

# Reason Foundation

<http://reason.org>

<http://reason.org/news/show/california-prison-hunger-strike-rai>

## California Prison Hunger Strike Raises Challenging Questions

[Sal Rodriguez](#)

August 1, 2013, 9:00am

Today marks the 25<sup>th</sup> day that hundreds of California prisoners in nine facilities have refused state-issued meals in protest of the practice of long-term segregation of prisoners in Security Housing Units (SHU). The hunger strike began on July 8<sup>th</sup> with the participation of 30,000 prisoners across the state, though the number of prisoners who have participated the entire time number 385, with 200 others known to be participating, [according](#) to the California Department of Corrections and Rehabilitation (CDCR). One hunger strike participant is [known](#) to have committed suicide in the California State Prison, Corcoran SHU after two weeks.

The SHU is a unit designed to house prisoners for disciplinary infractions and for purported gang membership and association. The largest SHUs are at Pelican Bay State Prison, California State Prison, Corcoran, and California Correctional Institution, Tehachapi. Prisoners sent to the SHU spend 22 to 24 hours a day either in solitary confinement or with a cellmate (given overcrowding) in cells typically measuring 7 x 12 feet. Prisoners sent to the SHU for disciplinary infractions, who currently number approximately 1,500, are given set terms for violations ranging from drug dealing to murder. The majority of those in the SHU, approximately 3,000, have until recently been given indeterminate terms in the SHU for gang membership or association, without any need for other rules violations on their record. It is this latter group that has been at the epicenter of the current hunger strike, the third hunger strike prisoners have launched since June 2011. The three hunger strikes (a second three week hunger strike was launched in September 2011) have had a unified set of demands including an end to long-term solitary confinement and a reform to the system by which prisoners are identified as gang members or associates. The initial hunger strikes in 2011 prompted two California Assembly hearings and contributed to a June 2012 U.S. Senate hearing on solitary confinement in the United States.

An associate is defined as someone “involved periodically or regularly with the members of a criminal gang.” A member is someone who has “been accepted into membership by a gang.”

In order to be identified as a member or associate there [must](#) be at least one piece of evidence that directly links the prisoner to “a current or former validated member or associate of the gang.” Further, the CDCR has devised a point system allocating points to “source items,” or evidence of gang activity, and in order to be considered either a member or associate, at least three pieces of source items exceeding ten points must be identified. When this is done, a prisoner is considered either a “validated” associate or member of a Security Threat Group (STG). The vast majority of gang-validated prisoners are gang associates.

Source items have been a source of considerable controversy. Possession of “training materials” counts for

four of the ten necessary points. However, the definition of “training materials” has been documented to include, for [example](#), “one photocopied pamphlet, which references ‘Revolutionary Black Nationalism, ‘The Black Internationalist Party,’ ‘Marx,’ and ‘Lenin.’” Possession of [Sun Tzu’s](#) “The Art of War” has also been counted as possession of “training materials.” Behavioral issues, such as carrying out gang orders, are a possible source item for gang validation but not a necessity.

Until 2012, validated members or associates were given indefinite terms in the SHU, of averaging 6.8 years. The only means of being released from the SHU, regardless of behavioral violations, were to max-out of one’s criminal sentence, debrief (or, provide gang intelligence to prison guards), or die. According to CDCR over 500 prisoners at Pelican Bay State Prison in Crescent City have spent over a decade in the SHU; 78 as of 2011 had spent at least 20 years in the SHU.

Prolonged periods of time in the SHU with limited social contact and minimal stimulation, [according](#) to Dr. Stuart Grassian, who has interviewed many in the Pelican Bay SHU, may cause serious psychological problems. Dr. Grassian observed notably higher rates of hypersensitivity, perceptual distortions, panic attacks, difficulties with thinking, concentration, memory, and a loss of impulse control among those in the SHU.

The conditions of segregation prompted the Commission on Safety and Abuse in America’s Prisons to [conclude](#), “the increasing use of high-security segregation is counter-productive, often causing violence inside facilities and contributing to recidivism after release.”

These concerns prompted the CDCR to make [revisions](#) to the [gang validation](#) process in 2012. In addition to the 10-point system previously mentioned (which replaced a previous point system criticized for over-relying on informants), CDCR also created and has been implementing a Step Down Program (SDP). The SDP would be a four step process by which prisoners in the SHU may transition to the general population in as little as four years, with increasing incentives in each step.

As part of implementing this process, CDCR has conducted reviews of all 3,000 prisoners in the SHU for gang validation. Since October 2012, the CDCR has reviewed 382 prisoners validated under the previous system. Thus [far](#), it has released (or, plans on releasing) 208 prisoners directly to the general population, completely bypassing the SDP and suggesting an extremely high failure rate in determining who is or is not a genuine threat to institutional security as a gang member or associate. An additional 115 were placed in various stages of the SDP, including some who were placed in the fourth stage, allowing them to be released from the SHU within a year. The remainder have been retained in the SHU for unspecified “security reasons.” This case-by-case review has thus far been stalled as a result of the hunger strike, which the CDCR is calling gang activity. It has not yet determined if prisoners currently on hunger strike will have their participation in the strike held against them as they come up for the case-by-case reviews.

The leaders of the hunger strike, said to be high-ranking members of the Mexican Mafia, Nuestra Familia, Black Guerilla Family, and Aryan Brotherhood, have issued a [counterproposal](#) in which they argue for segregation only for behavior-based violations rather than gang affiliation, and limiting the use of solitary confinement. The strike leaders, who are in the SHU at Pelican Bay State Prison, also have a [pending](#) federal lawsuit arguing that long-term solitary confinement (defined as 10 years) is a violation of the 8<sup>th</sup> amendment and that absence of “meaningful review” of the validation process is a violation of the right to due process. CDCR motions to throw out the case have been rejected on the grounds that the SDP and revised validation system do not rule out the claims of the plaintiffs.

Reforms to the use of segregation units are not unheard of. [Mississippi](#) is one notable example. Unit 32 at the Mississippi State Penitentiary once held 1,000 prisoners in solitary confinement. Low-level gang members and inmates there for disciplinary violations made up the bulk of the group. Following a lawsuit, Mississippi reviewed its use of segregation as a disciplinary tool and readjusted its security classification process. Consequently, the population at Unit 32 dwindled to 300, and ultimately was shut down, to no evident increases in disruptions in the Mississippi prison system.

While California should be acknowledged for its case-by-case reviews, and consequent reductions in SHU population, the reviews have thus revealed that corrections officials have been doing an inadequate job of identifying gang members and associates for years. The possibility that an individual can still be labeled a security threat and placed in the SHU in part for possessing certain books or pamphlets is also a cause for concern. That there are still people in the SHU who have spent decades in environments that cause long-term psychological damage continues to raise questions about the extent to which such practices are compatible with commitments against cruel and unusual punishment.

With approximately [80,000](#) prisoners across the country in some form of segregation unit (as of 2005), the question of how corrections systems manage and treat prisoners rises to a topic of practical consideration. Policy makers and citizens alike must decide whether they believe it is proper to house people in cells the size of a bathroom with limited means of bettering themselves and releasing them back into society after many years in such conditions; or whether alternatives should be examined and experimented with.

---