that they cannot reside in the general population with others. Therefore, CDCR would be derelict in its constitutional duty to keep safe those who are committed in its care if it eliminated such STG SHU sentences and knowingly housed without restrictions those inmates, determined through established processes and audits to pose a significant threat to others.

However, despite the nature of the initial housing assignment to the SHU, inmates are able to earn release to general population within 4 years of that initial assignment, and perhaps in as few as three years. They are able to do so by establishing through their conduct and participation that they can program with others without resorting to STG behavior.

3. Further Reducing the Length of the Step Down Program

The proposed regulations will incorporate a 2 – 3 year reduction in the length of time served in SHU for an STG affiliate who previously would only be considered for release during a 6 year revolving Departmental Review Board review process.

In order to ensure successful reintegration of a validated SHU inmate into the general population he or she must first demonstrate through behavior and participation that he or she no longer poses a serious threat to the safety of others or the security of the institution. The most violent and sophisticated STGs have evolved through highly covert operations. Therefore, the readiness and willingness of an STG member or associate to reintegrate into a general population setting without posing a threat to those around him/her cannot truly be ascertained in a further shortened period of time.

Success of any STG strategy requires an objective evaluation of specific STG dynamics and development of methods to meet those needs. Therefore, these proposed regulations provide a Step Down Program through which conduct and participation can be demonstrated over the course of 4 years, which is a 30% reduction in the minimum review period for release/ inactive reviews previously utilized under Title 15. Further, inmates are given comprehensive reviews every six months and have the ability to accelerate their program in Steps 1 and 2 by a total of 1 year, thereby reducing the length of the program to 3 years, which is a 50% reduction in the previous inactive review period previously utilized.

Any further reduction in the length of the Step Down Program cannot be realized at this time without jeopardizing the safety and security of the institution.

SPECIFIC PURPOSE OF EACH SECTION PER GOVERNMENT CODE 11346.2(B)(1)

3000. Definitions.

Section 3000 is being amended to add and alphabetically merge definitions associated with the new Security Threat Group Identification, Prevention and Management policy into existing definitions.

Affiliate is defined to offer a term that provides a reference and consistent terminology for a group of offenders who are validated with differing levels of involvement with the STG.

Confirmed Security Threat Group (STG) Behavior is defined to establish the criteria that must exist for documented STG related behavior to be used in a validation or for placement of an offender in the Step Down Program.

Debriefing definition is modified from the previous version to comply with the new policy terminology. The debriefing process has not changed.

Direct Link is a term that was used in the old policy and will continue in the new policy. It was not previously defined; however, in the new policy a definition has been created.

Dropout is defined to provide a standardized description of the term for staff and inmates.

Gang is being modified to change the reference from behavior or misconduct within CDCR to unlawful acts which occur outside of CDCR jurisdiction. This is necessary to differentiate between behavior which occurs under the CDCR jurisdiction versus that which occurs while an inmate is paroled, discharged, or otherwise outside of CDCR custody.

Inactive Status Affiliate is defined to provide a standardized description of the term for staff and inmates.

Inactive-Monitored Status Affiliate is defined to provide a standardized description of the term for staff and inmates.

Monitored Status Affiliate is defined to provide a standardized description of the term for staff and inmates.

Offender is defined to offer a term that provides a reference and consistent terminology for a group of offenders who currently under the jurisdiction of the CDCR.

The Prison Gang definition is being changed due to a current reference in Penal Code 2933.6 regarding credit earning and the need to link the term prison gang to the term Security Threat Group.

Security Threat Group (STG) is defined to provide a standardized description of the term for staff and inmates.

Security Threat Group I (STG-I) is a term used to identify and prioritize the level of threat the group presents that affects the safety and security of the institution and public safety. The differentiation between the groups is critical for staff to understand. These staff will be responsible to observe and document STG related behavior and will assist in assuring appropriate disciplinary and housing decisions are made based on this designation, as well as enforcing the zero tolerance policy.

Security Threat Group II (STG-II) is a term used to identify and prioritize the level of threat the group presents that affects the safety and the security of the institution and public safety. The differentiation between the groups is critical for staff to understand. These staff will be responsible to observe and document STG related behavior and will assist in assuring appropriate disciplinary and housing decisions are made based on this designation, as well as enforcing the zero tolerance policy.

Security Threat Group Administrative Directive is a tool used by the Agency Secretary to notify staff that a group has been certified as an STG-I within the CDCR. This process is necessary to ensure there is a standardized process to notify staff in all institutions and other work locations of this critical information.

Security Threat Group (STG) Associate is a term used to describe any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. The differentiation between the levels of the affiliates is critical for staff to understand. These staff will be responsible to observe and document STG related behavior and will assist in assuring appropriate disciplinary and housing decisions are made based on this designation, as well as enforcing the zero tolerance policy.

Security Threat Group (STG) Behavior is defined to establish a consistent description of the behavior that can be used in a validation or for placement of an offender in the Step Down Program. The definition will assist staff in assuring appropriate disciplinary decisions are made based on this type of behavior, as well as enforcing the zero tolerance policy.

Security Threat Group (STG) Member is a term used to describe any offender or any person who, based on documented evidence, has been accepted into membership by a STG. The differentiation between the levels of the affiliates is critical for staff to understand. These staff will be responsible to observe and document STG related behavior and will assist in assuring

appropriate disciplinary and housing decisions are made based on this designation, as well as enforcing the zero tolerance policy.

Security Threat Group (STG) Suspect is a term used to describe any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. The differentiation between the levels of the affiliates is critical for staff to understand. These staff will be responsible to observe and document STG related behavior and will assist in assuring appropriate disciplinary and housing decisions are made based on this designation, as well as enforcing the zero tolerance policy.

Security Threat Group (STG) Unit Classification Committee is a unit classification committee responsible for making the determination of an inmate's validation status, Dropout status, affiliate's new disciplinary behavior to determine nexus to STG, and reviewing information/intelligence regarding inmate-involved incidents occurring outside CDCR jurisdiction to ensure disciplinary processes and/or formal documentation were applied. This committee will provide an additional layer of due process.

Step Down Program (SDP) is necessary to implement an incremental four year SHU program which by design will replace the existing six year inactive review process for validated STG affiliates. The SDP will be an individual behavior based program that will provide graduated housing, enhanced programs, increased interpersonal interactions, as well as corresponding privilege and personal property enhancements for participating STG affiliates.

Step Down Program, Step 1 and 2 SHU means the first two of five steps in the step down process designated for housing of STG affiliates determined to pose the greatest threat to the safety of staff, inmates, and the public. This is necessary to establish the minimum review periods and the review criteria for inmates who are assigned in Steps 1 and 2 of the SDP.

Step Down Program, Step 3 and 4 SHU are steps in the five-step program intended to begin reintegration of the STG affiliates by offering program and privilege incentives within a controlled setting and monitoring of program progress. This is necessary to establish the minimum review periods and the review criteria for inmates who are assigned in Steps 3 and 4 of the SDP.

Step Down Program, Step 5. Upon successful completion of all four SHU steps, as determined by Institutional Classification Committee (ICC) and based on individual inmate behavior, the inmate will be endorsed to General Population or similar specialized housing for a 12-month observation period known as Step 5. This is necessary to ensure a standardized and consistent process is followed when an inmate is received at a non-segregated housing facility to participate in step 5 of the SDP.

Transitional Housing Unit is changed to remove the reference to prison gang. This is necessary because the term prison gang is being eliminated in the new policy.

Validation means the formal and objective process for identifying and documenting STG affiliates. Creating a structured procedure is intended to ensure consistent application of the validation criteria throughout the CDCR system.

Existing section 3023 title is amended to read:

3023. Security Threat Group (STG) Activity.

This amendment is being made to accurately reflect the change in terminology under the proposed regulations.

Existing subsection 3023(a) is renumbered and relocated to 3023(c).

New subsection 3023(a) is adopted to explain why STGs jeopardize public safety and institutional security. This is necessary to establish the threat which these groups pose and the reason this policy is being implemented. The Department is transitioning from its use of the terms prison gang, disruptive group, and street gang; and will instead utilize the term Security Threat Group. This change in terminology is occurring in many correctional agencies across the country.

Existing subsection 3023(b) is repealed.

New subsection 3023(b) is adopted to establish the CDCR's zero tolerance for STG related activity or behavior by offenders under its jurisdiction.

Existing subsection 3023(c) is renumbered and relocated to new subsection 3023(d).

New subsection 3023(c) is renumbered and relocated from existing subsection 3023(a) and text is amended to modify the existing terminology to remove the word "gang" and insert the new term "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

New subsection 3023(d) is renumbered and relocated from existing subsection 3023(c) and text is amended to remove the references to "prison gangs and disruptive groups" and insert the new terms of "STG-I" and "STG-II". The section explains that offenders who are validated as belonging to STGs will be further categorized in status as Members, Associates, or Suspects. This is necessary to establish the hierarchy being utilized within the STG policy and to recognize and respond to varying degrees of offender involvement with STGs.

New subsection 3023(e) is adopted to set the expectations for the offender population on the types of behavior that will be considered STG related. This is necessary to ensure the offender population understands the behavioral expectations.

3043.4. Non-Credit Earning.

Subsections 3043.4 Initial paragraph through 3043.4(a) remain unchanged.

Subsection 3043.4(b) is amended to modify the existing terminology to remove the word "gang" and insert the new term "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. In addition, the reference to Penal Code was added for clarity.

Subsections 3043.4(c) through 3043.4(d) remain unchanged.

3044. Inmate Work Groups.

Subsections 3044(a) through 3044(b)(6)(C) remain unchanged.

Subsection 3044(b)(7) is amended to modify the existing terminology to remove the words “prison gang” and insert the new term “STG-I” to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsection 3044(b)(7)(A) through 3044(b)(7)(B) remain unchanged.

Subsection 3044(b)(7)(C) is amended to simplify and consolidate all inmates assigned to ASU, SHU or PSU.

Subsections 3044(b)(7)(D) through 3044(e)(2)(B) remain unchanged.

Subsection 3044(e)(2)(C) is amended to increase the privilege group b maximum monthly canteen draw from 50% to 75% of the amount authorized by the secretary. This is necessary to create a difference in the maximum allowable canteen draw for those inmates who are in privilege group b and residing in the general population versus those inmates who are in the SDP and are receiving increased privileges of up to 50%. The increased amount for the privilege group b inmates who reside in general population encourages continued compliance with the rules and regulations.

Subsections 3044(e)(2)(D) through 3044(g) remain unchanged.

Subsection 3044(g)(1) is amended to remove the requirement that validated STG affiliates are assigned to privilege group d. This is necessary because privileges and incentives were incorporated as part of the SDP to encourage the STG affiliates to participate in the educational and cognitive behavior components, which will ultimately earn their release to a non-segregated setting. New privilege groups are incorporated within this regulation package for the validated affiliates assigned in the SDP.

Subsection 3044(g)(2) remains unchanged.

Subsection 3044(g)(3) is amended to clarify that inmates excepted from Privilege Group D as described in subsection 3044(g)(1) above are not subject to the privileges listed below in subsections 3044(g)(3)(A) through (g)(3)(E).

Subsection 3044(g)(3)(A) remains unchanged.

Subsection 3044(g)(3)(B) is amended to standardize the language from fractions (i.e., one-fourth) to percentages (i.e., 25%). This is necessary to provide consistency in the way that canteen privileges are being displayed.

Subsections 3044(g)(3)(C) through 3044(h)(2)(F) remain unchanged.

Existing subsection 3044(i) is deleted as the CDCR no longer issues privilege cards to the offender population.

New subsections 3044(i) through 3044(i)(3)(D)8. are adopted to afford STG affiliates who are participating in the SDP with privileges associated with their assigned step. This is necessary for staff and inmates designated as STG affiliates in the SDP to identify allowable privileges that should be afforded to the population while in a specific step of the SDP. The Department anticipates that graduated privileges will promote participation in rehabilitative programming within the SDP.

New subsections 3044(j) through 3044(j)(2)(H) are adopted to afford STG affiliates who are participating in the interviewing phase of the debriefing process and those in segregated housing for non-disciplinary reasons with privileges associated with their assigned step or with Step 4 if they have completed the SDP but were retained for non-disciplinary reasons. This is necessary for staff and inmates to identify allowable privileges that should be afforded to this specific population because their reasons for segregation are non-adverse in nature.

New Subsection 3044(j)(3) is adopted to provide the authority for the Inter-Disciplinary Treatment Team to make adjustments to personal property for inmates who are participating in programs in the Psychiatric Services Unit. These adjusted privileges afford the inmates with privileges commensurate with the level of participation within the program.

3077. County Assessment Program.

Section 3077 Initial paragraph through subsection 3077(c) remains unchanged.

Subsection 3077(c)(1) is amended to modify the existing terminology to remove the words "prison gang and disruptive group" and insert the new term "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3077(c)(2) through 3077(d)(3) remain unchanged.

3139. Correspondence between Inmates, Parolees, and Probationers.

Existing subsection 3139 initial paragraph is renumbered to subsection 3139(a) and is unchanged. The lack of the header (a) was an oversight in previous regulations. There is no substantive change as a result of this correction.

Subsections 3139(a)(1) through 3139(a)(4) remain unchanged.

Subsection 3139(b) is amended to modify the existing terminology to remove the word "gang" and insert the new term "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3139(c) through 3139(j) remain unchanged.

3269. Inmate Housing Assignments.

Section 3269 Initial paragraph remains unchanged.

Subsection 3269(a) is amended to modify the terminology to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3269(b) through 3269(g) remain unchanged.

3269.1. Integrated Housing.

Section 3269.1 Initial paragraph through subsection 3269.1(d)(3) remain unchanged.

Subsection 3269.1(d)(4) is amended to modify the existing terminology to remove the words “prison gang and disruptive group” and insert the new term “STG” to reflect the verbiage in the new policy. In addition, the words “and/or association” are being removed because they are synonymous with “affiliation”. This is necessary to transition to the language developed in the new STG policy.

Subsections 3269.1(d)(5) through 3269.1(g) remain unchanged.

3314. Administrative Rule Violations.

Subsections 3314(a) through 3314(a)(3)(K) remain unchanged.

New subsection 3314(a)(3)(L) is adopted to add an administrative rule violation for STG contraband, as this did not exist in the previous regulations. This is necessary to establish behavioral expectations for the offender population and hold individual inmates accountable when they are found guilty of participating in this type of STG related behavior.

New subsection 3314(a)(3)(M) is adopted to add an administrative rule violation for STG behavior, as this did not exist in the previous regulations. This is necessary to establish behavioral expectations for the offender population and hold individual inmates accountable when they are found guilty of participating in this type of STG related behavior.

Subsections 3314(b) through 3314(i) remain unchanged.

New subsection 3314(j) is adopted instruct staff that if the hearing official finds the inmate guilty of a rule violation which includes a nexus to a STG, a copy of the completed Rules Violation Report shall be forwarded to the STG Lieutenant. This is necessary to ensure that STG Investigative staff is aware of the STG activities which are occurring at the assigned institution and to ensure that tracking of the identified inmate is maintained.

3315. Serious Rule Violations.

Subsections 3315(a) through 3315(a)(3)(Y) remain unchanged.

New subsections 3315(a)(3)(Z) and 3315(a)(3)(AA) are adopted to add serious rule violations for STG directing or controlling behavior and STG disruptive or violent behavior, as these did not exist in the previous regulations. This is necessary to establish behavioral expectations for the offender population and hold individual inmates accountable when they are found guilty of participating in these types of STG related behavior.

Subsections 3315(b) through 3315(d)(1)(A)3. remain unchanged.

Subsection 3315(d)(1)(A)4. is adopted to establish the mandate that an Investigative Employee shall be assigned when the behavior designated as a serious rule violation may present a nexus with a STG. This is necessary to ensure the inmate receives the assistance that may be necessary to gather information in preparation for the disciplinary process.

Subsections 3315(e) through 3315(g) remain unchanged.

Subsections 3315(h) is adopted to instruct staff that if the hearing official finds the inmate guilty of a rule violation which includes a nexus to a STG, a copy of the completed Rules

Violation Report shall be forwarded to the STG Lieutenant. This is necessary to ensure that STG Investigative staff is aware of the STG activities which are occurring at the assigned institution and to ensure that tracking of the identified inmate is maintained.

3321. Confidential Material.

Subsections 3321(a) through 3321(a)(4) remain unchanged:

New subsection 3321(a)(5) is adopted to authorize an approved debrief report for placement in the confidential section of the central file. This is necessary to ensure that central files are complete, self-contained, and provide continuity of information.

Subsection 3321(b) remains unchanged.

Subsection 3321(b)(1) is amended to more clearly articulate that no decision shall be based solely upon information from a confidential source. This is necessary to ensure that staff understand the requirement that corroboration of confidential information is critical and should not be relied upon if it cannot be found to be credible.

Subsections 3321(b)(2) through 3321(c)(5) remain unchanged.

Subsection 3321(c)(6) is adopted to recognize an additional reason for a source of confidential information being determined to be reliable. The additional reason is that the source participated in and successfully completed a Polygraph examination. This is necessary because polygraph testing is recognized as a reliable indicator of accuracy.

Subsections 3321(d) through 3321(d)(3) remain unchanged.

3323. Disciplinary Credit Forfeiture Schedule.

Subsections 3323(a) through 3323(b)(9) remain unchanged:

Subsection 3323(b)(10) is adopted to incorporate behavior or activities defined as a division "A-1" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG into the same credit forfeiture schedule as other behavior which is defined as a division "A-1". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transition an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(c) through 3323(c)(9) remain unchanged:

Subsection 3323(c)(10) is adopted to incorporate behavior or activities defined as a division "A-2" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG into the same credit forfeiture schedule as other behavior which is defined as a division "A-2". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transition an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(d) through 3323(d)(12) remain unchanged:

Subsection 3323(d)(13) is adopted to incorporate behavior or activities defined as a division "B" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG will be subject to the same credit forfeiture schedule as other behavior which is defined as a division "B". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transition an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(e) through 3323(e)(13) remain unchanged:

Subsection 3323(e)(14) is adopted to incorporate behavior or activities defined as a division "C" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG will be subject to the same credit forfeiture schedule as other behavior which is defined as a division "C". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transition an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(f) through 3323(f)(15) remain unchanged:

Subsection 3323(f)(16) is adopted to incorporate the additional charge of acting in a STG leadership role displaying behavior to organize and control other offenders. This is necessary because many of California's STG members and/or associates are connected to major criminal activities in communities, including such crimes as homicides, drug trafficking, prostitution, human trafficking, and extortion often committed by organizing and controlling other offenders inside and outside of CDCR institutions. As these STG affiliates have such significant influence over other offenders, it is critical to identify and hold the inmate accountable when he or she has been found guilty of this conduct with a nexus to the STG.

Subsection 3323(f)(17) is adopted to incorporate behavior or activities defined as a division "D" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG into the same credit forfeiture schedule as other behavior which is defined as a division "D". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transfer an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(g) through 3323(g)(10) remain unchanged:

Subsection 3323(g)(11) is adopted to incorporate behavior or activities defined as a division "E" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG into the same credit forfeiture schedule as other behavior which is defined as a division "E". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transfer an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(h) through 3323(h)(10) remain unchanged:

Subsection 3323(h)(11) is adopted to incorporate the additional charge of harassment of another person, group, or entity either directly or indirectly through the use of the mail, telephone, or other means. This is necessary because many of California's STG members and/or associates are connected to major criminal activities in communities, including such crimes as homicides, drug trafficking, prostitution, human trafficking, and extortion often committed by harassing or threatening others. As these STG affiliates have such significant

influence over others, it is critical to identify and hold the inmate accountable when he or she has been found guilty of harassment of another person, group, or entity either directly or indirectly through the use of the mail, telephone, or other means with a nexus to the STG.

Subsections 3323(h)(12) through 3323(h)(12)(F) are adopted to incorporate additional Division F charges. This is necessary to address that an offender participating in and being found guilty of these types of charges is demonstrating their willingness to continue to support the STG or show an allegiance to the STG for which CDCR has a zero tolerance policy.

Subsection 3323(h)(13) is adopted to incorporate behavior or activities defined as a division "F" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG into the same credit forfeiture schedule as other behavior which is defined as a division "F". This is necessary to ensure that serious misconduct which includes a nexus to the STG will be identifiable through the disciplinary process as this type of behavior will support the decision to transfer an inmate who was validated from the general population into the SDP in a SHU.

Subsections 3323(i) through 3323(k)(4) remain unchanged.

3334. Behavior Management Unit.

Subsections 3334(a) through 3334(b)(2)(C) remain unchanged.

Subsection 3334(b)(3) is amended to modify the existing terminology to remove "gang" and insert "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. Additionally, new text is adopted to identify that one of the new criteria for placement into the BMU is STG related behavior which does not otherwise warrant placement into the STG SDP. STG related activities and behaviors meeting criteria for consideration of placement into the SDP are identified in Section 3378.4(a), STG Disciplinary Matrix. Modification of this language is required to adapt the existing BMU criteria to allow for placement in the BMU of an inmate who is exhibiting this type of behavior.

Existing subsection 3334(b)(3)(A) is repealed because this criteria for placement into the BMU is no longer applicable.

Subsections 3334(c) through 3334(g)(1)(P) remain unchanged:

Subsection 3334(g)(1)(Q) is amended to correct a spelling error in the existing text. "Dorant" is corrected to Deodorant.

Subsections 3334(g)(1)(R) through 3334(k) remain unchanged.

3335. Administrative Segregation.

Subsections 3335(a) through 3335(e)(1) remain unchanged.

Subsections 3335(e)(2) through 3335(e)(3) are amended to modify the existing terminology to remove the word "gang" and insert the new term "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3335(f) through 3335(g) remain unchanged.

Subsection 3335(h) is amended to modify the existing terminology to remove the word “gang” and insert the new term “STG” to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3335(i) through 3335(j) remain unchanged.

3341.5. Segregated Program Housing Units.

Section 3341.5 Initial paragraph through subsection 3341.5(a)(2) remain unchanged.

Subsection 3341.5(a)(3) is amended to modify the existing terminology to remove the words “prison gang” and insert the new term “STG-I” to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3341.5(a)(4) through 3341.5(c)(1) remains unchanged.

Subsection 3341.5(c)(2) is amended to consolidate, simplify, and reduce redundant language in the text.

Subsection 3341.5(c)(2)(A) is amended to replace “Indeterminate” with “Administrative”. This is necessary to better characterize the set time parameters of the Step Down Program and other SHU administrative placements.

Subsection 3341.5(c)(2)(A)1. Is amended to add the required language needed to establish the Step Down Program Institution Classification Committee reviews. These reviews will occur at 180 day intervals in steps 1 through 3; however, in step 4, they are required every 90 days. This language establishes the review periods.

Subsection 3341.5(c)(2)(A)2. is amended to remove the reference to section 3378(d) and subsection (c)(5), as these sections have changed with the policy being modified and are no longer applicable here. In addition the term “STG affiliate” will replace “prison gang member or associate”. Modification of the existing terminology is necessary to transition to the language developed in the new policy. Additionally, language is being added to reflect that criteria have been developed to assist in determining when segregated housing is appropriate. In the previous policy, once an inmate was validated as a prison gang member or associate, he or she was automatically assessed an administrative period of confinement in the SHU. In the new policy, inmates who are validated as STG-I members will be housed in a SHU, and placed in the SDP, based upon their validation and ICC confirmation. Validated STG-I associates and STG-II members and associates will normally remain housed in general population unless certain levels of confirmed STG behavior exist as part of their validation. This change is necessary to transition to the new policy where all validated affiliates will not automatically be assigned to a SHU.

Subsections 3341.5(c)(2)(A)2.i through 3341.5(c)(2)(A)2.vii are adopted to provide the specific criteria that will be necessary to place an inmate in the SDP at a SHU. These criteria address what is needed as part of initial validation as well as behavioral criteria that will support the transition of a validated affiliate living in a non-segregated setting to the SDP in a SHU. In the previous policy, once an inmate was validated as a prison gang member or associate, he or she was automatically assessed an administrative period of confinement in the SHU. In the new policy, inmates who are validated as STG-I members will be housed in a SHU, and placed in the Step Down Program, based upon their validation. Validated STG-I associates and STG-II

members and associates will normally remain housed in general population unless certain levels of confirmed STG behavior exist as part of their validation and ICC confirmation. This change is necessary to transition to the new policy where all validated affiliates will not automatically be assigned to a SHU.

Subsections 3341.5(c)(2)(A)3 is amended to modify the existing terminology to remove the term indeterminate and insert the term administrative to better characterize the set time parameters of the Step Down Program and other SHU administrative placements.

Subsections 3341.5(c)(2)(B) through 3341.5(c)(3)(C) remain unchanged.

Subsection 3341.5(c)(4) is amended to modify the existing terminology to remove the words "prison gang member or associate" and insert the new term "STG affiliate" and to insert "STG" in lieu of the word "gang" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Existing subsection 3341.5(c)(5) is repealed because the new policy implements a STG SDP, which is designed for participating inmates to complete the SHU component in four years. This will replace the existing six year inactive review process for validated STG affiliates. The SDP will be an individual behavior based program for STG affiliates that will provide graduated housing, enhanced programs, interpersonal interactions, as well as corresponding privilege and personal property enhancements for participating STG affiliates. Inmates will be held accountable for their behavior at the time the Department is made aware of it. If the inmate is currently in the SDP, he or she will be reviewed by the ICC who may choose to restrict the inmate's privileges, or move the inmate back in the existing step or to a previous step depending on the severity of the incident.

New subsection 3341.5(c)(5) is adopted to articulate that a validated STG affiliate will be considered, by ICC, for release to Step 5 in a level 4 general population facility upon completion of the first 4 steps of the SDP. Step 5 is 12 months in length and upon successful completion, the inmate may be considered for transfer to a facility commensurate with his or her placement score and case factors.. This is necessary to describe the transition process for inmates who complete the SDP and the timeframes for the movement. Prompt consideration for transfer upon completion of the SDP will facilitate movement to the next appropriate step for the offender. This is a new process and is not described elsewhere in the regulations.

Existing subsection 3341.5(c)(6) is repealed because this section is no longer correct. It was necessary to change the criteria for return placement to the SHU, in the new policy, for inactive status affiliates and dropout status affiliates. It is described in the revised section below and in section 3378.4(c).

New subsection 3341.5(c)(6) is adopted to articulate that an affiliate on monitored status, inactive-monitored status, inactive status, or validated as a dropout of a STG and placed in general population may be returned to segregation based upon their willingness to continue to participate in STG related behavior or activities. This is necessary to describe the criteria for inmates to be returned to the SDP in a SHU from a non-segregated housing setting. An offender participating in and being found guilty of STG related behavior is demonstrating their willingness to continue to support the STG and show an allegiance to the STG for which CDCR has a zero tolerance policy.

Subsection 3341.5(c)(7) is amended to modify the existing terminology to remove the term indeterminate and insert the term administrative to better characterize the set time parameters of the Step Down Program and other SHU administrative placements.

Subsections 3341.5(c)(8) through 3341.5(c)(10)(B)4. remains unchanged.

New subsections 3341.5(c)(11) through (c)(11)(C) are adopted to describe the process that will be used by ICC when a validated STG affiliate who paroled or discharged from CDCR's jurisdiction, returns to an institution and requires a determination on appropriate housing. This section addresses those inmates who were pending validation, those who were validated and paroled/discharged with MAX custody, and those who were validated but paroled/discharged with other than MAX custody. This is necessary to guide ICC about the factors that should be considered prior to making a decision on appropriate housing for the offender.

3375. Classification Process.

Subsections 3375(a) through 3375(f)(7) remain unchanged.

Subsection 3375(g) is amended to add a new CDCR Form 128-G1, Security Threat Group Unit Classification Committee – Results of Hearing, that will be used by the Security Threat Group Unit Classification Committee to document the committee action. This is necessary because there is information on debriefing and the Step Down Program being provided to the inmate that does not generally appear on the standard CDC Form 128-G, Classification Chrono.

Subsections 3375(g)(1) through 3375(g)(5)(O) remain unchanged.

Subsection 3375(g)(5)(P) is amended to modify the existing terminology to remove the words "gang or disruptive group" and insert the new acronym "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

Subsections 3375(g)(5)(Q) through 3375(l) remain unchanged.

3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(b)(10) remain unchanged.

Existing Subsection 3375.2(b)(11) is relocated to (b)(27) (see below).

Existing Subsection 3375.2(b)(12) is renumbered to (b)(11) and amended to replace the term "gang" with STG.

New Subsection 3375.2(b)(12) is adopted to establish the IMO administrative determinate. All currently validated STG-I affiliates are being seen for a special case by case review by the Departmental Review Board (DRB), where the inmate is reviewed to determine appropriate placement in the SDP. If the DRB decision is to release the inmate to step 5, he or she is assigned an administrative determinate of IMO (Inactive-Monitored). This distinguishes for staff that the inmate has not previously completed the SDP. This is necessary to more accurately identify inmates released from the SHU pursuant to the new policy and for the CDCR to track the activities and behavior of the inmates to evaluate the effectiveness of the policy.

Existing Subsections 3375.2(b)(13) through 3375.2(b)(15) remain unchanged.

New Subsection 3375.2(b)(16) is amended to establish the MON administrative determinate. An inmate is assigned the MON (Monitored) administrative determinate when he or she completes the SDP and is transitioned to step 5 by an ICC. This is necessary to more accurately identify inmates released from the SHU pursuant to the new policy and for the CDCR to track the activities and behavior of the inmates to evaluate the effectiveness of the policy.

New Subsections 3375.2(b)(17) through (b)(26) are renumbered and relocated from existing subsections 3375.2(b)(16) through 3375.2(b)(25) respectively.

New Subsection 3375.2(b)(27) is relocated from existing Subsection (b)(11) and amended to modify the existing administrative determinate from GAN to STG. In addition, there is a need to modify the existing terminology to remove the words "gang membership or association" and insert the new term "STG designation" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. An additional change requires a revision from required to permissive by changing the term "requires" to "may require". This is necessary because in the previous policy, once an inmate was validated as a prison gang member or associate, he or she would automatically require special attention or placement consideration for housing in the SHU. In the new policy, inmates who are validated will be assigned an administrative determinate of STG; however only STG-I members will automatically be housed in a SHU, and placed in the SDP. Validated STG-I associates and STG-II members and associates will normally remain housed in general population; therefore, they may not require special attention or placement consideration.

Existing subsections 3375.2(b)(26) through (b)(29) are relocated and renumbered from subsections (b)(28) through 3375.2(b)(31) respectively.

Subsections 3375.2(b)(29)(A) through (C) (formerly subsections 3375.2(b)(27)(A) through (C)) remain unchanged.

3375.3. CDCR Classification Score Sheet, CDCR Form 839, Calculation.

Section 3375.3 Initial paragraph through subsection 3375.3(a)(4)(A)10. remain unchanged.

Subsection 3375.3(a)(4)(B) is amended to remove the word "gang" and insert the new acronym "STG" to reflect the verbiage used in the new policy.

Subsection 3375.3(a)(4)(B)1. is amended to modify the existing terminology to add clarification that the involvement must have been with a STG or street gang. The CDCR Form 839 deals with historical information as well as, activity which occurred while the inmate was not in CDCR custody; therefore, it is important to ensure the staff who are completing the form understand the type of information to be considered. This is necessary to transition to the language developed in the new STG policy.

Subsection 3375.3(a)(4)(B)2. is amended to reflect a change in the process for symbols/tattoos to be identified and accepted by the CDCR as having a nexus to a specific STG. In the previous process, STG investigators, who were subject matter experts, completed all of the documentation related to an inmates affiliation with a STG. In the new policy, because validated affiliates will remain housed in the general population, it will be incumbent upon institution staff to document the behavior or activities which these inmates are involved in. They will not generally have the expertise to articulate why the symbol or tattoo is used by and

distinctive to the STG. To resolve this issue, the Office of Correctional Safety (OCS) will certify symbols and/or tattoos and will provide the information via a handbook to assist staff with this process. It will be staffs responsibility to describe the tattoo or symbol or symbol in detail and verify through the handbook that it is certified.

Subsection 3375.3(a)(4)(B)3. is amended to remove language from this section that is not necessary to be included. When the assigned caseworker completes the CDCR Form 839, they are reviewing the central file to identify if any documentation exists to reflect the inmate has been found with STG related written materials which might include membership or enemy lists, roll call lists, constitutions, organizational structures, codes, training material, etc., of specific STGs. Once the information is identified, the caseworker enters the appropriate code on the CDCR Form 839. None of the other wording is pertinent to this process; therefore, it is being removed.

Subsection 3375.3(a)(4)(B)4. is amended to modify the existing terminology to remove the word "gang" and insert the new acronym "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. In addition, the age of photographs that can be considered for assignment of this code is being reduced from 6 years to 4 years. This change will bring this section in line with other sections in the new policy. It has been determined by the CDCR that current STG related activity must have occurred within the preceding four years, consistent with the length of the Step Down Program.

Subsection 3375.3(a)(4)(B)5. is amended to modify the existing terminology to remove the word "gang" and insert the new acronym "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. Language is being added to reflect the new administrative and serious rule violations which are being incorporated in these regulations. These did not exist in the previous regulations. This is necessary to establish behavioral expectations for the offender population and hold individual inmates accountable when they are found guilty of participating in this type of STG related behavior. Once the information is identified to exist in the central file, the caseworker enters the appropriate code on the CDCR Form 839. None of the other wording is pertinent to this process; therefore, it is being removed.

Subsection 3375.3(a)(4)(B)6. is amended to reflect changes made to the source item criteria to provide examples of the types of information that can be used within this category. This is necessary to provide clarification for staff on what documentation can be considered in assigning this code; and to ensure consistent application of the various sections of the regulations.

Subsection 3375.3(a)(4)(B)7. is amended to reflect changes made to the source item criteria to provide a more clear description of the term association which shall be more than a chance encounter or an innocuous association, but rather, a pattern or history of encounters that involve STG behavior and/or an occurrence of conducting STG related business. Direct contact with a validated STG affiliate is not necessary to show this association. This is necessary to provide clarification for staff on what assessments should be made in assigning this code; and to ensure consistent application of the various sections of the regulations. The language being removed was transitioned into another source item category.

Subsection 3375.3(a)(4)(B)8. is amended to reflect changes made to the source item criteria to provide a clearer direction regarding assessment of whether the offense was committed for the benefit or promotion of, at the direction of, or in association with an STG. This is necessary

to provide clarification for staff on the circumstances or activities which can be appropriately coded as offenses; and to ensure consistent application of the various sections of the regulations. The language being removed identified examples that were no longer appropriate under the new policy.

Subsection 3375.3(a)(4)(B)9. is amended to modify the existing terminology to remove the word “gang” and insert the new acronym “STG” to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. In addition, the description of legal documents is being expanded to not only include probation officer's reports and court transcripts, but also other legal documents evidencing STG activity. This is necessary to ensure that any legal document that identifies STG related behavior or activity by the inmate can be used to insert this code on the CDCR Form 839.

Subsection 3375.3(a)(4)(B)10. is amended to remove language from this section that is not necessary to be included. When the assigned caseworker completes the CDCR Form 839, they are reviewing the central file to identify if any documentation exists to reflect the inmate has been found with evidence of STG related communication in any form in which it might occur. Once the information is identified, the caseworker enters the appropriate code on the CDCR Form 839. None of the other wording is pertinent to this process; therefore, it is being removed.

Subsections 3375.3(a)(5) through 3375.3(g)(2) remain unchanged.

3376. Classification Committees.

Subsections 3376(a) through 3376(c)(3)(D) remain unchanged.

New subsections 3376(c)(4) through 3376(c)(4)(D) are adopted to authorize and establish the STG Unit Classification Committee. This new committee shall consist of a captain who will act as the chairperson, a correctional counselor II who will act as the recorder, a correctional counselor I, and other staff as required. The STG Unit Classification Committee will establish validation status (e.g., validated, rejected) and assign the level of the validation (e.g., member, associate). This committee will review dropout status affiliate's new disciplinary behavior to determine if a nexus to the STG exists and will review information/intelligence received from outside law enforcement agencies or which occurred outside CDCR jurisdiction to ensure disciplinary processes and/or formal documentation were applied. This committee provides an additional layer of due process.

Subsections 3376(d) through 3376(d)(3)(E) remain unchanged.

New subsections 3376(d)(3)(F) through 3376(d)(3)(F)2. are adopted to outline the responsibilities of the ICC for validated STG affiliate cases. These duties will include the review of the validation package, review of the CDCR Form 128-G1, Security Threat Group Unit Classification Committee-Results of Hearing, and determining the housing and program needs of the inmate. As the highest ranking committee at an institution, the ICC will ensure concurrence with the decision of the STG Unit Classification Committee before making a decision on housing and program needs. This process affords the inmate an additional level of review prior to a final determination of his or her housing needs.

Subsection 3376(d)(4) remains unchanged.

New subsections 3376(d)(5) through 3376(d)(5)(D) are adopted to describe the duties of the newly established STG Unit Classification Committee. This committee is necessary to add an additional layer of due process to the validation and disciplinary procedures for STG affiliates.

3376.1. Departmental Review Board.

Section 3376.1 Initial paragraph through subsection 3376.1(d)(2) remain unchanged.

Subsection 3376.1(d)(3) is amended to remove the reference to the inactive review process. The new policy implements a STG SDP, which is designed for participating inmates to complete the SHU component in four years. This will replace the existing six year inactive review process for validated STG affiliates. The SDP will be an individual behavior based program for STG affiliates that will provide graduated housing, enhanced programs, interpersonal interactions, as well as corresponding privilege and personal property enhancements for participating STG affiliates. Since the inactive review process is being eliminated. This wording becomes obsolete and can be removed.

Subsections 3376.1(d)(4) through 3376.1(d)(7) remain unchanged.

New subsection 3376.1(d)(8) is adopted to designate the circumstances when a validated STG affiliate who has completed the SDP should be referred to the DRB. The policy requires release to Step 5 at a Level IV institution. This additional language will be necessary to guide the ICC that referral to the DRB is required when alternate placement is warranted.

New subsection 3376.1(d)(9) is adopted to provide a secondary audit/confirmation of an STGI member, who may be placed directly into Step 1 of the SDP upon final validation, by an Institution Classification Committee. The subsection also provides that if there is a disagreement by ICC relative to the STG Committee's validation and/or placement into the SDP, the ICC shall refer such cases to the Department Review Board. This policy provides secondary oversight of an STGI member's validation and placement into the SDP.

Subsection 3376.1(e) remains unchanged.

3377.2. Criteria for Assignment of Close Custody.

Subsections 3377.2(a) through 3377.2(b)(4)(C) remain unchanged.

Existing subsection 3377.2(b)(5) is repealed to remove the reference to the inactive review process. The new policy implements a STG SDP, which is designed for participating inmates to complete the SHU component in four years. This will replace the existing six year inactive review process for validated STG affiliates. Since the inactive review process is being eliminated. This wording becomes obsolete and can be removed

New subsection 3377.2(b)(5) is adopted to describe that a validated inmate currently housed in a SHU and who has their custody reduced from MAX due to reclassification as Inactive, Monitored, or Inactive-Monitored shall serve one year at Close B custody, unless other case factors require a more restrictive designation of Close A. This is necessary to describe the custody level that is required to be assigned to a validated inmate who is being reclassified from MAX custody and is consistent with other policies for release from segregated housing, as described in section 3377.2(b).

Subsections 3377.2(b)(6) through 3377.2(c)(5) remain unchanged.

3378. Security Threat Group Identification, Prevention, and Management (formerly Documentation of Critical Case Information). This section title is amended because this section is being repurposed in the new STG policy.

Subsection 3378(a) is amended to modify the existing terminology to remove the words "inmate/parolee" and insert the word "offender" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. The references to CDC Forms 812-A and 812-B are being removed as those forms are obsolete and will no longer be used.

Subsections 3378(b) through 3378(b)(3) are amended to modify the existing terminology to remove the words "inmate/parolee" and insert the word "offender" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy. This language is also being amended to accurately state the form numbers of CDCR Form 812 and CDC Form 812-C.

Subsection 3378(c) remains unchanged.

Subsections 3378(c)(1) through 3378(c)(5) are repealed. Subsections (c)(1) and (c)(2) pertain to the completion of CDC Forms 812-A and 812-B, which are obsolete and will no longer be used. Subsections (c)(3) through (c)(5) are now defined in Section 3000.

Subsections 3378(c)(6) through 3378(c)(6)(G) are relocated and renumbered to new subsection 3378.2(c) through 3378.2(c)(7).

Subsection 3378(c)(7) is repealed because it pertains to the review of the CDC Forms 812-A and 812-B which are obsolete and will no longer be used.

Subsection 3378(c)(8) through 3378(c)(8)(M) are repealed to allow for elimination of the old policy and incorporation of the new policy. The source item criteria contained in this section has been modified in the new policy.

Subsections 3378(d) through 3378(h) are repealed to allow for elimination of the old policy and incorporation of the new policy. The language contained in this section is no longer applicable to the new policy.

Existing section 3378.1, Debriefing Process, is relocated and renumbered to new section 3378.5. (see below)

New section 3378.1 title is adopted to read:

3378.1. Security Threat Group Certification Process.

New subsection 3378.1 Initial paragraph is adopted to state that the CDCR prohibits offenders from creating, promoting, or participating in any STG. This is necessary to establish the requirements for the offender population on the types of behavior that will be considered STG related and ensure the offender population understands the validation process.

New subsection 3378.1(a) through 3378.1(a)(2) are adopted to incorporate new definitions for “Certification” and “STG Threat Assessment” as they relate to the STG certification process. This is necessary to ensure a consistent understanding of the terms being used within the policy.

New subsections 3378.1(b) through 3378.1(b)(12) are adopted to describe the standardized certification criteria that is utilized for groups/gangs to be certified as STGs within CDCR. Prison gangs, disruptive groups, and/or street gangs may be reviewed, categorized, and certified as STGs through the OCS. Initial certification shall be based upon the documented criteria detailed within this section. This is necessary to ensure a standardized and consistent process is followed when certifying a group as a STG within CDCR.

New subsections 3378.1(c) through 3378.1(c)(2) are adopted to identify the two levels of STG designations. Security Threat Group-I consists of groups, gangs, and/or historically based prison gangs that the CDCR has determined to be the most severe threat to the security of the institutions and communities based on a history and propensity for violence and/or influence over other groups. Security Threat Group-II consists of other groups or gangs such as street gangs or disruptive groups comprised of members and associates who may be determined to be in a subservient role to the more dominant STG-I type groups. This is necessary to define and describe the new Security Threat Group designations being utilized in the new policy.

New subsection 3378.1(d) through 3378.1(d)(2) are adopted to outline the process to be followed to request certification, by the Secretary of the CDCR, of a group at the STG-I level. This is necessary to establish a standardized process for staff to follow when requesting the certification of a group at the STG-I level.

New subsections 3378.1(d)(3) through 3378.1(d)(3)(C) are adopted to outline the process to be followed to request re-certification of a group, by the Secretary of the CDCR, at the STG-I level. The recertification of groups at the STG-I level will be conducted at least every four years utilizing criteria in accordance with section 3378.1(b). The Information and/or evidence evaluated in the re-certification process will be no more than four years old. This is necessary to establish a standardized process for staff to follow when requesting that a STG-I remain certified at the current level.

New subsections 3378.1(e) through 3378.1(e)(2) are adopted to outline the process to be followed to request recognition, by the OCS Chief, of a group at the STG-II level. This is necessary to establish a standardized process for staff to follow when requesting the recognition of a group at the STG-II level.

New subsections 3378.1(f) through 3378.1(f)(4) are adopted to outline the process to be followed to request certification of STG related symbols, by the OCS Chief. The CDCR shall review its certification of STG related signs and symbols at least every four years utilizing criteria outlined in the proposed regulations. This is necessary to establish a standardized process for staff to follow when requesting the recognition of a group at the STG-II level and to ensure that certified symbols continue to be used or is adopted by STG.

Existing section 3378.2, Advisement of Rights During Debriefing, is relocated and renumbered to new section 3378.6. (see below)

New section 3378.2 title is adopted to read:

3378.2. Security Threat Group Validation Process.

New section 3378.2 Initial paragraph is adopted to explain the purpose of validation as the formal and objective process for identifying and documenting STG affiliates. The validation process is a strategy for identifying and documenting STG Members, Associates, Suspects, or Dropouts as defined in section 3000.

The STG Policy and Procedure specifically distinguishes the STG validation process and housing/program determination as two separate and distinct components to the STG Management Program. The validation of an STG affiliate is reviewed and ultimately affirmed by an institution's STG Unit Classification Committee, while the secondary process of determination for placement into the SDP in SHU is reviewed and determined by the ICC. The STG Unit Classification Committee evaluates both STG association source items and STG behavioral violations in their determination to validate an STG affiliate. A validated STG-I Associate or STG-II Member or Associate will normally be assigned to general population housing at the time of validation, unless the inmate participated in serious behavior with a nexus to their STG at the time or subsequent to their formal validation. A validated STG-I Member will normally be assigned by ICC to the SDP based upon the inherent leadership role and threat that STG-I members represent to general population institutions.

Validating inmates is critical to ensure that institution staff is able to identify and monitor those individuals who may be planning, organizing, threatening, financing, soliciting or committing unlawful acts of misconduct related to their STG.

New subsection 3378.2(a) is adopted to identify the staff that will have responsibility to initiate, investigate, and affirm/reject the validation of an STG affiliate. This is necessary because assignment of responsibility is necessary to ensure the required work is completed by the appropriate staff.

New subsection 3378.2(b) is adopted to enumerate the formal objective criteria utilized by an STG Investigator to determine an individual's affiliation with a certified or recognized STG through the use of a weighted point system. The validation process is a strategy for identifying and documenting STG members, associates, or suspects. Definitions and validation criteria for these terms are included in this section. Validating inmates is critical to ensure that institution staff is able to identify and monitor those individuals who may be planning, organizing, threatening, financing, soliciting or committing unlawful acts of misconduct related to their STG. Creating a structured procedure is intended to ensure consistent application of the validation criteria throughout the CDCR system.

New subsections 3378.2(b)(1) through 3378.2(b)(14) are adopted to identify and describe the approved CDCR source items criteria. Although placement into the SHU/SDP is based upon behavior with a nexus to a recognized STG, validation of an STG affiliate can occur based upon the sole use of source items criteria or based upon a combination of source item criteria and STG behavior that is reported and adjudicated via the disciplinary process. The STG validation process may take into account source items criteria that may have occurred at any time in an individual's personal STG history. Validation Source Criteria is documented on a new form, the CDCR Form 128-B3, STG Validation Score Sheet. This document is completed by the STG Investigator. Creating structured descriptions for the source items criteria is intended to ensure consistent application of the criteria being used to validate STG affiliates throughout the CDCR system. Each category of source items criteria is also assigned weighted points. The number of points assigned to a source item in the policy is based on the significant level of

evidence of that particular item in establishing a nexus to an STG. The identification of an offender as an STG member or associate requires that the source items relied upon have a combined value of 10 points or greater. This is necessary to ensure that each source item criteria relied upon is assessed objectively and consistently when staff is making validation determinations.

New subsection 3378.2(c) through 3378.2(c)(7) are relocated and renumbered from existing subsections 3378(c)(6) through 3378(c)(6)(G) and are amended to modify the existing language to ensure compliance with processes required in the new policy, which includes an additional level of review the the STG Unit Classification Committee. This section identifies and authorizes two new forms which are the CDCR Form 128-B4, Evidence Disclosure and Interview Notification, and the CDCR Form 128-B5, STG Validation Chrono. Both of these forms are utilized by the STG investigative staff in the validation process. This is necessary to establish a structured process for staff to follow to ensure compliance with the new policy and procedures. These sections are also being amended to remove the word "gang" and insert the word "Security Threat Group" to reflect the verbiage in the new policy.

New subsections 3378.2(d) through 3378.2(d)(6) are adopted to describe the responsibilities of the STG Unit Classification Committee in the Validation Process. It establishes that the case worker shall schedule the offender for appearance before the STG Unit Classification Committee within 30 days of receipt of the CDCR Form 128-B2, in accordance with subsection 3376(d)(5). The STG Unit Classification Committee shall review the validation package noting the recommendations of OCS and make the final determination on acceptance of the validation package based on the totality of the information. The section addresses the various referral options of the committee based on the validation status of the inmate. Development of an additional level of review by the STG Unit Classification Committee and of a standardized process is intended to ensure consistent consideration is being applied throughout the CDCR system.

New subsections 3378.2(e) through (e)(4) are adopted to describe the responsibilities of the ICC in the Validation Process. The STG Policy and Procedure specifically distinguishes the STG validation process and housing/program determination as two separate and distinct components to the STG Management Program. If they concur with the validation, ICC will determine the appropriate housing needs of the inmate. The section addresses the various housing options for consideration of the committee based on the validation status of the inmate. A validated STG-I associate or STG-II member or associate will normally be assigned to general population housing at the time of validation, unless the inmate participated in serious behavior with a nexus to their STG at the time or subsequent to their formal validation. A validated STG-I member will normally be assigned by ICC to the SDP based upon the inherent leadership role and threat the STG-I member represent to general population institutions.

When the ICC is reviewing an offender being validated as an STG-I member and placed into Step 1 of the SDP, the committee will audit/confirm the validation to ensure sufficient evidence exists to demonstrate and support validation and placement at the level of member. This is necessary to afford the ICC oversight to determine if sufficient evidence supports validation and SDP placement. If ICC determines disagreement in the process, the case will be referred to the Department Review Board for final decision making authority.

Development of a standardized process is intended to ensure consistent consideration is being applied by the ICC throughout the CDCR system.

Existing section 3378.3, Transitional Housing Unit, is relocated and renumbered to new section 3378.7. (see below)

New section 3378.3 title is adopted to read:

3378.3. Security Threat Group Step Down Program.

New subsections 3378.3(a) through 3378.3(a)(2) are adopted to provide an overview of the SDP which is an incentive based multi-step process for the management of STG affiliates. The SDP is designed to monitor affiliates, provide progressive programs and privileges, and assist with transition for return to a general population program setting while abstaining from STG behaviors. Participation in each step of the SDP shall require staff to provide the offender with a Notice of Program Expectations. The expectations shall outline the goals, expectations for successful completion, and potential consequences for failure to fully participate and complete each step. Establishment of the SDP is necessary to implement an incremental four year program, which by design will replace the existing six year inactive review process for validated STG affiliates. The SDP will be an individual behavior based program that will provide graduated housing, enhanced programs, increased interpersonal interactions, as well as corresponding privilege and personal property enhancements for participating STG affiliates.

New subsection 3378.3(b) is adopted to establish that STG affiliates placed on an administrative term of confinement shall be housed in a SHU if warranted by the criteria and case factors established in section 3378.2. The offender is required to participate in the SDP and continue with SHU housing through Step 4. This is necessary to make clear the policy regarding the housing of the STG affiliates in a SHU.

New subsection 3378.3(b)(1) is adopted to establish that review periods for validated affiliates in steps 1 and 2 shall be scheduled for appearance before ICC at least every 180 days and will include an assessment of case factors and program participation to ensure appropriate step placement within the SDP. If the offender chooses not to progress through any step of the program, the offender may be returned, by ICC, to one of the previous steps until they request/demonstrate a desire and appropriate behavior for movement into the next step. These steps are designed to be completed in 12 months each, but may also be accelerated by ICC at the 180 day review. This amendment is necessary to establish the minimum review periods and the review criteria for inmates who are assigned in Steps 1 and 2 of the SDP.

New subsection 3378.3(b)(2) is adopted to establish that review periods for validated affiliates in step 3 shall be scheduled for appearance before the ICC at least every 180 days and will include an assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of this step will require a minimum of 12 months program participation, compliance with program expectations, and completion of all required components/curriculum. This is necessary to establish the minimum review periods and program length for inmates who are assigned in Step 3 of the SDP.

New subsection 3378.3(b)(3) is adopted to establish that review periods for validated affiliates in step 4 shall be scheduled for appearance before the ICC at least every 90 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of this step will require a minimum of 12 months program participation, compliance with program expectations, and completion of all required components/curriculum. This is necessary to establish the minimum review periods and program length for inmates who are assigned in Step 4 of the SDP.

New subsection 3378.3(b)(4) is adopted to establish that validated affiliates who fail to comply with requirements of the SDP may be reviewed by ICC and may be subject to disciplinary sanctions and/or program step adjustment in accordance with section 3378.4(b). This is necessary to ensure a standardized and consistent process is followed when addressing inmates who are not complying with the requirements of the SDP.

New subsection 3378.3(b)(5) is adopted to establish the available placement options of a male offender that upon successful completion of step 4, as determined by ICC and based on individual affiliate's behavior, and upon successful completion of the SDP. This is necessary to ensure a standardized and consistent process is followed when addressing an inmate's release to step 5 of the SDP in a non-segregated setting.

New subsection 3378.3(b)(6) is adopted to establish that upon successful completion of step 4, as determined by ICC, a female offender will be reviewed by ICC for release to the general population for 12-months of observation and monitoring (step 5). This is necessary to ensure a standardized and consistent process is followed when addressing an inmate's release to step 5 of the SDP in a non-segregated setting.

New subsections 3378.3(b)(7) through 3378.3(b)(7)(A)4. are adopted to establish that validated affiliates shall transition from SDP in a SHU to Step 5 and shall have their Administrative Determinate changed from STG (Security Threat Group) to MON (Monitored) to identify them as a Monitored Status affiliate. This Monitored Status affiliate will be assigned a custody designation of Close B during the first 12 months assigned to the non-segregated housing, unless other case factors require a higher level of custody. This section also establishes the inmate's custody designation and participation requirements, and also lists the services that will be provided to the inmate during the course of Step 5. This is necessary to ensure a standardized and consistent process is followed when an inmate is received at a non-segregated housing facility to participate in step 5 of the SDP.

New subsection 3378.3(b)(7)(B) is adopted to establish that upon completion of the 12 month observation period (Step 5) with no documented evidence of continued STG behavior, the offender shall be referred to ICC for consideration of transfer to an appropriate facility consistent with his/her placement score and case factors. This is necessary to ensure a standardized and consistent process is followed when an inmate completes step 5 of the SDP and future housing needs are being considered by the ICC.

New subsections 3378.3(b)(8) through 3378.3(b)(8)(D) are adopted to establish that upon transfer to appropriate housing, offenders shall maintain the MON (Monitored) administrative determinate to identify that they continue to be a Monitored Status affiliate. The Monitored Status affiliate will continue to be observed for potential recurrence of STG behavior or activities for an indefinite period of time. The section also identifies areas of enhanced observation for these inmates. This is necessary to establish inmate and staff expectations and to ensure a standardized and consistent process is followed when an inmate completes step 5 of the SDP and he or she is reassigned based on their case factors and safety concerns.

New subsection 3378.3(b)(9) is adopted to establish that privileges for Monitored Status affiliates in step 5 will be consistent with their assigned privilege group. This is necessary to provide guidance to staff on the level of privileges the inmate is entitled to receive.

New section 3378.4 title is adopted to read:

3378.4 Security Threat Group Behavior or Activity.

New subsection 3378.4 Initial paragraph is adopted to set the expectation that CDCR inmates shall not participate in STG activity or behavior. For validated affiliates, the consequences of continued confirmed STG behavior are outlined in the STG Disciplinary Matrix, which is separated into Administrative Rule Violations and Serious Rule Violations. The STG Disciplinary Matrix is intended as a guide to identify STG related behavior. This is necessary as information for inmates and as a reference guide for staff when documenting STG related behavior that is observed.

New subsection 3378.4(a) is adopted to establish that the STG Disciplinary Matrix and SDP Placement Options for the four identified categories of impacted affiliates: validated STG-I associates initial placement into the SDP from general population; STG-II members or associates initial placement into the SDP from general population; validated STG affiliates already participating in the SDP and who, demonstrate continued STG behavior or activities; or validated STG affiliates on Monitored Status, Inactive Status, Inactive-Monitored Status, or Dropout Status.

The behaviors and activities, identified in the matrix, qualify as STG behavior when a nexus has been established between the behavior and an identified STG. The nexus shall be clearly articulated within the narrative of the associated Rules Violation Report and Findings of the Senior Hearing Officer/Hearing Officer.

Implementation of this Disciplinary Matrix will provide a system of individual inmate accountability, will clearly establish the behavior determined to be STG related and whether they are categorized as serious or administrative, and will provide guidance for the ICC's placement decisions by referencing the governing regulatory sections. This is necessary to establish inmate and staff expectations and to ensure a standardized and consistent process is followed.

New subsections 3378.4(b) through 3378.4(b)(7) are adopted to establish the SDP Placement Options. The SDP Placement Options provide direction for placement into and movement within the SDP subsequent to initial validation based on STG behavior identified in the STG Disciplinary Matrix. The date of the ICC's assessment and imposition of an administrative term of confinement shall commence counting toward completion of the specified step of the SDP. If an offender has completed the SDP previously, and is returned for STG related behavior, he or she must normally serve 2 years in Step 1 of the SDP.

The Placement Options are necessary to establish standardized determinates for ICC to use when identifying an appropriate assignment within the SDP.

New subsections 3378.4(c) through 3378.4(c)(1)(B) are adopted to establish when the STG Disciplinary Matrix shall be applied by ICC when considering the transfer and placement of a validated STG-I associate housed in the general population into Step 1 of the SDP at a SHU. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found guilty of STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(2) through 3378.4(c)(2)(B) are adopted to establish when the STG Disciplinary Matrix shall be applied by ICC when considering the transfer and placement of

a validated STG-II affiliate housed in the general population into Step 1 of the SDP at a SHU. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found guilty of STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(3) through 3378.4(c)(3)(C) are adopted to establish when the STG Disciplinary Matrix shall be applied by ICC when considering the transfer and placement of a dropout status affiliate housed in the general population into Step 1 of the SDP at a SHU. This section also makes clear that if the STG related behavior or activity demonstrates a connection to a different STG, the information may be considered in the validation process and/or the disciplinary process, but shall not be used as the sole basis for placement of the inmate into the SDP. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found guilty of STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(4) through 3378.4(c)(4)(B) are adopted to establish when the STG Disciplinary Matrix shall be applied by ICC when considering the transfer and placement of a monitored status affiliate housed in the general population into Step 1 of the SDP at a SHU. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found guilty of STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(5) through 3378.4(c)(5)(B) are adopted to establish when the STG Disciplinary Matrix shall be applied by ICC when considering the transfer and placement of an inactive status or inactive-monitored status affiliate housed in the general population. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found guilty of STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(6) through 3378.4(c)(6)(C) are adopted to establish the circumstances under which the ICC shall consider a validated affiliate for placement into Step 1 of the SDP at a SHU when the circumstances cannot otherwise be addressed through the disciplinary process because the confirmed STG related behavior, occurring within the preceding four year, took place while the offender was outside of a CDCR institution. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is found to be accountable for STG related behavior and an ICC is making a determination on appropriate housing for the inmate.

New subsections 3378.4(c)(7) through 3378.4(c)(7)(D) are adopted to establish the circumstances under which confirmed STG behavior occurs outside the formal disciplinary process, but which may still be considered in the validation process and the SDP placement determination. This section also sets forth the process for documenting and relying on that STG behavior. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate has participated in STG related behavior outside of the jurisdiction of the CDCR.

New subsections 3378.4(c)(8) through 3378.4(c)(8)(C) are adopted to establish the processes by which a validated STG affiliate who paroled or discharged from CDCR jurisdiction and returns to custody will be addressed. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate is returned to the jurisdiction of the CDCR and an ICC is making a determination on appropriate housing for the inmate.

New subsection 3378.4(c)(9) is adopted to identify that STG affiliates actively participating in the SDP, who are found guilty of a Rules Violation Report for behavior identified in the STG Disciplinary Matrix shall be reviewed by ICC within 14 days of completion of the disciplinary process. This is necessary so that the ICC can make a determination regarding the inmate's SHU term and SDP placement in light of the finding of STG related behavior and the disciplinary decision.

New subsection 3378.4(d) is adopted to identify that STG affiliates who are found guilty of a serious rule violation and assessed a determinate SHU term, shall be removed from the SDP and required to complete the determinate SHU term. ICC may give consideration to suspending the remaining SHU term at each scheduled review. This is necessary to give the ICC consistent direction when an inmate commits an intervening serious rules violation.

New section 3378.5 is relocated and renumbered from existing section 3378.1 and is amended to read:

3378.5. Debriefing Process.

New Subsections 3378.5(a) through 3378.5(d) are relocated and renumbered from 3378.1(a) through 3378.1(d) and are amended to make minor modifications to the debriefing process. These changes include modification of wording to be consistent with verbiage used in the new policy. New language has been added to reflect that an offender who is participating in the debriefing process will not always need to be placed in the Transitional Housing Unit, which is now discretionary and not mandatory. Lastly, the duration of the debriefing observation period is being changed to mirror the language contained in section 3378.8. This is necessary for consistency within the regulations and to transition to the language contained in the new policy.

New section 3378.6 is relocated and renumbered from existing section 3378.2 and is amended to read:

3378.6. Advisement of Rights during Debriefing.

New 3378.6 Initial paragraph is relocated and renumbered from 3378.2 Initial paragraph and is amended to modify the existing terminology to remove the words "inmate/parolee" and "gang" and replace them with "offender" and "STG" to reflect the verbiage in the new policy. This is necessary to transition to the language developed in the new STG policy.

New Section 3378.7 Title is adopted to read:

3378.7 Review and Action Following Receipt of Debrief Reports

New subsection 3378.7 Initial paragraph through 3378.7(c)(4) are adopted to establish the procedures that Department staff will follow for the corroboration, documenting, and processing of completed debriefing reports, including the preparation of Rules Violations Reports if applicable. This section also establishes that the role and responsibilities of the ICC in the debriefing process includes determining the following as applicable: appropriate housing determinations, movement within the SDP if the inmate is already in the SDP, or consideration of the determinate SHU term if the inmate is already in the SDP and the behavior occurred prior to his/her placement in the SDP. This is necessary to ensure a standardized and consistent

process is followed when information contained in a debrief report is being utilized to either validate an inmate or return the inmate to the SDP for continuing to participate in STG related behavior.

New section 3378.8 is relocated and renumbered from existing section 3378.3 and is amended to read:

3378.8. Transitional Housing Unit.

New section 3378.8 Initial paragraph through subsections 3378.8(a)(2) are relocated and renumbered from existing section 3378.3 Initial paragraph through subsections 3378.3(a)(2) and are amended to include modification of wording to be consistent with the verbiage used in the new policy. The term "prison gang" is being removed and "STG" is being inserted in the appropriate locations. New language has been added to reflect that an offender who is participating in the debriefing process will not always need to be placed in the Transitional Housing Unit, which is now discretionary and not mandatory. This is necessary for consistency within the regulations and to transition to the language contained in the new policy.

New subsections 3378.8(b) through 3378.8(c)(1) are relocated and renumbered from existing subsections 3378.3(b) through 3378.3(c)(1) and remain unchanged.

New subsection 3378.8(c)(2) is relocated and renumbered from existing subsection 3378.3(c)(2) and is amended to clarify that any disciplinary behavior for which the inmate is found to be accountable through the disciplinary process shall result in referral to the Institution Classification Committee for program review. These changes are necessary to address requirements in the new policy and to avoid ambiguity as to which classification committee the regulation refers.

New subsections 3378.8(c)(2)(A) through 3378.8(c)(2)(B) are adopted to establish the placement options of an inmate found guilty of committing behavior identified in 3378.8(c)(2) that does and does not demonstrate a nexus to the STG. This is necessary to ensure a standardized and consistent process is followed when a validated affiliate has been found guilty of STG related behavior while participating in the debriefing process and is therefore being considered by ICC for return to the SDP.

New subsection 3378.8(c)(3) is adopted to establish that an inmate may elects to discontinue participation in the THU for non-disciplinary related reasons. If that occurs, the inmate shall be scheduled for ICC to determine appropriate placement in the SDP. This is necessary to ensure a standardized and consistent process is followed when an inmate elects to discontinue participation in the THU.

New subsections 3378.8(d) through 3378.8(e) are relocated and renumbered from existing subsections 3378.3(d) through 3378.3(e) and remain unchanged.

New Section 3378.9 Title is adopted to read:

3378.9 Termination of STG Validation Status.

New subsection 3378.9(a) through 3378.9(b)(5) are adopted to establish a process for validated STG I/II associates and members to be able to have their validation status reviewed and terminated based upon individual case factors. This is necessary to ensure a standardized

and consistent process is followed when a validated affiliate has remained free from STG related behavior or activities for a prescribed length of time. The removal of an STG designation from an offender will allow him or her to be eligible to participate in all general program opportunities. Additional action upon an offender who has had their validation terminated would require a new validation process to occur.

3504. Parole Assessment.

Subsection 3504(a) remains unchanged.

Subsection 3504(a)(1) is amended to modify the existing terminology to remove the word “gang” and replace it with “STG”. In addition the CDCR Form 128-B2 is being recognized as the controlling form for STG Validation information now that the CDC Forms 812-A and 812-B are being eliminated. This is necessary to transition to the language developed in the new STG policy.

Subsections 3504(a)(1)(A) through 3504(a)(3)(D) remain unchanged.

Subsection 3504(a)(3)(E) is amended to modify the existing terminology to remove the word gang and replace it with STG. In addition the CDCR Form 128-B2 is being recognized as the controlling form for STG Validation information now that the CDC Forms 812-A is being eliminated. This is necessary to transition to the language developed in the new STG policy.

Subsections 3504(a)(4) through 3504(d) remain unchanged.

3505. Non-Revocable Parole.

Subsections 3505(a) through 3505(a)(5) remain unchanged.

Subsection 3505(a)(6) is amended to modify the existing terminology to remove the “an active or inactive prison gang member or associate” and replace it with “STG-I member or associate”. In addition, the reference to the definition of prison gang member or associate is being changed to section 3000. This is necessary to transition to the language developed in the new STG policy.

Subsections 3505(a)(7) through 3505(c) remain unchanged.

3545. Persons to Participate in Continuous Electronic Monitoring.

Subsections 3545(a) through 3545(c)(4) remain unchanged.

Subsection 3545(c)(5) is amended to remove the word “gang” and replace it with “STG-I” to transition to the language developed in the new STG policy.

Subsections 3545(c)(6) through 3545(d)(7) remain unchanged.

3561. Global Positioning System Technology on Eligible Parolees Designated as High Risk.

Subsections 3561(a) through 3561(b)(1) remain unchanged.

Subsection 3561(b)(2) is amended to modify the existing terminology to remove the words “prison gang, street gang, or disruptive group” and replace it with “STG”. In addition the CDCR Form 128-B2 is being recognized as the controlling form for STG Validation information now that the CDC Forms 812-A and 812-B are being eliminated. This is necessary to transition to the language developed in the new STG policy.

Subsections 3561(b)(3) through 3561(b)(5) remain unchanged.

3651. Penal code Section 186.3 Registrants (Gang Offenders).

Subsections 3651(a) through 3651 (b)(1) remain unchanged.

Subsection 3651(b)(2) is amended to modify the existing terminology to remove the term “gang” and replace it with “STG”. This is necessary to transition to the language developed in the new STG policy.

Subsections 3651(b)(3) through 3651(f) remain unchanged.

3721. Discharge Review Reports.

Subsections 3721(a) through 3721(b)(1)(D) remain unchanged.

Subsection 3721(b)(1)(E) is amended to modify the existing terminology to remove the term “gang” and replace it with “STG” and remove the statement “an active or inactive validated” and replace it with “validated STG-I”. This is necessary to transition to the language developed in the new STG policy.

Subsections 3721(b)(2) through 3721(b)(3)(G) remain unchanged.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underline indicates added or amended text.

3000 Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those that exist in the regulations.

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Affiliate means individual offenders validated as members, associates, or monitored status who are connected or interact with a certified or recognized Security Threat Group.

Confirmed Security Threat Group (STG) Behavior means behavior with a nexus to an STG which is discovered and confirmed to have occurred. Confirmation can be obtained through either a guilty finding in a STG related Rules Violations Report and/or any document that clearly describes the STG behavior/activities incorporated within the validation or continued STG behavior package which is affirmed by an STG Unit Classification Committee.

Debriefing is the formal process by which a Security Threat Group (STG) coordinator/investigator determines whether an offender has abandoned STG affiliation and dropped out of a STG. A subject shall only be debriefed upon their request, although staff may ask if he or she wants to debrief.

Direct Link means any connection between a subject and any person who has been validated as an STG affiliate. This connection does not need to be independently indicative of STG association beyond the requirements for validation source items listed in CCR Section 3378.

Dropout means a validated affiliate who has cooperated in, and successfully completed Phase One and Two of the debriefing process.

Gang means any ongoing formal or informal organization, association or group of three or more persons which has a common name or identifying sign or symbol whose members and/or associates, individually or collectively, engage or have engaged, on behalf of that organization, association, or group, in two or more acts which include: planning, organizing, threatening, financing, soliciting, or committing unlawful acts, or acts of misconduct outside of the California Department of Corrections and Rehabilitation jurisdiction. ~~classified as serious pursuant to section 3315.~~

Inactive Status Affiliate means a validated affiliate who was released from SHU prior to implementation of the Step Down Program. This inmate was not previously identified as having been involved in gang related behavior for a period of six years, was reviewed by a Departmental Review Board and released from the Security Housing Unit.

Inactive-Monitored Status Affiliate means a validated affiliate who was released from the Security Housing Unit concurrent with the implementation of the Step Down Program through a Departmental Review Board hearing.

Monitored Status Affiliate means any offender who has successfully completed Steps 1-4 in the Step Down Program and has been released from a Security Housing Unit.

Offender means any inmate, ward, parolee, or other person currently under the jurisdiction of the CDCR.

Prison Gang means any gang which originated and has its roots within the department or any other prison system. Credit earning for validated prison gang members and associates housed in Administrative Segregation Units (ASU), Security Housing Units (SHU), Psychiatric Services Units (PSU), or Behavior Management Units (BMU) as referenced in Penal Code Section 2933.6 shall apply to inmates validated as STG-I member or associates who are housed in ASU, SHU, PSU, or BMU.

Security Threat Group (STG) means any ongoing formal or informal organization, association, or group of three or more persons which has a common name or identifying sign or symbol whose members and/or associates, individually or collectively, engage or have engaged, on behalf of that organization, association or group, in two or more acts which include, planning, organizing, threatening, financing, soliciting or committing unlawful acts, or acts of misconduct.

Security Threat Group I (STG-I) is a term used to identify and prioritize the level of threat the group presents that affects the safety and security of the institution and public safety. STG-I designation will be reserved for STGs that pose the greatest of these threats. STG-I designation will include, but may not be limited to, traditional prison gangs or similar disruptive groups or gangs that the department has certified to have a history and propensity for violence and/or influence over subservient STGs.

Security Threat Group II (STG-II) is a term used to identify and prioritize the level of threat the group presents that affects the safety and the security of the institution and public safety. The STG-II designation may include, but is not limited to, traditional disruptive groups/street gangs.

Security Threat Group Administrative Directive is an administrative order, approved by the Secretary (or designee) of the CDCR, certifying a group's threat to the safety of staff, offenders, and the security of the institution based on a documented history of, and future propensity for violence.

Security Threat Group (STG) Associate means any offender or any person who, based on documented evidence, is involved periodically or regularly with the members of a STG. STG Associates will be identified through the validation process.

Security Threat Group (STG) Behavior is any documented behavior that promotes, furthers, or assists a STG. This includes, but is not limited to conduct of any person that leads to and includes the commission of an unlawful act and/or violation of policy demonstrating a nexus to a STG.

Security Threat Group (STG) Member means any offender or any person who, based on documented evidence, has been accepted into membership by a STG. STG Members will be identified through the validation process.

Security Threat Group (STG) Suspect means any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. The STG suspect is tracked by STG Investigative staff pending validation. Suspects have attained more than one but less than ten points of validation as described in Section 3378.2(b).

Security Threat Group (STG) Unit Classification Committee is a unit classification committee responsible for making the determination of an inmate's validation status, reviewing Dropout status affiliate's new disciplinary behavior to determine nexus to STG, and reviewing information/intelligence regarding inmate-involved incidents occurring outside CDCR jurisdiction to ensure disciplinary processes and/or formal documentation were applied.

Step Down Program (SDP) is a five-step program that provides inmates placed in a Security Housing Unit (SHU) due to STG validation and/or documented STG behaviors, with a program expectation of discontinuing participation in STG related activities and includes increased incentives to promote positive behavior with the ultimate goal of release from the SHU.

Step Down Program, Step 1 and 2 SHU means the first two of five steps in the step down process-designated for housing of STG affiliates determined to pose the greatest threat to the safety of staff, inmates, and the public, in addition to the security of the prison based upon intelligence and/or confirmed STG behaviors. Steps 1 and 2 are designed to be completed in 12 months each, but may be accelerated at the 180 day review.

Step Down Program, Step 3 and 4 SHU are steps in the five-step program intended to begin reintegration of the STG affiliates by offering program and privilege incentives within a controlled setting and monitoring of program progress for housing of STG affiliates who have completed steps 1 and 2 and continue to pose a threat to the safety of staff, inmates, and the public.

Step Down Program, Step 5. Upon successful completion of all four SHU steps, as determined by Institutional Classification Committee (ICC) and based on individual inmate behavior, the inmate will be endorsed to General Population or similar specialized housing for a 12-month observation period know as Step 5.

Transitional Housing Unit is a general population program designated for the observation phase of the ~~Prison-Gang~~ Debriefing process. This program houses those inmates that are in the second phase of the debriefing process.

Validation means the formal and objective process for identifying and documenting STG affiliates.

Note: Authority cited: Sections 2717.3, 3000.03, 5058 and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5009, 5054, 5068, 7000 et seq. and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Section 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; In re Bittaker,

55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Section 11007, Health and Safety Code; and Madrid v. Cate (U.S.D.C. N.D. Cal. C90-3094 TEH).

Existing section 3023 title is amended to read:

3023. Security Threat Group (STG) Gang Activity.

Existing subsection 3023(a) is renumbered and relocated to 3023(c).

New subsection 3023(a) is adopted to read:

(a) Security Threat Groups (STG) jeopardize public safety, as they promote violence, drug trafficking, extortion, and create substantial risks in prisons, jails and local communities. STG management within prisons requires a comprehensive management strategy that includes prevention, interdiction and rehabilitation. It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to ensure that its employees and inmates are able to work and live without threat of intimidation, injury, and/or death.

Existing subsection 3023(b) is deleted.

~~(b) —Gangs, as defined in section 3000, present a serious threat to the safety and security of California prisons.~~

New subsection 3023(b) is adopted to read:

(b) CDCR has zero tolerance for any STG activity or behavior within its institutions. The STG Identification, Prevention, and Management Policy, as referenced in section 3378, recognizes that STG groups and STG group-like activity pose a significant risk to the safety, security, and orderly operation of its institutions.

Existing subsection 3023(c) is renumbered and relocated to new subsection 3023(d).

New subsection 3023(c) is renumbered and relocated from existing subsection 3023(a) and text is amended to read:

~~(a)(c)~~ Inmates and parolees shall not knowingly promote, further or assist any STG gang as defined in section 3000.

New subsection 3023(d) is renumbered and relocated from existing subsection 3023(c) and text is amended to read:

~~(e)(d)~~ For the purpose of specific STG gang participant identification, the department categorizes STGs gangs into prison gangs and disruptive groups the levels STG-I or STG-II as defined in section 3000. Participation levels within an STG are further categorized in status as Members, Associates, Suspects, and Dropouts as defined in section 3000.

New subsection 3023(e) is adopted to read:

(e) Inmates shall not conspire, attempt, or participate in behavior or activities specifically identified in Section 3314(a)(3)(L) and 3314(a)(3)(M), Administrative Rules Violations, STG

Contraband and Behavior; or Section 3315(a)(3)(Z) and 3314(a)(3)(AA) Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 186.22 and 5054, Penal Code.

3043.4. Non-Credit Earning.

Subsections 3043.4 Initial paragraph through 3043.4(a) remain unchanged.

Subsection 3043.4(b) is amended to read:

(b) An inmate who is placed in SHU, PSU, or ASU for misconduct described in subsection (c) or upon validation as a STG-I prison-gang member or associate is ineligible to earn credits pursuant to Penal Code section 2933 or 2933.05 during the time he or she is in the SHU, PSU, or ASU for that misconduct.

Subsections 3043.4(c) through 3043.4(d) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2931, 2932, 2933, 2933.05, 2933.6, 5054 and 5068, Penal Code.

3044. Inmate Work Groups.

Subsections 3044(a) through 3044(b)(6)(C) remain unchanged.

Subsection 3044(b)(7) is amended to read:

(7) Work Group D-2: Lockup Status. Inmates placed in SHU, PSU, or ASU for disciplinary related offenses described in Penal Code section 2933.6 or upon validation as a STG-I prison gang member or associate are ineligible to earn credits during placement in SHU, PSU, or ASU. Inmates placed in SHU, PSU, or ASU following the commission of any other serious disciplinary infraction(s) are ineligible to earn credits for a period not to exceed the number of disciplinary credits forfeited. Zero credit.

Subsection 3044(b)(7)(A) through 3044(b)(7)(B) remain unchanged.

Subsection 3044(b)(7)(C) is amended to read:

(C) An inmate in, ASU, SHU, or PSU, ~~on indeterminate or determinate lockup status~~ servicing an administrative or determinate SHU term, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 by a classification committee. An inmate assigned to Work Group C at the time of placement in ASU, SHU, or PSU, or who refuses to accept or perform work assignments, shall be assigned Work Group D-2. An inmate released from ASU, SHU, or PSU may be placed back into Work Group C by a classification committee not to exceed the remaining number of disciplinary credits forfeited due to the serious disciplinary infractions(s).

Subsections 3044(b)(7)(D) through 3044(e)(2)(B) remain unchanged. Subsection 3044(e)(2) is shown to provide context.

(2) Privileges for Privilege Group B are as follows:

Subsection 3044(e)(2)(C) is amended to read:

(C) ~~One-half~~ Seventy-five percent (75%) of the maximum monthly canteen draw as authorized by the secretary.

Subsections 3044(e)(2)(D) through 3044(g) remain unchanged. Subsection 3044(g) is shown to provide context.

(g) Privilege Group D:

Subsection 3044(g)(1) is amended to read:

(1) Criteria: Any inmate, with the exception of validated STG affiliates participating in the SDP, undergoing the Debriefing Process, or designated NDS inmates, housed in a special segregation unit, voluntarily or under the provisions of sections 3335-3345 of these regulations who is not assigned to either a full-time or half-time assignment.

Subsection 3044(g)(2) remain unchanged.

Subsection 3044(g)(3) is amended to read:

(3) Privileges and non-privileges for Privilege Group D, other than those listed above, are as follows:

Subsection 3044(g)(3)(A) remains unchanged.

Subsection 3044(g)(3)(B) is amended to read:

(B) ~~One-fourth~~ Twenty-five percent (25%) of the maximum monthly canteen draw as authorized by the secretary.

Subsections 3044(g)(3)(C) through 3044(h)(2)(F) remain unchanged.

New subsections 3044(i) through 3044(i)(2)(D)8. are adopted to read:

(i) Privilege Group S1 through S4 :

(1) Criteria: Participation in the STG SDP.

(2) Privileges and non-privileges for Privilege Groups S1 through S4 are:

(A) S1 for Step 1

1. No Family Visits

2. Visiting during non-work/training hours, limited by available space within facility non-contact visiting room

3. Twenty-five percent (25%) of the maximum monthly canteen draw as authorized by the secretary.

4. Telephone calls on an emergency basis only as determined by institution/facility staff. At the 180-day Institution Classification Committee (ICC) review, if the inmate has met program

expectations and has not been found guilty of STG related behavior, ICC shall authorize one (1) telephone call.

5. Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.

6. The receipt of one personal property package, 30 pounds maximum weight, per year, exclusive of special purchases as provided in Section 3190. Inmates shall be eligible to acquire a personal property package after completion of one year of Privilege Group D or SDP assignment.

7. One photograph – upon completion of 1 year free of serious disciplinary behavior while in SHU.

8. One television or one radio or one television/radio combination unit, clear technology only.

(B) S2 for Step 2

1. No Family Visits.

2. Visiting during non-work/training hours, limited by available space within facility non-contact visiting room.

3. Thirty-five percent (35%) of the maximum monthly canteen draw as authorized by the secretary.

4. One telephone call upon transition to Step 2.

5. Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.

6. The receipt of one personal property package, 30 pounds maximum weight, per year, exclusive of special purchases as provided in Section 3190. Inmates shall be eligible to acquire a personal property package after completion of one year of an SDP assignment.

7. One photograph – upon completion of 1 year free of serious disciplinary behavior while in SHU.

8. One television or one radio or one television/radio combination unit, clear technology only.

(C) S3 for Step 3

1. No Family Visits.

2. Visiting during non-work/training hours, limited by available space within facility non-contact visiting room.

3. Forty-five percent (45%) of the maximum monthly canteen draw as authorized by the secretary.

4. One telephone call upon transition to Step 3 and one additional telephone call upon review and approval of ICC at the 180 day review.

5. Yard access limited by local institution/facility security needs.

6. The receipt of two personal property packages, 30 pounds maximum weight, per year, exclusive of special purchases as provided in Section 3190.

7. One photograph upon transition to Step 3 and one additional photograph upon review and approval of ICC at the 180 day review.

8. One television or one radio or one television/radio combination unit, clear technology only.

(D) S4 for Step 4

1. No Family Visits.

2. Visiting during non-work/training hours, limited by available space within facility non-contact visiting room.

3. Fifty percent (50%) of the maximum monthly canteen draw as authorized by the secretary.

4. One telephone call upon transition to Step 4 and one additional telephone call after review and approval of ICC at each 90 day review.

5. Yard access limited by local institution/facility security needs. Yard activities will include interaction with inmates of diverse affiliations after 6 months of programming within Step 4.
6. The receipt of two personal property packages, 30 pounds maximum weight each, per year, exclusive of special purchases as provided in Section 3190. In addition, receipt of one personal property package, non-food only, 15 pounds maximum weight, per year.
7. One photograph upon transition to Step 4 and one additional photograph upon review and approval of ICC at the third 90 day review.
8. One television and one radio or one television/radio combination unit, clear technology only.

New subsections 3044(j) through 3044(j)(2)(H) are adopted to read:

(j) Privilege Group D for validated affiliates in SHU completing the interview phase of the debriefing process, or for offenders who are in SHU for non-disciplinary reasons.

(1) Criteria: Placement in SHU while completing the interview phase of the debriefing process. Privileges and non-privileges are commensurate with the STG step to which the offender is currently assigned in accordance with Section 3044(i).

(2) Criteria: Placement/Retention in SHU for non-disciplinary reasons. Privileges and non-privileges are:

(A) No Family Visits.

(B) Visiting during non-work/training hours, limited by available space within facility non-contact visiting room.

(C) Fifty percent (50%) of the maximum monthly canteen draw as authorized by the secretary.

(D) One telephone call per quarter.

(E) Yard access limited by local institution/facility security needs.

(F) The receipt of two personal property packages, 30 pounds maximum weight each, per year, exclusive of special purchases as provided in Section 3190. In addition, receipt of one personal property package, non-food only, 15 pounds maximum weight, per year.

(G) One photograph upon completion of each 180 day ICC review.

(H) One television and one radio or one television/radio combination unit, clear technology only.

(3) The local Inter-Disciplinary Treatment Team may further restrict or allow additional authorized personal property, in accordance with the Institution's Psychiatric Services Unit operational procedure, on a case-by-case basis above that allowed by the inmate's assigned Privilege Group.

Note: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and In re Monigold, 205 Cal.App.3d 1224 (1988).

3077. County Assessment Program.

Section 3077 Initial paragraph through subsection 3077(c) remains unchanged.

Subsection 3077(c)(1) is amended to read:

(c)(1) Is a documented and validated STG ~~prison gang or disruptive group~~ member or associate.

Subsections 3077(c)(2) through 3077(d)(3) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 667.5(c), 1203.8 and 5054, Penal Code.

3139. Correspondence between Inmates, Parolees, and Probationers.

Subsection 3139 Initial paragraph is amended to read:

(a) Inmates shall obtain written authorization from the Warden/Regional Parole Administrator or their designee/assigned probation officer, person in charge of the County Jail and/or other State Correctional Systems, at a level not less than Correctional Captain/Facility Captain or Parole Agent III, to correspond with any of the following:

Subsections 3139(a)(1) through (a)(4) remain unchanged.

Subsection 3139(b) is amended to read:

(b) Inmates may initiate requests to correspond with the above by contacting their Correctional Counselor I (CCI). Parolees may initiate request by contacting their Parole Agent (PA).

Inmates may be allowed to correspond with the persons described in subsections 3139(a)(1) through (4) provided those persons meet the criteria of approval of no known STG gang affiliation, or involvement with a known terrorist group or racketeering enterprise.

Subsections 3139(c) through 3139(j) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; Procnier v. Martinez, 416 U.S. 396; and Bell v. Wolfish, 99 S. Ct 1861.

3269. Inmate Housing Assignments.

Section 3269 Initial paragraph remains unchanged.

Subsection 3269(a) is amended to read:

(a) Upon arrival at an institution, facility, or program reception center, a designated custody supervisor shall screen an inmate for an appropriate housing assignment. The screening authority involved in the review and approval of an inmate's housing assignment must evaluate all factors to be considered, including but not limited to:

- Length of sentence.
- Enemies and victimization history.
- Criminal influence demonstrated over other inmates.
- Reason(s) for prior segregation.
- History of "S" suffix determination pursuant to CCR subsection 3377.1(c).

- History of in-cell assaults and/or violence.
- ~~Security Threat Group Prison gang or disruptive group affiliation and/or association.~~
- Nature of commitment offense.
- Documented reports from prior cellmate(s) that the inmate intimidated, threatened, forced, and/or harassed him or her for sex.
- Documentation that the cellmate(s) refused to return to a cell occupied by the inmate because of fear, threats, or abuse perpetrated by the inmate.
- Documentation that the inmate has been the victim of a sexual assault.
- Adjudicated Department Rules Violations Reports (RVR) where the inmate was found guilty as a perpetrator in an act of physical abuse, sexual abuse, sodomy, or other act of force against a cellmate.

Subsection 3269(b) through 3269(g) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: 5054, Penal Code.

3269.1. Integrated Housing.

Section 3269.1 Initial paragraph through subsection 3269.1(d)(3) remain unchanged.

Subsection 3269.1(d)(4) is amended to read:

(d)(4) ~~Security Threat Group Prison gang or disruptive group affiliation or association.~~

Subsections 3269.1(d)(5) through 3269.1(g) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: 5054, Penal Code; Johnson v. California (2005) 543 U.S. 499 [125 S. Ct. 1141], remand of Johnson v. California, (9th Cir. 2007) [Dock. No. CV 95-1192 CBM(BQR)].

3314. Administrative Rule Violations.

Subsections 3314(a) through 3314(a)(3)(K) remain unchanged. Subsection 3314(a)(3) is shown to provide context.

(3) Administrative rule violations include but are not limited to:

New subsection 3314(a)(3)(L) is adopted to read:

(L) Security Threat Group (STG) Contraband: Possessing or displaying any distinctive materials, certified symbols, clothing, signs, colors, artwork, photographs, or other paraphernalia associated with any Security Threat Group as defined in Section 3000. Examples of these materials are identified in section 3378.4.

New subsection 3314(a)(3)(M) is adopted to read:

(M) Security Threat Group (STG) Behavior: Demonstrating or exhibiting any unique behaviors clearly associated with a STG that promotes, furthers or assists any Security Threat Group; as defined in Section 3000. Examples of these behaviors are identified in section 3378.4.

Subsections 3314(b) through 3314(i) remain unchanged.

New subsection 3314(j) is adopted to read:

(j) If the hearing official finds the inmate guilty of a rule violation which includes a nexus to a STG, a copy of the completed Rules Violation Report shall be forwarded to the STG Lieutenant.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3315. Serious Rule Violations.

Subsections 3315(a) through 3315(a)(3)(Y) remain unchanged. Subsection 3315(a)(3) is shown to provide context.

(3) Serious rule violations include but are not limited to:

New subsections 3315(a)(3)(Z) and 3315(a)(3)(AA) are adopted to read:

(Z) Security Threat Group (STG) Directing or Controlling Behavior: Demonstrating activity, behavior or status as a recognized member and/or leader of an STG, which jeopardizes the safety of the public, staff or other inmate(s), and/or the security and orderly operation of the institution.

(AA) Security Threat Group (STG) Disruptive or Violent Behavior: Demonstrating involvement in activities or an event associated with a STG, which jeopardizes the safety of the public, staff or other inmate(s), and/or the security and orderly operation of the institution.

Subsections 3315(b) through 3315(d)(1)(A)3. remain unchanged. Subsection 3315(d)(1)(A) is shown to provide context.

A. An investigative employee, as described in section 3318(a), shall be assigned when the staff designated to classify the serious rule violation determines that:

Subsection 3315(d)(1)(A)4. is adopted to read:

4. The behavior may present a nexus with a Security Threat Group.

Subsections 3315(e) through 3315(g) remain unchanged.

Subsection 3315(h) is adopted to read:

(h) If the hearing official finds the inmate guilty of a rule violation which includes a nexus to a STG, a copy of the completed Rules Violation Report shall be forwarded to the STG Lieutenant.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 295-300.3, 314, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4501.1, 4573.6, 4576, 5054, 5068 and 12020, Penal Code.

3321. Confidential Material.

Subsections 3321(a) through 3321(a)(4) remain unchanged. Subsection 3321(a) is shown to provide context.

(a) The following types of information shall be classified as confidential:

New subsection 3321(a)(5) is adopted to read:

(5) A Security Threat Group debrief report, reviewed and approved by the debriefing subject, for placement in the confidential section of the central file.

Subsection 3321 (b) remains unchanged.

Subsection 3321(b)(1) is amended to read.

(1) No decision shall be based upon information from a confidential source, unless other documentation corroborates information from the source, or unless other circumstantial evidence surrounding the event and the documented reliability of the source satisfies the decision maker(s) that the information is true.

Subsections 3321(b)(2) through 3321(c)(5) remain unchanged. Subsection 3321(c) is shown to provide context.

(c) A confidential source's reliability may be established by one or more of the following criteria:

Subsection 3321(c)(6) is adopted to read.

(6) This source successfully completed a Polygraph examination.

Subsections 3321(d) through 3321(d)(3) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1798.34, 1798.40, 1798.41 and 1798.42, Civil Code; Section 6255, Government Code; Sections 2081.5, 2600, 2601, 2932, 5054 and 5068, Penal Code; and Illinois v. Gates , 462 U.S. 213 (1983).

3323. Disciplinary Credit Forfeiture Schedule.

Subsections 3323(a) through 3323(b)(9) remain unchanged. Subsection 3323(b) is shown to provide context.

(b) Division "A-1" offenses; credit forfeiture of 181-360 days.

New Subsection 3323(b)(10) is adopted to read:

(10) Behavior or activities defined as a division "A-1" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(c) through 3323(c)(9) remain unchanged. Subsection 3323(c) is shown to provide context.

(c) Division "A-2" offenses; credit forfeiture of 151-180 days.

New Subsection 3323(c)(10) is adopted to read:

(10) Behavior or activities defined as a division "A-2" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(d) through 3323(d)(12) remain unchanged. Subsection 3323(d) is shown to provide context.

(d) Division "B" Offenses; credit forfeiture of 121-150 days.

New Subsection 3323(d)(13) is adopted to read:

(13) Behavior or activities defined as a division "B" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(e) through 3323(e)(13) remain unchanged. Subsection 3323(e) is shown to provide context.

(e) Division "C" offenses; credit forfeiture of 91-120 days.

New Subsection 3323(e)(14) is adopted to read:

(14) Behavior or activities defined as a division "C" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(f) through 3323(f)(15) remain unchanged. Subsection 3323(f) is shown to provide context.

(f) Division "D" offenses; credit forfeiture of 61-90 days.

New Subsections 3323(f)(16) and (f)(17) are adopted to read:

(16) Acting in a STG Leadership Role displaying behavior to organize and control other offenders.

(17) Behavior or activities defined as a division "D" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(g) through 3323(g)(10) remain unchanged. Subsection 3323(g) is shown to provide context.

(g) Division "E" offenses; credit forfeiture of 31-60 days.

New Subsection 3323(g)(11) is adopted to read:

(11) Behavior or activities defined as a division "E" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(h) through 3323(h)(10) remain unchanged. Subsection 3323(h) is shown to provide context.

(h) Division "F" offenses; credit forfeiture of 0-30 days.

New Subsections 3323(h)(11) through (h)(13) are adopted to read:

(11) Harassment of another person, group, or entity either directly or indirectly through the use of the mail, telephone, or other means.

(12) Security Threat Group Behavior or Activity.

(A) Recording/documentation of conversations evidencing active STG behavior;

(B) Communication between offenders/others in support or furtherance of STG behavior or activities;

(C) Leading STG Roll Call;

(D) Directing Cadence for STG Group Exercise;

(E) In personal possession of STG related written material including membership or enemy list, roll call lists, constitution, organizational structures, codes, training material, etc.;

(F) In personal possession of mail, notes, greeting cards, or other communications which include coded or explicit messages evidencing active STG behavior.

(13) Behavior or activities defined as a division "F" offense that promotes, furthers, or assists a STG or demonstrates a nexus to the STG.

Subsections 3323(i) through 3323(k)(4) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 148, 241, 243, 295-300.3, 314, 647, 2932, 2933, 4500, 4501, 4501.1, 4573.6, 4576, 4600, 5054 and 12020, Penal Code.

3334. Behavior Management Unit.

Subsections 3334(a) through 3334(b)(2)(C) remain unchanged. Subsection (b) is shown to provide context.

(b) Inmates may be referred to a Classification Committee for placement into the BMU for one or more of the following reasons:

Subsection 3334(b)(3) is amended to read:

(3) Security Threat Group Gang Related Activity. STG related behavior which does not otherwise warrant placement into the STG Step Down Program (SDP). STG related activities and behaviors meeting criteria for consideration of placement into the SDP are identified in Section 3378.4(a), STG Disciplinary Matrix.

Existing subsection 3334(b)(3)(A) is repealed.

~~(A) Any pattern, which consists of two or more documented behaviors which indicates an individual's participation in gang related activity may be grounds for placement in the BMU. Gang related activity is defined as behavior which indicates an inmate's participation in a prison gang, street gang, or disruptive group as defined in section 3000.~~

Subsections 3334(c) through 3334(g)(1)(P) remain unchanged:

Subsection 3334(g)(1)(Q) is amended to read:

(Q) Deodorant ~~Deoant~~/Antiperspirant (stick or roll on, must be clear and in clear container only), four.

Subsections 3334(g)(1)(R) through 3334(k) remain unchanged.

Note: Authority cited: Section 5058 and 5058.3, Penal Code. Reference: Sections 5054, Penal Code.

3335. Administrative Segregation.

Subsections 3335(a) through 3335(e)(1) remain unchanged.

Subsections 3335(e)(2) through 3335(e)(3) are amended to read:

(2) At intervals of not more than 180 days until a pending Division A-1, A-2, or B rules violation report is adjudicated, a court proceeding resulting from a referral to the district attorney for possible prosecution is resolved, or the STG gang validation investigation process is complete. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days.

(3) At intervals of not more than 90 days until completion of the pending investigation of serious misconduct or criminal activity, excluding STG gang validation, or pending resolution of safety and security issues, or investigation of non-disciplinary reasons for segregation placement. Should the completed investigation result in the issuance of a Rules Violation Report and/or a referral to the district attorney for criminal prosecution, an ICC shall review the case, in accordance with the schedule set forth in subsections (1), (2), or (3) above. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days. At that time, if no further matters are pending, but continued segregation placement is required pending transfer to a general population, ICC reviews shall be at least every 90 days until transfer can be accomplished.

Subsections 3335(f) through 3335(g) remain unchanged.

Subsection 3335(h) is amended to read:

(g) Inmates in segregation who have approved Security Housing Unit (SHU) term status, but are still awaiting other processes (i.e., court proceedings, adjudication of other rule violation reports, STG gang validation, etc.), shall be reviewed by an ICC in accordance with the SHU classification process noted in subsection 3341.5(c)(9).

Subsections 3335(i) through 3335(j) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Wright v. Enomoto, (1976) 462 F Supp 397; and Toussaint v. McCarthy (9th Cir. 1986) 801 F2d 1080, cert. denied, 481 U.S. 1069.

3341.5. Segregated Program Housing Units.

Section 3341.5 Initial paragraph through subsection 3341.5(a)(2) remain unchanged. Subsection 3341.5(a) is shown to provide context.

(a) Protective Housing Unit (PHU). An inmate whose safety would be endangered by general population placement may be placed in the PHU providing the following criteria are met:

Subsection 3341.5(a)(3) is amended to read:

(3) The inmate is not documented as ~~a member of~~ an affiliate of a STG-I prison gang.

Subsections 3341.5(a)(4) through 3341.5(c)(1) remain unchanged.

Subsection 3341.5(c)(2) is amended to read:

(2) Length of SHU confinement. ~~Assignment to a SHU may for an indeterminate or a fixed period of time.~~

Subsection 3341.5(c)(2)(A) is amended to read:

(A) ~~Indeterminate~~ Administrative SHU Segregation.

Subsection 3341.5(c)(2)(A)1. is amended to read:

1. An inmate assigned to a security housing unit on an ~~indeterminate~~ administrative SHU term, who is not a validated STG affiliate, shall be reviewed by a classification committee at least every 180 days for consideration of release to the general population. An investigative employee shall not be assigned at these periodic classification committee reviews.

A validated STG affiliate assigned to a security housing unit to participate in the Step Down Program (SDP) shall be reviewed by a classification committee on a schedule that is consistent with section 3378.3(b)(1) through 3378.3(b)(3) for consideration of program participation or movement to the next step of the SDP.

Subsection 3341.5(c)(2)(A)2. Is amended to read:

2. Except as provided at section 3335(a), ~~section 3378(d) and subsection (c)(5)~~, a validated STG affiliate prison gang member or associate, is deemed to be a severe threat to the safety of others or the security of the institution and will be placed in a SHU for an ~~indeterminate administrative term~~, when the following criteria are met:

New Subsections 3341.5(c)(2)(A)2.i through 3341.5(c)(2)(A)2.vii are adopted to read:

i. STG-I Member: upon initial validation and Institutional Classification Committee Confirmation.

ii. STG-I Associate: as part of initial validation, source items include serious documented STG behavior or activity as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.5(c)(9) SHU Term Assessment Chart.

iii. STG-I Associate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.

iv. Inactive Status or Inactive-Monitored Status Affiliate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.

v. STG-II Member or Associate: as part of initial validation, source items include two occurrences, both of which have occurred within four years of the validation date, of serious documented STG behavior or activity, as listed in section 3378.4(a) STG Disciplinary Matrix which are also identified in CCR Section 3341.5(c)(9) SHU Term Assessment Chart.

vi. STG-II Member or Associate: the validated affiliate being found guilty of two serious STG related rules violation reports as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.5(c)(9) SHU Term Assessment Chart within the preceding four (4) years.

vii. Monitored Status or Dropout Status Affiliate: the validated affiliate being found guilty of STG related behavior, as identified in section 3378.4(a) and subsequent to initial validation as follows: 1) two administrative rules violation reports within the preceding 12 months, or 2) one serious rules violation report.

Subsections 3341.5(c)(2)(A)3. is amended to read:

3. Indeterminate Administrative SHU terms suspended based solely on the need for inpatient medical or mental health treatment may be reimposed without subsequent misbehavior if the inmate continues to pose a threat to the safety of others or the security of the institution.

Subsections 3341.5(c)(2)(B) through (c)(3)(C) remain unchanged.

Subsection 3341.5(c)(4) is amended to read:

(4) A validated STG affiliate ~~prison gang member or associate~~ shall be considered for release from SHU, as provided above, after the inmate is verified as a STG gang dropout through a debriefing process.

Existing subsection 3341.5(c)(5) is repealed.

~~(5) As provided at section 3378(e), the Departmental Review Board (DRB) may authorize SHU release for prison gang members or associates categorized as inactive. The term inactive means that the inmate has not been involved in gang activity for a minimum of six (6) years. Inmates categorized as inactive who are suitable for SHU release shall be transferred to the general population of a Level IV facility for a period of observation that shall be no greater than 12 months. Upon completion of the period of observation, the inmate shall be housed in a facility commensurate with his or her safety needs. In the absence of safety needs, the inmate shall be housed in a facility consistent with his or her classification score. The DRB is authorized to retain an inactive gang member or associate in a SHU based on the inmate's past~~

~~or present level of influence in the gang, history of misconduct, history of criminal activity, or other factors indicating the inmate poses a threat to other inmates or institutional security.~~

New subsection 3341.5(c)(5) is adopted to read:

(5) A validated STG affiliate shall be considered for release from SHU upon successful completion of steps 1 through 4 of the STG Step Down Program (SDP), pursuant to section 3378.3. Successful inmates shall be transferred to the general population of a Level IV facility for a 12 month period of observation that shall be considered step 5 of the SDP. Upon completion of step 5, the inmate shall be housed in a facility commensurate with his or her safety needs. In the absence of safety needs, the inmate shall be housed in a facility consistent with his or her classification score.

Existing subsection 3341.5(c)(6) is repealed.

~~(6) As provided at section 3378(f), an inmate categorized as inactive or validated as a dropout of a prison gang and placed in general population may be returned to segregation based upon one reliable source item identifying the inmate as a currently active gang member or associate of the prison gang with which the inmate was previously validated. Current activity is defined as, any documented gang activity within the past six (6) years. The procedures described in this Article shall be utilized for the removal of the inmate from the general population, the review of the initial segregation order, and all periodic reviews of the indeterminate SHU term.~~

New subsection 3341.5(c)(6) is adopted to read:

(6) An affiliate on monitored status, inactive-monitored status, inactive status, or validated as a dropout of a STG and placed in general population may be returned to segregation based upon STG activity/behavior pursuant to section 3378.4(a) identifying the inmate as a currently active affiliate of the STG with which the inmate was previously validated. Current activity is defined as any documented STG activity or behavior within the past four (4) years. The procedures described in Sections 3335 through 3345, and in Article 10, Classification, shall be utilized for the removal of the offender from the general population, the review of the initial segregation order, and all periodic reviews of the STG SHU term.

Subsection 3341.5(c)(7) is amended to read:

(7) ~~Determinate/Indeterminate~~ SHU Terms shall be served in a departmentally approved SHU or facility specifically designated for that purpose, except under those circumstances where the term may be served in ASU. ~~Determinate/Indeterminate~~ SHU terms may also be served in secure inpatient medical or mental health settings, when deemed clinically necessary.

Subsections 3341.5(c)(8) through 3341.5(c)(10)(B)4. remain unchanged.

New Subsections 3341.5(c)(11) through (c)(11)(C) are adopted to read.

(11) A validated STG affiliate who paroled or discharged from CDCR jurisdiction and returns to custody shall be addressed as follows:

(A) An inmate who previously paroled or was discharged with Maximum (MAX) custody while pending validation and is returned to CDCR's custody shall be placed in ASU. The STG Investigator shall obtain the validation package to determine the status of validation and housing

at time of parole/discharge. The validation process shall be completed, as necessary. After review by the STG Unit Classification Committee is completed, the inmate will be referred to ICC for appropriate housing determination.

(B) A validated STG affiliate who previously paroled or was discharged with MAX custody and is returned to CDCR's custody shall be placed in ASU and afforded all procedural safeguards for segregated inmates. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC, as appropriate.

1. While outside of CDCR jurisdiction, the inmate had no documented STG related behavior, ICC shall place the inmate at the beginning of the step that they were in at the time of parole/discharge.

2. While outside of CDCR jurisdiction, the inmate had a documented STG related conviction or good cause finding by a court, ICC shall place the inmate in Step 1 of the SDP.

(C) A validated STG affiliate who previously paroled or was discharged and was designated either inactive, inactive-monitored, monitored, or dropout status and returns to the custody of the CDCR shall be assigned housing based upon current case factors. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC, as appropriate.

ICC shall complete a case by case criteria review to determine if placement into the SDP-Step 1 is appropriate. This review shall consist of commitment offense or good cause finding circumstances which were specifically related to the same STG with which the inmate was previously validated and occurred within the past four years from the date of arrest for this conviction or good cause finding.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al., (N.D. Cal., No. C94-2847).

3375. Classification Process.

Subsections 3375(a) through 3375(f)(7) remain unchanged.

Subsection 3375(g) is amended to read:

(g) Every decision of a classification committee shall be documented on a CDC Form 128-G, Classification Chrono. The Security Threat Group Unit Classification Committee shall be documented on a CDCR Form 128-G1 (Rev. 11/13), Security Threat Group Unit Classification Committee – Results of Hearing, which is incorporated by reference.

Subsections 3375(g)(1) through 3375(g)(5)(O) remain unchanged.

Subsection 3375(g)(5)(P) is amended to read:

(P) Enemy; or STG gang or disruptive group concerns.

Subsections 3375(g)(5)(Q) through 3375(l) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1203.8, 3020, 5054, 5068 and 11191, Penal Code; Section 8550 and 8567, Government Code; and Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; Wright v. Enomoto (1976) 462 F.Supp. 397; Stoneham v. Rushen (1984) 156 Cal.App.3d 302; and Castillo v. Alameida, et al., (N.D. Cal., No. C94-2847).

3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(b)(10) remain unchanged. Subsection 3375.2(b) is shown to provide context.

(b) The following three-letter codes are used to indicate those administrative or irregular placement conditions known as administrative determinants, which may be imposed by departmental officials to override the placement of an inmate at a facility according to his/her placement score.

Existing Subsection 3375.2(b)(11) is relocated to (b)(27) (see below).

Existing Subsection 3375.2(b)(12) is renumbered to (b)(11) and amended to read:

(112) INA. Documentation establishes that the inmate's inactive STG gang status may require special attention or placement considerations.

New subsection 3375.2(b)(12) is adopted to read:

(12) IMO. Inactive-Monitored. Documentation establishes that the inmate was released from SHU concurrent with implementation of the STG SDP through a Departmental Review Board hearing and requires special attention or placement considerations.

Existing Subsections 3375.2(b)(13) through 3375.2(b)(15) remain unchanged.

New Subsection 3375.2(b)(16) is adopted to read:

(16) MON. Monitored. Documentation establishes that the offender's monitored status reflects completion of the STG SDP and requires special attention or placement considerations.

New subsections 3375.2(b)(17) through 3375.2(b)(26) are renumbered and relocated from existing subsections 3375.2(b)(16) through 3375.2(b)(25) respectively as follows:

(176) OUT. Inmate requires placement at a specific facility for an out-to-court appearance. This factor shall also be used when a releasing authority appearance is nearing.

(187) POP. Shall be used only by a CSR to indicate that no beds presently exist at a facility with a security level that is consistent with the inmate's placement score.

(198) PRE. The short time remaining to serve limits or otherwise influences placement or program options for the inmate.

(2049) PSY. Inmate's psychological condition requires special treatment or may severely limit placement options. This factor shall also be used for those inmates who are designated as Category B.

(210) PUB. Shall be used only by a CSR to indicate an inmate is identified as a Public Interest Case as defined in section 3000.

(224) REN. Inmate is currently endorsed to or requires transfer to a Reentry Hub program and a Reentry Hub program is not available at a facility with a security level which is consistent with the inmate's placement score.

(232) SCH. Inmate is involved in an academic program which is not available at a facility with a security level that is consistent with his/her placement score.

(243) SEC. Shall be used only by a CSR to indicate that the inmate has been designated as a Security Concern by an ICC and requires Close B Custody.

(254) SEX. Inmate has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.

(265) SOR. Inmate's bisexual or homosexual orientation may require special placement.

New Subsection 3375.2(b)(27) is relocated from existing Subsection (b)(11) and amended to read:

(27) ~~(14)~~ STG. GAN. Documentation establishes that the Inmate's STG designation may gang membership or association requires special attention or placement consideration.

Existing Subsections 3375.2(b)(26) through (b)(29) are relocated and renumbered to (b)(28) through (b)(31) respectively and remain unchanged.

(286) TIM. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that which is consistent with his/her placement score.

(297) VIO. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under Penal Code section 667.5(c), which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by his/her placement score.

Subsections 3375.2(b)(29)(A) through (C) (formerly subsections 3375.2(b)(27)(A) through (C)) remain unchanged.

(3028) VOC. Inmate is involved in a Career Technical Education program, also referred to as a vocational program, which is not available at a facility with a security level which is consistent with the inmate's placement score.

(3129) WOR. Inmate has a work skill in a critical trade which warrants special placement consideration.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3450, 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Wright v. Enomoto (N.D. Cal. 1976) 462 F. Supp. 397; and Stoneham v. Rushen (1984) 156 Cal. App. 3d 302.

3375.3. CDCR Classification Score Sheet, CDCR Form 839, Calculation.

Section 3375.3 Initial paragraph through subsection 3375.3(a)(4)(A)10. remain unchanged.

Subsection 3375.3(a)(4)(B) is amended to read:

(B) Method of verification code (Box 38). Apply the code that is most indicative of STG gang activity. Enter the appropriate alpha code in Box 38:

Subsections 3375.3(a)(4)(B)1. through (a)(4)(B)10. are amended to read:

1. Code A - Self admission. Staff shall document information about the inmate/parolee's self-admission and specific involvement with the STG/street gang. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.
2. Code B - Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been ~~identified by gang investigators~~ certified by CDCR pursuant to Section 3378.1, as being used by and distinctive to specific STGs/street gangs. Staff shall describe the tattoo or symbol ~~and articulate why it is believed that the tattoo is used by and distinctive of gang association or membership in detail.~~ Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.
3. Code C - Written Material. Any material or documents evidencing STG gang activity such as the membership or enemy lists, roll call lists, constitutions, organizational structures, codes, training material, etc., of specific STGs gangs. ~~Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of association or membership with the gang.~~ Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution
4. Code D - Photographs. Individual or group photographs with STG gang connotations such as those which include insignia, certified symbols, or validated STG gang affiliates. The date of the photograph shall be reasonably ascertained to be no older than four (4) years in order to be considered for a method of verification code. ~~prior to any photo being relied upon for inclusion as a source item. No photograph shall be considered for validation purposes that is estimated to be older than six (6) years.~~ Any photograph being utilized as a source item that depicts STG affiliates ~~gang members~~ shall be required to have at least one of the individuals previously validated by the department, or be validated by the department within six (6) months of the photograph's established or estimated date of origin. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.
5. Code E – Staff Information. Documentation of staff's visual or audible observations which reasonably indicate STG gang activity as described in Subsections 3314 (a)(3)(L) and (M).

Administrative Rules Violations, STG Contraband and Behavior; or Subsections 3315 (a)(3)(Z) and (AA), Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior. Staff shall articulate the basis for determining the content or conduct at issue is STG gang related. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

6. Code F - Other agencies. Information evidencing STG gang activity affiliation provided by other agencies including, but not limited to, police reports, crime reports, or arrest reports evidencing STG conduct, which have not been submitted, considered, and incorporated within received court documents. ~~Verbal~~ Any information from another agency shall be documented by the staff person who receives such information, citing the source and validity of the information. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

7. Code G - Association. Information related to the inmate's association with validated STG gang affiliates. The association shall be more than a chance encounter or an innocuous association, but rather, a pattern or history of encounters that involve STG behavior and/or an occurrence of conducting STG related business. Direct contact with a validated STG affiliate is not necessary to show this association. ~~Information including addresses, names, identities and reasons why such information is indicative of association with a prison gang or disruptive group.~~ Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

8. Code H - Offenses. Where tThe circumstances of an offense indicates that the offense was committed for the benefit or promotion of, at the direction of, or in association with an STG evidence gang activity such as an offense being between rival gangs, the victim is a verified gang affiliate, or the inmate's crime partner is a verified gang affiliate. Staff shall articulate why an offense is gang related. ~~Multiple sources of information relative to a single incident or offense will be considered one source of validation.~~ Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

9. Code I - Legal documents. Probation officer's report, ~~or~~ court transcripts, or other legal documents evidencing STG gang activity. Staff shall assure the document containing this information is disclosed to the inmate/parolee in written form that would not jeopardize the safety of any person or the security of the institution.

10. Code J - Communications. Documentation of ~~telephone~~ conversations, conversations between offenders/others inmates, mail, greeting cards, notes, or other communication, including which include coded or explicit messages evidencing STG gang activity. ~~Staff shall articulate why, based on either the explicit or coded content, the communication is reliable evidence of association or membership with the STG gang.~~ Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.

Subsections 3375.3(a)(5) through 3375.3(g)(2) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3540, 5054 and 5068, Penal Code; Wright v. Enomoto (1976) 462 F Supp. 397; Stoneham v. Rushen (1984) 156 Cal. App. 3d 302; and Castillo v. Alameida, et al. (N.D. Cal., No. C94-2847).

3376. Classification Committees.

Subsections 3376(a) through 3376(c)(3)(D) remain unchanged. Subsection 3376(c) is shown to provide context.

(c) Composition of committees:

New subsections 3376(c)(4) through 3376(c)(4)(D) are adopted to read:

(4) Security Threat Group (STG) Unit Classification Committee shall consist of:

(A) Captain (Chairperson).

(B) Correctional Counselor II (Recorder).

(C) Correctional Counselor I.

(D) Other staff as required.

Subsections 3376(d) through 3376(d)(3)(E) remain unchanged. Subsections 3376(d) and (d)(3) are shown to provide context.

(d) Classification committee functions:

(3) Institution and Facility Classification Committees shall:

New subsections 3376(d)(3)(F) through 3376(d)(3)(F)2. are adopted to read:

(F) For validated STG cases:

1. Review the Validation Package and the CDCR Form 128-G1 (Rev. 11/13), Security Threat Group Unit Classification Committee-Results of Hearing, which is incorporated by reference.

2. Determine a validated STG inmate's housing and program needs.

Subsection 3376(d)(4) remains unchanged.

New subsections 3376(d)(5) through 3376(d)(5)(D) are adopted to read:

(5) Security Threat Group Unit Classification Committee shall:

(A) Review all STG validation packages for accuracy, compliance, and to ensure due process requirements have been met.

(B) Review Dropout status affiliate's new disciplinary behavior for documented nexus to STG behavior as noted in the CDCR Form 115 (Rev. 07/88) Rules Violation Report, which is incorporated by reference, or other source items of intelligence.

(C) Review information or intelligence received from outside law enforcement agencies or which occurred outside CDCR jurisdiction to ensure disciplinary processes or formal documentation were applied, when appropriate.

(D) Refer validated STG cases to ICC for placement consideration in the Step Down Program.

Note: Authority cited: Sections 3303 and 3309, Welfare and Institutions Code; and Sections 5058 and 6252, Penal Code. Reference: Sections 2933, 5054 and 5068, Penal Code.

3376.1. Departmental Review Board.

Section 3376.1 Initial paragraph through subsection 3376.1(d)(2) remain unchanged. Subsection 3376.1(d) is shown to provide context.

(d) Referrals shall be made to the DRB when:

Subsection 3376.1(d)(3) is amended to read:

(3) An institution head believes a DRB level decision for placement of an inmate is required because of an unusual threat to the safety of persons or public interest in the case; e.g., commuted or modified death sentence ~~or classification of an inactive gang member or associate~~. ~~Subsequent DRB reviews of the continued placement of inactive gang members or associate, the DRB is authorized to schedule an earlier review of the placement if the DRB determines that it is reasonable to expect that release from SHU will be granted in less than two years.~~

Subsections 3376.1(d)(4) through 3376.1(d)(7) remain unchanged.

New subsections 3376.1(d)(8) and (d)(9) are adopted to read:

(8) When an inmate has completed Steps 1 – 4 of the Step Down Program and the institution head believes a transfer to an alternate Level IV institution or out-of-level placement is warranted, the institution head will refer the case to the DRB for decision.

(9) When the UCC has recommended that an inmate be validated as a STG-I member, the ICC shall ensure there is sufficient evidence to warrant validation at the level of member. ICC will review the validation documents and all other case factors in their determination of appropriate housing. Any disagreement by the ICC with a STG I member's validation and/or placement into the SDP shall be referred to the DRB for resolution.

Subsection 3376.1(e) remains unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, 5068 and 11191, Penal Code; Section 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; Sandin v. Connor (1995) 515 U.S. 472; and Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146.

3377.2. Criteria for Assignment of Close Custody.

Subsections 3377.2(a) through 3377.2(b)(4)(C) remain unchanged. Subsection 3377.2(b) is shown to provide context.

(b) Close Custody Case Factor Criteria:

Existing subsection 3377.2(b)(5) is repealed.

~~(5) Inactive Prison Gang Member or Associate. An inmate being reduced from Maximum Custody due to reclassification as an inactive prison gang member or associate shall serve at least 1 year at Close B Custody.~~

New subsection 3377.2(b)(5) is adopted to read:

(5) A validated inmate currently housed in a security housing unit and who has their custody reduced from Maximum (MAX) due to reclassification as Inactive, Monitored, or Inactive-Monitored shall serve one year at Close B custody, unless other case factors require a more restrictive designation of Close A. Under no circumstances shall a validated affiliate be released/housed in a minimum security facility or Level I placement.

Subsections 3377.2(b)(6) through 3377.2(c)(5) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Americans With Disability Act (ADA), 42 U.S.C. § 12131, et seq.; and Pennsylvania Department of Corrections v. Yeskey (1998) 524 U.S. 206.

3378. Documentation of Critical Case Information Security Threat Group Identification, Prevention, and Management.

Notice to Printer: Delete the pictures of the CDC Forms 812 (Rev. 08/01), Notice of Critical Case Information- Safety of Persons (Non-Confidential Enemies); CDC 812-A (9/92), Notice of Critical Information – Prison Gang Identification; CDC 812-B (9/92), Notice of Critical Information – Disruptive Group Identification; and 812-C (Rev. 8/01), Notice of Critical Information – Confidential Enemies

Subsection 3378(a) is amended to read:

(a) Any information regarding an offender inmate/parolee which is or may be critical to the safety of persons inside or outside an institution shall be documented as required below on a CDCR Form 812 (Rev. ~~11/13~~ ~~8/01~~), Notice of Critical Case Information -Safety of Persons (Nonconfidential Enemies), which is incorporated by reference; a ~~CDCR Form 812-A (Rev. 9/92), Notice of Critical Information – Prison Gangs Identification; CDCR Form 812-B (Rev. 9/92), Notice of Critical Information – Disruptive Group Identification;~~ and CDC Form 812-C (Rev. 8/01), Notice of Critical Information-Confidential Enemies. The CDCR Form 812, ~~812-A, 812-B,~~ and CDC Form 812-C and all documents referred to on the forms shall be filed in the central file of each identified offender inmate/parolee. Any confidential material affecting the critical case factors of an offender inmate/parolee shall conform to the provisions of section 3321. Entries on these forms shall not be a substitute for detailed documentation required elsewhere in the central file.

Subsections 3378(b) through 3378(b)(3) are amended to read:

(b) A CDCR Form 812, and when applicable a CDC Form 812-C, shall be completed for each newly committed or returned offender inmate/parolee.

(1) The CDCR Form 812 and CDC Form 812-C shall be updated as any critical information becomes known and is documented in the offender's inmate/parolee's central file. The forms shall also be reviewed and updated at the time of any change in the offender's inmate/parolee's status or placement.

(2) Any offender inmate/parolee who claims enemies shall provide sufficient information to positively identify the claimed enemy. Any offender inmate/parolee identified as an enemy shall be interviewed unless such interview would jeopardize an investigation or endanger any person. The results of the interview or investigation which supports, verifies or disproves the information shall be documented on a CDC Form 128-B, General Chrono.

(3) Notations on the CDCR Forms 812 and CDC Form 812-C, or absence thereof, shall not be the sole basis for a staff decision or action which may affect the safety of any person.

Subsection 3378(c) remains unchanged.

Subsections 3378(c)(1) through 3378(c)(5) are repealed.

~~(1) CDC Form 812-A or B shall be completed if an inmate/parolee has been verified as a currently active member/associate, inactive member/associate or dropout gang (prison gang or disruptive group) as defined in section 3000. Current activity is defined as any documented gang activity within six (6) years consistent with section 3341.5(c)(5).~~

~~(2) Information entered onto the CDC Form 812-A or B shall be reviewed and verified by a gang investigator to ensure that the identification of an inmate/parolee as a currently active gang member or associate is supported by at least three independent source items with a combined total of 10 points or more in the inmate/parolee's central file. The independent source items must contain factual information or, if from a confidential source, meet the test of reliability established in section 3321. The verification of an inmate/parolee identified as a gang dropout shall require a formal debriefing conducted or supervised by a gang investigator.~~

~~(3) A member is an inmate/parolee or any person who has been accepted into membership by a gang. This identification requires at least three (3) independent source items of documentation indicative of actual membership. Validation of an inmate/parolee or any person as a member of a prison gang shall require at least one (1) source item be a direct link to a current or former validated member or associate of the gang, or to an inmate/parolee or any person who is validated by the department within six (6) months of the established or estimated date of activity identified in the evidence considered.~~

~~(4) An associate is an inmate/parolee or any person who is involved periodically or regularly with members or associates of a gang. This identification requires at least three (3) independent source items of documentation indicative of association with validated gang members or associates. Validation of an inmate/parolee or any person as an associate of a prison gang shall require at least one (1) source item be a direct link to a current or former validated member or associate of the gang, or to an inmate/parolee or any person who is validated by the department within six (6) months of the established or estimated date of activity identified in the evidence considered.~~

~~(5) A dropout is an inmate/parolee who was either a gang member or associate and has discontinued gang affiliation. This identification requires the inmate/parolee to successfully complete the debriefing process.~~

Existing Subsections 3378(c)(6) through 3378(c)(6)(G) are relocated and renumbered to new subsection 3378.2(c) through 3378.2(c)(7).

Subsection 3378(c)(7) is repealed.

~~(7) The CDC Forms 812-A and 812-B shall be reviewed by a classification committee at each annual hearing and upon any review for transfer consideration. This shall be documented on a CDC Form 128-G (Rev.10/89), Classification Chrono. Questionable gang identifications, notations, or new information shall be referred to a gang investigator for investigation.~~

Subsections 3378(c)(8) through 3378(c)(8)(M) are repealed.

~~(8) The determination of a gang identification shall reference each independent source item in the inmate/parolee's central file. The sources shall be based on the following criteria:~~

~~(A) Self admission. Staff shall document information about the inmate/parolee's self-admission and specific involvement with the gang. Staff shall document and disclose this information to the inmate/~~

~~parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(B) Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been identified by gang investigators as being used by and distinctive to specific gangs. Staff shall describe the tattoo or symbol and articulate why it is believed that the tattoo or symbol is used by and distinctive of gang association or membership. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(C) Written material. Any material or documents evidencing gang activity such as the membership or enemy lists, constitutions, organizational structures, codes, training material, etc., of specific gangs. Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of association or membership with the gang. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(D) Photographs. Individual or group photographs with gang connotations such as those which include insignia, symbols, or validated gang affiliates. The date of a photograph shall be reasonably ascertained prior to any photo being relied upon for inclusion as a source item. No photograph shall be considered for validation purposes that is estimated to be older than six (6) years. Any photograph being utilized as a source item that depicts gang members and/or associates shall require that at least one of the individuals be previously validated by the department, or validated as a member or associate of the gang by the department within six (6) months of the photograph's established or estimated date or origin. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(E) Staff information. Documentation of staff's visual or audible observations which reasonably indicate gang activity. Staff shall articulate the basis for determining the content or conduct at issue is gang related. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(F) Other agencies. Information evidencing gang affiliation provided by other agencies. Verbal information from another agency shall be documented by the staff person who receives such information,~~

~~citing the source and validity of the information. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(G) Association. Information related to the inmate/parolee's association with validated gang affiliates. Information including addresses, names, identities and reasons why such information is indicative of association with a prison gang or disruptive group. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(H) Informants. Documentation of information evidencing gang affiliation from an informant shall indicate the date of the information, whether the information is confidential or nonconfidential, and an evaluation of the informant's reliability. Confidential material shall also meet the requirements established in section 3321. Staff shall articulate how the information specifically relates to the~~

~~inmate's involvement with the gang as a member or associate. The information may be used as a source of validation if the informant provides specific knowledge of how he/she knew the inmate to be involved with the gang as a member or associate. Multiple confidential sources providing information regarding a single gang related incident or behavior shall constitute one (1) source item. Exclusive reliance on hearsay information provided by informants will not be used for validation purposes. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(I) Offenses. Where the circumstances of an offense evidence gang affiliation such as where the offense is between rival gangs, the victim is a verified gang affiliate, or the inmate/parolee's crime partner is a verified gang affiliate. Staff shall articulate why an offense is gang related. Multiple sources of information relative to a single incident or offense will be considered one (1) source of validation. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(J) Legal documents. Probation officer's report or court transcripts evidencing gang activity. Staff shall assure the document containing this information is disclosed to the inmate/parolee in a the security of the institution.~~

~~(K) Visitors. Visits from persons who are documented as gang "runners", or community affiliates, or members of an organization which associates with a gang. Staff shall articulate the basis for determining that the relationship between the visitor and inmate is gang related in nature or that the visitor and inmate engaged in a gang related discussion or gang conduct. Staff shall articulate the basis for identifying the visitor as associated with the gang. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(L) Communications. Documentation of telephone conversations, conversations between inmates, mail, notes, greeting cards, or other communication, including coded messages evidencing gang activity. Staff shall articulate why, based on either the explicit or coded content, the communication is reliable evidence of association or membership with the gang. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

~~(M) Debriefing reports. Documentation resulting from the debriefing required by (c)(2), above. Only information referencing specific gang related acts or conduct shall be considered as a source item. Multiple sources of information relative to a single gang related offense or activity shall be considered a single source of validation. Staff shall document and disclose this information to the inmate/parolee in a written form that would not jeopardize the safety of any person or the security of the institution.~~

Subsections 3378(d) through 3378(h) are repealed.

~~(d) An inmate housed in the general populations as a gang member or associate may be considered for review for inactive status when the inmate has not been identified as having been involved in gang activity for a minimum of two (2) years. Verification of an inmate's inactive status shall be approved or rejected by the OCS, chief or a designee. The approval or rejection shall be forwarded for placement in the inmate's central file. The Institution Classification Committee shall review and consider this determination at the next hearing and upon review for transfer consideration.~~

~~(e) An inmate housed in a security housing unit (SHU) as a gang member or associate may be considered for review of inactive status by the Department Review Board when the inmate has not been identified as having been involved in gang activity for a minimum of six (6) years. Verification of an inmate's inactive status shall be approved or rejected by the chief, OCS, or a designee. The approval or rejection shall be forwarded for placement in the inmate's central file.~~

~~(f) A gang member or associate, who is categorized as inactive or validated as a dropout of a prison gang and released from a SHU, may be removed from the general population or any other placement based upon one reliable source item identifying the inmate as an active gang member or associate of prison gang with which the inmate was previously validated. The source item must identify the inmate as a gang member or associate based on information developed after his or her release from SHU. The source item need not be confidential, but must meet the test of reliability established at section 3321.~~

~~(g) The procedures relating to the initial validation or rejection of gang members or associates as described in this section shall be followed when reviewing the present status of an inactive gang member or associate. Verification of an inmate's/parolee's active status shall be approved or rejected by the chief, OCS, or a designee. This determination shall be forwarded for placement in the inmate's/parolee's central file.~~

~~(h) A classification committee is authorized to return an inmate to a SHU based upon the restoration of the inmate's gang status and a determination that the inmate's present placement endangers institutional security or presents a threat to the safety of others. As provided at section 3341.5, placement in a SHU requires approval by a classification staff representative.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al. (N.D. Cal., No. C94-2847).

Existing Section 3378.1, Debriefing Process, is relocated and renumbered to new section 3378.5.

New Section 3378.1 title is adopted to read:

3378.1. Security Threat Group Certification Process.

New subsection 3378.1 Initial paragraph is adopted to read:

The California Department of Corrections and Rehabilitation (CDCR) prohibits offenders from creating, promoting, or participating in any Security Threat Group (STG). Any offender

engaging in STG related behavior may be subject to criminal prosecution, in addition to any administrative sanctions imposed as a result of CDCR's disciplinary process.

New subsection 3378.1(a) through 3378.1(a)(2) are adopted to read:

(a) Definitions.

(1) Certification of an STG-I or recognition of an STG-II means the formal designation of a group or gang as a security threat group based upon a STG Threat Assessment conducted by the Office of Correctional Safety (OCS). Prison gangs, disruptive groups and/or street gangs may be reviewed, categorized, and certified/recognized as a STG. Initial certification will be based upon the documented severity of the threat to the security of the institution and safety of staff and offenders.

(2) STG Threat Assessment means an official assessment conducted by the OCS for use in the STG certification process. This assessment will specifically identify the reason a STG, based on documented evidence of violence, threat of violence and/or other serious STG behaviors, poses an immediate clear and present danger to the safety of any person or the security of the prison.

New subsections 3378.1(b) through 3378.1(b)(12) are adopted to read:

(b) Security Threat Group Certification Criteria includes the following:

(1) Information from any Federal, State, County, or City correctional or law enforcement agency, identifying the propensity for violence or disruptive nature of the potential STG group being considered for certification.

(2) Consideration with regard to whether the group meets the definition of a STG as defined in section 3000.

(3) History of STG behavior in the community.

(4) Evidence that the group presents a potential threat to the security of the institution and safety of staff and offenders.

(5) History of threatening behavior to staff or offenders safety involving such acts as riots, group disturbances, possession or manufacture of weapons, assault/battery, trafficking of narcotics, extortion and/or coercion of other individuals or groups.

(6) Documentation of violent and/or illegal activities which may also include planning, organizing, threatening, financing, soliciting, or committing unlawful acts.

(7) Group evolution, structure, formalized procedures or bylaws, and/or membership characteristics.

(8) Information concerning group meetings and membership criteria.

(9) Chronology of events or other information evidencing a threat to institutional security or safety of staff and offenders through group activities, associations, and potential security alignments.

(10) Tattoo, symbols, and graffiti documentation.

(11) Group association evidence, including offender and staff interviews.

(12) Available information concerning group philosophy and affiliations.

New subsections 3378.1(c) through 3378.1(c)(2) are adopted to read:

(c) Security Threat Group Designation Levels.

(1) Security Threat Group-I consists of groups, gangs, and/or historically based prison gangs that the CDCR has determined to be the most severe threat to the security of the institutions and communities based on a history and propensity for violence and/or influence over other groups. Based upon their individual threat, clandestine operations, and/or influence over other STG affiliates, inmates who are validated as STG-I members will be placed in the Step Down Program (SDP) and housed in a SHU based solely upon their validation. Validated STG-I associates will normally remain housed in general population, or similar specialized housing, unless confirmed STG behavior, as defined in section 3000, are present. If these behaviors are present, the STG-I associate will be considered by the Institution Classification Committee (ICC) for placement into the SDP pursuant to section 3378.4.

(2) Security Threat Group-II consists of other groups or gangs such as street gangs or disruptive groups comprised of members and associates who may be determined to be in a subservient role to the more dominant STG-I groups. Validated STG-II members or associates will remain housed in general population, or similar specialized housing, unless two or more occurrences of serious STG behaviors and which are also reflected in section 3341.5(c)(9) SHU Term Assessment Chart, are present. If there is confirmed STG behavior present, the STG-II member or associate will be considered by ICC for placement into the SDP pursuant to section 3378.4. Groups identified as STG-II are not required to be certified, as described in this section.

New subsections 3378.1(d) through (d)(3)(C) are adopted to read:

(d) Requests for Certification of a Group at the STG-I level shall include the following:

(1) Staff shall prepare a Security Threat Group Certification Worksheet, which is incorporated by reference, requesting that a STG Threat Assessment be initiated of the identified group. The completed document shall be routed through the chain of command prior to submission to OCS.

(2) The Chief, OCS shall assign staff to complete an official STG Threat Assessment and determine whether the group should be recommended for certification as a STG-I. If recommended for STG-I certification, a STG Administrative Directive will be prepared and routed to the Secretary, CDCR, for review and approval/disapproval.

(3) Re-certification of STG-I Designations.

(A) The CDCR shall review its certification of STG-I designations at least every four years utilizing criteria in accordance with section 3378.1(b).

(B) Information used in the re-certification process shall be no more than four years old.

(C) OCS shall document the results of the re-certification review on a STG Administrative Directive and route to the Secretary, CDCR, and shall request either re-certification or decertification, based upon the level of threat and STG activity noted from the group during the previous four years.

New subsections 3378.1(e) through (e)(2) are adopted to read:

(e) Requests for Recognition of a Group at the STG-II level shall include the following:

(1) Institution Staff or Division Staff shall prepare a memorandum requesting that a STG Threat Assessment be initiated of the identified group. The memorandum shall be routed through the chain of command prior to submission to OCS.

(2) The Chief, OCS shall assign staff to complete a review of the request. The Chief, OCS, shall review all of the information to approve or deny the request for recognition as a STG-II. The Chief, OCS shall sign the memo.

New subsection 3378.1(f) through (f)(4) are adopted to read:

(f) Certification of STG Related Symbols: The process staff will utilize to request certification of a STG related sign or symbol is:

(1) The Hiring Authority/designee of the requesting institution, parole region, or OCS unit, shall seek certification of a sign/symbol by forwarding a written request to OCS.

(2) The request must detail the reason certification of the sign/symbol is warranted and must include:

(A) Description, drawing, photo of sign or symbol.

(B) Translation or meaning of the sign or symbol to the specific STG.

(C) Relevance of the sign or symbol to the specific STG.

(D) Evidence the sign or symbol has been adopted/accepted by the specific STG.

(E) Means by which the information was obtained.

(F) A listing of all corresponding documentation indicative of the sign or symbol being recognized by the specific STG.

(3) The Chief, OCS, or designee shall review the submitted documents and approve/deny the request.

(A) If the certification request is approved, dissemination of the newly certified sign or symbol will be made to DAI Wardens, OCS Agents, the inmate population, and all other interested parties.

(B) Should the request be denied, a response reflecting the details of the denial will be forwarded to the Hiring Authority.

(4) The CDCR shall review its certification of STG related signs and symbols at least every four years utilizing criteria outlined in this section.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

Existing section 3378.2, Advisement of Rights During Debriefing, is relocated and renumbered to new section 3378.6.

New section 3378.2 title is adopted to read:

3378.2. Security Threat Group Validation Process.

New section 3378.2 Initial paragraph is adopted to read:

The formal and objective process for identifying and documenting Security Threat Group (STG) affiliates. Validation is the term used to describe the quality control and due process review of STG identifications. The validation process is a strategy for identifying and documenting STG Members, Associates, Suspects, or Dropouts as defined in section 3000.

New subsection 3378.2(a) is adopted to read:

(a) STG Coordinators/Investigators, the Office of Correctional Safety (OCS), and the STG Unit Classification Committee shall be responsible to initiate, investigate, and affirm/reject the validation of an STG affiliate.

New subsection 3378.2(b) is adopted to read:

(b) The validation process delineates the formal objective criteria utilized by an STG Investigator to determine an individual's affiliation with a certified or recognized STG. Each factor is determined by a weighted point system in order to conclude whether the information taken as a whole is sufficient to establish a nexus to the STG.

Validation process for identifying and documenting STG members, associates, or suspects, which are defined as follows:

Member: Any offender or any person who, based on documented evidence, has been accepted into membership by a STG. STG members will be identified by the STG Investigator through the validation process, reviewed by OCS, and affirmed by the STG Unit Classification Committee.

Initial Validation of an offender as a member requires at least 3 independent source criteria items with a combined value of 10 points or greater coupled with information/activity indicative of a member.

Validation of an offender as a member of a STG-I shall also require that at least one of the criteria source items be a direct link to a current or former validated member or associate of the STG, or to an offender or any person who is validated by the Department within six months of the established or estimated date of activity identified in the evidence considered.

An upgrade from associate to member requires at least three (3) independent source criteria items, there were not previously used in a validation, with a combined value of 10 points or greater coupled with at least 3 of the items of information/activity being indicative of a member.

Associate: Any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. STG associates will be identified by the STG Investigator through the validation process, reviewed by OCS, and affirmed by the STG Unit Classification Committee. Initial validation of an offender as an associate requires at least three independent source criteria items with a combined value of 10 points or greater coupled with information/activity indicative of an associate.

Validation of an offender as an associate of a STG-I shall also require that at least one source criteria item be a direct link to a current or former validated member or associate of the STG, or to an offender or any person who is validated by the Department within six months of the established or estimated date of activity identified in the evidence considered.

Suspect: Any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG. The STG suspect is tracked by STG Investigative staff pending validation. Suspects have attained two or more points of validation and would not be officially validated but tracked for intelligence purposes.

A direct link, as defined in Section 3000, may be established by unilateral action by either party or by the subject's possession of any item connecting the subject to a validated STG affiliate; or for purposes of establishing a direct link, it shall not be necessary for CDCR to demonstrate that the subject had knowledge, actual or implied, of the validated STG affiliate's STG involvement.

Although placement into the Security Housing Unit / Step Down Program (SHU/SDP) is based upon behavior with a nexus to a certified or recognized STG, validation of an STG affiliate can occur based upon the sole use of source criteria items or based upon a combination of source criteria items and STG behavior that is reported and adjudicated via the disciplinary process. The STG validation process may take into account source criteria items that may have occurred at any time in an individual's personal STG history. The determination for placement into the SHU/SDP by an Institution Classification Committee must be based upon serious STG behavior, except as provided for members in section 3378.2(d)(1)(A), which occurred during the preceding four years and has been adjudicated through the inmate disciplinary process.

Validation Source Criteria is documented on the CDCR Form 128-B3 (11/13), Security Threat Group Identification Score Sheet, which is incorporated by reference. This document is completed by the STG Investigator. The source items shall be based on the following criteria:

New subsections 3378.2(b)(1) through 3378.2(b)(14) are adopted to read:

(1) Symbols (Two Points): Hand signs, distinctive clothing, graffiti, etc., which have been certified by CDCR in accordance with Section 3378.1(f) as being used by and distinctive to specific STGs. Staff shall describe the symbol in detail. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(2) Association (Three Points) Information related to the offender's association with validated STG affiliates. The association shall be more than a chance encounter or an innocuous association, but rather, a pattern or history of encounters that involve STG behavior and/or an

occurrence of conducting STG related business. Direct contact with a validated STG affiliate is not necessary to demonstrate this association. Staff shall articulate the basis for determining the conduct is credible evidence of association with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(3) Informants (Three Points): Documentation of information evidencing STG affiliation from an informant shall indicate the date of the information, whether the information is confidential or non-confidential, and an evaluation of the informant's reliability. Confidential material shall also meet the requirements established in section 3321. Staff shall articulate how the information specifically relates to the offender's involvement with the STG. The information may be used as a source of validation if the informant provides specific knowledge of how he/she knew the offender to be involved with the STG. Multiple confidential sources providing information regarding a single STG related incident or behavior shall constitute one (1) source item. Exclusive reliance on hearsay information provided by informants will not be used for validation purposes. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(4) Debrief Reports (Three Points): Only information referencing specific STG related acts or conduct shall be considered as a source item, when utilizing information from another offender's debriefing. Confidential material obtained from a debrief report shall also meet the requirements established in section 3321. Multiple sources of information relative to a single STG related act or conduct shall be considered a single source of validation. Exclusive reliance on hearsay information provided by debriefing inmate will not be used for validation purposes. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(5) Written Materials (Offender identified in written material not in his possession-Two Points; Personal Possession-Four Points): Any material or documents evidencing STG activity such as the membership or enemy lists, roll call lists, constitutions, organizational structures, codes, training material, etc., of specific STGs or addresses, names, identities of validated STG affiliates. Although the item by itself may not evidence STG activity, when considered with other STG activity/behavior, it gives credence to a STG nexus. Staff shall articulate why, based on either the explicit or coded content, the written material is reliable evidence of affiliation with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(6) Photographs (Four Points): Individual or group photographs with STG connotations such as those which include insignia, certified symbols, or other validated STG affiliates. The date or age of a photograph shall be reasonably ascertained prior to any photo being relied upon for inclusion as a source item. No photograph shall be considered for validation purposes that is estimated to be older than four (4) years. Any photograph being utilized as a source item that depicts STG affiliates shall require that at least one of the individuals be previously validated by the Department, or validated by the Department within six (6) months of the photograph's established or estimated date of origin. Staff shall document the validation date for any individual in the photograph who was validated within six months of the photograph's established or estimated date of origin. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(7) Staff Information (Four Points): Documentation of staff's visual or audible observations which reasonably indicate STG activity as described in Subsections 3314 (a)(3)(L) and (M), Administrative Rules Violations, STG Contraband and Behavior; or Subsections 3315 (a)(3)(Z) and (AA), Serious Rules Violations, STG Violent, Disruptive, or Controlling Behavior. Staff shall articulate the basis for determining the content or conduct at issue is STG related. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(8) Other Agencies (Four Points): Information identifying STG affiliation provided by other agencies including, but not limited to, police reports, crime reports, or arrest reports evidencing STG conduct, which have not been submitted, considered, and incorporated within received court documents. Any information received from another agency shall be documented by the staff person who receives such information, citing the source and validity of the information. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(9) Visitors (Four Points): Visits from persons or entities that are documented as willfully promoting, furthering or assisting STG affiliates in activities associated with the STG. Staff shall articulate the basis for concluding the relationship between the visitor(s) and offender is STG related in nature or that the visitor(s) and offender engaged in conduct related to the STG. Staff shall articulate the basis for identifying the visitor(s) as associated with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(10) Communications (Four Points): Documentation of conversations, conversations between offenders/others, mail, notes, greeting cards, or other communication, which include explicit or coded messages evidencing STG activity. Staff shall articulate why, based on either the explicit or coded content, the communication is reliable evidence of affiliation with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(11) Self Admission (Five Points): Staff shall document information about an offender's verbal, written or otherwise implied admission and specific involvement with the STG. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(12) Offenses (Six Points): When circumstances of an offense conclude that the offense was committed for the benefit or promotion of, at the direction of, or in association with an STG. Staff shall articulate the basis for determining an offense to be STG related. Multiple sources of information relative to a single incident or offense will be considered one (1) source of validation. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(13) Tattoos and/or Body Markings (Six Points): Tattoos and/or body markings depicting symbols that have been certified by CDCR in accordance with Section 3378.1(f) as being used by and distinctive to a specific STG. Staff shall describe the tattoo and/or body marking in detail. Staff shall document and disclose this information to the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

(14) Legal Documents (Seven Points): Court transcripts, Probation Officer's reports, or other legal documents evidencing STG conduct. Staff shall document and disclose this information to

the offender in a written form that would not jeopardize the safety of any person or the security of the institution.

New subsection 3378.2(c) through 3378.2(c)(7) are relocated and renumbered from existing subsections 3378(c)(6) through 3378(c)(6)(G) and are amended to read:

~~(6)(c)~~ The verification of an inmate/parolee's gang identification shall be validated or rejected by the Chief, Office of Correctional Safety (OCS), or a designee validation process is a critical component of identifying and curtailing STG behavior. Once an offender has been identified as a STG affiliate and vetted through the validation process. CDCR staff shall track their movement, monitor their conduct, and take interdiction action, as necessary.

~~(C)(1)~~ All source criteria items referenced in the validation package or inactive status review shall be disclosed to the offender utilizing a CDCR Form 128-B4 (11/13), Evidence Disclosure and Interview Notification, which is incorporated by reference inmate/parolee at the time of notification. The offender inmate/parolee shall be given copies of all non-confidential documents unless otherwise requested in writing by the offender inmate/parolee. Confidential information used in the validation package or inactive status review shall be disclosed to the offender inmate/parolee via a CDCR Form 1030 (Rev. 11/13 42/86), Confidential Information Disclosure Form, which is incorporated by reference.

~~(B)(2)~~ Inmates Offenders shall be given written notice at least 24 72 hours in advance notice of the validation interview. The interview with the STG Investigator or designee may be held earlier if the offender inmate waives, in writing, the 24 72-hour preparation period.

~~(F)(3)~~ The offender's inmate's mental health status and/or need for staff assistance shall be evaluated prior to the interview. Staff assistance shall be assigned per guidelines set forth in section 3318.

~~(A)(4)~~ Prior to submission of a validation package to the OCS, or during the inactive status review process, the subject of the investigation shall be interviewed by the STG Institution Gang Investigator, or designee, and given an meaningful opportunity to be heard in regard to the source items used in the validation or inactive status review.

~~(D)(5)~~ The interview shall be documented and include a record of the inmate's/parolee's opinion on each of the source items used in the validation. Staff shall record this information and provide a written record to the inmate/parolee to include an evaluation and conclusion on each item for which the inmate has provided a rebuttal. The assigned staff shall record this information, via CDCR Form 128-B5 (11/13), STG Validation Chrono, which is incorporated by reference. If through the review and interview process, a source item is determined to not have merit, the assigned staff shall document that further investigation shows no merit on the CDCR Form 128-B5. Staff will provide a copy to the subject within 14 calendar days and prior to submission of the validation package to the OCS.

~~(E)(6)~~ The documented interview CDCR Form 128-B5 shall be submitted with the validation package to the OCS for a recommendation consideration to approve affirm or reject the validation. The documented interview shall be submitted with the inactive status review to the OCS for consideration of the inmate's/parolee's continued current active or inactive status.

~~(G)(7)~~ The recommendation for validation and/or rejection of evidence relied upon shall be documented on a CDCR Form 128-B2 (Rev. 11/13 5/95), Security Threat Group Gang

Validation/Rejection Review, which is incorporated by reference, and be forwarded to the facility or parole region of origin for processing. If the inmate is currently housed in a CDCR institution, the CDCR Form 128-B2 will be review by the STG Unit Classification Committee. ~~for~~ placement in the inmate/parolee's central file. Upon receipt of the CDCR Form 128-B2, the Classification and Parole Representative or Parole Administrator I, or their designee, shall clearly note in some permanent manner upon the face of every document whether or not the item met validation requirements.

New subsections 3378.2(d) through (d)(6) are adopted to read:

(d) STG Unit Classification Committee. The STG Investigator via the assigned counselor shall schedule the offender for appearance before the STG Unit Classification Committee within 30 days of receipt of the CDCR Form 128-B2, in accordance with subsection 3376(d)(5). The STG Unit Classification Committee shall review the validation package noting the recommendations of OCS and make the final determination on acceptance of the validation package based on the totality of the information.

(1) If the STG affiliate is validated as an STG-I member, the offender shall be referred to the Institution Classification Committee (ICC) for transfer and placement in Step 1 of the Step Down Program (SDP) in the Security Housing Unit (SHU) and Classification Staff Representative (CSR) for transfer consideration.

(2) If the STG affiliate is validated as an STG-I Associate, and has one STG related serious Rules Violation Report (RVR) as listed in the section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.5(c)(9) SHU Term Assessment Chart that is being used as a validation source item, the offender shall be referred to ICC for transfer consideration to Step 1 of the SDP in the SHU.

(3) If the STG affiliate is validated as an STG-II Member or Associate, and has two STG related serious RVRs as listed in the section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.5(c)(9) SHU Term Assessment Chart, the offender shall be referred to ICC for program review and consideration of placement in Step 1 of the SDP in the SHU.

(4) An inmate who is housed in the Administrative Segregation Unit pending validation, whose validation is rejected, and who does not have documented STG behavior or whose behavior is determined to be non-STG related, shall be scheduled for ICC for release to appropriate general population housing unless other case factors warrant retention.

(5) An inmate who is housed in general population, validated as a STG-I Associate or any STG-II affiliate and who does not have a serious STG related RVRs as listed in section 3378.4(a) STG Disciplinary Matrix or identified in section 3341.5(c)(9) SHU Term Assessment Chart, may not require referral to ICC and may be retained in appropriate general population housing.

(6) An inmate who is housed in general population, whose validation is rejected, and who does not have documented STG behavior, shall not require referral to ICC.

New subsections 3378.2(e) through (e)(4) are adopted to read:

(e) Institution Classification Committee. When the UCC has recommended that an inmate be validated as a STG-I member, the ICC shall ensure there is sufficient evidence to warrant validation at the level of member. ICC will review the validation documents and all other case

factors in their determination of appropriate housing. Any disagreement by the ICC with a STG I member's validation and/or placement into the SDP shall be referred to the DRB for resolution. If the ICC concurs with the validation, the inmate's housing needs will be as follows:

(1) STG-I Member: Placement in Step 1 of the SDP at a SHU, as determined appropriate by ICC

(2) STG-I Associate

(A) If the validation source items include serious documented STG behavior or activity as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.5(c)(9) SHU Term Assessment Chart – requires referral for transfer to Step 1 of the SDP at a SHU and endorsement by the CSR.

(B) If the inmate has been found to be accountable for serious STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in CCR Section 3341.5(c)(9) SHU Term Assessment Chart, which occurred since the date of the Validation Interview, this will require consideration of referral for transfer to Step 1 of the SDP at a SHU and if necessary, endorsement by the Classification Services Representative.

(C) If the validation source items do not meet the designated behavioral criteria for SDP placement – release to general population unless the placement score or case factors have changed and the inmate requires further housing consideration.

(3) STG-II Member or Associate

(A) If the validation source items include two occurrences, both of which have occurred within four years of the validation date, of serious documented STG behavior or activity, as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in CCR Section 3341.5(c)(9) SHU Term Assessment Chart – requires referral for transfer to Step 1 of the SDP at a SHU and endorsement by the CSR.

(B) If the inmate has been found to be accountable for serious STG related behavior, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in CCR Section 3341.5(c)(9) SHU Term Assessment Chart, which occurred since the date of the Validation Interview, this will require consideration of referral for transfer to Step 1 of the SDP at a SHU and if necessary, endorsement by the CSR.

(C) If the validation source items do not meet the designated behavioral criteria for SDP placement – release to general population unless the placement score or case factors have changed and the inmate requires further housing consideration.

(4) The date of the ICC's assessment and imposition of an Administrative SHU term for the SDP shall establish the start date toward completion of Step 1 of the SDP at a SHU. Applicable privileges, in accordance with Section 3044(i) shall be initiated upon the inmate's arrival at the SHU facility.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al. (N.D. Cal., No. C94-2847).

Existing section 3378.3, Transitional Housing Unit, is relocated and renumbered to new section 3378.7.

New section 3378.3 title is adopted to read:

3378.3. Security Threat Group Step Down Program.

New subsections 3378.3(a) through 3378.3(a)(2) are adopted to read:

(a) The Step Down Program (SDP) is an incentive based multi-step process for the management of Security Threat Group (STG) affiliates. The SDP is designed to monitor affiliates and assist with transition for return to a general population program setting.

(1) Participation in each step of the SDP shall require staff to provide the offender with CDCR Form 128B SDP1 (11/13), Step Down Program Notice of Expectations (Step 1); CDCR Form 128B SDP2 (11/13), Step Down Program Notice of Expectations (Step 2); CDCR Form 128B SDP3 (11/13), Step Down Program Notice of Expectations (Step 3); CDCR Form 128B SDP4 (11/13), Step Down Program Notice of Expectations (Step 4); or CDCR Form 128B SDP5 (11/13), Notice of conditions of Monitored Status (Step 5), all of which are incorporated by reference. The expectations shall outline the goals, expectations for successful completion, and potential consequences for failure to fully participate and complete each step.

(2) Each program step provides progressive programs and privileges and it is the responsibility of the affiliate to demonstrate they can be released to a less restrictive environment while abstaining from STG behaviors. If the offender chooses not to progress through any step of the program, the offender may be returned, by ICC, to one of the previous steps until they demonstrate appropriate behavior for movement into the next step. At any time the inmate wishes to begin participating in the SDP, they may notify their assigned counselor who will schedule their appearance before the ICC within 30 days.

New subsections 3378.3(b) through (b)(9) are adopted to read:

(b) STG affiliates placed on an administrative term of confinement based upon STG Validation shall be housed in a Security Housing Unit (SHU). The offender is required to participate in the SDP and remain in SHU housing through Step 4.

(1) Validated affiliates in steps 1 and 2 shall be scheduled for appearance before the Institution Classification Committee (ICC) at least every 180 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Steps 1 and 2 are designed to be completed in 12 months each, but may be accelerated by ICC at the 180 day review. Criteria for the inmate to be retained in the step at the 180 day ICC review are as follows: 1) the inmate has not completed all required program components; and/or 2) the inmate has been found guilty of a RVR for STG related behavior. Successful completion of these steps will require program participation, compliance with program expectations, and completion of all required components/curriculum. Steps 1 and 2 are primarily intended as periods of observation.

(2) Validated affiliates in step 3 shall be scheduled for appearance before the ICC at least every 180 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of Step 3 will require a minimum of 12

months program participation, compliance with program expectations, and completion of all required components/curriculum.

(3) Validated affiliates in step 4 shall be scheduled for appearance before the ICC at least every 90 days for assessment of case factors and program participation to ensure appropriate step placement within the SDP. Successful completion of Step 4 will require a minimum of 12 months program participation, compliance with program expectations, and completion of all required components/curriculum.

(4) Validated offenders who fail to comply with requirements of the SDP may be reviewed by ICC and may be subject to disciplinary sanctions and/or program step adjustment in accordance with section 3378.4(b).

(5) Upon successful completion of step 4, as determined by ICC and based on individual affiliate's behavior, a male offender shall be referred to the Classification Staff Representative (CSR) for endorsement to a Level IV facility, for a 12-month observation period (Step 5) regardless of the offender's placement score. When an inmate has completed the SDP and the institution head believes a transfer to an alternate Level IV institution or out of level placement is warranted, the institution head will refer the case to the DRB for decision.

(6) Upon the successful completion of step 4, as determined by ICC, a female offender will be reviewed by ICC for release to the general population for 12-months of observation and monitoring (step 5).

(7) Validated affiliates shall transition from SDP in a SHU to Step 5 and shall be identified as Monitored Status with a custody designation of Close B, as described in Section 3377.1, during the first 12 months assigned to the designated General Population facility or similar specialized housing, unless other case factors require a higher level of custody.

(A) Offenders shall receive orientation at the designated Step 5 institution. The orientation shall include, but not be limited to:

1. STG Investigator interview

2. Referral to Mental Health

3. Unit orientation

4. Mandatory Urinary Analysis Testing (initial 12 months)

5. Initial Classification Committee to include attendance by the STG Investigator with consideration for rehabilitative program enrollment as identified through departmentally approved assessment tools (i.e., TABE), Education, and STG management needs.

6. Establishment of 12-month observation period

(B) Upon completion of the 12 month observation period (Step 5) with no documented evidence of continued STG behavior, the offender shall be referred to ICC for consideration of transfer to an appropriate facility consistent with his/her placement score and case factors.

(8) Upon transfer to appropriate housing, offenders shall continue to be identified as Monitored Status for potential recurrence of STG behavior or activities for an indefinite period of time. Monitored Status affiliates are subject to the following:

(A) Enhanced cell search occurrences as determined necessary.

(B) Enhanced mail scan.

(C) Enhanced telephone call monitoring.

(D) Periodic STG Investigator interviews.

(9) Participation in the SDP affords STG affiliates the opportunity to earn enhanced privileges consistent with their ability to reintegrate, effectively interact with others, and refrain from STG behavior/activities. STG affiliates participating in the SDP shall be placed in privilege group "S1" through "S4" in accordance with section 3044(i). Monitored Status affiliates (Step 5) will be allowed privileges associated with their assigned privilege group.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

New section 3378.4 title is adopted to read:

3378.4 Security Threat Group Behavior or Activity.

CDCR inmates shall not participate in STG activity or behavior. For validated affiliates, the consequences of continued confirmed STG behavior are outlined in the STG Disciplinary Matrix below. STG behaviors or activities included in the STG Disciplinary Matrix are separated into Administrative Rule Violations and Serious Rule Violations.

New subsection 3378.4(a) is adopted to read:

(a) The STG Disciplinary Matrix in conjunction with the SDP Placement Options addresses four categories of impacted affiliates:

- Validated STG-I Associates Initial Placement into the SDP from general population.
- STG-II Members or Associates Initial Placement into the SDP from general population.
- Validated STG affiliates assigned in the SDP, demonstrating continued STG behavior or activities.
- Validated STG affiliates on Monitored Status, Inactive Status, Inactive-Monitored Status, or Dropout Status.

The following behaviors and activities qualify as STG behavior, when a nexus has been established between the behavior and an identified STG. The nexus shall be clearly articulated in the specific act, as well as clearly described within the narrative of the associated Rules Violation Report and Findings of the Senior Hearing Officer/Hearing Officer.

STG DISCIPLINARY MATRIX		
Behavior/Activity With Nexus to STG	Administrative or Serious	SDP Placement Options (Section

		<u>3378.4(b)</u>
<p><u>Section 1:</u></p> <p>a) <u>Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-offender or offender;</u></p> <p>b) <u>Assault or Battery capable of causing serious injury; Assault or battery with a deadly weapon or caustic substance capable of causing serious injury, solicitation for offense;</u></p> <p>c) <u>Taking a hostage;</u></p> <p>d) <u>Possession of a firearm, explosive device, or weapon which has been manufactured or modified so as to have the obvious intent or capability of inflicting traumatic injury, and which is under the immediate or identifiable control of the offender;</u></p> <p>e) <u>Escape or attempted escape with force or violence</u></p> <p>f) <u>Rape, sodomy, or oral copulation against the victim's will.</u></p>	<u>Serious</u>	<u>3378.4(b)(2)</u> <u>3378.4(b)(3)</u> <u>3378.4(b)(6)</u> <u>3378.4(b)(7)</u>
<p><u>Section 2:</u></p> <p>a) <u>Introduction, Trafficking, or Distribution of any Controlled Substance (as defined in Section 3000);</u></p> <p>b) <u>Arson involving damage to a structure or causing serious bodily injury.</u></p> <p>c) <u>Possession of flammable, explosive, or combustible material with intent to burn any structure or property;</u></p> <p>d) <u>Extortion or Threat by Means of Force or Violence, including requiring payment for protection/insurance or intimidating any person on behalf of the STG;</u></p> <p>e) <u>Threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staffs' immediate family;</u></p> <p>f) <u>Any other felony involving violence or injury to a victim and not specifically identified on this chart.</u></p>	<u>Serious</u>	<u>3378.4(b)(2)</u> <u>3378.4(b)(3)</u> <u>3378.4(b)(5)</u> <u>3378.4(b)(6)</u> <u>3378.4(b)(7)</u>
<p><u>Section 3:</u></p> <p>a) <u>Battery on a Peace Officer or non-offender not involving use of a weapon;</u></p> <p>b) <u>Assault on a Peace Officer or non-offender by any means likely or not likely to cause great bodily injury;</u></p> <p>c) <u>Assault or battery on a prisoner with no serious injury;</u></p> <p>d) <u>Destruction of state property valued in excess of \$400 dollars during a riot or disturbance;</u></p> <p>e) <u>Theft, embezzlement, arson, destruction, or damage to another's personal property, state funds, or state property valued in excess of \$400;</u></p> <p>f) <u>Any felony not involving violence or the use of a weapon not listed in this schedule with a direct nexus to STG Behavior.</u></p>	<u>Serious</u>	<u>3378.4(b)(2)</u> <u>3378.4(b)(3)</u> <u>3378.4(b)(5)</u> <u>3378.4(b)(6)</u> <u>3378.4(b)(7)</u>
<u>Section 4:</u>	<u>Serious</u>	<u>3378.4(b)(2)</u>

<ul style="list-style-type: none"> a) <u>Bribery of a non-offender;</u> b) <u>Leading/Inciting a disturbance, riot, or strike;</u> c) <u>Active participation in, or attempting to cause conditions likely to threaten institution security;</u> d) <u>Willfully resisting, delaying, or obstructing any peace officer in the performance of duties;</u> e) <u>Possession of Cell Phone or Components;</u> f) <u>Acting in a Leadership Role displaying behavior to organize and control other offenders within the STG;</u> 		<u>3378.4(b)(3)</u> <u>3378.4(b)(4)</u> <u>3378.4(b)(5)</u> <u>3378.4(b)(7)</u>
<p><u>Section 5:</u></p> <ul style="list-style-type: none"> a) <u>Gambling;</u> b) <u>Tagging, or otherwise defacing state property valued at less than \$950, with symbols or slogans intended to promote affiliation with a STG.</u> 	<u>Serious</u>	<u>3378.4(b)(2)</u> <u>3378.4(b)(4)</u> <u>3378.4(b)(7)</u>
<p><u>Section 6:</u></p> <ul style="list-style-type: none"> a) <u>STG Related Tattoos and/or Body Markings (new since most recent arrival in CDCR and not previously documented);</u> b) <u>Recording/documentation of conversations evidencing active STG behavior;</u> c) <u>Harassment of another person, group or entity either directly or indirectly through the use of the mail, telephone, or other means;</u> d) <u>Communications between offenders/others evidencing active STG behavior;</u> e) <u>Leading STG Roll Call;</u> f) <u>Directing Cadence for STG Group Exercise;</u> g) <u>In Personal Possession of STG related Written Material including Membership or Enemy List, Roll Call Lists, Constitution, Organizational Structures, Codes, Training Material, etc.;</u> h) <u>In Personal Possession of mail, notes, greeting cards or other communication (electronic or non-electronic) which include coded or explicit messages evidencing active STG behavior;</u> 	<u>Serious</u>	<u>3378.4(b)(2)</u> <u>3378.4(b)(4)</u> <u>3378.4(b)(7)</u>
<p><u>Section 7:</u> <u>Except as otherwise specified in this section, proven attempts to commit or an offender who conspires to commit any of the above listed offenses shall receive the term range specified for that offense.</u></p>	<u>Serious</u>	<u>Identified in Section 3378.4(b)</u>
<p><u>Section 8:</u></p> <ul style="list-style-type: none"> a) <u>Active Participation in STG Roll Call;</u> b) <u>Participating in STG Group Exercise;</u> c) <u>Using hand signs, gestures, handshakes, slogans, distinctive clothing, graffiti which specifically relate to an STG;</u> d) <u>Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, emblems, badges, certified symbols, signs, or other STG items which promote affiliation in a STG;</u> 	<u>Administrative</u>	<u>3378.4(b)(1)</u> <u>3378.4(b)(4)</u> <u>3378.4(b)(7)</u>

<p>e) <u>In Possession of artwork, mail, notes, greeting cards, letters or other STG items clearly depicting certified STG symbols;</u></p> <p>f) <u>In Possession of photographs that depict STG association. Must include STG connotations such as insignia, certified symbols, or other validated STG affiliates.</u></p> <p>g) <u>In possession of contact information (i.e., addresses, telephone numbers, etc.) for validated STG affiliates or individuals who have been confirmed to have assisted the STG in illicit behavior.</u></p>		
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New subsections 3378.4(b) through 3378.4(b)(7) are adopted to read:

(b) SDP Placement Options provide direction for placement into and movement within the SDP subsequent to initial validation based on STG behavior identified in the STG Disciplinary Matrix. Staff shall utilize the SDP Placement Options Column of the STG Disciplinary Matrix to determine the options available for consideration by the Institution Classification Committee (ICC). The date of the ICC's assessment and imposition of an administrative term of confinement shall commence counting toward completion of the specified step of the SDP.

(1) Initial Placement (subsequent to validation): Requires placement at the beginning of Step 1. The behavioral criteria for initial placement is the validated affiliate being found guilty of two STG related administrative rules violations within the preceding twelve months.

(2) Initial Placement (subsequent to validation): Requires placement at the beginning of Step 1. The behavioral criteria for initial placement is the validated affiliate being found guilty of one STG related serious rules violation.

(3) Initial Placement (subsequent to validation): Requires placement at the beginning of Step 1. The behavioral criteria for initial placement is the validated affiliate being found guilty of two STG related serious rules violations which are also included in section 3341.5(c)(9).

(4) Active SDP Violators: ICC shall consider regression within the current step (1 – 12 months). Placement may be at any month within the current step to allow for completion of the balance of the step prior to moving forward to the next step.

(5) Active SDP Violators: If appropriate, assess and suspend SHU term (as authorized in section 3341.5). ICC shall consider regression to the previous step (1 to 12 months). Placement may be at any month within the previous step to allow for completion of the balance of the step prior to moving forward to the next step.

(6) Active SDP Violators: If appropriate, assess and suspend SHU term (as authorized in section 3341.5). ICC shall consider regression to Step 1 (1 to 12 months). Placement may be at any month within Step 1 to allow for completion of the balance of the step prior to moving forward to the next step.

(7) Monitored, Inactive, or Inactive-Monitored Status Violators: Requires placement at the beginning of Step 1. If appropriate, assess and suspend SHU term (as authorized in section 3341.5). If the offender has been found guilty of STG related rules violations, it requires two administrative violations within the preceding twelve months or one serious rule violation.

If offender has completed the SDP previously, he/she must normally serve 2 years in Step 1 of the SDP.

New subsections 3378.4(c) through (c)(9) are adopted to read:

(c) The STG Disciplinary Matrix shall be applied as follows:

(1) ICC shall consider a validated STG-I associate housed in the general population for transfer and placement into Step 1 of the SDP at a SHU for one of the following with a demonstrated nexus to an STG:

(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.

(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.

(2) ICC shall consider a validated STG-II affiliate housed in the general population for transfer and placement into Step 1 of the SDP at a SHU for the following with a demonstrated nexus to an STG: Being found guilty of two Serious Rules Violation Reports identified in section 3378.4(a) STG Disciplinary Matrix which are also identified in section 3341.5(c)(9) SHU Term Assessment Chart. Both behaviors must have occurred within the last four years.

(3) The STG Unit Classification Committee and ICC shall consider a dropout status affiliate housed in the general population for transfer and placement into Step 1 of the SDP at a SHU for one of the following with a demonstrated nexus to an STG:

(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.

(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.

(C) The STG related behavior must have occurred after the dropout status affiliate's release from a Transitional Housing Unit (THU). In addition, the behavior or activity must identify the inmate as an active STG member or associate of the same STG with which the inmate was previously validated. If the STG related behavior or activity demonstrates a connection to a different STG, the information may be considered in the validation process and/or the disciplinary process, but shall not be used as the sole basis for placement of the inmate into the SDP.

(4) ICC shall consider a monitored status affiliate housed in the general population for transfer and placement into Step 1 of the SDP at a SHU for one of the following with a demonstrated nexus to an STG:

(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within the preceding 12 months.

(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.

(5) ICC shall consider an inactive status affiliate or inactive-monitored status affiliate housed in the general population for transfer and placement into Step 1 of the SDP at a SHU for one of the following with a demonstrated nexus to an STG:

(A) Being found guilty of two Administrative Rules Violation Reports identified in the STG Disciplinary Matrix within preceding last 12 months.

(B) Being found guilty of one Serious Rules Violation Report identified in the STG Disciplinary Matrix.

(6) ICC shall consider a validated affiliate for placement into Step 1 of the SDP at a SHU if all of the following are present:

(A) Behavior, activity or intelligence items as identified in section 3378.2(b) totaling at least 10 additional source points and identified subsequent to the initial validation process. This process shall only be utilized if the circumstances cannot otherwise be addressed through the disciplinary process; and

(B) STG related behavior is identified to have occurred while an inmate has been discharged, is on parole/probation, is out to court, is in federal/municipal custody, or otherwise outside of the CDCR's jurisdiction; and

(C) The source points must have a nexus to the STG to which the inmate was formally validated, and have occurred within the preceding four years.

(7) For confirmed STG behavior that is identified to have occurred while an offender is outside the jurisdiction of the CDCR, has been discharged, is on parole/probation, is out to court, or is in federal/municipal custody:

(A) A STG affiliate with confirmed STG behavior or intelligence from an outside law enforcement agency or which occurred outside the jurisdiction of the department or formal disciplinary process shall be documented in a CDC Form 128-B (Rev. 4/74), General Chrono. (marked "confidential", if appropriate), which is incorporated by reference. The activity or behavior must have occurred within the last four years. Investigators shall establish reliability per section 3321 when confidential information is used and shall be recorded within the chrono.

(B) Confirmed STG behavior may be used in the initial validation process of an inmate and/or be used to establish continued STG behavior of a validated affiliate that may warrant placement into the SDP.

(C) Investigative Staff shall be responsible to initiate or update a CDCR Form 128-B3 (11/13), STG Identification Score Sheet, which is incorporated by reference, anytime confirmed STG behavior occurs and cannot be addressed through the disciplinary process.

(D) Confirmed STG behavior, activity, or intelligence items as identified in section 3378.2(b) Validation Source Criteria, which accumulates a total of at least 10 additional source points during the preceding four years, and identified subsequent to the initial validation process, is subject to STG Unit Classification Committee and/or ICC review for placement into the SDP.

(8) A validated STG affiliate who paroled or discharged from CDCR jurisdiction and returns to custody shall be addressed as follows:

(A) An inmate who previously paroled or was discharged with maximum (MAX) custody due to pending validation and is returned to CDCR's custody shall be placed in the Administrative Segregation Unit (ASU). The STG Investigator shall obtain the validation package to determine the status of validation and housing at time of parole/discharge. The validation process shall be completed, as necessary. After review by the STG Unit Classification Committee is completed, the inmate will be referred to ICC for appropriate housing determination.

(B) A validated STG affiliate who previously paroled or was discharged with MAX custody and is returned to CDCR's custody shall be placed in ASU. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC in accordance with section 3341.5(c)(11), as appropriate.

(C) A validated STG affiliate who previously paroled or was discharged and was designated either inactive, inactive-monitored, monitored, or dropout status and returns to the custody of the CDCR shall be assigned housing based upon current case factors. The STG Investigator will determine if there has been STG related behavior while the inmate was outside CDCR jurisdiction. The inmate will be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC in accordance with section 3341.5(c)(11), as appropriate.

(9) STG affiliates actively participating in the SDP, who are found guilty of a Rules Violation Report identified in the STG Disciplinary Matrix shall be reviewed by ICC within 14 days of completion of the disciplinary process.

New subsection 3378.4(d) is adopted to read:

(d) Offenders who are found guilty of a serious rule violation and assessed a determinate SHU term, shall be removed from the SDP and required to complete the determinate SHU term. ICC may give consideration to suspending the remaining SHU term at each scheduled review.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al. (N.D. Cal., No. C94-2847).

New section 3378.5 is relocated and renumbered from existing section 3378.1 and is amended to read:

3378.15. Debriefing Process.

New Subsections 3378.5(a) through 3378.5(d) are relocated and renumbered from 3378.1(a) through 3378.1(d) and are amended to read:

(a) Debriefing is the process by which a STG gang coordinator/investigator determines whether an offender inmate/parolee (subject) has dropped out of a STG gang. A subject shall be debriefed only upon his or her request, although staff may ask a subject if he or she wants to debrief. Debriefing shall entail may include a two-step process that ~~includes~~ consists of an interview phase and an observation phase. An evaluation of the need for the observation phase

will be based upon individual case factors including the STG affiliate's housing prior to beginning the debriefing process. ICC may elect to bypass placement in the Transitional Housing Unit (THU) if the offender was housed in general population. Offenders who were housed in segregated housing will normally complete the THU. Female offenders who complete the interview phase of the debriefing process shall complete the observation phase in a general population institution.

(b) The purpose of the debriefing interview is to provide staff with information about the STG's gang's structure, activities, and affiliates. A debriefing is not for the purpose of acquiring incriminating evidence against the subject. The object of a debriefing is to learn enough about the subject and the subject's current STG gang to: (1) allow staff to reasonably conclude that the subject has dropped out of the STG gang, and (2) allow staff to reclassify the subject based upon the offender's inmate's needs in conjunction with the security of the institution, as well as, the safety and security of staff and other offenders inmates. A requirement of the interview phase is that the offender inmate provides staff a written autobiography of their gang STG involvement, which is then verified by staff for completeness and accuracy.

(c) Offenders inmates undergoing the debriefing process ~~shall~~ may be subject to a period of observation in a housing setting with other offenders inmates who are also undergoing the debriefing process. The period of observation shall be ~~no greater than 12~~ up to 6 months in duration.

(d) Upon completion of the debriefing process, the offender inmate shall be housed in a facility commensurate with the offender's inmate's safety needs. In the absence of safety needs, the offender inmate shall be housed in a facility consistent with his or her ~~classification~~ placement score and other case factors.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; and Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800.

New section 3378.6 is relocated and renumbered from existing section 3378.2 and is amended to read:

3378.26. Advisement of Rights during Debriefing.

New Section 3378.6 Initial paragraph is relocated and renumbered from 3378.2 Initial paragraph and is amended to read:

A waiver of the right against self-incrimination is not a precondition of an offender inmate/parolee (subject) undergoing a debriefing since the information is provided for administrative purposes. A subject shall not be required to complete the debriefing process and the subject is free to terminate the debriefing at any time. If, during a debriefing, a subject makes a statement that tends to incriminate the subject in a crime, the Security Threat Group (STG) gang coordinator/investigator may stop any discussion about the matter and continue on with another topic. Prior to questioning the subject about the incriminating matter, the subject must waive the right against self-incrimination. The decision by the subject to exercise the right against self-incrimination shall not affect the determination of whether the subject successfully participated in the debriefing.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; and Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800.

New Section 3378.7 Title is adopted to read:

3378.7 Review and Action Following Receipt of Debrief Reports

New section 3378.7 Initial paragraph is adopted to read:

Upon receipt of a completed Debrief Report by institution staff, the following process will be followed:

New subsection 3378.7(a) through 3378.7(c)(4) is adopted to read:

(a) STG investigative staff will review the report to identify inmates (other than the debriefing inmate) who are addressed in the report and currently housed at the institution.

(1) STG behavior or activity by the identified inmate which is documented in the Debrief Report shall be investigated by STG staff or their designee to establish facts in corroboration of the information being provided.

(2) Staff shall document the findings of the investigation in a CDC Form 128-B General Chrono (Rev. 4/74), which is incorporated by reference, marked "Confidential", or in memorandum. Staff shall prepare a CDCR Form 1030 (11/13), Confidential Information Disclosure Form, which is incorporated by reference, as appropriate, documenting as much information as can be disclosed without identifying the source.

(3) STG behavior or activity determined to have occurred within CDCR jurisdiction and within the previous four (4) years shall be reviewed by the STG Lieutenant or an appropriate Lieutenant to determine if the activity/behavior warrants issuance of Rules Violation Report, in accordance with section 3378.4(a) STG Disciplinary Matrix.

(4) Staff shall prepare a CDC Form 115 (07/88), Rules Violation Report, which is incorporated by reference, as appropriate, documenting the information as received from the confidential source and any pertinent information gleaned through the investigation.

(5) The disciplinary process will proceed as outlined in Sections 3310 through 3326, Inmate Discipline.

(6) Dependant upon the STG status/designation of the inmate, the completed CDCR Form 115 shall be referred to the STG Unit Classification Committee in accordance with section 3376(d)(5) or ICC in accordance with section 3341.5(c)(11) for review of the inmate's activities/behavior.

(b) STG behavior or activity determined to have occurred outside the jurisdiction of the department or formal disciplinary process shall be documented in a CDCR Form 128-B (4/74), General Chrono. The completed CDC Form 128-B shall be referred to the STG Lieutenant for consideration of validation and/or referral to appropriate staff for the inmate's placement in the SDP in accordance with section 3378.4(c)(7).

(c) The ICC will consider information obtained from approved Debrief Reports as follows:

(1) STG related behavior or activities must have occurred within the last 4 years to be considered in making housing determinations.

(2) If the inmate is already in the SDP and the behavior occurred while he/she was in the SDP, utilize the SDP Placement Options as described in section 3378.4(b) to determine appropriate movement within the SDP.

(3) If the inmate is already in the SDP and the behavior occurred prior to his/her placement in the SDP, the inmate may be eligible for consideration of the Determinate SHU Term; however, there shall be no impact to the inmate's SDP placement.

(4) If the inmate is not in the SDP, addressing the behavior and/or housing needs will be in accordance with section 3378.4(c)

New section 3378.8 is relocated and renumbered from existing section 3378.3 and is amended to read:

3378.38. Transitional Housing Unit.

New section 3378.8 Initial paragraph through subsections 3378.8(a)(2) are relocated and renumbered from existing section 3378.3 Initial paragraph through subsections 3378.3(a)(2) and are amended to read:

The Transitional Housing Unit (THU) shall provide a program of observation to evaluate that an inmate has successfully disassociated from STG prison-gang activity and is capable of programming in a general population (GP) setting. Inmates must have completed the debriefing process from a validated STG prison-gang, as described in section 3378.45, in order to be placed into the THU. Placement into the THU can be from either a Security Housing Unit or from GP. THU inmates shall be housed separately from other GP inmates due to potential safety concerns.

(a) The debriefing process is designed to review, monitor and evaluate each individual and ensure that the inmate participating in the debriefing process is not a threat to staff or other inmates, and has sincerely renounced all STG related prison-gang activities. A period of observation and adjustment may will follow the debriefing process to ensure that an inmate will be able to program in a GP setting with inmates of diverse backgrounds all races and ethnic groups, as well as other disassociated STG prison-gang members/associates. STG affiliates housed in general population or similar specialized housing prior to beginning the debriefing process may bypass placement in the Transitional Housing Unit, as authorized by ICC. Female offenders who complete the interview phase of the debriefing process, shall complete the observation phase in a general population institution. The minimum eligible criteria to be placed into the THU shall consist of:

(1) The formal debriefing process as set forth in section 3378.45 must be satisfactorily completed at the Institutional level through the STG Institution-Gang Coordinator/Investigator, and approved through the Office of Correctional Safety (OCS) via a completed CDC Form 128-B (4/74), General Chrono, which is incorporated by reference.

(2) The inmate must be willing to commit to personal change, pursuant to CCR section 3378.45.

New subsections 3378.8(b) through 3378.8(c)(1) are relocated and renumbered from existing subsections 3378.3(b) through 3378.3(c)(1) and remain unchanged.

New subsection 3378.8(c)(2) is relocated and renumbered from existing subsection 3378.3(c)(2) and is amended to read:

(2) Inmates shall be advised that participation in all assignments and activities is mandatory, and STG gang related activity or behavior will not be tolerated. Any disciplinary behavior for which the inmate is found to be accountable through the disciplinary process, disciplinary action deemed serious in nature, or one that is related to gang activity shall result in referral to a the Institution eClassification eCommittee for program review and possible removal from the THU.

New subsections 3378.8(c)(2)(A) through 3378.8(c)(2)(B) are adopted to read:

(A) If the behavior identified in Subsection 3378.8(c)(2) had a nexus to the STG and was identified in section 3378.4(a) STG Disciplinary Matrix, consideration shall be given to removal of the inmate from the THU and return to Step 1 of the SDP in the SHU.

(B) If the behavior identified in Subsection 3378.8(c)(2) did not demonstrate a nexus to the STG, consideration shall be given by the ICC to removal of the inmate from the THU and return to the step in the SDP where he was upon entering the debriefing process or being removed from SHU. If the inmate had not begun the SDP, he will be placed in Step 1 of the SDP in the SHU.

New subsection 3378.8(c)(3) is adopted to read:

(3) If the inmate elects to discontinue participation in the THU for non-disciplinary related reasons, the inmate shall be scheduled for ICC. ICC shall review the circumstances of the request and the inmate's case factors in determining appropriate placement in the SDP.

New subsections 3378.8(d) through 3378.8(e) are relocated and renumbered from existing subsections 3378.3(d) through 3378.3(e) and remain unchanged.

Note: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

New section 3378.9 title is adopted to read:

3378.9 Termination of Security Threat Group (STG) Validation Status

New subsections 3378.9(a) through 3378.9(a)(5) are adopted to read:

(a) STG-I or STG-II Associates:

(1) A validated STG-I or STG-II associate released from SHU to Step 5 or those remaining in general population housing, who remains free of STG Behavior for a period of six (6) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The six years will begin counting toward completion of the required time period as follows:

(A) Validated Associates released from SHU to Step 5: the date committee approved release from segregation.

(B) Validated inmates released from SHU as Inactive or Inactive-Monitored: the date of the Departmental Review Board (DRB).

(C) Validated Associates who remain in general population housing: the date of initial validation

(2) The criteria for consideration of terminating an STG Validation Status include: within the most recent six consecutive years (while incarcerated within CDCR institutions) with no guilty findings of STG related behavior or additional source criteria items totaling 10 points (as described in section 3378.2.)

(3) Termination of the STG Validation Status will be evaluated during the next regularly scheduled Annual Review. The assigned counselor will review central file and notify the STG Investigator that the inmate is being scheduled for consideration of terminating the STG Validation status. If eligible, the inmate shall be referred to ICC for assessment and determination of terminating the STG status.

(4) Upon ICC terminating an inmate's validation status, the institution shall submit a copy of the CDC Form 128-G (10/89), Classification Chrono, which is incorporated by reference, to the Office of Correctional Safety (OCS), who shall generate an updated CDCR Form 128-B2 (11/13), Security Threat Group Validation/Rejection Review, which is incorporated by reference, reflecting "Terminated". The original CDCR Form 128-B2 shall be returned to the institution. Review by the STG Unit Classification Committee will not be required to review/approve this document.

(5) Inmates who have had their STG status terminated shall be eligible to participate in any recognized housing/programs consistent with other general population inmates with similar case factors. If additional STG related activity or behavior is subsequently discovered, a new validation package shall be required to change the inmate's STG status.

New subsections 3378.9(b) through 3378.9(b)(5) are adopted to read:

(b) STG-I or STG-II Members:

(1) A validated STG-I or STG-II member released from SHU to Step 5 or those remaining in general population housing, who remains free of STG Behavior for a period of eleven (11) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The eleven years will begin counting toward completion of the required time period as follows:

(A) Validated Members released from SHU to Step 5: the date committee approved release from segregation.

(B) Validated inmates released from SHU as Inactive or Inactive-Monitored: the date of the DRB.

(C) Validated Members who remain in general population housing: the date of initial validation.

(2) The criteria for consideration of terminating an STG Validation Status include: within the most recent eleven consecutive years while incarcerated within CDCR institutions there have been no guilty findings of STG related behavior or additional source criteria items totaling 10 points (as described in section 3378.2.)

(3) Termination of the STG Validation Status will be evaluated during the next regularly scheduled Annual Review. The assigned counselor will review central file and notify the STG Investigator that the inmate is being scheduled for consideration of terminating the STG Validation status. If eligible, the inmate shall be referred to ICC for assessment and determination of terminating the STG status.

(4) Upon ICC terminating an inmate's validation status, the institution shall submit a copy of the CDC Form 128-G, Classification Chrono, to OCS, who shall generate an updated CDCR Form 128-B2 reflecting "Terminated". The original CDCR Form 128-B2 shall be returned to the institution. Review by the STG Unit Classification Committee will not be required to review/approve this document.

(5) Inmates, who have had their STG status terminated, shall be eligible to participate in any recognized housing/programs consistent with other general population inmates with similar case factors. If additional STG related activity or behavior is subsequently discovered, a new validation package shall be required to change the inmate's STG status.

Note: Authority cited: section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

3504. Parole Assessment.

Subsection 3504(a) remains unchanged.

Subsection 3504(a)(1) is amended to read:

(1) High Control means the highest level of supervision based on commitment offense(s) and prior criminal history. Cases designated high control shall be reserved for persons with violent felony commitments as described in Penal Code (PC) section 667.5(c), PC section 290 registrants; cases generating extensive media or public attention; or cases involving membership in Security Threat Group (STG) gangs, as stated on CDCR Form 128-B2, (11/13) STG Validation/Rejection Review, which is incorporated by reference CDC Form 812-A (Rev. 9/92) Notice of Critical Information—Prison Gang Identification, or membership in a disruptive group, as identified on CDC Form 812-B (Rev. 9/92) Notice of Critical Information—Disruptive Group Identification. The following minimum contact requirements shall apply to these cases:

Subsections 3504(a)(1)(A) through 3504(a)(3)(D) remain unchanged.

Subsection 3504(a)(3)(E) is amended to read:

(E) Parolees who complete 180-days of satisfactory parole will automatically be assigned to the minimum supervision category. Exceptions to the automatic reduction shall include violent felony commitments described in PC section 667.5, PC section 290 registrants, cases generating extensive media or public attention, and STG gang-members, as documented on CDCR Form 128-B2 (11/13) STG Validation/Rejection Review, which is incorporated by reference 812-A.

Subsections 3504(a)(4) through 3504(d) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 290, 667.5(c), 3000.03 and 5054, Penal Code; and Sections 3151 and 3152, Welfare and Institutions Code.

3505. Non-Revocable Parole.

Subsections 3505(a) through 3505(a)(5) remain unchanged. Subsection 3505(a) is shown to provide context.

(a) Inmate/parolees who meet the following criteria shall be placed on non-revocable parole, as described in section 3000, and pursuant to Penal Code (PC) section 3000.03:

Subsection 3505(a)(6) is amended to read:

(6) Is not validated as a STG-I member or associate ~~an active or inactive prison gang member or associate as defined in section 3000 3378(e) by the Chief, Office of Correctional Safety, or a designee.~~

Subsections 3505(a)(7) through 3505(c) remain unchanged.

Note: Authority cited: Section 5058.3, Penal Code. Reference: Sections 3000.03, 3067 and 5054, Penal Code.

3545. Persons to Participate in Continuous Electronic Monitoring.

Subsections 3545(a) through 3545(c)(4) remain unchanged.

Subsection 3545(c)(5) is amended to read:

(5) STG-I Gang Members

Subsections 3545(c)(6) through 3545(d)(7) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3561. Global Positioning System Technology on Eligible Parolees Designated as High Risk.

Subsections 3561(a) through 3561(b)(1) remain unchanged.

Subsection 3561(b)(2) is amended to read:

(2) Any validated STG prison gang, street gang, or disruptive group member or associate as indicated on the CDCR Form 812, Notice of Critical Case Information-Safety of Persons (Non-confidential Enemies) or CDCR Form 128-B2, (11/13) STG Validation/Rejection Review, which is incorporated by reference CDC Form 812-A, Notice of Critical Information-Prison Gang Identification, or CDC Form 812-B, Notice of Critical Information-Disruptive Group Identification.

Subsections 3561(b)(3) through 3561(b)(5) remain unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

Existing section 3651 title is amended to read:

3651. Penal code Section 186.3 Registrants (Gang Offenders).

Subsections 3651(a) through 3651 (b)(1) remain unchanged.

Subsection 3651(b)(2) is amended to read:

(2) The law enforcement agency will serve the parolee with a California Street Terrorism Enforcement and Prevention Act notification which includes, where applicable, that the parolee belongs to a STG gang whose members engage in or have engaged in a pattern of criminal STG gang activity as described in PC section 186.22(e).

Subsections 3651(b)(3) through 3651(f) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 186.30, 186.32, 186.33 and 5054, Penal Code.

3721. Discharge Review Reports.

Subsections 3721(a) through 3721(b)(1)(D) remain unchanged.

Subsection 3721(b)(1)(E) is amended to read:

(E) STG Gang Validation. Note any past or present involvement in any STG-prison, criminal, or street gang as a validated member, associate, or affiliate, and if the parolee is a validated STG-l ~~an active or inactive validated member, associate, or affiliate.~~

Subsections 3721(b)(2) through 3721(b)(3)(G) remain unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3000.1, 3001, 3052, 5054 and 5076.2, Penal Code.

FORMS INCORPORATED BY REFERENCE

- Security Threat Group Certification Worksheet
- CDC 115 (07/88) Rules Violation Report
- CDC 128-B (4/74) General Chrono
- CDCR 128-B2 (11/13) Security Threat Group Validation / Rejection Review
- CDCR 128-B3 (11/13) Security Threat Group Identification Score Sheet
- CDCR 128-B4 (11/13) Evidence Disclosure and Interview Notification
- CDCR 128- B5 (11/13) Security Threat Group Validation Chrono
- CDCR 128B SDP1 (11/13) Step Down Program Notice of Expectations (Step 1)
- CDCR 128B SDP2 (11/13) Step Down Program Notice of Expectations (Step 2)
- CDCR 128B SDP3 (11/13) Step Down Program Notice of Expectations (Step 3)
- CDCR 128B SDP4 (11/13) Step Down Program Notice of Expectations (Step 4)
- CDCR 128B SDP5 (11/13) Notice of Conditions of Monitored Status
- CDC 128-G (10/89) Classification Chrono
- CDCR 128-G1 (11/13) Security Threat Group Unit Classification Committee – Results of Hearing
- CDC 812 (11/13) Notice of Critical Case Information – Safety of Persons (Non-Confidential Enemies)
- CDCR 1030 (11/13) Confidential Information Disclosure Form

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
SECURITY THREAT GROUP CERTIFICATION WORKSHEET**

A. NAME OF GROUP

B. NAME OF INSTITUTION

C. HISTORY OF INCIDENTS, BEHAVIORS, AND ACTIONS OF THE GROUP

(Narrative - be specific with dates, incident log numbers, etc.)

D. NUMBER OF OFFENDERS INVOLVED

E. CURRENT HOUSING OF OFFENDERS IN GROUP

(GP, SNY, ASU)

F. DESCRIPTION OF HISTORY AND PHILOSOPHIES (if known)

(Narrative - be specific with dates and document descriptions where this information was collected from)

G. DESCRIPTION OF RANKING STRUCTURE

(Narrative - be specific)

H. DESCRIPTION OF RECRUITMENT METHODS OR STRATEGIES

(Narrative - be specific with dates and document descriptions where this information was collected from)

I. DESCRIPTION OF IDENTIFYING SIGNS AND SYMBOLS

(Narrative - be specific with descriptions and photographs (if available))

J. ROSTER OF MEMBERS/ASSOCIATES/SUSPECTS

(Separate list may be attached)

For items C, F, G, H, and I - Submit copies of documentation supporting the statements included on this worksheet.

K. STAFF COMPLETING FORM

NAME:

RANK:

DATE:

L. SIGNATURE OF APPOINTING AUTHORITY

John Q. Public
Warden
California State Prison

DATE:

CDC NUMBER	INMATE'S NAME	RELEASE/BOARD DATE	INST.	HOUSING NO.	LOG NO.
VIOLATED RULE NO(S)	SPECIFIC ACTS		LOCATION	DATE	TIME

CIRCUMSTANCES

REPORTING EMPLOYEE (Typed Name and Signature)	ASSIGNMENT	REAS	DATE
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SAMPLE

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

SAMPLE

NAME:

CDC NUMBER:

On _____ (Date), a Security Threat Group (STG) validation package regarding subject was received from Institution STG Investigator _____ (Name) at _____ (Institution).

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: ()

The following items meet the validation requirements:

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)
- 8)

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: ()

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

- 1)
- 2)
- 3)

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: ()

ACTION OF REVIEWER

Pursuant to the validation requirements established in CCP, Title 5, Section 3378, _____ (Offender Name) is recommended for the following action:

_____ VALIDATION _____ REJECTION OF VALIDATION

as a **Member/Associate** of the _____ (Name of the STG) Security Threat Group.

SPECIAL AGENT, REVIEWER

SPECIAL AGENT, REVIEWER

PRINTED NAME

PRINTED NAME

DISTRIBUTION:

- Original – Central File
- Copy – Classification & Parole Representative/Parole Administrator I
- Copy – Institution STG Investigator/Region STG Coordinator
- Copy – Office of Correctional Safety – Special Service Unit
- Copy – Offender/Parolee date: _____ by _____

STG Unit/Institutional Classification
Committee Review Date:

Designation (i.e., STG-I (EME) Associate):

DATE:

SECURITY THREAT GROUP VALIDATION/REJECTION REVIEW

NAME:

CDC NUMBER:

INSTITUTION:

On _____ (Date), _____ (Inmate Name/CDCR #) was reviewed by the STG Unit Classification Committee and validated as a **Member/Associate** of the _____ (Group Name) which is **certified as a STG-I/recognized as a STG-II**.

Based upon the inmate's completion of Steps 1 through 4 of the Step Down Program, the inmate was reviewed by ICC on _____ Date and approved for release to Step 5 in a general population institution. This inmate's status will change to Monitored Status.

PLACED ON MONITORED STATUS

Based upon the inmate's continued confirmed STG behavior or receipt of confirmed intelligence items, this inmate was seen by the **STG Unit Classification Committee/Institution Classification Committee** on _____ (Date) to rescind his/her designation. The committee has made the following decision:

- RESCIND MONITORED STATUS** – Return to Validation Status as a **Member/Associate** of the _____ (Group Name) _____.
- RESCIND INACTIVE STATUS** – Return to Validation Status as a **Member/Associate** of the _____ (Group Name) _____.
- RESCIND INACTIVE-MONITORED STATUS** – Return to Validation Status as a **Member/Associate** of the _____ (Group Name) _____.

Printed Name of Committee Chairperson

Signature of Chairperson

Date Signed

Distribution: Original – Central File; Copies to: Classification & Parole Representative/Parole Administrator I, Institution STG Investigator/Region STG Coordinator, Office of Correctional Safety – Special Services Unit, Officer.

(ATTACHED TO ASSOCIATED CDCR FORM 128-B2)

SECURITY THREAT GROUP

DATE:

VALIDATION/REJECTION REVIEW SUPPLEMENT

SAMPLE

SECURITY THREAT GROUP IDENTIFICATION SCORE SHEET

A. SUBJECT NAME AND IDENTIFICATION NUMBER

NAME: _____ ID# _____ INSTITUTION: _____

B. SECURITY THREAT GROUP IDENTIFIED AS:

C. IDENTIFICATION CRITERIA AND VALUE

SYMBOLS	___ X 2 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
WRITTEN MATERIALS (Not in Possession)	___ X 2 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
ASSOCIATION	___ X 3 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
INFORMANTS	___ X 3 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
DEBRIEFING REPORTS	___ X 3 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
WRITTEN MATERIALS (Personal Possession)	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
PHOTOGRAPHS	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
STAFF INFORMATION	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
OTHER AGENCIES	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
VISITORS	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
COMMUNICATION	___ X 4 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
SELF ADMISSION	___ X 5 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
OFFENSES	___ X 6 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
TATTOOS AND/OR BODY MARKINGS	___ X 6 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
LEGAL DOCUMENTS	___ X 7 =	<input type="checkbox"/>	<input type="checkbox"/>	Source Doc: _____
IDENTIFICATION CRITERIA TOTAL:		<input type="checkbox"/>	<input type="checkbox"/>	

SAMPLE

Information obtained from a CDCR 128-B2 Yes No. If Yes, 128-B2 dated: ___/___/___

D. STG-I LEVEL OF IDENTIFICATION

10 + POINTS (Using 3 independent source items)	2 to 9 POINTS
<input type="checkbox"/> MEMBER <input type="checkbox"/> ASSOCIATE <input type="checkbox"/> DIRECT LINK (Required)	<input type="checkbox"/> SUSPECT

E. STG-II LEVEL OF IDENTIFICATION

10 + POINTS (Using 3 independent source items)	2 to 9 POINTS
<input type="checkbox"/> MEMBER <input type="checkbox"/> ASSOCIATE	<input type="checkbox"/> SUSPECT

F. STAFF COMPLETING FORM

NAME (PRINTED & SIGNATURE) _____ CLASSIFICATION/RANK _____ DATE _____

NAME	CDC NUMBER	INSTITUTION/PRISON	HOUSING
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On _____ an investigation was initiated into your suspected membership and/or association with a Security Threat Group (STG) I and/or STG II recognized by the California Department of Corrections and Rehabilitation as defined in Section 3000 of the California Code of Regulations. The investigation revealed sufficient evidence to identify you as a:

MEMBER ASSOCIATE DROPOUT OF THE STG I: _____ STG II: _____

An interview relative to this investigation and suspected STG affiliation shall be held not less than 72-hours from the date of this notification unless otherwise requested by you in writing. During this interview, you will be given an opportunity to be heard and have your opinion documented relative to the evidence considered in this validation. Written rebuttals may be submitted at the time of the interview.

BE ADVISED: ANY STG RELATED BEHAVIOR WHICH OCCURS AFTER THE CONCLUSION OF THE STG VALIDATION INTERVIEW WILL BE DOCUMENTED, AND IF YOU ARE FOUND TO BE ACCOUNTABLE FOR THE BEHAVIOR, IT WILL BE CONSIDERED BY THE INSTITUTION CLASSIFICATION COMMITTEE FOR PLACEMENT IN THE STEP DOWN PROGRAM.

DISCLOSURE OF EVIDENCE

The following source documents were considered in your identification as a member or associate of the aforementioned STG. All confidential documents shall be disclosed via CDC Form 1030, Confidential Information Disclosure Form. Each source document shall be identified by type (I.E. CDC 128-B, CDC 115, Confidential Report, etc.) and date of the report.

- SYMBOLS:
 WRITTEN MATERIALS (Not in Possession):
 ASSOCIATION:
 INFORMANTS:
 DEBRIEF REPORTS:
 WRITTEN MATERIALS (Personal Possession):
 PHOTOGRAPHS:
 STAFF INFORMATION:
 OTHER AGENCIES:
 VISITORS:
 COMMUNICATIONS:
 SELF ADMISSION:
 OFFENSES: (STG RELATED):
 TATTOOS AND/OR BODY MARKINGS:
 LEGAL DOCUMENTS:

Copies of all documents and/or disclosures were provided to the inmate as required per CCR Section 3378 and Departmental Operations Manual (DOM) by:

NAME	CLASSIFICATION	DATE	TIME

Additional comments: (Use this space to record any comments made by the inmate at the time of disclosure)

Orig: C-File
cc: OCS, STG Investigator, Inmate

DATE: **SECURITY THREAT GROUP VALIDATION
EVIDENCE DISCLOSURE AND INTERVIEW NOTIFICATION**

NAME and NUMBER:

HOUSING:

On _____, the Security Threat Group (STG) Investigations Unit initiated an investigation of Inmate _____ (CDC #) regarding his current STG status. (Hereafter _____ will be referred to as SUBJECT) Per the California Code of Regulations (CCR) Title 15, Section 3378, there is sufficient evidence to refer SUBJECT to the STG Unit Classification Committee for consideration of validation as **Member/Associate** of the _____ STG.

The following documents are being submitted relative to this investigation:

- 1) Source Document _____
- 2) _____
- 3) Source Document _____
- 4) Source Document _____

DISCLOSURE AND NOTIFICATION

Mental Health Assessment: Subject **is/is not** a participant in the MHSDS. Subject's reading level is ___ as indicated on _____ (DECS, TABE). Staff assistant **was/was not** assigned. If assigned Staff Assistant: **Staff member's name/title**, met with Subject at least 24 hours prior to the source item interview and **was/was not** present during the interview. Effective communication was achieved by _____ (**how E/C was achieved**).

On _____, at _____ hours SUBJECT was disclosed all information being utilized in the validation process. If applicable, SUBJECT was disclosed confidential information via CDCR Form 1030, Confidential Information Disclosure Form. SUBJECT was further advised an interview regarding the information obtained during this investigation would be held not less than 72-hours from the time of the disclosure.

INTERVIEW

On _____, at approximately _____ hours SUBJECT was interviewed regarding the documents utilized in the validation package. SUBJECT **provided/did not provide** a written response addressing all documents used in the review process.

SUBJECT provided the following verbal information related to the identified source items. (Investigator to provide summary of validation interview).

Subject was informed that any STG-related behavior which occurs after the conclusion of the STG validation interview will be documented, and if he/she is determined to be accountable for the behavior, it will be considered by the Institution Classification Committee for possible placement in the Step Down Program.

CONCLUSION

Upon reviewing the written response and after a thorough review of the evidence, it was determined SUBJECT'S claims **have/have no** merit and **warrant/do not warrant** further investigation.

The STG Investigator has concluded there **is/is not** sufficient evidence to support referral to OCS and the STG Unit Classification Committee for consideration of validation as a **member/associate** of the _____ STG.

The aforementioned information will be forwarded to the Office of Correctional Safety for review of SUBJECT'S STG validation.

STG Investigator

STG Lieutenant

Orig: C-File
cc: OCS
Investigative Unit
Inmate

DATE:

**SECURITY THREAT GROUP VALIDATION
CHRONO**

NAME and NUMBER: _____ INSTITUTION: _____

STEP DOWN PROGRAM NOTICE OF EXPECTATIONS (STEP 1)

Based upon your validation/STG Behavior, you have been assigned to the Security Threat Group (STG) Step Down Program (SDP). The SDP is a 5 Step program which allows offenders who have been validated as STG members or associates to not associate, promote or involve themselves in STG behavior; thus demonstrating to California Department of Corrections and Rehabilitation (CDCR) staff that they are not involved with the STG. This will afford offenders the opportunity to achieve designated privileges (see attachment) according to improvements and continuation of acceptable custodial adjustment.

As a participant in Step 1 of this program, you are required to meet the following expectations:

1. Participate in and successfully complete all mandated educational and cognitive instruction (including self-directed journals), as well as risk and educational assessment, as determined by the Institution Classification Committee (ICC).
2. Participate in all classification actions.
3. Follow all staff recommendations and directives.
4. Remain disciplinary free adhering to all departmental rules and regulations.
5. Cease any and all STG related behavior including but not limited to: planning, organizing, recruiting, promoting, training, communicating in code, using known STG symbolism, participating in and/or communicating STG activities.

ICC reviews will be completed after each 180 day period in the SDP. You will advance to the next step if the ICC determines you have completed all required program components and not been found guilty of STG related Behavior via the disciplinary process.

You may choose to enter the Debriefing Process at any time during your participation in the SDP, by notifying your counselor, Investigative Services Unit, or SDP staff.

You are advised to release to prison staff any materials in your possession which may be considered STG related. Should any of these items be found in your property at any time during your participation in the SDP, they will be viewed as evidence of continued STG behavior or other misconduct. You will be subject to appropriate disciplinary action.

If you choose not to progress through any step of the program, you may be returned to a previous step until you demonstrate both a desire and appropriate behavior for movement into the next step. Failure to maintain acceptable behavior and/or refrain from STG activity may result in the loss of privileges and/or regression to a previous step. At any time that you want to begin participating in the SDP, notify your assigned caseworker. The caseworker will schedule your appearance before the ICC within 30 days.

Document issued to inmate by:

Printed Staff Name

Signature of Staff

Date Issued to Inmate

Orig: Central File
Cc: Receiving Institution
Inmate

DATE: (STEP DOWN PROGRAM NOTICE OF EXPECTATIONS – STEP 1)

NAME and NUMBER: _____ INSTITUTION: _____

STEP DOWN PROGRAM NOTICE OF EXPECTATIONS (STEP 2)

You have been approved by the Institution Classification Committee (ICC) for transition into Step 2 of the Security Threat Group (STG) Step Down Program (SDP). This Step will allow you to continue to demonstrate to CDCR staff that you are not involved with the STG. Movement into this step will afford you an opportunity to achieve expanded privileges (see attachment) according to acceptable custodial adjustment and positive programming.

Step 2 of the SDP will be administered from a Security Housing Unit (SHU). Meals will be consumed in your assigned cell. Showers will be allowed three times per week, except in situations of institutional emergencies. Programming during this phase will generally be conducted in the assigned cell.

As a participant in Step 2 of this program, you are required to meet the following expectations:

1. Participate in and successfully complete all mandated educational and cognitive instruction (including self-directed journals) as determined by the ICC.
2. Attend all classification actions.
3. Follow all staff recommendations and directives.
4. Remain disciplinary free adhering to all departmental rules and regulations.
5. Cease any and all STG related behavior including but not limited to; planning, organizing, recruiting, promoting, training, communicating in code, using known STG symbolism, participating in and/or communicating STG activities.

ICC reviews will be completed after each 180 day period in the SDP. You will advance to the next step if the ICC determines you have completed all required program components and not been found guilty of STG related behavior via the disciplinary process.

You may choose to enter in the Debriefing Process at any time during your participation in the SDP, by notifying your counselor, Investigative Services Unit, or SDP staff.

Any items reflecting STG activity found in your property at any time during your participation in the SDP will be viewed as evidence of continued STG behavior or other misconduct. You will be subject to appropriate disciplinary action.

If you choose not to progress through any step of the program, you may be returned to a previous step until you demonstrate both a desire and appropriate behavior for movement into the next step. Failure to maintain acceptable behavior and/or refrain from STG activity may result in disciplinary action, the loss of privileges, and/or regression to a previous step. At any time that you want to begin participating in the SDP, notify your assigned caseworker. The caseworker will schedule your appearance before the ICC within 30 days.

If you elect not to participate beyond Step 2, you will be retained in Step 2 indefinitely, unless you display unacceptable behavior or participate in STG activity, which may result in regression to Step 1.

Document issued to inmate by:

Signature of Staff Witness

Printed Staff Name

Date Issued to Inmate

Orig: Central File
Cc: Receiving Institution
Inmate

DATE: (STEP DOWN PROGRAM NOTICE OF EXPECTATIONS – STEP 2)

NAME and NUMBER: _____ INSTITUTION: _____

STEP DOWN PROGRAM NOTICE OF EXPECTATIONS (STEP 3)

You have been approved by the Institution Classification Committee (ICC) for transition into Step 3 of the Security Threat Group (STG) Step Down Program (SDP). Transition into Step 3 will generally require an institutional transfer. This step will allow you to continue to demonstrate to CDCR staff that you are not involved with the STG. Movement into this step will afford you an opportunity to achieve expanded privileges (see attachment) according to acceptable custodial adjustment and positive programming.

Step 3 of the SDP will be administered from a Security Housing Unit (SHU). Meals will be consumed in your assigned cell. Showers will be allowed three times per week (except in situations of institutional emergencies). Movement to showers will be unrestrained and unescorted, with your cell partner. Programming during this phase may be conducted in the assigned cell and program areas utilizing individual treatment modules.

As a participant in Step 3 of this program, you are required to meet the following expectations:

1. Comply with double cell housing policy.
2. Attend, participate in, and successfully complete all mandated educational and cognitive instruction as determined by the ICC.
3. Attend all classification actions.
4. Follow all staff recommendations and directives.
5. Interact with offenders from other STGs in a cooperative and non-threatening manner.
6. Remain disciplinary free adhering to all departmental rules and regulations.
7. Cease any and all STG related behavior including but not limited to; planning, organizing, recruiting, promoting, training, communicating in code, using known STG symbolism, participating in and/or communicating STG activities.

ICC reviews will be completed after each 180 day period in the SDP. You will advance to the next step if the ICC determines you have completed all required program components and have not been found guilty of STG related behavior via the disciplinary process.

You may choose to enter the Debriefing Process at any time during your participation in the SDP, by notifying your counselor, Investigative Services Unit, or SDP staff.

Any items reflecting STG activity found in your property at any time during your participation in the SDP will be viewed as evidence of continued STG behavior or other misconduct. You will be subject to appropriate disciplinary action.

If you choose not to progress through any step of the program, you may be returned to a previous step until you demonstrate both a desire and appropriate behavior for movement into the next step. Failure to maintain acceptable behavior and/or refrain from STG activity may result in the issuance of a Rules Violation Report, loss of privileges, and/or regression to a previous step. At any time that you want to begin participating in the SDP, notify your assigned caseworker. The caseworker will schedule your appearance before the ICC within 30 days.

Document issued to inmate by:

Signature of Staff Witness

Printed Name of Staff

Date Served to Inmate

Orig: Central File
Cc: Receiving Institution
Inmate

DATE: (STEP DOWN PROGRAM NOTICE OF EXPECTATIONS – STEP 3)

NAME and NUMBER: _____ INSTITUTION: _____

STEP DOWN PROGRAM NOTICE OF EXPECTATIONS (STEP 4)

You have been approved by the Institution Classification Committee (ICC) for transition into Step 4 of the Security Threat Group (STG) Step Down Program (SDP). This step will allow you to continue to demonstrate to CDCR staff that you are not involved with the STG. Movement into this step will afford you an opportunity to achieve expanded privileges (see attachment) according to acceptable custodial adjustment and positive programming.

Step 4 of the SDP will be administered from a Security Housing Unit (SHU). Meals will be consumed either in your assigned cell or on the dayroom floor unrestrained with other SDP offenders. Showers will be allowed three times per week (except in situations of institutional emergencies). Movement to showers will be unrestrained and unescorted, with your cell partner. Programming during this phase will be conducted in the assigned cell, in a program area, utilizing individual treatment modules, and/or with small groups of unrestrained offenders in a dayroom setting. Work assignment within the housing units may be allowed.

As a participant in Step 4 of this program, you are required to meet the following expectations:

1. Comply with double cell housing policy.
2. Attend, participate in, and successfully complete all mandated educational and cognitive instruction as determined by the ICC.
3. Attend all classification actions.
4. Follow all staff recommendations and directives.
5. Interact with offenders from other STGs in a cooperative and non-threatening manner.
6. Remain disciplinary free adhering to all departmental rules and regulations.
7. Cease any and all STG related behavior including but not limited to; planning, organizing, recruiting, promoting, training, communicating in code, using known STG symbols, participating in and/or communicating STG activities.

ICC reviews will be completed after each 90 day period in the SDP. You will advance to the next step if the ICC determines you have completed all required program components and have not been found guilty of STG related behavior via the disciplinary process.

You may choose to enter the debriefing process at any time during your participation in the SDP, by notifying your counselor, Investigative Services Unit, or SDP staff.

Any items reflecting STG activity found in your property at any time during your participation in the SDP will be viewed as evidence of continued STG behavior or other misconduct. You will be subject to appropriate disciplinary action.

If you choose not to progress through any step of the program, you may be returned to a previous step until you demonstrate both a desire and appropriate behavior for movement into the next step. Failure to maintain acceptable behavior and/or refrain from STG activity may result in the loss of privileges, issuance of a Rules Violation Report, and/or regression to a previous step. At any time that you want to begin participating in the SDP, notify your assigned caseworker. The caseworker will schedule your appearance before the ICC within 30 days.

Document issued to inmate by:

Signature of staff witness

Printed Name of Staff

Date Served to Inmate

Orig: Central File
Cc: Receiving Institution
Inmate

DATE: (STEP DOWN PROGRAM NOTICE OF EXPECTATIONS – STEP 4)

NAME and NUMBER: _____ INSTITUTION: _____

NOTICE OF CONDITIONS OF MONITORED STATUS (Step 5)

You are being scheduled for review by the Institution Classification Committee as a validated Monitored Security Threat Group (STG) Member/Associate. Based on your newly designated monitored status, ICC may elect to conditionally release you from a Security Housing Unit (SHU) to a general population facility for Step 5 of the Step Down Program (SDP).

You are hereby notified that as a condition of your release to the general population, you will be required to submit to a photograph of all tattoos and body markings and you must refrain from participation in any STG behavior or patterned/repetitive association with any STG affiliates.

Participation in STG related behavior or activities as described on the STG Behavior Disciplinary Matrix shall be addressed through the disciplinary process and reviewed by a classification committee for removal from monitored status and return to the SHU Step Down Program. In addition, intelligence received that has been corroborated demonstrating continued participation in the STG will be reviewed by a classification committee for removal from monitored status and return to the SHU Step Down Program. It would be to your benefit to familiarize yourself with the STG policy which can be found in DOM Chapter 2, Article 22 and the California Code of Regulations, Title 15, Sections 3000, 3023, 3314, 3315, 3323, 3341.5 and 3378.

You are advised to release to prison staff any materials in your property that do not meet the above conditions of your release to the general population. Should any of these items be found in your property at any time, they will be viewed as evidence of active STG behavior or other misconduct. You will be subject to appropriate disciplinary action.

Upon your release to the general population, you are required to meet the following expectations:

1. Comply with double cell housing policy.
2. Comply with random urinalysis testing for 1 year.
3. Participate in classification actions.
4. Follow staff directives, as related to the STG policy.
5. Remain disciplinary free adhering to all departmental rules and regulations.

You may choose to enter the Debriefing Process at any time, by notifying your counselor, Investigative Services Unit, or housing unit staff.

Signature of Staff Witness

Printed Name of Staff

Date Served to Inmate

Orig: Central File
Cc: Receiving Institution
Inmate

DATE: (NOTICE OF CONDITIONS OF MONITORED STATUS – Step 5)

CDC NUMBER	NAME	CLASSIFICATION SCORE	TYPE AND RELEASE DATE
CUSTODY	ASSIGNMENT	WG/PG	NEXT CLASSIFICATION
OTHER COMMITTEE ACTIONS:		HOUSING	RECOMMENDATION TO CSR:

COMMENTS:

SAMPLE

INSTITUTION	CLASSIFICATION	DATE	SIGNATURE
-------------	----------------	------	-----------

CDC NUMBER	NAME	CLASSIFICATION SCORE	TYPE AND RELEASE DATE
CUSTODY	ASSIGNMENT	WG/PG	NEXT CLASSIFICATION
OTHER COMMITTEE ACTIONS:		HOUSING	RECOMMENDATION TO CSR:

COMMENTS:

INSTITUTION	CLASSIFICATION	DATE	SIGNATURE
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SECURITY THREAT GROUP UNIT CLASSIFICATION COMMITTEE – RESULTS OF HEARING

OFFENDER NAME (Last, FI):	CDCR Number:	INSTITUTION:
---------------------------	--------------	--------------

- VALIDATION
 CONFIRMED STG BEHAVIOR OR INTELLIGENCE
 MONITORED, INACTIVE, INACTIVE-MONITORED, OR DROPOUT STATUS

STATEMENT OF FINDINGS:

STATEMENT OF FINDINGS:

This finding is based on the following evidence:

DEBRIEFING PROCESS:

You have the option to renounce your association with the STG by participating in the Debriefing Process and attaining "dropout" status. Debriefing is a comprehensive two step process, which includes an interview/investigative phase and an observation program phase. The purpose of the debriefing interview is to provide staff with information about the STG's structure, activities, and affiliates. A debriefing is not for the purpose of acquiring incriminating evidence against you. Failure to participate in the Debriefing Process will indicate that you are unwilling to renounce your STG affiliation and may result in placement into the Step Down Program at the assigned SHU Institution.

STEP DOWN PROGRAM:

Provides offenders placed in a Security Housing Unit (SHU) for STG validation and/or confirmed STG behaviors, with a program and increased incentives to promote positive behavior including refraining from participation in STG behavior. The Step Down Program is designed to be completed in 4 years within the SHU. Completion of the Step Down Program may ultimately afford the offender with the ability to return to a GP or SNY setting.

COMMITTEE REQUIREMENTS:

- Offender is not literate or non-English speaking -- Staff Assistant Required.
- Complexity is such that assistance is necessary to ensure comprehension – Staff Assistant Required.
- Disability is such that assistance is necessary for full participation in committee – Staff Assistant Required.
- Required ADA assistive devices were available to the offender during committee.

SIGNATURES:

Signature/Title of Committee Chairperson	Date:
Signature/Title of Committee Recorder	Date:
Offender's Signature (Certifies that a copy of this document was received)	Date Received:

NOTICE OF CRITICAL CASE INFORMATION-SAFETY OF PERSONS (Non-Confidential Enemies)

This non-confidential form is used to document offenders or potential offenders who should be kept separate and offenders suspected of affiliation with a security threat group (STG). Indicate "None" under CDCR number and/or group section if there are no enemies and/or security threat group concerns. Refer to CCR, Title 15, Section 3378 for additional information.

NON-CONFIDENTIAL ENEMIES			Date	Date	Date	Date	Date	Date
CDCR Number	Print Name	Primary/ Supporting Documentation	Current Location	Current Location	Current Location	Current Location	Current Location	Current Location

SAMPLE

DELETION OF PRIOR ENEMIES

CDCR Number	Print Name	Document Deleted by/ Issue	Delete Date	Print Name, Title, Inst/Region, Initials of Person Deleting

SUSPECTED SECURITY THREAT GROUP (STG) AFFILIATION

STG Name	Type of Affiliation (Member/Associate)	Date	Primary Supporting Documentation
STG-I:			
STG-II:			

STAFF COMPLETING UPDATE

Print Name and Write Initials	Title	Institution/Region	Date

CDCR Number: _____ Offender Name: _____ Page ___ of ___

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: _____ INMATE NAME: _____ INSTITUTION: _____

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

- a) CDC Form 115, Rules Violation Report (log number _____),
dated _____ submitted by _____ (Staff Name & Title)
- b) CDC Form 114-D, Order and Hearing for Placement in Segregated Housing dated _____.
- c) Validation Package as a Member/Associate of the _____ Security Threat Group.

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution. This information is reliable because:

- This source has previously provided confidential information which proved to be true.
- Other confidential source has independently provided the same information.
- This source participated in and successfully completed a Polygraph examination.
- The information provided by the confidential source is self-incriminating.
- Part of the information provided is corroborated through investigation or by information provided by non-confidential sources.
- The confidential source is the victim.
- Other (Explain) _____

3) Disclosure of information received.

The information received indicated the following:

(If additional space is needed, attach another sheet.)

4) Type and current location of documentation. (i.e., CDC Form 128B of 5/15/2010 in the confidential section of the central file)

STAFF SIGNATURE/TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE—Central File; GREEN—Inmate; YELLOW—Institutional Use

*Administrative Segregation, Degrees of Isolation, and Incarceration:
A National Overview of State and Federal Correctional Policies*

By: Hope Metcalf, Jamelia Morgan, Samuel Oliker-Friedland, Judith Resnick, Julia Spiegel, Haran Tae, Haran Tae, Alyssa Work, and Brian Holbrook

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June 2013

Hope Metcalf, Jamelia Morgan, Samuel Olikier-
Friedland, Judith Resnik, Julia Spiegel, Haran Tae,
Alyssa Work, and Brian Holbrook*

**A Project of the Liman Public Interest Program at
Yale Law School**

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For more information, contact Hope Metcalf, hope.metcalf@yale.edu.

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The Project and Its Goals

This report provides an overview of state and federal policies related to long-term isolation of inmates, a practice common in the United States and one that has drawn attention in recent years from many sectors. All jurisdictions in the United States provide for some form of separation of inmates from the general population. As correctional policies explain, prison administrators understand the ability to separate inmates as central to protecting the safety of both inmates and staff. Yet many correctional systems are reviewing their use of segregated confinement, as controversy surrounds this form of control, its duration, and its effects.

The debates about these practices are reflected in the terms used, with different audiences taking exceptions to each. Much of the recent public discussion calls the practice “solitary confinement” or “isolation.” For example, in June of 2012, the Subcommittee on the Constitution, Civil Rights, and Human Rights of the United States Senate’s Judiciary Committee held a hearing, “Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences.”¹ A report from the New York Civil Liberties Union offered a more dramatic description: “Boxed In: The True Cost of Extreme Isolation in New York’s Prisons.”² Some commentators use the shorthand of “23/7.” In contrast, correctional facility policies use terms such as “segregation,” “restricted housing,” or “special management,”³ and some corrections leaders prefer the term “separation.” A 2013 review of the Federal Bureau of Prisons’ policies, for example, called for “improvements” in the “monitoring and evaluation” of the effects of “segregated housing.”⁴

All agree that the practice entails separating inmates from the general population and restricting their participation in everyday activities such as recreation, shared meals, and religious, educational, and other programs. The degree of contact permitted — with staff, other inmates, or volunteers — varies. Some jurisdictions provide single cells and others double; in some settings, inmates find ways to communicate with each other. In other instances, the isolation can be profound. As Justice Anthony Kennedy described one system in 2005, it structured placement to make it “more restrictive than any other form” of incarceration available in that state.⁵ The cells had “solid metal doors with metal strips . . . which prevent conversation or communication with other inmates. It is fair to say [that inmates in that facility] are deprived of almost all environmental or sensory stimuli and of almost all human contact . . . for an indefinite period of time, limited only by an inmate’s sentence.”⁶ As reflected in this quote, the length of time spent in isolation can vary from a few days to many years. On the other hand, some corrections systems aim to separate inmates while enabling them to have regular contact with a variety of individuals and to reduce the degree of isolation entailed.

This report provides a window into these practices. This overview describes rules promulgated by prison officials to structure decisions on the placement of persons in “administrative segregation,” which is one form of separation of inmates from the general population. Working with the Association of State Correctional Administrators (ASCA), the Arthur Liman Program at Yale Law School launched an effort to review the written policies related to administrative segregation promulgated by correctional systems in the United States.

With ASCA's assistance, we obtained administrative segregation policies from 47 jurisdictions, including 46 states and the Federal Bureau of Prisons.

This overview has four goals. First, it provides a national portrait of policies governing administrative segregation for individuals in prisons. Second, by outlining the commonalities and variations among jurisdictions, the report facilitates comparisons across jurisdictions. Third, the comparisons enable consideration of how and when administrative segregation is and should be used. Fourth, the report invites a diverse group of readers, coming from different perspectives, to exchange views on how to create detention that is safe and that facilitates the reentry of incarcerated individuals into their communities.

As the policies detailed below make plain, correctional officials believe that protection of inmates and staff is enhanced through long-term separation policies. What cannot be known from this review is whether the policies are implemented as written, achieve the goals for which they are crafted, and at what costs. As we discuss in the conclusion, more detailed information is needed, including analysis of additional facets of the policies; demographic data on the populations held in various forms of segregated custody; review of the reasons for placement of individuals in and the duration of such confinement; surveys and interviews of inmates, of staff on site, and of central office personnel; examination of the degree of isolation attendant to the various forms of administrative segregation; and assessments of the long-term effects of administrative segregation on prison management and on individuals. Without such insights, one cannot assess the experiences of segregation from the perspectives of those who run, those who work in, and those who live in these institutions.

The Scope of the Research

Several preliminary comments about the scope of this overview are in order.

First, most systems separate prisoners for three basic purposes: to protect an individual from particular threats (generally termed protective custody); to impose a sanction for a discrete act (punitive or disciplinary segregation); or to control an individual perceived to pose a current or future risk (administrative segregation). Overlap exists among the different kinds of segregation. For example, a few policies list an inmate's own protection as a reason to put him or her into administrative segregation.

Upon reviewing the policies in 48 jurisdictions regarding various forms of segregation, all but one expressly address some form of administrative segregation.⁷ Therefore, this overview focuses on the 47 jurisdictions' policies governing long-term administrative segregation, defined as the placement of inmates in a cell (either alone or with a cellmate) for approximately 23 hours a day, and which can last for thirty days or more.

The policies reviewed and detailed here share the same basic features: a non-punitive purpose, open-ended duration, close confinement, and restricted activities and social contact.

In some instances, state policies address more than one version of administrative segregation and create different rules shaping different kinds of administrative segregation.

Despite their similarities, the policies are not uniform in their nomenclature and rely on a variety of terms: “administrative close supervision,” “administrative confinement,” “administrative maximum,” “administrative segregation,” “behavior modification,” “departmental segregation,” “inmate segregation,” “intensive management,” “locked unit,” “maximum control unit,” “restricted housing,” “security control,” “security housing unit,” “segregated housing,” “special housing unit,” and “special management.” Unlike popular commentary, the policies do not use the terms “solitary” or “isolation.”

Second, our focus has been on institutions run by the government, many of which provide their policies through public databases. Private prisons are becoming an increasingly large percentage of the detention facilities in the United States, but their practices are less readily available. This overview does not include policies from private prisons.

Third, the challenges in compiling and comparing policies are significant. As noted, correctional systems do not standardize the terms related to segregation, nor provide the same levels of detail, and many jurisdictions employ more than one kind of administrative segregation. Because of the different forms of administrative segregation, the divergent criteria, the array of processes for the initial and for ongoing placement, and the varying conditions and degrees of isolation, this overview necessarily generalizes and excludes some details of policies.

Fourth, we selected certain aspects of policies to compare. We looked at the criteria for entry; the process for placement; the opportunities for review over time; and the availability of visitors. Many more facets of the rules need to be explored, including regulations related to physical and mental health; the spaces in which individuals are confined; whether any personal effects and materials are permitted; the range of opportunities to be involved in programming while segregated; and the degree of contact with people outside prisons.

Fifth, because we focused on state-wide regulations, this overview does not include institution-level policies or daily post orders and special directives. Jurisdictions typically have several facilities, and many jurisdictions separate individuals by gender and age. This report does not provide information on distinctions at the institutional level and in facilities for men, women, or younger inmates. Further, we did not collect data from each jurisdiction on the actual use of the policies, nor did we obtain the numbers of individuals in segregation, the demographics of the population segregated, or the duration of time spent in segregation.

The Research Methodology

The information in this report comes from two waves of research. First, working with students and faculty at Columbia Law School, we reviewed policies that were available by way of Departments of Corrections’ websites and on Westlaw, as well as two policies obtained through Freedom of Information Act requests. That effort resulted in a draft report discussing

43 jurisdictions, including the Federal Bureau of Prisons, but had the limitations of a less than full set of and varying degrees of details in policies. Those materials were presented at a conference convened by Columbia Law School in April 2012, at which corrections administrators, researchers, mental health experts, practitioners, and scholars gathered to discuss segregation and isolation in prisons.⁸

Second, working with the Association of State Corrections Administrators (ASCA), we requested materials from all fifty states. Through the efforts of ASCA and its responding members, 41 states provided current policies related to segregation; one policy was a draft.⁹ Therefore, we were able to add analyses for those states on which we had had no prior information. In all, this overview reports on policies from 47 jurisdictions, including 46 states and the Federal Bureau of Prisons.¹⁰ As noted, in a few instances, we analyzed policies that states reported were under revision.

In January of 2013, we reported the findings at an annual meeting of ASCA, and in February of 2013, we circulated — with ASCA's assistance — a draft report to state correctional leaders and asked each jurisdiction to review the draft and to submit comments, corrections, or supplemental information. By the close of the comment period, we had received comments from 18 states. The responses included corrections, clarifications, and suggestions that improved this report.

Overview of Findings

Provisions to place inmates into administrative segregation or otherwise to separate inmates and to isolate them to some degree exist in all of the policies we reviewed. Below we detail their common features, which are also summarized in Appendix A.

The policies all explain that their purpose is to ensure the safety and security of inmates and staff. In other words, a primary goal of administrative segregation is incapacitation. Many jurisdictions also employ additional grounds for placement, such as the kind of offense for which a person is incarcerated, the number of infractions a person has had, or a pending investigation. A few policies limit those criteria by requiring, for example, evidence of specific harms, such as evidence of the imposition of serious bodily harm or attempts at escape.

Reading the many policies makes plain the degree of discretion accorded to correctional officials. At the formal policy level, most permit placement in segregation based on a wide range of rationales. The elasticity suggests that administrative segregation may be used for goals other than incapacitation. In exchanges about our inquiry into administrative segregation, several commentators referred to the potential for its overuse based on what is colloquially known as being “mad” at a prisoner, as contrasted with being “scared” of that individual.

In terms of the processes for decision-making, all the policies authorize an immediate temporary placement in segregation. Thereafter, some but not all jurisdictions provide for

notice of the grounds for the placement and an opportunity for a hearing to continue the segregated detention. The kind of notice and hearing varies substantially, as do the decision-makers. Some systems leave decision-making at the unit-level, others place authority in committees, and others require oversight by the warden or the central office.

Further, all policies provide for some form of ongoing review, but again, with a great deal of diversity in terms of timing, level of oversight, and criteria. Moreover, given the breadth of discretion, whether review and oversight imposes constraints cannot be known from the policies.

Jurisdictions vary considerably in terms of the detail provided regarding the restrictions placed upon individuals once in segregation, in terms of the conditions of the confinement, access to programs and to visitors, and the criteria for return to the general population (sometimes termed “step-down” programs). Our review of one facet — visiting — documents that inmates in segregation have more restricted opportunities for visits in terms of whether contact is permitted and the frequency and duration. Further, opportunities depend on inmates’ behavior, and institutional-level actors have discretion to limit visits. Lawyers are generally treated distinctively to enable visits but, like other visitors, encounter the challenges that administrative segregation imposes, such as needing special permission to visit clients.

In sum, a wide net of authority permits inmates to be placed in segregation. Policies all outline procedures to do so, and a few jurisdictions make placements more difficult by imposing specific controls on such decisions. The criteria for keeping individuals in segregation and the directives on how to enable inmates to exit segregation are less well-defined. The findings detailed in this report need to be augmented by research about how the written policies are implemented at the institutional and system levels, how these policies are experienced by inmates and staff, the costs and effects, and the alternatives.

Criteria for Placement in Administrative Segregation

We found a great deal of overlap in policy-based reasons for segregation. Many states define administrative segregation as a form of separation from the general population for an inmate who requires a higher degree of supervision because the inmate poses “a threat” or “a serious threat” to “the life, property, security, or orderly operation of the institution.”¹¹ Many jurisdictions also provide authority to separate an inmate because he or she poses a danger to “self, staff, or other inmates”¹² or to “protect the public.”¹³ Several states further specify that the purpose of administrative segregation is not punitive.¹⁴

A window into the policy criteria for placement, their generality, and variability comes from looking first at the policy of one state — Nebraska. Thereafter, we have compiled specific criteria used in other policies. We also provide examples of general mandates for placement in segregation, of policies tying placement to the approval by a warden or the Director of a department, and of policies aiming to narrow the bases for placement.

Illustrative Policies

Administrative Segregation — Criteria for Placement: Nebraska Department of Correctional Services

“When considering the assignment to, continuation of, or removal from Administrative Segregation, the decision maker(s) must consider, but is not limited to:

1. The threat potential to staff and/or inmates posed by the inmate.
2. The behaviors leading to the inmate's referral or placement on Administrative Segregation status.
3. The inmate's history of or lack of predatory behavior.
4. The inmate's history of or lack of assaultive behavior.
5. The inmate's history of or lack of escape/attempted escapes.
6. The inmate's history of or lack of membership in a criminal threat group.
7. The injuries the inmate may have caused to others.
8. The inmate's use of weapon(s) in this or prior incidents.
9. The inmate's documented mental health issues.
10. The inmate's prior criminal history.
11. The inmate's prior disciplinary record (misconduct reports, etc.).
12. The inmate's history of or lack of illicit drug use within the Nebraska Department of Correctional Services.
13. The programming that the inmate has or has not completed.
14. The prior classification decisions involving the inmate's status.
15. The inmate's documented behavior (incident reports, etc.) and interactions with staff and other inmates.
16. The professional judgment and recommendations of Nebraska Department of Correctional Services staff regarding the classification of the inmate.
17. The real or perceived threat of harm to the inmate from other inmates.
18. The inmate's statements regarding admission of prior actions, a commitment to changing behavior, and accountability for prior acts.
19. Any other information regarding the inmate that the classification authority deems appropriate.”

- Nebraska, Admin. Reg. 201.05(V)(A)

Examples of Additional Enumerated Factors

“[P]ending investigation for trial . . . or pending transfer.”

- Alaska, DOC Policy 804.01(V)

“[D]isruptive geographical group and/or gang-related activity.”

- Federal Bureau of Prisons, P5217.01(2) (SMUs)

“[J]eopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity.”

- California, Cal. Code Regs. tit. 15 § 3335(a)

“A conviction of a crime repugnant to the inmate population.”

- Florida, Fla. Admin. Code r. 33-602.220(3)(c)(3)(e)

“Other factors such as physical size, build and age producing a risk from the general inmate population.”

- Florida, Fla. Admin. Code r. 33-602.220(c)(3)(g)

“[Inmate requests] admission.”

- Georgia, SOP IIB09-0001-1.D (many policies address this under protective custody)

“[T]hose who received unusual publicity because of the nature of their crime, arrest, or trial, or who are involved in criminal activity of a sophisticated nature, such as organized crime.”

- Montana, MSP 4.2.1(IV)(C)(d)

“[T]hose with special needs, including those defined by age, infirmity, mental illness, developmental disabilities, addictive disorders, and medical problems.”

- Montana, MSP 4.2.1(IV)(C)(f); *see also* Kentucky CPP 10.2(II)(g)(3)(i) (mental illness); Maryland, Case Management Manual, DOC.100.002-18B(§18)(B)(2)(e) (medical or mental health)

“Prisoner tests positive for HIV infection and is subsequently found guilty of a major misconduct for behavior which could transmit HIV infection.”

- Montana, 04.05 120 L(6)

“[A]s a 'cooling off measure.”

- North Carolina, C.1201(A)(4)(e)

“[N]o records and/or essential information are available to determine the inmate’s custody level or housing needs.”

- Pennsylvania, DC-ADM 802.1(A)(1)(j)

“There is a history of unresponsiveness to counseling or conventional disciplinary sanctions and the inmate is flagrantly or chronically disruptive to the security and/or disciplined operation of the institution.”

- South Dakota, 1.3.D.4(B)(5)

“[Inmate is] pending prosecution and disposition in criminal court for felony charges incurred during incarceration.”

- Tennessee, 404.10(VI)(A)(d); *see also* Miss. SOP 19-01-01(77)

“The inmate is ending confinement in disciplinary segregation status, and return to the general population would threaten the safety, security, and orderly operation of a correctional facility, or public safety.”

- Federal Bureau of Prisons, BOP 541.23.

Examples of Policies with Few Enumerated Factors and General Authority

“Non-punitive placement of an inmate in a cell whose continued presence in the general population poses a serious threat to life, property, security or the orderly operation of the institution.”

- Alabama, AR 436(III)(A)

“Any other circumstances where, in the judgment of staff, the offender may pose a threat to the security of the facility.”

- Arkansas, AR 836 DOC(VI)(A)(6)

"[T]he offender's continued presence in the general population poses a threat to life, property, self, staff, other offenders, or to the safety/security or orderly operation of the facility."

- Delaware, DOC Policy 4.3(IV)(A); *see also* Pennsylvania, DC-ADM 802(III); Oklahoma, OP-040204(1)(A)

"[T]he continued presence of the inmate in general population would pose a serious threat to the community, property, self, staff, other inmates, or the security or the good government of the facility."

- Hawaii, COR.11.01.2.2(a)(2); *see also* North Dakota, DOC 5A-20(2)(A); Vermont, DOC 410.03(1)(e)

" . . . [B]ased on: 1) the threat an offender's continued presence in the general population poses to life, self, staff, other offenders, or property; 2) threat posed by the offender to the orderly operation and security of the facility; and 3) regulation of an offender's behavior which was not within acceptable limits while in the general offender population."

- Indiana, DOC 02-01-111(II)

"Administrative segregation admission results from a determination by the facility that the inmate's presence in general population would pose a threat to the safety and security of the facility."

- New York, 7 NYCRR 301.4(b)

"[W]hen their pattern of conduct demonstrates a chronic inability to adjust to the general population; indicates maximum personal protection is required; or constitutes a serious threat to the Adult Correctional Institutions."

- Rhode Island, 15.11-3.DOC

Examples of Discretion Tied to Approval by Warden, Director, or Commissioner

"Other circumstances may warrant placement in administrative segregation. Such placement will require approval by the Director of Prisons."

- Colorado, AR 650-03(IV)(b)(6)

"The Watch Commander, or higher authority, may order immediate Administrative Segregation when it is necessary to protect the offender or others. This action is reviewed within 72 hours by the facility Warden."

- Delaware, DOC Policy 4.3(VI)(A)

“An inmate may be placed or retained in a DSU [Departmental Segregation Unit] only after a finding by the Commissioner based on substantial evidence that, if confined in the general population of any state correctional facility: (1) The inmate poses a substantial threat to the safety of others; or (2) The inmate poses a substantial threat of damaging or destroying property; or (3) The inmate poses a substantial threat to the operation of a state correctional facility.”

– Massachusetts, 103 CMR 421.09

An Example of Narrowed Placement Criteria

Virginia revised its criteria in 2012 to narrow the bases for placement in administrative segregation. To capture the changes, we have preserved the version with track changes that show the criteria that were added or deleted.

The following Segregation Qualifiers indicate that the offender should be considered for assignment to Security Level S:

- S-1 – Aggravated Assault on staff
 - S-2 – Aggravated Assault on Inmate w/weapon or Resulting in Serious Injury w/o weapon
 - S-3 – ~~Repeated or Continuous Refusal to enter GP at a Security Level 4 or 5 facility for 12 months~~ Not Used
 - S-4 - Serious Escape Risk - requiring maximum security supervision
 - S-5 - Commission of Crime of Exceptional Violence and/or Notoriety
 - S-6 - Excessive ~~Violent~~ Disciplinary Charges – reflecting inability to adjust to a lower level of supervision
 - S-7 - Setting Fire Resulting in Injury to Persons or Extensive Damage to State Property
 - S-8 - Rioting resulting in Injury to Persons or Extensive Damage to State Property
 - S-9 - Seizing or Holding Hostages
 - S-10 - Possession of Firearms, Ammunition, Explosives, Weapons
 - S-11 - Knowingly Transferring HIV or other Disease to Another Person or Refusal to Submit to Testing
 - S-12 - Gang Activity Related to any Category I Offense or a Documented Gang Leadership Role
 - S-13 – Staff Manipulator / Predator
 - S-14 – Behavior that represents a threat level too great for the safety and security of a lower level institution.
- Virginia, Operating Procedure 830.2, Security Level Classification.

To summarize, the admission criteria in most systems permit discretion to decision-makers on the behaviors that trigger placement. A common feature across jurisdictions is that the substantive criteria for placement include an invocation of the safety of inmates and staff as well as of institutional security. Incapacitation is the *leitmotif*. Many jurisdictions also employ more particularized grounds for placement, such as the kind of offense for which a person is incarcerated or the number of infractions a person has incurred, but these criteria are typically in addition to rather than in lieu of the more general safety and security justifications. In jurisdictions seeking to monitor more closely the use of administrative segregation, such as Colorado, policies may be revised to require a showing of serious bodily harm or other discrete acts.¹⁵ Virginia is an example of a system that revised its policy to require specific predicate acts for admission to long-term segregation.¹⁶

The Procedures and Processes for Placement

In addition to reviewing criteria for entry, we looked at how placement decisions were made by examining policies at two junctures — the first (non-emergency) placement and then what is generally termed “periodic review.” Our questions included whether jurisdictions provided a process that gave the inmate notice of the reasons for placement, an in-person hearing to assess information, and other procedures for review and reconsideration.

When reading policies, it was sometimes difficult to decide what to classify as a “hearing.” Some policies appear to include formal opportunities for presentations by inmates, while other policies mention the possibility of inmate statements but were unclear about whether such information was provided directly to the decision-makers. In the summary below, we take an expansive view of what constitutes a “hearing” and “evidence.” Specifically, as “hearing” we include processes by which inmates are afforded the opportunity to give a statement and to hear the alleged grounds for the segregation. “Evidence” for these purposes includes all forms of documentary or testimonial submissions. Because our review is limited to policies, we cannot report on whether the practices — for example, the timing of hearings and the information relied upon — comport with the specifications in the policies.

Initial (Non-Emergency) Placement

Notice and Hearings

Thirty-eight jurisdictions specify a hearing upon initial placement.¹⁷ All but seven of these jurisdictions also require that some form of written notice be provided to the inmate in advance of the hearing. Among states that provide hearings, nearly all provide for hearings to be held within 14 days of placement. Connecticut and Ohio call for hearings within 30 days,¹⁸

and Iowa specifies that a first hearing be held at 60 days.¹⁹ Wyoming requires scheduling a hearing within five business days of placement.²⁰ Nine jurisdictions have policies that authorize administrative segregation and do not mention hearings.²¹

Decision-Makers

Most of the policies examined provide that a diverse set of institutional authorities — staff, shift commanders, deputy wardens, wardens — could make an initial decision to place a person immediately in segregation. Policies then call for additional procedures thereafter.

Thirty-one jurisdictions authorize decision-making by a committee. These states are: Alabama, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Maryland, Massachusetts, Maine, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Virginia, Washington, Wisconsin, and Wyoming.²² In some instances, as in New Jersey and Virginia, a hearing officer makes an initial recommendation to the committee.

In twelve jurisdictions, a hearing officer (or another individual official) decides whether to plan an inmate in administrative segregation. They are: Alaska, Arizona, California, Connecticut, Delaware, the Federal Bureau of Prisons, Illinois, Michigan, Mississippi, Ohio, Oregon, and Vermont.²³ In three jurisdictions, Hawaii, Kentucky, and Tennessee, the warden or his/her designee is responsible for making initial determinations.²⁴ West Virginia's policy does not specify the deciding authority.²⁵

Evidence

Of the 38 jurisdictions that specify hearing procedures, 30 jurisdictions authorize inmates either to present evidence (by oral statements, written submissions, or documents) and/or to call witnesses, subject to security considerations. Those states are: Alaska, Arkansas, California, Colorado, the Federal Bureau of Prisons, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, Washington, Wisconsin, and Wyoming.²⁶

Eight state policies do not specify that inmates can present evidence. Those are Arizona, Connecticut, Idaho, Maine, Mississippi, Nevada, New Mexico, and New York.²⁷

Assistance of/Representatives for Inmates

Of the 38 jurisdictions that specify hearing procedures, eight jurisdictions authorize inmates to have a representative, advocate, assistant, or counselor to assist with hearing proceedings. Those states are Alaska, Georgia, Iowa, Massachusetts, South Dakota, Vermont, Virginia, and Wisconsin.²⁸

Nine additional jurisdictions provide for assistance or appoint representatives in specified circumstances — such as language barriers, illiteracy, or mental illness — so as to help in preparation for the hearing or to explain the rights and/or the proceedings. They are: California, Colorado, Idaho, Michigan, Nebraska, Nevada, Oregon, Washington, and Wyoming.²⁹ The Federal Bureau of Prisons provides that a “non-probationary staff member will be available to help the inmate compile documentary evidence and written witness statements to present at the hearing,” and the responsibility is “limited” to helping obtain relevant copies of documents.³⁰

Twenty jurisdictions do not specify that inmates can be represented by individuals such as an advocate, assistant, or counselor at hearings. They are: Arizona, Arkansas, Connecticut, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, and Tennessee.³¹

Most policies do not mention lawyers as participants. One state, Vermont, expressly bans lawyers; two others, Alaska and Massachusetts, expressly permit attendance by lawyers.³²

Review/Appeal of Initial (Non-Emergency) Placements

In analyzing opportunities for review, we considered specific policies related to administrative segregation, and we do not examine general procedures that inmates can use to file grievances.

States employ several means to review the initial decision to place inmates in administrative segregation. In addition to “periodic review,” discussed in the next section, many states provide for prompt review (required as an institutional policy matter) or for an optional appeal by the inmate. Below we distinguish between automatic review and inmate appeals, as well as between review at the institutional level and that done at the jurisdiction’s central office. As reflected below, the policies vary a good deal, and ambiguities make some difficult to categorize. As with the discussions of notice, evidence, and hearings, we report on the policy provisions, and not on how often they are used in practice or on what outcomes result when reviews are undertaken.

Fifteen jurisdictions authorize automatic review by the warden (or designee): Alaska, Colorado, Delaware, Idaho, Indiana, Maryland, Missouri, New Hampshire, North Carolina, Nebraska, Ohio, Vermont, Washington, Wisconsin, and Wyoming.³³ For example, in Ohio, a hearing officer issues a report to the warden, who decides whether placement is appropriate.³⁴ Six of these states (Alaska, Colorado, Nebraska, Ohio, Vermont, and Washington) provide for another level of review, typically at the central office.³⁵ Nine jurisdictions provide for automatic review by the central office: Arizona, the Federal Bureau of Prisons, Maine, Massachusetts, Minnesota, Mississippi, New Mexico, Rhode Island, and Virginia.³⁶ North Dakota and Oklahoma state that reviews will be done by “the appropriate authority.”³⁷

For states employing structured or “step-down” programs, initial decisions by hearing officers or classification committees typically must be approved by the warden or central

office.³⁸ For example, Washington relies on a two-tiered system for short- and long-term separations.³⁹ Washington has also come to use a distinctive nomenclature — intensive management and intensive treatment — coupled with distinctive procedures. For placement in administrative segregation for periods up to 47 days, a multi-disciplinary classification team reviews the placement and continuation.⁴⁰ After 47 days, the classification team must either return the inmate to general population or refer him or her for “Intensive Management Status” (IMS) or “Intensive Treatment Status,” (ITS) where the inmate would stay for a minimum period of 6 months. Following a hearing, the classification may recommend transfer to ITS/IMS; any such transfer must be approved by the Assistant Secretary for Prisons (or his or her designee).⁴¹

A fewer number of states specify an appeal process that inmates may initiate to challenge placement in administrative segregation. Five states permit inmates to appeal placement decisions to the warden: Kansas, Maine, Mississippi, Pennsylvania, and South Dakota.⁴² Two of those states, Pennsylvania and South Dakota, provide for another level of review.⁴³ Arkansas provides for additional review by the warden, but it is unclear whether that process is required or inmate-initiated.⁴⁴ Four jurisdictions, Arizona, Michigan, New York, and Oregon, permit inmates to appeal to the central office.⁴⁵ The Federal Bureau of Prisons permits an inmate to appeal placements in the Special Management Unit (SMU) to the Bureau’s Office of General Counsel.⁴⁶ Several jurisdictions, including Mississippi, Virginia, and North Carolina, specify that inmates may seek review of placement decisions through regular grievance channels.⁴⁷

Nine jurisdictions do not specify that review or appeal of the initial placement decision is available. They are: California, Connecticut, Georgia, Hawaii, Illinois, Kansas, New Mexico, Tennessee, and West Virginia.

Periodic Review

In all of the policies examined, some form of ongoing evaluation is required to continue housing an inmate in administrative segregation. “Periodic review” is the general term, and it entails an automatic review at specified intervals of the continuing placement. The intervals range from weekly to yearly reviews. The location of the authority to continue to hold an individual likewise varies — from the unit itself to the central office, and in a few instances, the Commissioner. In some jurisdictions, inmates may appeal periodic review decisions.

The provisions for periodic review provide insight into how jurisdictions use administrative segregation. Some states structure the time in administrative segregation and impose obligations on inmates to complete particular programs, while other states do not detail structured criteria for determining whether, upon periodic review, to transfer inmates out of segregation. The less structured programs tend to correlate with obligations for more frequent periodic reviews. Whether and how the frequency of reviews and the structure of the programs correlate with the length of time spent in segregation are additional questions in need of research.

Initial Post-Assignment Review

All of the jurisdictions analyzed specify processes for periodic review of placements in administrative segregation. The jurisdictions varied considerably with respect to the time frame for the first periodic review.

Seven Days or Less: The majority of jurisdictions (30) require an initial review within seven days.⁴⁸ Six states require an initial review of the placement decision in three days or less.⁴⁹

Thirty to Ninety Days: Nine states require an initial review of administrative segregation placement within 30 days.⁵⁰ New York and New Jersey conduct the first review after 60 days,⁵¹ and six states review placement each 90-day interval.⁵²

Six Months or More: States that employ structured programs (variously called “intensive treatment,” “special management,” or, simply, “administrative segregation”) typically attach an obligation for review to completion of a particular program or after a minimum period of confinement. Arizona conducts an initial review of administrative segregation after six months.⁵³

Some jurisdictions (California, Colorado, Connecticut, Connecticut, the Federal Bureau of Prisons, Indiana, Kentucky, Minnesota, Mississippi, New Jersey, New Mexico, Oklahoma, Virginia, Washington, and Wisconsin) employ two or more levels of administrative segregation: short-term segregation at a segregation unit (often referred to as “administrative segregation” or “facility segregation”) and long-term segregation at a dedicated facility (sometimes referred to as “departmental segregation,” “administrative control,” “intensive management,” and colloquially known as “supermax”).⁵⁴ In such instances, periodic review for the second category is often significantly later, typically after six months to one year of confinement. In Connecticut, for example, inmates must complete a 10-month program; monthly reviews are done once the inmate has completed a minimum time (90-120 days) in each phase.⁵⁵

Periodic Review Thereafter

Following an initial period of closer scrutiny (ranging from seven to 90 days), many states increase the time intervals for subsequent reviews. The most common arrangement (found in 18 states) requires periodic review of administrative segregation status every seven days for the first two months and at intervals of every 30 days thereafter.

States using an initial review period of 60 days or more either keep the same interval⁵⁶ for subsequent reviews or increase it.⁵⁷ New Jersey is unusual in using 60-day intervals for the first year and reviewing every six months thereafter.⁵⁸ Washington makes a final decision about assignments to administrative segregation at 47 days, soon after which the inmate is transferred to an Intensive Management Unit (IMU), to another facility, or is released into

general population; upon transfer to the IMU, reviews are held every 180 days.⁵⁹ The chart in Appendix B summarizes the periodic review processes in the 47 jurisdictions we analyzed.

Procedures for Periodic Review

Decision-Makers

All but two jurisdictions that have periodic review specify the officials responsible for the review.⁶⁰ Those officials fall into four groups:

- (1) staff at a facility, such as unit managers, case managers, counselors, and, occasionally, mental health professionals;
- (2) warden/superintendent;
- (3) classification team/committee, generally including some personnel from central office; and
- (4) high-level administrators, *e.g.*, the commissioner, director, deputy commissioner, or deputy director of corrections.

Decisions are made in many jurisdictions by facility staff or by a specially designated committee. Some states employing unit-level reviews provide for additional review by either the warden or central classification personnel.

In general, the longer an inmate is in administrative segregation, the higher the level of authority that is involved in periodic review. Five states require approval by the Commissioner for placement in administrative segregation longer than six months (Maine, New Hampshire, and Ohio) or longer than one year (Maryland and North Dakota).⁶¹ Colorado mandates that for placements over one year, the deputy director must meet personally with the inmate.⁶² In Missouri, placement in administrative segregation for longer than 12 months requires approval by the deputy division director.⁶³ The Federal Bureau of Prisons requires approval by the Regional Director for all continuing placements in the SMU.⁶⁴

Four states require that the warden personally review (including a face-to-face meeting with the inmate) longer periods of segregation, typically defined as six months to one year. Specifically, Arkansas, Colorado, and Kansas provide that that no inmate shall remain in segregation for more than a year unless the warden has personally interviewed the inmate and approved the classification.⁶⁵ In Michigan, the warden must provide written approval after 30 days and must personally interview an inmate every six months.⁶⁶ If an inmate is in segregation for 12 months, the Michigan Regional Prison Administrator must provide approval following a personal interview, and that process occurs yearly thereafter.⁶⁷

Hearings and Appeals

Details in policies vary about how information is gathered and evaluated for periodic review. Twenty-nine jurisdictions authorize some type of hearing, with varying levels of formality.⁶⁸ Most states do not specify that the inmate is to be notified in advance of the hearing; fourteen states require some kind of notice — ranging from 24 hours to 72 hours in

advance of the hearing.⁶⁹ A few states specifically permit an inmate to be present at a hearing — with the caveat that exclusion is permissible if an inmate is seen to pose a threat to safety and security.⁷⁰ Many policies do not detail the sources of information used, the inmate's opportunities to submit information, whether reasons are provided, or how subsequent decision-makers evaluate the decisions made.

Variation exists as to whether and how periodic review decisions are themselves either reviewed or appealed. Twenty-four states provide specific methods for review or appeals of decisions about continued placement,⁷¹ while other states permit appeals through regular grievance processes.⁷² Jurisdictions that make appeals available may limit appeals to only those inmates who have served longer periods in segregation. For example, Kentucky provides appeals for continued assignment to administrative control but not administrative segregation, which tends to be shorter-term.⁷³ In several states, an inmate's appeal goes to the warden, and those policies do not specify if any centralized authority reviews the decision.

Conditions, Step-Down Programs, Visitation, and Degrees of Isolation

The policies varied widely in the amount of information contained about the day-to-day experiences of long-term confinement in a segregation unit. For example, some policies set out specific conditions such as minimum square footage,⁷⁴ standards for amount and type of light (artificial or natural),⁷⁵ the number and type of personal effects permitted,⁷⁶ access to library services,⁷⁷ and phone privileges.⁷⁸ Another approach, taken by a number of states (Florida is an example), provides that "administrative confinement status may limit conditions and privileges . . . [but] treatment of inmates . . . shall be as near to that of the general population" as the separation "shall permit."⁷⁹

How isolating segregation is depends in part on whether and under what circumstances persons so confined can speak with and interact with other people. In general, policies did not detail the degree of social interaction permitted, either with other inmates and/or with staff or third parties.

Structured ("Step-Down") Programs

Reflective of concerns about the effects of long-term confinement in segregation units, some states are seeking to reduce the number detained in such settings. In addition, some efforts are underway to increase opportunities for contact. Commonly referred to as "Step-Down," "Intensive Management," or "Behavioral Management" programs, these systems tie an inmate's departure from segregation to the completion of certain goals, such as behavioral plans or classes. Generally speaking, these systems use fairly robust entry procedures but require that inmates stay for a minimum of six months to a year. Some systems explicitly state that disciplinary infractions, of any kind, can extend the length the time in segregation.⁸⁰

Several states, including Connecticut, Massachusetts, Mississippi, New Jersey, New Mexico, Virginia, have devised structured programs described to target behavior issues in some way.⁸¹ For example, New Mexico has a “behavior-driven progressive incentive system consisting of steps that encourages appropriate behavior.”⁸² Mississippi’s program is unusual in that it focuses on inmates who are currently in administrative segregation and who will be released within six months. Those inmates receive reentry-focused programming in a segregated setting.⁸³

Washington is among several states, including Colorado, Massachusetts, Mississippi, and Virginia, that are exploring ways to separate prisoners safely in combination with greater opportunities for group activities and for therapy.⁸⁴ Working in conjunction with Disability Rights Washington and the Vera Institute, Washington has developed what it terms “intensive management” or “intensive treatment” to provide structured group activities and/or various therapies for those in segregation.⁸⁵ Staff assign inmates to specific programs based on individual assessments, in terms of mental health and behavior.⁸⁶ To return to general population, inmates are required to participate.⁸⁷

Visitation During Segregation

Contact with persons outside the facilities is another aspect of sociability, and visitation is addressed by all the policies we reviewed.⁸⁸ The policies varied with respect to the types of visitors permitted, whether visits could be contact or not, what discretion to limit visitation existed, and the frequency and duration of the visits allowed. Some policies noted that wardens had discretion about visiting, or that visits can be limited based on security concerns or in relationship to performance by inmates, including those in step-down programs. Aside from such provisions, state-wide policies did not address the criteria to be used to limit visits as a disciplinary matter. In this arena as in others, decisions at the facility-level both fill gaps and may create site-specific practices.

Categories of Visitors

The policies vary a good deal in terms of detailing visitation rules. All appear to assume lawyer access to clients, but a few specify requirements or note opportunities for contact visits. For example, several states require attorneys to obtain advance approval from a superintendent or warden.⁸⁹ Maine permits “professional visits” if approved by the Unit Management Team.⁹⁰ Ten states provide that limitations on contact visits in segregation do not apply to legal counsel.⁹¹

Twenty states specifically provide inmates in administrative segregation units with access to religious personnel.⁹² In some instances, the focus is on institutional employees, such as chaplains. Arkansas, for example, specifies that chaplains visit “regularly and on request.”⁹³ Iowa provides that religious personnel may visit “upon request.”⁹⁴ Illinois, Indiana, Kentucky, Maine, and New York advise that the chaplain is to visit at least once a week.⁹⁵ Minnesota

authorizes a facility's religious coordinator to make visits once a month.⁹⁶ Nevada provides that visitation by religious personnel "will be encouraged and allowed."⁹⁷

All of the jurisdictions reviewed also provide for inmates to have personal visits while in administrative segregation. A handful of jurisdictions provide that visitation regulations are the same for prisoners in administrative segregation as for those in general population.⁹⁸

In terms of the type or number of visitors for inmates in administrative segregation, a few states specify categories of permissible visitors. Connecticut, New Jersey, Tennessee, and Washington limit visitors, for some kinds of segregation, to "immediate family" or "relatives."⁹⁹ Oregon limits an inmate to two people on the visitation list at any given time, while Mississippi limits an inmate to ten visitors.¹⁰⁰

Two states have special provisions for visits between inmates and their children. In Oregon, an inmate's children are exempt from the total of the two listed visitors permitted, a set whose composition can change at six-month intervals.¹⁰¹ In New Hampshire, inmates who give birth are allowed two additional visits per week with their newborn children for a period of time after the birth.¹⁰²

Contact/Non-Contact Visits

Seventeen jurisdictions do not specify whether visits are contact or non-contact.¹⁰³ Twenty-two states bar contact visits for all or part of the administrative segregation population.¹⁰⁴ California and Nebraska bar contact visits for inmates in the "Secured Housing Unit" or "Intensive Management Unit" but provide for contact visits in other forms of administrative segregation.¹⁰⁵

Eleven states permit personal contact visits for inmates in administrative segregation.¹⁰⁶ Ten of those states authorize the warden or designee to determine whether the visit is contact or non-contact.¹⁰⁷ Vermont ties contact visits to progression through the phases of a step-down program for those in administrative segregation.¹⁰⁸ Minnesota's Administrative Control Unit conducts visits over a closed-circuit television monitor for a minimum of four hours per month.¹⁰⁹

Additional Requirements and Restrictions

Many states set out possible restrictions on visitation based on broad institutional concerns. A formulation found in six states is that "offenders have opportunities for visitation unless there are substantial reasons for withholding such privileges."¹¹⁰ In Florida, "those inmates who are a threat to the security of the institution shall be denied visiting privileges."¹¹¹ Massachusetts provides that "the length and number of visits may be limited due to space, schedules, personnel constraints, or when there is a substantial reason to justify limitation."¹¹²

Twenty-five jurisdictions expressly authorize the superintendent, warden, or other designee to limit visitation at his/her discretion or upon a determination that visits would be a

security risk.¹¹³ Twelve of those states further require that, for inmates in administrative segregation, advance permission for personal visits be requested from the warden, superintendent, or other correctional officer.¹¹⁴ Those policies typically do not provide guidelines for making such decisions.

Some policies focus on inmate behavior as a criterion for visiting, and some specify presumptions for visits. In Alaska, for example, the warden may restrict access to visitation “only if an individualized determination is made that an inmate’s participation threatens the order and security of the facility.”¹¹⁵ Kentucky provides that inmates who pose a security threat may be required to have visits in a different and more secure visiting area.¹¹⁶

All policies address the frequency of visits. Twenty-seven states leave that decision to the facility and, typically, the warden, sometimes under guidelines.¹¹⁷ For example, Indiana authorizes individual facilities to reduce the frequency of visitation, but not below two visits per month.¹¹⁸ Five states expressly provide that inmates in administrative segregation shall have the same number of visits as the general population.¹¹⁹ When visitation is restricted, most policies provide somewhere between one and two visits, lasting one to two hours, each month. In Hawaii’s Maximum Control Unit, one 45-minute non-contact visit every 14 days is permitted.¹²⁰ North Carolina permits two non-contact visits every thirty days.¹²¹ Pennsylvania permits one visit, for a duration of one hour, every thirty days.¹²²

Five states permit increasing the frequency and intervals of visits based on inmate behavior and as other restrictions are decreased.¹²³ For example, in Colorado, inmates in the most restrictive placement, Level I, may have one hour-and-a-half non-contact visit per month.¹²⁴ For Level II, visitation access increases to two hour-and-a-half non-contact visits, and so on up to Level IV, in which inmates may have six two-hour non-contact visits per month.¹²⁵ In Connecticut, phased visitation access ranges from one 30-minute non-contact visit per week for Phase I to three 30-minute non-contact visits per week for Phase III.¹²⁶ New Jersey permits one 60-minute non-contact visit per month in Level 1, and one 60-minute non-contact visit per week in Level 2.¹²⁷

One state — Indiana — mentions the role of visits in relation to leaving prison. Indiana provides that “consideration shall be extended for additional visiting privileges to aid in the offender’s Re-Entry planning and programming.”¹²⁸

Additional Research Agendas

Any review of formal policies always raises questions of implementation and variation. Written rules are often implemented differently, and the context in which they operate informs their meaning. Thus, our discussion cannot capture the experiences of inmates subjected to rules, staff charged with administering and implementing the rules, and the institutional contexts in which these individuals operate. Our hope is that this overview invites more analyses of segregation in prisons.

We thought it helpful, by way of conclusion, to sketch a few of the many research areas that remain to be explored. First, research is needed to analyze two other common forms of segregation — disciplinary/punitive segregation and protective custody. In the materials currently available to us, some 30 jurisdictions provided policies addressing punitive/disciplinary segregation, and about a dozen specified rules on protective custody. Once such information is compiled, one could learn whether the various forms of segregation are governed differently at the formal level.

Second, questions abound about the costs of long-term segregation, the degrees to which it isolates individuals, and its utilities. Dollars and cents are one facet. How much investment by correctional institutions is required to maintain segregation facilities, and how does the size and scale affect the expense? What effect does working in segregation units have on staff? How does staff understand the utility of segregation, the degree of isolation entailed, the kinds of training needed, and the effect of such environments on prison management?

Other areas to explore are the effects of segregation on inmates and on institutions. For example, how do individuals function in segregation? How isolating is it? What levels of stimulation, contact, and forms of sociability are provided, what contact is necessary to prevent deterioration, and what activities facilitate reentry to the population and/or the community? Does segregation of some inmates make an institution safer for others, serve to heighten tensions, or both? What impact on general institutional behavior does the practice of segregation have? Do conditions in the general population, such as overcrowding, produce over-reliance on segregation as a means of control? Further, what impact does segregation have on inmates' subsequent performance in general population, on reentry to the community, and on recidivism?

Third, we do not know the distribution of the use of segregation by age, ethnicity, gender identity, race, and religion. Given wide-spread appreciation of racial disparities in the criminal justice system and the ongoing efforts by correctional authorities (such as the Racial Disparity Committee of ASCA), understanding the demographics is an important aspect of evaluating the impact of segregation.

Fourth, we also do not know the numbers of inmates with identified cognitive or mental health issues, or physical health issues, who are in segregation. The interaction of mental health and of segregation policies is an important area for further evaluation, and, as noted, some jurisdictions, such as Massachusetts, are devising special programs to provide treatment in settings that are safe for inmates and for staff.

Fifth, the policies cannot be understood without gaining information on their implementation. Gaps are inevitable between policies and actual practice. Some policy directives may be more readily implementable than others. The use of segregation is affected by many factors — the institutional setting, the population density of a facility, the staff-to-inmate ratio, the makeup of the inmate population, and the physical plant and its proximity to outside services. Many documents report that some individuals are kept in segregation for

decades. What is not known is whether such long periods of segregation are common and what the degree of isolation in such conditions is. Nor do we know how systems monitor their own programs, both to ensure that inmates receive basic services, nutrition, and exercise and to evaluate the impact of their programs.

Case studies are needed to learn about the actual ways in which segregation functions. Specific questions include the bases in practice for placement, duration, actual conditions of confinement (i.e., space, single or double cells, personal effects, access to contact via telephones, the kind and nature of programs available), degrees of isolation, transfer and return, release opportunities, and support for reentry, all of which would need to be analyzed in relationship to the demographic variation of prison populations. Also required is information on the many dimensions of conditions within segregation as well as access to programming and provisions related to mental health.

Further, as we noted at the outset, this review has focused on policies provided by state and federal governments. The shift of many prisoners to the custody of private corporations providing services under contracts requires another set of inquiries, focused on private prison management. The questions include whether rules are different when a prison is managed privately, whether rules ought to vary based on whether the institution is publicly or privately run, and how rules of either the public or private sectors influence each other.

In short, we have much more to learn.

Endnotes Omitted.

Endnotes available in Room 2031, Senate Public Safety Committee

Appendix A

Summary of the Report

Administrative Segregation, Degrees of Isolation, and Incarceration: A National Overview of State and Federal Correctional Policies in the United States

The Goals

- Provide a national portrait of policies on the uses of administrative segregation
- Understand commonalities and variations across jurisdictions
- Invite consideration about how, when, and whether to use isolating settings
- Encourage conversations across perspectives on these practices

Methodology: Collecting Policies

Phase I: Review publicly available policies
43 reviewed, including via FOIA

Phase II: Solicit policies via ASCA;
42 received as of December 31, 2012

Current Status:

Policies from 50 jurisdictions, including Federal BoP
47 policies on administrative segregation

Challenges of Comparisons

Various terms:

administrative close supervision, administrative confinement, administrative segregation, behavior modification, departmental segregation, inmate segregation, intensive management, locked unit, maximum control unit, restricted housing, security control, security housing unit, segregated housing, special housing unit, and special management

Differing levels of specificity

Interstate and intra-jurisdiction variation

Defining Administrative Segregation

Separation of prisoners from general population typically in a cell (double or single), for 23 hours/day

Generally long-term: not fixed, either indefinite or renewable, and 30 days or more

Not punitive, disciplinary, or protective

Policies with General Authority/ Few Enumerated Factors

“Non-punitive placement of an inmate in a cell whose continued presence in the general population poses a serious threat to life, property, security or the orderly operation of the institution.”

- Alabama, AR 436.3A

“Any other circumstances where, in the judgment of staff, the offender may pose a threat to the security of the facility.”

⁸ Arkansas, AR836 DOC 4.6

“Continued presence in the general population poses a threat to life, property, self, staff, other offenders or to the safety/security or orderly operation of the facility.”

- Delaware, DOC IV.2 4A; *see also* Pennsylvania, DC-ADM 802, III;
Oklahoma, OP-040204.1

“Presence of the inmate in general population would pose a serious threat to the community, property, self, staff, other inmates, or the security or the good government of the facility.”

- Hawaii, COR.11.01.2.2.a.2; *see also* North Dakota, DOC
5A-20.2.a; Vermont, DOC 410.03

“Based on: 1) threat an offender’s continued presence in the general population poses to life, self, staff, other offenders, or property; 2) threat posed by the offender to the orderly operation and security of the facility; and 3) regulation of an offender’s behavior which was not within acceptable limits while in the general offender population.”

- Indiana, DOC 02-01-111 –II

“Administrative segregation admission results from a determination by the facility that the inmate’s presence in general population would pose a threat to the safety and security of the facility.”

- New York, 7 NYCRR 301.4(b)

Example of Enumerated Criteria

Nebraska Department of Correctional Services, Admin. Reg. 201.05

1. The threat potential to staff and/or inmates posed by the inmate.
2. The behaviors leading to the inmate's referral or placement on Administrative Segregation status.
3. The inmate's history of or lack of predatory behavior.
4. The inmate's history of or lack of assaultive behavior.
5. The inmate's history of or lack of escape/attempted escapes.
6. The inmate's history of or lack of membership in a criminal threat group.
7. The injuries the inmate may have caused to others.
8. The inmate's use of weapon(s) in this or prior incidents.
9. The inmate's documented mental health issues.
10. The inmate's prior criminal history.
11. The inmate's prior disciplinary record (misconduct reports, etc.).
12. The inmate's history of or lack of illicit drug use within the Nebraska Department of Correctional Services.
13. The programming that the inmate has or has not completed.
14. The prior classification decisions involving the inmate's status.
15. The inmate's documented behavior (incident reports, etc.) and interactions with staff and other inmates.
16. The professional judgment and recommendations of Nebraska Department of Correctional Services staff regarding the classification of the inmate.
17. The real or perceived threat of harm to the inmate from other inmates.
18. The inmate's statements regarding admission of prior actions, a commitment to changing behavior, and accountability for prior acts.
19. Any other information regarding the inmate that the classification authority deems appropriate.

Examples of Additional Criteria

"Pending investigation for trial . . . or a pending transfer."

- Alaska, 804.01

"Disruptive geographical group and/or gang-related activity."

- Bureau of Prisons, P5217.01(2)

"Jeopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity."

- California, Article 7, 3335(a)

"A conviction of a crime repugnant to the inmate population."

- Florida, Fla. Admin. Code r. 33-602.220(3)(e)

“Those who received unusual publicity because of the nature of their crime, arrest, or trial, or who are involved in criminal activity of a sophisticated nature, such as organized crime.”

- Montana, 04.05 120 C(d)

“Those with special needs, including those defined by age, infirmity, mental illness, developmental disabilities, addictive disorders, and medical problems.”

- Montana, 04.05 120C(f); *see also* Kentucky, 501KAR6:020;
Maryland DOC.100.002-18B(2)(e)

“Prisoner tests positive for HIV infection and is subsequently found guilty of a major misconduct for behavior which could transmit HIV infection.”

- Montana, 04.05 120 L(6)

“As a ‘cooling off’ measure.”

- North Carolina, DOC Ch. C.1201(A)(4)(e)

“There is a history of unresponsiveness to counseling or conventional disciplinary sanctions and the inmate is flagrantly or chronically disruptive to the security and/or disciplined operation of the institution.”

- South Dakota, 1.3.D.4(B)(5)

“Pending prosecution and disposition in criminal court for felony charges incurred during incarceration.”

- Tennessee, VI(d); *see also* Miss., 19-01-01(77)

“No records and/or essential information are available to determine the inmate’s custody level or housing needs.”

- Pennsylvania, DC-ADM 802, Sec. 1(A)(1)(j)

Discretion Tied to Approval by Warden, Director, or Commissioner

“Other circumstances may warrant placement in administrative segregation. Such placement will require approval by the Director of Prisons.”

- Colorado, Admin. Reg. 650-03(IV)(b)(6)

“The Watch Commander, or higher authority, may order immediate Administrative Segregation when it is necessary to protect the offender or others. This action is reviewed within 72 hours by the facility Warden.”

- Delaware, Policy No. 4.3(VI)(A)

“An inmate may be placed or retained in a DSU [Departmental Segregation Unit] only after a finding by the Commissioner based on substantial evidence that, if confined in the general population of any state correctional facility: (1) The inmate poses a substantial threat to the safety of others; or (2) The inmate poses a substantial threat of damaging or destroying property; or (3) The inmate poses a substantial threat to the operation of a state correctional facility.”

- Massachusetts, Policy No. 421.09

Example of Narrowed Criteria

Virginia revised its criteria in 2012 to narrow the bases for placement in administrative segregation. Additions and deletions are shown below in track changes.

The following Segregation Qualifiers indicate that the offender should be considered for assignment to Security Level S:

- S-1 – Aggravated Assault on staff
- S-2 – Aggravated Assault on Inmate w/weapon or Resulting in Serious Injury w/o weapon
- S-3 – ~~Repeated or Continuous Refusal to enter GP at a Security Level 4 or 5 facility for 12 months~~ Not Used
- S-4 - Serious Escape Risk - requiring maximum security supervision
- S-5 - Commission of Crime of Exceptional Violence and/or Notoriety
- S-6 - Excessive **Violent** Disciplinary Charges – reflecting inability to adjust to a lower level of supervision
- S-7 - Setting Fire Resulting in Injury to Persons or Extensive Damage to State Property
- S-8 - Rioting resulting in Injury to Persons or Extensive Damage to State Property
- S-9 - Seizing or Holding Hostages
- S-10 - Possession of Firearms, Ammunition, Explosives, Weapons
- S-11 - Knowingly Transferring HIV or other Disease to Another Person or Refusal to Submit to Testing
- S-12 - Gang Activity Related to any Category I Offense or a Documented Gang Leadership Role
- S-13 – Staff Manipulator/Predator
- S-14 – Behavior that represents a threat level too great for the safety and security of a lower level institution.

--Virginia, Operating Procedure 830.2, Security Level Classification.

Initial Placement in Administrative Segregation

Processes for Placement

Decision-Makers

Committee:	31	jurisdictions
Hearing officer:	12	jurisdictions
Warden/designee:	3	jurisdictions

Notice and Hearings (broadly defined)

38	jurisdictions specify hearings
29	jurisdictions require hearings within 14 days
9	jurisdictions do not specify that hearings are to be provided

Evidence (broadly defined)

30	jurisdictions authorize inmate presentation of evidence
8	jurisdictions do not specify

Inmate Assistance/Representatives

8	jurisdictions authorize assistance or representatives
10	additional jurisdictions provide for assistance in specified circumstances
20	jurisdictions do not specify that inmates can have assistance
2	jurisdictions authorize lawyers/1 prohibits lawyers

Review and Appeal

Review

Automatic review by warden:	15 jurisdictions
Automatic review by central office:	9 jurisdictions

Appeal – inmate initiation

9 jurisdictions: inmates appeal either to central office or to warden

7 jurisdictions do not specify appeal or review processes specific to administrative segregation

Some jurisdictions use regular grievance procedures

Rate of approval/reversal unknown

Periodic Review

Every jurisdiction provides periodic review

First periodic review

- 27 jurisdictions: 28 days or less
- 14 jurisdictions: 30 - 90 days or less
- 6 jurisdictions: 6 months - 1 year or less

Subsequent Reviews

- 4 jurisdictions: 28 days or less
- 37 jurisdictions: 30-90 days or less
- 6 jurisdictions: 6 months - 1 year or less
- 2 jurisdictions: minimum time before periodic review (120 days - 1 year)

- 6 jurisdictions require approval by commissioner/deputy for 6 months - 1 year
- 4 jurisdictions require approval by warden for longer than 1 year

Unknown whether the timing and frequency of reviews correlate with duration in administrative segregation

Visitation

Many decisions are at facility level

Legal Visits

- All jurisdictions permit
- 10 jurisdictions provide that no limitations may be placed on contact with lawyers

Religious visits

- 20 states expressly provide visits

Personal Visits

- All jurisdictions permit personal visits
- 4 states limit to immediate family/relatives

Degree of contact:

- 22 bar contact visits (depending on kind of segregation)
- 11 permit contact visits
- 10 require permission from warden
- 14 policies do not specify
- 1 state ties to progression in program
- 1 state allows visits only via closed circuit video

Research Questions Raised

Implementation

- Bases for placement
- Program opportunities
- Duration of segregation
- Degrees of isolation
- Mental health implications
- Transfer and return
- Release opportunities
- Support for reentry
- Recidivism

Demographic data: age, ethnicity, gender, LGBT, race, religion

Inmates' perspectives on and experiences of isolation

Staff perspectives on, training for, and experiences of implementing isolation

Utilities and costs

Alternatives

Appendix B

Summary of Periodic Review Processes

Administrative Segregation, Degrees of Isolation, and Incarceration: A National Overview of State and Federal Correctional Policies in the United States

The intervals listed below are the maximum durations permitted; reviews may happen sooner.

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Alabama	Weekly	Weekly	Weekly	Institutional Segregation Review Board, comprised of Warden, Chaplain, and Classification Supervisor. ¹	No
Alaska	Monthly	Monthly	Monthly	Institutional Probation Officer makes initial recommendation to Superintendent. ²	Yes
Arizona	Six months	Yearly	Yearly	Correctional Officer, Unit's Deputy Warden, and Warden. Central Classification Administrator makes final decision. ³	Yes
Arkansas	Weekly (first two months)	Monthly	Monthly	"Classification Committee or authorized staff". ⁴	No

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
California	180 days	180 days	180 days	Institutional Classification Committee or Classification Staff Representative ⁵ (indeterminate SHU)	No
	180 days	180 days	180 days	Institutional Classification Committee ⁶ (administrative segregation to investigate gang affiliation)	No
	90 days	90 days	90 days	Institutional Classification Committee; Departmental Review Board can grant release. ⁷ (administrative segregation pending investigation of "non-disciplinary reasons for segregation")	No
Colorado	Weekly (first two months)	Monthly	Monthly	Internal Classification Committee and Appointing Authority, subject to approval from the Deputy Director and Central Classification Committee ⁸	No
Connecticut	Weekly (first two months)	Monthly	Monthly	Unit Manager, Classification Counselor Supervisor, Major of Programs and Services, and endorsed by the Unit	No

ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL OVERVIEW OF POLICIES

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
	10 month minimum program	Monthly	Monthly	Administrator. Removal must be approved by the Director of Offender Classification and Population Management. ⁹	No
Delaware	7 days	30 days	30 days	Warden (beyond 30 days); Commissioner (beyond 1 year). ¹⁰	No
Federal Bureau of Prisons	Weekly (first month)	Monthly	Monthly	Segregation Review Officer (Administrative Detention) ¹¹	Yes
	28 days	90 days	90 days	Disciplinary Hearing Officer; must be approved by Regional Director. ¹² (Special Management Unit) Note: entire program expected to take 18-24 months	Yes
Florida	Weekly	Monthly	Monthly	Weekly initial reviews by Institutional Classification Team; monthly reviews by State Classification Office. ¹³	No
Georgia	Weekly (first two months)	Monthly	Monthly	Counselor informally reviews and reports to warden the inmate's well-being for first two months, while Classification Committee reviews every thirty days. ¹⁴	Yes

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Hawaii	Weekly	Weekly	Weekly	Warden within first five days, then Facility Classification Committee thereafter. ¹⁵	No
Idaho	Monthly (first 90 days)	120 days	120 days	Restrictive Housing Review Committee, normally the Case Management Team. ¹⁶	No
Illinois	90 days	90 days	90 days	Chief Administrative Officer. ¹⁷	No
Indiana	Weekly (first two months)	Monthly	Monthly	Classification Committee (facility-level segregation unit) or "staff designated by the Facility Head." ¹⁸	No
	Unspecified for "Department-Wide Segregation"				
Iowa	Weekly (first two months)	Monthly	Monthly	Committee, defined as "Unit Management Team, Classification Team, Treatment Team, or Segregation Review Team." ¹⁹	Yes

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Kansas	Weekly (first month)	Monthly	Monthly	Administrative Segregation Review Board (one clinical staff member, one security staff member, and one classification staff member). Program Management Committee will review inmates in Administrative Segregation every 180 days. Warden submits report on all inmates in Administrative Segregation for more than 1 year. ²⁰	Yes (placements over 1 year)
Kentucky	Weekly	Weekly	Weekly	Classification Committee. ²¹ (Administrative Segregation)	No
	90 days	30 days	30 days	Classification Committee. ²² (Administrative Control)	Yes
Maine	72 hours	Weekly (first two months)	Monthly	Chief Administrative Officer (initial review); Unit Management Team (monthly reviews); Commissioner (after 6 months). ²³	Yes
Maryland	Monthly	Monthly	Monthly	Case Management Team recommendation, and approval by managing official or designee; commissioner (more than 1 year). ²⁴	No

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Massachusetts	Weekly (first two months)	Monthly	Monthly	Correctional Program Officer, approved by Director of Classification. (Special Management Unit) ²⁵	Yes
	90 days	90 days	90 days	Departmental Segregation Unit (DSU) Board and approval by Commissioner. ²⁶	Yes
Michigan	Weekly (first two months)	Monthly	Monthly	Security Classification Committee (includes consultation with mental health professional); Warden (written approval 30 days or more; personal interview, 6 months or more); Regional Prison Administrator (personal interview 12 months or more). ²⁷	Yes
Minnesota	24 hours (unit ad. seg.)	Weekly (first two months)	Monthly	Unspecified ²⁸	Yes
	6 months (admin. control status)	6 months	6 months	Administrative Control Unit Quarterly Review Committee (includes Program Director, Unit Lieutenant, case manager, mental health professional, education staff member). ²⁹	Yes

ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL OVERVIEW OF POLICIES

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Mississippi	72 hours	Weekly (first two months)	Monthly	Classification Hearing Officer; ³⁰ may be appealed to Warden (Segregation)	Yes
	90 days	90 days	90 days	Unit Review Team (Warden, Deputy Warden, Case Manager, Unit Administrator) makes recommendations to Deputy Administrator (retention); Administrator (release). ³¹ (Long-term Segregation)	Yes
Missouri	30 days	90 days	90 days	Administrative Segregation Committee (chaired by the Functional Unit Manager with a caseworker and corrections officers); 12 months or more, Deputy Director. ³²	No
Montana	Monthly	Monthly	Monthly	Not specified. ³³	Yes
Nebraska	Weekly (first two months)	14 days	14 days	Warden. ³⁴	Yes
Nevada	72 hours	Monthly	Monthly	Classification Committee. ³⁵	No
New Hampshire	Weekly (first two months)	Monthly	Monthly	SHU Unit Team; Warden (3 months); Commissioner (6 months). ³⁶	No

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
New Jersey	Every 2 months (first year)	6 months	6 months	Special Administrative Segregation Review Committee. ³⁷	No
New Mexico	Weekly (first two months)	Monthly	Monthly	Review by Classification Committee (Classification Bureau Chief, Deputy Classification Bureau Chief, and Unit Management Team). ³⁸	No
New York	60 days	60 days	60 days	Committee consisting of "a member of facility executive staff, a security supervisor, and a member of the guidance and counseling staff." ³⁹	Yes
North Carolina	7 days	30 days	60 days	Case Manager (7- and 30-day reviews); Facility Classification Committee (60-day review). After 60 days may be referred to Director's Classification Committee for "intensive control assignment." ⁴⁰	Yes (standard grievance process)
North Dakota	Weekly (first two months)	Monthly	Four Months	Administrative Segregation Committee; Warden (four months); Director (yearly). ⁴¹	No

ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL OVERVIEW OF POLICIES

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Ohio	Weekly (first two months)	Monthly	180 days	Unit Team (unit manager, case managers, and correctional counselors (sergeants)); may consist of just one member. Director must approve past 180 days. ⁴²	No
Oklahoma	Weekly (first two months)	Monthly	Monthly	Classification Committee. ⁴³	No
Oregon	Monthly	Monthly	Monthly	Special Population Management Committee (SPM) (at least three department staff members, to include a representative from Institution Operations, Behavioral Health Services, and the Office of Population Management) (after first 30 days), then Special Needs Inmate Evaluation Committee. ⁴⁴	No
Pennsylvania	Weekly (first two months)	Monthly	Monthly	Counselor (interviews weekly); Program Review Committee (first two months); Unit Management Team (monthly). ⁴⁵	Yes
Rhode Island	90 days	90 days	90 days	Classification Board. Class C inmates ⁴⁶	No

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
South Dakota	90 days	90 days	90 days	Administrative Segregation Hearing Board (generally a Captain and two unit managers). ⁴⁷	Yes
Tennessee	Weekly (first two months)	Monthly	Monthly	Administrative Review Panel, approved by Warden; Director of Classification and Assistant Commissioner of Operations review if Warden continues segregation against Panel's recommendation for four consecutive months. ⁴⁸	No
Vermont	Weekly	30 days	60 days	Segregation Review Committee, approved by Superintendent; approved by Deputy Commissioner (after 60 days). ⁴⁹	No
Virginia	Weekly (first two months)	Monthly	Monthly	Special Housing Unit Supervisor. ⁵⁰	Yes (standard grievance process)
	90 days	90 days	90 days	Institutional Classification Authority. ⁵¹ (formal review)	Yes (standard grievance process)

ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL OVERVIEW OF POLICIES

State	Interval No. 1	Interval No. 2	Interval No. 3	Reviewing Authority	Review/ Appeal
Washington	2 days	14 days	30 days	Classification Team. (Administrative Segregation; limit of 47 days, then may be transferred to IMU)	No
	180 days	180 days	180 days	Classification Team; release from IMU/ITU must be approved by Assistant Secretary. (Intensive Management/Treatment Unit) ⁵²	No
West Virginia	Weekly (first two months)	Monthly	Monthly	Classification Committee "or other authorized staff group." ⁵³	No
Wisconsin	Weekly	Monthly	Monthly	Administrative Confinement Review Committee; Warden (more than 12 months). ⁵⁴	Yes
Wyoming	Weekly (first two months)	Monthly	Monthly	Unit Management Team, approved or denied by Warden. Central Office Team review conducted every 180 days. ⁵⁵	Yes

APPENDIX B—ENDNOTES

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- ¹ Alabama, AR 436(V)(A)(2).
- ² Alaska, AK DOC 804.01(VII)(D).
- ³ Arizona, AZ DO 801.10.
- ⁴ Arkansas, AD 11-42(III)(D)(1).
- ⁵ Cal. Code Regs. tit. 15, § 3335(e).
- ⁶ Cal. Code Regs. tit. 15, §§ 3335 (d)(2), 3341.5(c)(5).
- ⁷ Cal. Code Regs. tit. 15, § 3335 (d)(3).
- ⁸ Colorado, AR 650-03, (IV)(J)(2).
- ⁹ Northern Correctional Institution Administrative Segregation Program.
- ¹⁰ Delaware, DOC Policy No. 4.3(VI)(A)(3).
- ¹¹ Federal Bureau of Prisons, BOP 541.23.
- ¹² Federal Bureau of Prisons, P5217.01.
- ¹³ Fla. Admin. Code r. 33-602.220.8.
- ¹⁴ Georgia, SOP IIB09-0001(VI)(H)-(I).
- ¹⁵ Hawaii, COR.11.01(3.0)(b); COR.11.04(4.0)(5)(e).
- ¹⁶ Idaho, SOP 319.02.01.001(10), (15).
- ¹⁷ Ill. Admin. Code tit. 20, § 504.660(c).
- ¹⁸ Indiana, Policy 02-01-111(VII).
- ¹⁹ Iowa, IO-HO-05(III); IO-HO-05(IV)(A)(7).
- ²⁰ Kansas, IMPP 20-106.

²¹ Kentucky, CPP 10.2(II)(M)(2)(d).

²² Kentucky, CPP 10.2(II)(M)(3)(a)(5).

²³ Maine, DOC 15.1.

²⁴ Maryland, DOC.100.0002(5)(D)-(F); DOC.100.0002(18)(B).

²⁵ Massachusetts, 103 CMR 423.08; 103 CMR 420.09.

²⁶ Massachusetts, 103 CMR 421.15-421.18.

²⁷ Michigan, PD 04.05.120(BBB)-(GGG).

²⁸ Minnesota, DD 301.085(C).

²⁹ Minnesota, DD 301.087(G).

³⁰ Mississippi, SOP 19-01-01.

³¹ Mississippi, SOP 19-01-03.

³² Missouri, IS21.-1.2(III)(B).

³³ Montana, DOC 3.5.1(III)(H)(1).

³⁴ Nebraska, AR 201.05(IV)(C), (VI)(A & B).

³⁵ Nevada, AR 507.01(2)(I).

³⁶ New Hampshire, PPD 7.14(III)(1)(H)(1), (VI)(2).

³⁷ New Jersey, IMM.012.ADSEG.02(IV).

³⁸ New Mexico, CD-143000.5(I)-(J).

³⁹ 7 NYCRR 301.4(d)(1).

⁴⁰ North Carolina, C.0302. The text states that a “designated staff member” will conduct the reviews; representatives from North Carolina DOC informed us that case managers typically perform these reviews.

⁴¹ North Dakota, 5A-20(3)(E).

⁴² Ohio Admin. Code 5120-9-13.1(H,I); 55-SPC-02(IV), (VI)(B)(4).

⁴³ Oklahoma, OP-O40204(III)(A)(7).

⁴⁴ Oregon, AR 291-046-0005; 291-046-0025; 291-046-0090.

⁴⁵ Pennsylvania, DC-ADM 802(2)(D).

⁴⁶ Rhode Island, Procedure for Classification to Category C.

⁴⁷ South Dakota, DOC Policy 1.3.D.4.

⁴⁸ Tennessee, DOC Policy 404.10(VI)(B).

⁴⁹ Vermont, 410.03(6).

⁵⁰ Virginia, OP 861.3(V)(B)(3).

⁵¹ Virginia, OP 861.3(IX)(A)(5).

⁵² Washington, DOC 320.200(III)(C); DOC 320.250.

⁵³ West Virginia, DOC 326.00(V)(B)(4).

⁵⁴ Wisconsin, Wis. Admin. Code DOC § 308.04(10)-(11). Inmates may appeal their placement after six months. The twelve-month review by the Warden is automatic.

⁵⁵ Wyoming, P&P 3.302(IV)(E)-(F). Note also that in cases where the Unit Management Team recommends release but the Warden disagrees, that disagreement gives the inmate the right to appeal to the Wyoming DOC Prison Division Administrator. Wyoming, P&P 3.302(IV)(E)(5)(ii).

Testimony of Professor Craig Haney

Senate Judiciary Subcommittee on Constitution, Civil Rights, and
Human Rights Hearing on Solitary Confinement

June 19, 2012

Testimony of Professor Craig Haney
Senate Judiciary Subcommittee on the Constitution, Civil Rights, and
Human Rights Hearing on Solitary Confinement

June 19, 2012

Chairman Durbin, Ranking Member Graham, and distinguished members of the Subcommittee: My name is Craig Haney. I am a Professor of Psychology at the University of California, Santa Cruz, and someone who has been studying the psychological effects of solitary confinement for well over 30 years. My academic interest in prisons more generally began even earlier in my professional life. In 1971 I was one of the principal researchers in a widely publicized study that came to be known as the "Stanford Prison Experiment." My colleagues and I placed a carefully screened group of psychologically healthy college students in a prison-like environment, randomly assigning half to be guards, half prisoners. We observed with increasing concern and dismay as the behavior of the otherwise psychologically healthy volunteers in our simulated prison rapidly deteriorated into mistreatment and emotional breakdowns.¹ When I began to study real prisons, examining and evaluating conditions of confinement in prison systems throughout the United States and in a number of foreign countries, I continued to be guided by the early lesson of the Stanford Prison Experiment: prisons are psychologically powerful places, ones that are capable of shaping and transforming the thoughts and actions of the persons who enter them, often in unintended and adverse ways.

¹ For example, see: C. Haney, Curtis Banks & Philip Zimbardo, Interpersonal Dynamics in a Simulated Prison, 1 International Journal of Criminology and Penology 69 (1973); and C. Haney & Philip Zimbardo, The Past and Future of U.S. Prison Policy: Twenty-five Years After the Stanford Prison Experiment, 53 American Psychologist 709-727 (1998).

Since that time, I have toured and inspected numerous solitary confinement units across the country, in state prison systems from Massachusetts to California, and the federal “supermax” in Florence, Colorado (ADX). I have conducted systematic psychological assessments of approximately 1000 isolated prisoners, most of whom have been confined in solitary confinement units for periods of years, and even decades, during which time they have been kept separate from other prisoners, and denied the opportunity to have any normal human social contact or to engage in any meaningful social interaction.²

The Historical Context

As I mentioned above, the increased use of isolated or solitary confinement in American prisons began in the late 1970s and early 1980s. In a certain sense, it represented a return to a long-discredited practice that the nation had abandoned a century ago. As you may know, there was a time in our history when all prisons were operated as solitary confinement units, or nearly so. However, as the U.S. Supreme Court noted in an 1890 case, In re Medley, by the end of the 19th century, solitary confinement had already come to be known as an “infamous punishment,” largely because, as the Court acknowledged: “A

² Much of my professional access to conditions of solitary confinement and to the large number of prisoners and staff whom I have interviewed has occurred in the context of constitutional litigation in which I have been asked or appointed to help determine whether and how isolated prisoners were being subjected to potentially cruel and unusual punishment. For example, see, Madrid v. Gomez, 889 F.Supp. 1146 (N.D. Cal. 1995); Ruiz v. Johnson, 37 F.Supp. 2d 855 (S.D. Tex. 1999). I was the principal author of the Brief of Professors and Practitioners of Psychology and Psychiatry As Amicus Curiae in Austin v. Wilkinson, 545 U.S. 209 (2005). This work has provided me with a rare opportunity not only to conduct in-depth inspections of many solitary confinement units and to interview numerous prisoners and staff members who live and work there, but also to review an extensive number of prison documents, records, and files that pertain to the operation of the units themselves.

considerable number of the prisoners [in solitary] fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide, while those who stood the ordeal better were not generally reformed and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.”³

Indeed, the Court’s Medley opinion echoed observations that had been made even earlier by Alexis d’Tocqueville, who concluded that solitary confinement in American prisons “devours [its] victims incessantly and unmercifully” and noted that the “unfortunate creatures who submitted to [it] wasted away,”⁴ and by Charles Dickens, who, although himself no stranger to harsh and degrading conditions, termed solitary confinement a “dreadful” punishment that inflicted terrible psychic pain that “none but the sufferers themselves can fathom, and which no man has a right to inflict upon his fellow creatures.”⁵

I wish I could say that the nation’s return to this long discredited practice was occasioned by significant advances in the way that solitary confinement is now implemented, or that new psychological insights had emerged to lessen previously widespread concerns about its damaging effects. I cannot. Instead, I believe the renewed use of long-term solitary confinement is the result of the confluence of three unfortunate trends—the era of “mass imprisonment” that began in the mid-1970s and produced widespread prison overcrowding, the shift in responsibility for housing the mentally ill to the nation’s prison systems, and

³ In re Medley, 134 U.S. 160, 168 (1890).

⁴ Quoted in Torsten Eriksson, The Reformers, An Historical Survey of Pioneer Experiments in the Treatment of Criminals. New York: Elsevier (1976), at 49.

⁵ Charles Dickens, American Notes for General Circulation. London: Chapman and Hall (1842), at 119-20.

the abandonment of the rehabilitative ideal and its corresponding mandate to provide prison programming and treatment. The renewed widespread use of solitary confinement emerged as an administrative stop-gap—an ill-advised but expedient measure to keep the resulting and potentially very problematic prison dynamics in check. I believe it has become increasingly clear that this approach to prison management has created far more problems than it solved.

The Conditions of Solitary Confinement

I should acknowledge that the term “solitary confinement” is a term of art in corrections. Solitary or isolated confinement goes by a variety of names in U.S. prisons—Security Housing, Administrative Segregation, Close Management, High Security, Closed Cell Restriction, and so on. But the units all have in common the fact that the prisoners who are housed inside them are confined on average 23 hours a day in typically windowless or nearly windowless cells that commonly range in dimension from 60 to 80 square feet. The ones on the smaller side of this range are roughly the size of a king-sized bed, one that contains a bunk, a toilet and sink, and all of the prisoner’s worldly possessions. Thus, prisoners in solitary confinement sleep, eat, and defecate in their cells, in spaces that are no more than a few feet apart from one another.

Beyond the physical limitations and procedural prohibitions that are central to solitary confinement units, these places must be “lived in,” typically on a long-term basis. Reflect for a moment on what a small space that is not much larger than a king-sized bed looks, smells, and feels like when someone has lived in it for 23 hours a day, day after day, for years on end. Property is strewn around, stored in whatever makeshift way possible, clothes and bedding soiled from recent use sit in one or another corner or on the floor, the residue of recent meals

(that are eaten within a few feet of an open toilet) here and there, on the floor, bunk, or elsewhere in the cell. Ventilation is often substandard in these units, so that odors linger, and the air is sometimes heavy and dank. In some isolation units, prisoners are given only small amounts of cleaning materials—a Dixie cup or so of cleanser—once a week, making the cells especially difficult to keep clean.

Inside their cells, units, and “yards,” isolated prisoners are surrounded by nothing but concrete, steel, cinderblock, and metal fencing—often gray or faded pastel, drab and sometimes peeling paint, dingy, worn floors. There is no time when they escape from these barren “industrial” environments. Many prisoners sit back on their bunks, look around at what has become the sum total of their entire lives, hemmed in by the tiny space that surrounds them and, not surprisingly, become deeply despondent.

Virtually all of the solitary confinement units with which I am familiar prohibit contact visits of any kind, even legal visits. This means that prisoners go for years—in some cases, for decades—never touching another human being with affection. Indeed, the only regular “interactions” that prisoners housed in these units routinely have occur when correctional officers push food trays through the slots on their doors two or three times a day in order to feed them. The only form of actual physical “touching” they experience takes place when they are being placed in mechanical restraints—leg irons, belly chains, and the like—in a procedure that begins even before their cell doors are opened, and which is done every time they are taken out of their cells by correctional staff, on the relatively infrequent occasions when this occurs.

When prisoners in solitary confinement or “lock-up” units leave their cells for what is, typically, an average of one hour a day, it is usually to go to a so-called “yard.” I say “so-called” because the “yard” in most of these units bears no relationship to the image this word ordinarily conjures. Instead, the yard often

consists of a metal cage, sitting atop a slab of concrete or asphalt or, in the case of California's Pelican Bay, a concrete-enclosed pen, one surrounded by high solid walls that prevent any view of the outside world. Federal Judge Thelton Henderson, who presided over a landmark case examining conditions of confinement at the Pelican Bay Security Housing Unit or "SHU," noted that the image of prisoners trying to exercise in these concrete pens—their only regular opportunity to be out of their windowless cells each day—was "hauntingly similar to that of caged felines pacing in a zoo."⁶ It is an apt description that unfortunately applies to many prisoners in many such "yards" around the country. In fact, the haunting similarities to zoos are not limited merely to the nature of the yards; one is hard-pressed to name any other place in our society where sentient beings are housed and treated the ways that they are in solitary confinement.

The emptiness and idleness that pervade most solitary confinement units are profound and enveloping. The prison typically provides the prisoners in these units with literally nothing meaningful to do. That emptiness, when combined with the total lack of meaningful social contact, has led some prisoners into a profound level of what might be called "ontological insecurity"—they are not sure that they exist and, if they do, exactly who they are. A number of prisoners have told me over the years that they actually have precipitated confrontations with prison staff members (that sometimes result in brutal "cell extractions") in order to reaffirm their existence.

The Makeup of Solitary Confinement Units

⁶ Madrid, *supra* note 2, at 1229.

You are no doubt wondering who is confined in these units. That is, what does a prisoner have to do in order to be housed in such a place? In fact, some of the prisoners have done very serious things, including assaulting other prisoners or even staff members; some have even committed in-prison homicides. However, in most isolation units these prisoners are the exception rather than the rule. A number of prisoners are in solitary confinement for having committed an unacceptably high number of minor offenses. An even larger number are housed there because they are alleged to be prison gang members or associates, an offense that, in and of itself, can result in indefinite solitary confinement, even though the prisoners in question may not have engaged in any overt rule violations other than their alleged connection to the gang, and may remain entirely free of disciplinary write-ups during the many years of their indefinite isolation. Allegations of gang membership are inherently subjective and can be unreliable. Prisoners who are erroneously classified in this way are hard-pressed to establish facts and may be confined in isolation on this incorrect basis indefinitely.⁷

In addition, there are two very problematic but little publicized facts about the group of prisoners who are housed inside our nation's solitary confinement units. The first is that a shockingly high percentage of them are mentally ill, and often profoundly so. In some cases, the mental illness was pre-existing and may even be the primary cause of the disciplinary infraction that brought them to the solitary confinement unit in the first place. In other instances, however, the signs and symptoms of mental illness appear to have emerged only after the prisoner's term in solitary confinement began. Studies indicate that approximately a third of

⁷ For example, see: Erica Goode, Fighting a Drawn-Out Battle Against Solitary Confinement, New York Times, March 30, 2012. [available at: <http://www.nytimes.com/2012/03/31/us/battles-to-change-prison-policy-of-solitary-confinement.html?pagewanted=all>]

the prisoners in solitary confinement units suffer from mental illness,⁸ but in some units the figure is higher—half or more. Approximately 50% of all prison suicides occur in solitary confinement units.⁹

The other very troublesome but rarely acknowledged fact about solitary confinement is that in many jurisdictions it appears to be reserved disproportionately for prisoners of color. That is, the racial and ethnic overrepresentation that occurs in our nation's prisons generally is, in my personal experience, even more drastic inside solitary confinement units. Although these data are not systematically collected and made available for analysis overall, a study that I conducted in a Security Housing Unit in California confirmed that approximately 90% of the prisoners housed there were of color (i.e., Latino or African American).

The Psychological Effects of Solitary Confinement

What are the consequences of confinement in such harsh and deprived places? Your colleague, Senator John McCain, characterized solitary confinement as “an awful thing,” noting that: “It crushes your spirit and weakens your

⁸ Specifically, two separate studies have found that 29% of the prisoners in solitary confinement suffer from a “serious mental disorder.” Hodgins, S., and Cote, G., *The Mental Health of Penitentiary Inmates in Isolation*, 33 *Canadian Journal of Criminology* 177-182 (1991); Lovell, D., Cloyes, K., Allen, D., & Rhodes, L., *Who Lives in Super-Maximum Custody? A Washington State Study*, 64 *Federal Probation* 33-38 (2000). If the definition of mental illness is broadened to include “psychosocial impairments,” then one study has found approximately 45% of solitary confinement prisoners are so afflicted.

⁹ Mears, D.P. & Watson, J., *Towards a Fair and Balanced Assessment of Supermax Prisons*, 23 *Justice Quarterly*, 232 (2006); Way, B., Miraglia, R., Sawyer, D., Beer, R., & Eddy, J. (2005). *Factors Related to Suicide in New York State Prisons*, 28 *International Journal of Law and Psychiatry*, 207 (2005); Patterson, R.F. & Hughes, K., *Review of Completed Suicides in the California Department of Corrections and Rehabilitation, 1999 to 2004*, 59 *Psychiatric Services* 676-682 (2008). See, also: Cloyes, K., Lovell, D., Allen, D., & Rhodes, L. *Assessment of Psychosocial Impairment in a Supermaximum Security Unit Sample*, 33 *Criminal Justice and Behavior* 760-781 (2006).

resistance more effectively than any other form of mistreatment. Having no one else to rely on, to share confidences with, to seek counsel from, you begin to doubt your judgment and your courage.”¹⁰ My observations of the effects of solitary confinement as it is practiced inside our nation’s prisons are consistent with Senator McCain’s. The level of suffering and despair in many of these units is palpable and profound.

As the federal judge who heard testimony about California’s Pelican Bay Security Housing Unit concluded, the severe deprivation and oppressive control conditions in these places “may press the outer bounds of what most humans can psychologically tolerate.”¹¹ For a number of prisoners, those bounds are greatly exceeded, and the consequences of their long-term solitary confinement are truly extreme. Serious forms of mental illness can result from these experiences. Moreover, many prisoners become so desperate and despondent that they engage in self-mutilation and, as I noted early, a disturbingly high number resort to suicide. Indeed, it is not uncommon in these units to encounter prisoners who have smeared themselves with feces, sit catatonic in puddles of their own urine on the floors of their cells, or shriek wildly and bang their fists or their heads against the walls that contain them. In some cases the reactions are even more tragic and bizarre, including grotesque forms of self-harm and mutilation—prisoners who have amputated parts of their own bodies or inserted tubes and other objects into their penises—and are often met with an institutional matter-of-factness that is equally disturbing.

I recall a prisoner in New Mexico who was floridly psychotic and used a makeshift needle and thread from his pillowcase to sew his mouth completely

¹⁰ Quoted in Richard Kozar, John McCain: Overcoming Adversity. Chelsea House (2001), at p. 53.

¹¹ Madrid, supra note 2, at p. 1267.

shut. Prison authorities dutifully unstitched him, treated the wounds to his mouth, and then not only immediately returned him to the same isolation unit that had caused him such anguish but gave him a disciplinary infraction for destroying state property (i.e., the pillowcase), thus ensuring that his stay in the unit would be prolonged. A prisoner at the federal supermax prison—ADX—who had no pre-existing mental disorder before being placed in isolation, has suffered from severe mental illness for years now. While in solitary confinement he has amputated one of his pinkie fingers and chewed off the other, removed one of his testicles and scrotum, sliced off his ear lobes, and severed his Achilles tendon with a sharp piece of metal. He remains in a standard solitary confinement unit rather than a psychiatric facility. Another prisoner, housed long-term in a solitary confinement unit in Massachusetts, has several times disassembled the television set in his cell and eaten the contents. Each time, his stomach is pumped and, after a brief stay in a psychiatric unit, he is returned to the same punitive isolation where this desperate and bizarre behavior occurred.

Beyond these extreme cases, solitary confinement places all of the prisoners exposed to it at grave risk of harm. In fact, the scientific literature on the effects of solitary confinement has been accumulated over many decades, by researchers from a number of different countries who have varying academic backgrounds. Despite the methodological limitations that come from studying human behavior in such a complex environment, most of the research has reached remarkably similar conclusions about the adverse psychological consequences of solitary confinement. Thus, we know that prisoners in solitary confinement suffer from a number of psychological and psychiatric maladies, including: significantly increased negative attitudes and affect, irritability, anger, aggression and even rage; many experience chronic insomnia, free floating anxiety, fear of impending emotional breakdowns, a loss of control, and panic

attacks; many report experiencing severe and even paralyzing discomfort around other people, engage in self-imposed forms of social withdrawal, and suffer from extreme paranoia; many report hypersensitivity to external stimuli (such as noise, light, smells), as well as various kinds of cognitive dysfunction, such as an inability to concentrate or remember, and ruminations in which they fixate on trivial things intensely and over long periods of time; a sense of hopelessness and deep depression are widespread; and many prisoners report signs and symptoms of psychosis, including visual and auditory hallucinations.¹² Many of these symptoms occur in and are reported by a large number of isolated prisoners. For example, in a systematic study I did of a representative sample of solitary confinement prisoners in California, prevalence rates for most of the above mentioned symptoms exceeded three-quarters of those interviewed.¹³

In addition to the above clinical symptoms and syndromes, prisoners who are placed in long-term isolation often develop what I have characterized as “social pathologies,” brought about because of the pathological deprivations of social contact to which they are exposed. The unprecedented totality of control in these units occurs to such an exaggerated degree that many prisoners gradually lose the ability to initiate or to control their own behavior, or to organize their personal lives. Prisoners may become uncomfortable with even small amounts of freedom because they have lost confidence in their own ability to behave in the absence of constantly enforced restrictions, a tight external structure, and the ubiquitous physical restraints. Even the prospect of returning to the comparative

¹² For citations to the studies in which these specific adverse effects have been reported, see: C. Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 *Crime & Delinquency* 124-156 (2003), and C. Haney, *The Social Psychology of Isolation: Why Solitary Confinement is Psychologically Harmful*, *Prison Service Journal UK* (Solitary Confinement Special Issue), Issue 181, 12-20 (2009).

¹³ See *supra*, note 12, Haney, 2003.

“freedoms” of a mainline maximum security prison (let alone the free world) fills them with anxiety.

For many prisoners, the absence of regular, normal interpersonal contact and any semblance of a meaningful social context in these isolation units creates a pervasive feeling of unreality. Because so much of our individual identity is socially constructed and maintained, the virtually complete loss of genuine forms of social contact and the absence of any routine and recurring opportunities to ground thoughts and feelings in a recognizable human context lead to an undermining of the sense of self and a disconnection of experience from meaning. Some prisoners experience a paradoxical reaction, moving from initially being starved for social contact to eventually being disoriented and even frightened by it. As they become increasingly unfamiliar and uncomfortable with social interaction, they are further alienated from others and made anxious in their presence. In extreme cases, another pattern emerges: this environment is so painful, so bizarre and impossible to make sense of, that they create their own reality—they live in a world of fantasy instead. Finally, the deprivations, restrictions, the totality of control, and the prolonged absence of any real opportunity for happiness or joy fills many prisoners with intolerable levels of frustration that, for some, turns to anger, and then even to uncontrollable and sudden outbursts of rage.

A Culture of Harm

Most of the analyses of the harmfulness of solitary confinement are directed at the extreme levels of material deprivation, the lack of activity and other forms of sensory stimulation, and, especially, the absence of normal or meaningful social contact that prisoners experience and suffer from in these settings. This

emphasis is not misplaced. There is no widely accepted psychological theory, correctional rationale, or conception of human nature of which I am aware to suggest that exposure to these powerful and painful stressors is neutral or benign and does not carry a significant risk of harm.

To be sure, the extreme deprivation, the isolating architecture, the technology of control, and the rituals of degradation and subjugation that exist in solitary confinement units are inimical to the mental health of prisoners. However, it would be naïve to assume that the nature of these environments does not also affect the staff who work inside.¹⁴ In many such places, thinly veiled hostility, tension, and simmering conflict are often palpable. The interpersonal toxicity that is created in these environments can engender mistreatment and even brutality. What might be termed an “ecology of cruelty” is created in many such places where, at almost every turn, guards are implicitly encouraged to respond and react to prisoners in essentially negative ways—through punishment, opposition, force, and repression.

For many correctional officers, at least initially, this approach to institutional control is employed neutrally and even-handedly—without animus and in response to actual or perceived threats. However, when punishment and suppression continue—largely because of the absence of any available and sanctioned alternative approaches—they become functionally autonomous and often disproportionate in nature. Especially when the use of these techniques persists in spite of the visible pain and suffering they bring about, it represents a form of cruelty (notwithstanding the possible lack of cruel intentions on the part of many of those who employ the harsh techniques themselves).

Unfortunately, the culture of harm that is created in many of these units

¹⁴ C. Haney, *A Culture of Harm: Taming the Dynamics of Cruelty in Supermax Prisons*, 35 *Criminal Justice and Behavior* 956-984 (2008);

also affects service providers, including those who are supposed to address the mental health needs of prisoners. Despite the large concentration of mentally ill prisoners in solitary confinement, the quality of mental health care in these units is sometimes much worse than elsewhere in the prison system. Some of this is due to limited resources; some prisons simply do not have the personnel to provide the kind of care that solitary confinement prisoners need. Some of it stems from built-in practical limitations. That is, solitary confinement units are located in separate, distant areas of the prison, access to the units themselves is difficult, and the procedures whereby prisoners are transported from their cells are cumbersome. But some of the poor quality care in certain units derives from the culture of harm to which I referred and the ease with which it is possible to simply “get used to” practices and procedures that would be seen as unacceptably compromised and inadequate in any other setting. For example, in many solitary confinement units it is not uncommon for mental health services to be delivered in “treatment cages” (or what prisoners sometimes refer to as “shark cages” because of their resemblance to those underwater contraptions)—telephone-booth sized metal cages in which prisoners are confined during their “therapeutic hour.”

Public Safety Concerns

A critically important but widely overlooked aspect of solitary confinement in the United States is the potential threat it represents to public safety. Solitary confinement not only subjects prisoners to the kind of psychologically damaging experiences I have described above but also does so without providing them with any opportunities to obtain meaningful programming or rehabilitative services.

As a result, many prisoners are significantly handicapped when they attempt to make their eventual transition from prison back into the free world.

Indeed, there is some recent, systematic evidence that time spent in solitary confinement contributes to elevated rates of recidivism.¹⁵ The explanation for this troubling fact is not difficult to discern. Without oversimplifying, one of the things we have learned about how prisoners make successful transitions back into their communities of origin is that positive re-entry depends on their ability to connect to a supportive, caring group of other people, and the ability and opportunity to become gainfully employed. Solitary confinement significantly impedes both things. Prisoners' social skills atrophy severely under their starkly deprived and isolated conditions of confinement. The absence of any meaningful activity (let alone rehabilitative programming) in solitary confinement means that their often already limited educational and employment skills will have further deteriorated by the time they are released. Many prisoners come out of these units damaged and functionally disabled, and some are understandably enraged by the ways in which they have been mistreated. Crime—sometimes violent crime—is one predictable result. Moreover, very few solitary confinement units operate “step down” or transitional programs that assist prisoners in negotiating the steep barrier from isolation to the intensely social world outside of prison.

In some instances, the failures that solitary confinement prisoners experience when they try to make this nearly impossible transition on their own are tragic, not just for themselves but for others who may become the innocent victims of their desperate plight. For example, some years ago I encountered one

¹⁵ For example, see: Lovell, D., Johnson, L., & Cain, K., Recidivism of Supermax Prisoners in Washington State, 53 *Crime & Delinquency* 633-656 (2007); Mears, D., & Bales, W., Supermax Incarceration and Recidivism, 47 *Criminology* 1131 (2009).

California prisoner who had been convicted of non-violent drug offenses, and entered the prison system with no pre-existing symptoms of mental illness. Yet, when I saw him he was lying catatonic, unresponsive, and incoherent on the floor of his isolation cell in a California SHU unit. He was eventually diagnosed as schizophrenic, but was retained in the same unit where his mental illness had originated. The next time I encountered him was several years later, after he had been released from prison. He was on trial for capital murder, an offense that had been committed just months after being taken directly from his isolation cell, placed on a bus and eventually onto the streets of a California city, with no pre-release counseling or transitional housing of any kind. I wish that I could say that this tragic and extreme outcome was the only one of its kind that I have personally encountered, but it certainly is not.

Proposed Remedies

Solitary confinement continues to be used on a widespread basis in the United States despite empirical evidence suggesting that its existence has done little or nothing to reduce system-wide prison disorder or disciplinary infractions.¹⁶ In fact, at least one prison system that drastically reduced the number of prisoners whom it housed in solitary confinement by transferring them to mainline prisons experienced an overall reduction in misconduct and violence system-wide.¹⁷ As prison populations continue to gradually decline, and the nation's correctional system rededicates itself to program-oriented

¹⁶ Briggs, C., Sundt, J., & Castellano, T., The effect of Supermaximum Security Prisons on Aggregate Levels of Institutional Violence, 41 *Criminology* 1341-1376 (2003).

¹⁷ See T. Kupers, T. Dronet et al, Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs, 36 *Criminal Justice and Behavior* 1037-1050 (2009).

approaches designed to produce positive prisoner change, the resources expended on long-term solitary confinement should be redirected to a more cost-effective and productive strategy of prison management.

Several years ago, after it had conducted a number of public hearings in locations around the country, the bipartisan Commission on Safety and Abuse in America's Prisons, chaired by former Attorney General Nicholas Katzenbach, called supermax prisons "expensive and soul destroying"¹⁸ and recommended that prison systems "end conditions of isolation."¹⁹ Short of that, in my opinion, there are some things that can and should be implemented on a nationwide basis. Solitary confinement continues to be structured and operated in ways that are designed to deprive, diminish, and punish. With that in mind, steps need to be taken to entirely exclude the most vulnerable prisoners from exposure to these conditions,²⁰ significantly limit the time that all other prisoners are housed there,²¹ provide all prisoners with meaningful steps or pathways that they can pursue to accelerate their release from solitary,²² significantly change the nature

¹⁸ Gibbons, J., & Katzenbach, N. (2006). Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons. New York: Vera Institute of Justice, at p. 59.

¹⁹ Id. at 57.

²⁰ Persons under the age of 18 and those who suffer from serious mental illness are singularly unsuited for long-term solitary confinement and they should be absolutely excluded from being housed there. In fact, persons with serious mental illnesses are categorically excluded from solitary confinement in a number of states (e.g., California, Wisconsin, Ohio), but not all. Moreover, the ABA Standards on the Treatment of Prisoners (at section 23-2.8(a)) require this. See: http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners.html#23-2.7

²¹ In terms of time limits, the new ABA Standards define "long term" segregation as 30 days or more, and impose a presumptive limit of one year on placement in disciplinary housing (section 23-4.3(b)). In my opinion, that limit is arguably too long. However, if US prisons complied even with the ABA Standards, it would result in a significant improvement.

²² For example, see the general discussion in: C. Haney, The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment, at pp. 33-66. *See, also*, Joan Petersilia, When Prisoners Come Home: Parole and Prisoner Reentry. New York: Oxford University Press (2003).

of the isolation units themselves to mitigate the damage that they inflict,²³ and provide prisoners who are being released into mainline prison populations or into free world communities with effective transitional services to ensure their post-solitary success and reduce the risk of harm to others once they are released.

The grave psychological risks posed by solitary confinement make the overall mental health recommendations urgently important. Prisoners must be systematically screened for mental illness as they come into solitary confinement units, and continuously monitored for signs of developing mental illness. Those whose problems may fall below the standard required for exclusion and who therefore remain in solitary confinement must be given access to enhanced (rather than substandard) mental health resources. Finally, all isolated prisoners must be provided with transitional or “step down” services and programs designed to meaningfully address the psychological changes that they are likely to have undergone in the course of their solitary confinement.

Thank you for the opportunity to participate in this historic hearing and to help the Subcommittee address this very significant issue. I am hopeful that it

²³ Elsewhere I have proposed list of “limiting standards” that I believe should be enforced in all solitary confinement units. See C. Haney and Mona Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, New York Review of Law & Social Change, 23, 477-570 (1997), at pp. 558-566. These standards that are “rooted in the psychological literature and intended as the basis for a more effective, realistic, and psychologically meaningful oversight” of solitary confinement. *Id.* at p. 560. Many of our proposed standards were designed to prevent or limit the potential damage of the harsh solitary confinement regime on prisoners, including due process protections for all prisoners in advance of their placement in isolation (irrespective of the purpose for that placement); screening prisoners out of solitary confinement if their specific medical or mental health conditions (not just serious mental illness) made them especially vulnerable to the harmful consequences that we identified; prohibiting the placement of prisoners in isolation that whose disciplinary infractions resulted from pre-existing psychiatric disorders; placing severe time limits on the duration of confinement for all prisoners (prohibiting total isolation and extreme segregation of the sort that occurs in “dark cells,” while permitting somewhat longer periods of isolation for less draconian segregated housing); monthly mental health evaluations to determine continued fitness for segregated housing; and access to therapy, work, educational, and recreational programs and visitation—comparable to what is offered in mainline units—for prisoners confined in solitary confinement for longer than 3 months.

will mark the beginning of urgently needed and long-term Congressional oversight and reform.