

August 26, 2014

Gavin Newsom, President of the Senate, Lieutenant Governor
Senator Darrell Steinberg, President pro Tempore
Senator Ellen M. Corbett, Majority Leader
Senator Bob Huff, Minority Leader
Senator Jerry Hill, Democratic Caucus Chair
Senator Ted Gaines, Republican Caucus Chair
Senator Kevin de León, Chair, Senate Appropriations Committee
Senator Loni Hancock, Chair, Public Safety Committee
Senator Ricardo Lara, Chair, California Latino Legislative Caucus
Senator Holly J. Mitchell, Chair, California Legislative Black Caucus
Assembly Member Toni G. Atkins, Speaker
Assembly Member Nora Campos, Speaker pro Tempore,
Assembly Member V. Manuel Pérez, Majority Floor Leader
Assembly Member Connie Conway, Minority Floor Leader
Assembly Member Jimmy Gomez, Majority Whip,
Assembly Member Mike Gatto, Chair, Appropriations Committee
Assembly Member Tom Ammiano, Chair, Committee on Public Safety
Assembly Member Philip Y. Ting, Democratic Caucus Chair

Re: SB 892 (solitary confinement) - OPPOSE

Dear California Senators and Assembly Members:

This letter is submitted on behalf of the one hundred and twenty (120) undersigned organizations, community and labor leaders, faith-based leaders, human rights experts, mental health specialists, civil rights leaders, advocates, and prisoners' family members.

We are writing to explain why Senate Bill 892 authored by Senator Hancock should not be enacted. If SB 892 becomes law, it will for the first time in California's history incorporate into state law a draconian, irrational, expensive, and highly unusual administrative policy that results in thousands of prisoners being placed in solitary confinement for mere alleged gang membership with no accompanying serious wrongful or illegal acts. This administrative policy has been universally criticized by prison security experts, medical and mental health experts, human rights advocates and the United Nations Special Rapporteur on Torture. *The policy has resulted in California having the largest per capita number of prisoners into solitary confinement of any other state in the U.S. or any country on earth.*

SB 892 entirely fails to bring California law in line with modern prison security trends adopted in many other states (with successful results). Instead, SB 892 includes provisions that will institutionalize into state law CDCR's unusual and widely condemned practice of placing "security threat group affiliates" (i.e. alleged gang members and affiliates) in solitary confinement for many years even if the prisoner has engaged in *no wrongdoing or rules violations of any sort*. This cruel and drastic policy should in no way be embraced by the California legislature.

Most prison systems, including the U.S. Bureau of Prisons and virtually every other state in the country, limit the use of long-term solitary confinement to prisoners who have engaged in serious misconduct while serving their sentences or who are an imminent danger to others. In contrast, SB 892 will legitimize the CDCR's practice of placing prisoners in solitary confinement for many years based merely upon their alleged gang association or membership with no accompanying serious (or even minor) rule violations.

By in effect incorporating CDCR's "gang validation" practices, Senate Bill 892 will also be adopting an absurd "matrix" used by the Department of Corrections that determines "gang membership" using entirely arbitrary criteria (old photographs, old tattoos, co-defendants in trials that took place years ago, exercising with an alleged gang member, etc.) that *bear little rational relationship to current gang membership and no relationship whatsoever to gang activity*. CDCR's position that it only places the "worst of the worst" in solitary confinement is false and is entirely inconsistent with its own regulations which require no wrongdoing whatsoever for a prisoner to be placed in solitary confinement. SB 892 effectively endorses the Department of Corrections' irrational and illogical "matrix" to determine gang membership or affiliation.

While SB 892 proposes a "step down" program with five steps for alleged gang members to *possibly* secure their release from solitary confinement in two and a half years, prisoners will only move through any of the five steps if in CDCR's opinion doing so is "consistent with the safety and security" of the institution. *Under similar standards now followed by CDCR, hundreds of prisoners who have engaged in no wrongful acts, let alone serious violations, have been held in solitary confinement for 10, 20 and 30 years.*

Prisoners and prison reform experts agree that the minimal efforts in SB 892 to "improve" the due process rights of prisoners will have no practical effect. Prisoners will be entitled to the assistance of a "staff assistant" (a prison guard or officer) when being placed in solitary confinement based on alleged gang membership. Prisoners already are offered a staff assistant by CDCR but routinely turn down the offer because the guards assigned such tasks rarely provide any meaningful assistance to and are not trusted by prisoners. Senator Hancock refused to extend prisoners the right to the assistance of even *pro bono* attorneys at no cost to the State.

Most prisoners in California in solitary confinement are locked in small concrete cells with no windows about 23 hours a day, spend one hour a day outdoors usually alone in a small enclosed secure area, have virtually no personal contact with other inmates, guards or prison officials, can rarely talk to family members on the phone, and are denied contact visits with family members. These conditions amount to cruel and degrading treatment and have resulted in over 400 prisoners petitioning the United Nations for relief under the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. These cases are under consideration.

CDCR's harsh policies have contributed to California having the highest per capita suicide rate among prisoners of any State in the country: ***About one suicide every ten days***. And trend analysis shows a disturbing rise in the rate of suicides of prisoners in CDCR's custody.

Amendments to SB 892 have entirely deleted substantive mental health protections including weekly reviews by mental health professionals, daily logs of behavior, and mental health assessments every 90 days,

Finally, the bill exempts CDCR and the Office of the Inspector General from public disclosure of any documents related to gang validation reviews, including whether minimum due process was provided or whether validation decisions were supported by adequate evidence. The bill justifies this blanket limitation as needed “to protect the security of [CDCR], its staff, and inmates...”

SB 892’s provisions restoring good time credits to some prisoners in solitary confinement who have shown good conduct have also been deleted and replaced with language stating that CDCR “may,” in its discretion, grant some prisoners in solitary confinement some good time credits. There is no reason to believe CDCR will implement this new authority in a fair and rational manner given the agency’s commitment to implementing a drastic and unusual solitary confinement policy rejected by both the federal Government and virtually every other state in the country.

We would support passage of legislation that limits the use of long-term solitary confinement to cases in which prisoners have engaged in proven serious wrongdoing or those who are clearly a threat to the safety of prison officials, other inmates or visitors. This is the policy followed universally outside of California. We would likewise support legislation limited to data collection necessary to intelligently assess future legislation. We would also support legislation that restored good time credits to prisoners previously placed in long-term solitary confinement based on mere alleged gang membership with no accompanying wrongdoing. We would encourage legislation that prohibited the use of untested confidential informant’s statements to place prisoners in solitary confinement unless corroborated by independent evidence that does not constitute hearsay. SB 892 accomplishes none of these reforms.

For all of the reasons expressed above, we urge all members of the California legislature to reject passage of SB 892 and to work with CDCR officials, prison security experts, mental health specialists, human rights experts, prisoners and their families to develop rational, fair, and cost-effective legislation in the next term.

Should you have any questions, or wish additional information, please contact Peter Schey, President, Center for Human Rights and Constitutional Law, (323) 251-3223, or Irene Huerta, California Families Against Solitary Confinement, (310) 562-1144.

Thank you for your consideration.

Respectfully,

California Families Against Solitary Confinement (CFASC)
Center for Human Rights and Constitutional Law (CHRCL)
Prisoner Hunger Strike Solidarity Coalition (PHSSC)

Javier Stauring, Office of Restorative Justice, Catholic Archdiocese of Los Angeles
Maria Elena Durazo, Executive Secretary-Treasurer, Los Angeles County Federation of Labor (AFL-CIO)
Father Gregory Boyle, Executive Director, Homeboy Industries
Brent Wilkes, Executive Director, League of United Latin American Citizens (LULAC)
Mexican American Political Association (MAPA)
Council on American-Islamic Relations - California (CAIR)
Disability Rights Education & Defense Fund (DREDF)
Disability Legal Rights Center (DLRC)
Homeboy Industries
Homies Unidos
California Prison Watch
Advancing Justice - Asian Law Caucus
William C. Velasquez Institute (WCVI)
Center for Prisoner Health and Human Rights
Center for Restorative Justice Works
Central American Resource Center (CARECEN-LA)
Centro Legal de la Raza
Community Futures
Families to Amend California's Three Strikes (FACTS)
Hermandad Mexicana Humanitarian Foundation
International Longshore and Warehouse Union, Local 13 (ILWU)
Justice Now
Campaign to End the Death Penalty
Latino Artists for Social Equality
League of United Latin American Citizens (LULAC)
National Lawyers Guild – San Francisco/Bay Area Chapter
National Lawyers Guild – Los Angeles Chapter
Peoples' Action for Rights and Community (PARC)
Prison Activist Resource Center
San Francisco Bay View National Black Newspaper
Students Against Mass Incarceration (UC)
The Freedom Archives
The Seawright Prison Justice Project
Youth Justice Coalition
Rabbi Joshua Brumbach, Ahavat Zion Synagogue, Beverly Hills, CA.
Rev. Elizabeth Gibbs Zehnder, Pastor, Immanuel Presbyterian Church
Heidi L. Rummel, Co-Director of Post-Conviction Justice Project (PCJP)
Angela Sanbrano, President of the Board, Central American Resource Center (Los Angeles)

Frank Johnson, Clergy and Laity United for Economic Justice Ventura County
James Lafferty, Executive Director, National Lawyers Guild – LA Chapter
Reynaldo F. Macías, Professor of Chicana/o Studies, Education & Applied Linguistics,
UCLA

Mike Farrell (Actor-Activist)

Victor Narro, Esq., UCLA Labor Center

Susan M. Akram, Clinical Professor and Supervising Attorney,
International Human Rights Program, Boston University School of Law

Dr. Nancy C. Arvold, PhD, MFT, member of Psychologists for Social Responsibility

Dennis R. Childs, Ph.D., Associate Professor, University of California, San Diego

Gregorio Estevane, Vice President, Association of Court Panel Investigators,
Chair Jail Committee

Dolores Canales (son incarcerated in Pelican Bay SHU)

Irene Huerta (spouse incarcerated in Pelican Bay SHU)

Christine Thomas (husband incarcerated, formerly in solitary confinement)

Sue Jeffries (son incarcerated in SHU)

Sister Suzanne Jabro, CSJ, founder of the Center for Restorative Justice Works

Sister Jo'Ann De Quattro, SNJM

Sister Elisa Martinez, MSW

Sister Patricia Krommer

Sharon Martinas (Prison Reform Advocate)

Sarah Torres (Prison Reform Advocate)

Patricia Foley, Organizer, Campaign to End the Death Penalty, Oakland

Nakisha Rice (Human Rights Activist)

Margaret Bick (Prison Reform Advocate)

Sharon Fennell (Prison Reform Advocate)

Claire Kiefer (Prison Reform Advocate)

Courtney Hooks (Prison Reform Advocate)

Frank Kozakowski (Prison Reform Advocate)

Denise Mewbourne (Prison Reform Advocate)

Paul Freese (Prison Reform Advocate)

Christine Thomas (Prison Reform Advocate)

Laurie Traktman, Esq. (Civil Rights Attorney)

Dan Stormer, Esq. (Civil Rights Attorney)

Cynthia Anderson-Barker, Esq. (Civil Rights Attorney)

Jorge Gonzalez, Esq. (Civil Rights Attorney)

Penny Schoner, (Paralegal, Prison Activist Resource Center, Oakland)

Nicole Wires (Prison Reform Advocate)

Verbena Lea (Executive Director, Peoples' Action for Rights and Community (PARC))

Lisa E. Valles (Spouse incarcerated in Pelican Bay SHU)

Michele Martinez (Spouse formerly incarcerated in SHU for 26 yrs)
Nora Lavie (Prison Reform Advocate)
Claudia Gutierrez (Prison Reform Advocate)
Hilda Arias (Prison Reform Advocate)
Maria Reynoso (Prison Reform Advocate)
Bertha Nava (Prison Reform Advocate)
Patricia A. Norris Ph.D. Professor, Holos University Graduate Seminary, (Prison Reform Advocate)
Mary Ratcliff (Editor, San Francisco Bay View National Black Newspaper)
Kristen Boney (Prison Reform Advocate)
Edward Opton, (Of Counsel, National Center for Youth Law)
Jason H. Tarricone (Attorney)
Devon Douglas-Bowers (Independent Writer/Researcher, The Hampton Institute)
Vanessa Y. Martinez (Prison Reform Advocate)
Valerie Mena (Prison Reform Advocate)
S.L.Martinez (Civil Rights Attorney)
Jana Bautista (Son currently Incarcerated)
Gilbert Pacheco (Prison Reform Advocate)
Dr. Nancy Arvold (Psychotherapist & Educator)
Patrick Dunlevy (Directing Attorney, Public Counsel)
Dr. Trudy Bond (Psychologist)
Maureen Garn (Prison reform Advocate)
Aletha Perry (Prison Reform Advocate)
Melissa Garcia (Prison Reform Advocate)
Maribel Aitkins (Uncle in Pelican Bay solitary confinement for over 15 years)
Martha Esquivel (Son in Pelican Bay solitary confinement for over 15 years)
Daletha Hayden (Son in solitary confinement for 6 years)
Raina Beaven Buckley (Prison Reform Advocate)
Narcisa Salazar Gallardo (Spouse in solitary confinement)
Farsiar Zandian (Prison Reform Advocate)
Sophia Garcia (Brother in Corcoran prison in solitary confinement for 4 years)
Nora Agredano-Perez (Son in Pelican Bay solitary confinement for 6 years)
Kimberly Rohrbach (Paralegal & Human Rights Advocate)
Anne Weills (Civil Rights Attorney, Siegel & Yee)
Tynan Krakoff (Human Rights Advocate)
Donna Willmott (Prisoner Rights Advocate)
Angel Perez (Prison Reform Advocate, Curb Program)

Organizations of individual co-signers provided for identification

///